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*Fabien Jean Pierre Daniel DURAND*

*The European Community's Response to  
the Central European Challenge  
The Genesis of a European Common  
Foreign Policy*

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Thesis submitted for the acquisition of a Master of Art in European Politics  
UNIVERSITY OF DURHAM  
Politics Department  
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Submitted in September 1994

  
21 DEC 1995

### *Abstract:*

This MA thesis deals with the European Community's response to the Central European challenge. The lack of explanatory and normative theories to explain the European integration process as a whole demonstrates that it has been driven by Member States' interests and could be heavily influenced by external aspects. Despite the different political models of organisation (i.e. federation, confederation or international organisation) at the disposition of several states to organise themselves to tackle international problems, West European member states did not completely subscribe to any of these and that makes the European Union the political invention of this century. The politico-administrative model of the European Union is the result of a original and unprecedented bargaining to preserve national interests and supranational efficiency both at the same time. This process is both the source of its originality and the reason of its relative inefficiency when compared to the United States of Germany. However the European Union survives and proves the relevance in the international scene when confronted to external effects. Our argument is that Central Europe could be considered as one of the external factors that might push the European Union to strengthen its decision making process and to render its action more efficient and responsive to Central European needs. This thesis deliberately limits itself to the economic and political sides of European external policy and shows the evolution of the methods, structures and concepts that the European Union used to build up a Common Commercial Policy and to set up the Common Foreign and Security Policy.

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## *List of Abbreviations*

ASEAN	Association of South-East Asian Nations
ACP	African, Caribbean and Pacific Countries
BERD	European Bank for Reconstruction and Development
CAP	Common Agricultural Policy
CCP	Common Commercial Policy
CCT	Common Customs Tariff
CET	Common External Tariff
CEEC	Central and Eastern European Countries
CFSP	Common Foreign and Security Policy
CMEA	Council for Mutual Economic Assistance
COREPER	Committee of Permanent Representatives
CSCE	Conference on Security and Co-operation in Europe
CSFR	Czech and Slovak Federal Republic
DG	Directorate General
EEC	European Economic Community
EC	European Community
ECSC	European Coal and Steel Community
Ecu	European Currency Unit
EDC	European Defence Community
EFTA	European Free Trade Area
EIB	European Investment Bank
EMS	European Monetary System
EMU	Economic and Monetary Union
EP	European Parliament
EPC	European Political Co-operation
EPU	European Political Union
ERA	Export Restraint Arrangements
ERM	Exchange Rate Mechanism
ESC	Economic and Social Committee
EU	European Union
GATT	General Agreement on Tariffs and Trade
GNP	Gross National Product
IGC	Intergovernmental Conference
IMF	International Monetary Fund

MFA	Multilateral Fibre Agreement
MFN	Most Favoured Nation
NATO	North Atlantic Treaty Organisation
NTB	Non Tariffs Barriers
OECD	Organisation for Economic Co-operation and development
OJ	Official Journal
OMA	Orderly Market Arrangements
PHARE	Poland and Hungary: Aid for the Restructuring of Economies
QR	Quantitative Restrictions
SEA	Single European Agreement
UNCTAD	United Nations Conference on Trade and Development
TEU	Treaty on European Union
VER	Voluntary Export Restraint
WEU	Western European Union
WTO	Warsaw Treaty Organisation
WTO	World Trade Organisation



## *Acknowledgements*

Throughout this study, I have been given so much help that cannot be measured. I must, indeed, thank many people for their assistance and encouragement while I wrote this M.A. Thesis. One and half years at the University of Durham and a six-month stage at the European Commission enabled me to complete this work. Many thanks to Mr Andrew MacMullen for his help and supervision and to the academic staff of the Library of Durham for their invaluable help with sources. I am also very grateful to European fonctionnaires and more especially to Mr van Ringelestein, my conseiller de stage and Mr Brouwers who both gave me their assistance and support throughout my stage.

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Fabien Durand

Brussels, September 1994.

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To my parents.

## *Introduction.*

The 1989 revolution has suddenly accelerated the European historical process and reactivated a political reality which disappeared in 843: A unified Europe. Numerous attempts have been made during the past centuries to bring Europe under a single political structure. The most extreme and brutal Hitlerian episode divided Europe into two halves during almost 40 years, instead of bringing European countries back together. Now that the Iron Curtain is down, Western Europe has the unique opportunity to reunify the whole continent on democratic and market economy principles. Although this political project is an old European dream, very few academics or politicians thought that its peaceful realisation could be possible by the end of the twentieth Century. As the European Community became the major potential European power by default, after the collapse of the Soviet Union, it assumed the responsibility to bring this project to a successful conclusion. This programme, however, requires dramatic changes and presses the Community to reform itself in order to take on its new international responsibilities, before such a European dream might be possible.

In this context, the most recent and most forceful challenge for the EC is the end of the Cold War and the consequent release of the Central and Eastern European countries from the former Eastern Block. This development has put the EC under pressure on numerous counts. The collapse of the bi-polar system of world politics presents an opportunity and a challenge to the EC to assert itself on the international scene as a third big international player. Central Europe presents many problems to the EC which cannot be answered if there is no clear coherent strategy. Therefore a would-be coherent European Common Foreign Policy would have to be developed with a long term strategy and would have to include and integrate many aspects of international life such as economics, security and political aspects. The EC was clearly not ready to undertake such a diplomatic role as it never managed to acquire a far reaching common policy in political affairs since the failure of the European Defence Community in 1954. Even if the Founding Fathers were conscious of the very important political role of the EEC -to preserve peace on the European continent-, they were unable to develop the adequate institutional structure framing the political cooperation. Although the political activity of the EC has been developed since the 1970s, the EU has major handicaps in dealing with Central Europe.

Central Europe is particularly important to the Community, firstly, because it occupies an important place in European history and has a very symbolic meaning. It represents the object of contempt of the Twentieth Century *European civil wars* and it embodies and suffers from the division between East and West. To solve the Central

European problem without isolating Russia will signify the end of the East/West antagonism. As a consequence it is worth for the EU to improve its international capacity to act. Secondly, Central European countries are facing many problems which influence the European Community directly. Moreover, as following the Copenhagen Summit in 1992 Central European countries expect to join the EC, the latter has to undertake fundamental revision of its economic policies, its political structures and institution to prepare them for accession. Thirdly, because Central Europe is facing problems, such as borders disputes, non-respect of minority rights, political instability and security concerns, that are common to Eastern Europe and to the part of the continent which was under Soviet control, the EC and then the EU has to set up a structure and to initiate a policy that enables it to intervene diplomatically, efficiently and early enough to prevent conflicts. A long-term strategy is therefore needed.

This Central European challenge has major consequences on the European integration process as it has, in particular, questioned the EC's international capacity. Does this mean that the EC's answers to Central European challenge can be considered as a Common European Foreign Policy? In order to answer this question this thesis will:

- analyse the impact of the reappearance of Central Europe in Europe;
- study the Community answer to Central European economic and political needs;
- examine the emergence of the international role of the Community.

To fulfil this task, Chapter 1 recalls some basic aspects of the European integration process and introduces us to the concept of Central Europe and the historical challenge that it represents for the EC. The liberation of Central Europe from the *glacis protecteur* of the Soviet Union has had major consequences for the geopolitical landscape of Europe but also for the integration process of the European Community. Central Europe is facing important economic and political hardship that cannot be solved by any other institution but the European Community. How is the EC going to undertake the role that it has been given unanimously by the international community?

Chapter 2 goes into more details to analyse the setting up of the Common Commercial Policy. There are two reasons for such a demarche. First, because it helps us to understand how decisions are made in the early nineties to answer Central and Eastern European economic and financial needs. Secondly, because it provides a very useful basis on which to compare what has been done at the economic level and what has been achieved politically so far. The dichotomy existing in the European structure dealing with political and economic external affairs has been detrimental to the scope and efficiency of Community actions. It took the EC/EU four years to decide what would be its policy towards Central Europe. The political decision in favour of the accession has had a great influence on the

economic policy of the EC which progressively updated its major tools of economic and financial intervention: the Association agreements and the PHARE programme.

Chapter 3 explains how the EC has developed its new concept of agreements which took the shape of Europe Agreements and their relevance to the economic and financial needs of Central Europe in the perspective of accession. Europe Agreements were first aimed at Central Europe but were then extended to Eastern Europe. The extension of the EC's activities shows that the Community cannot be concerned only with its closest neighbours but that it has to take a pan-European view. Of course the EC/EU cannot offer the same level of integration and cooperation to all European states because its resources are limited and because it has to deal with a still potent and unfavourable Russia. It therefore had to develop policies with different levels of commitment. The EC/EU has given the highest level of political and economic commitment to Associated countries in order to put into place the free trade area and because they have clearly expressed their will to join the EU. Europe Agreements and their political corollary are the best way to prepare the accession of these states, but what is the Community doing for other states? As far as international intervention is concerned, something else had to be found to answer needs of countries which have not yet signed the Europe Agreements or to provide political solutions to specific problems such as security, prevention and defence that are outside the scope of Europe Agreements. Member countries agreed to transform the EC into a European Union by bringing the external political dimension under a single institutional framework.

Chapter 4 analyses the new institutional structure set up by the Maastricht Treaty which is designed to answer the EU's neighbours' concerns in a more adequate manner. Does Maastricht give the EU the necessary means to achieve a Common Foreign and Security Policy? A comparison between the prerequisites which were the basis of the difficult but successful Common Commercial Policy and those set up by the Treaty on European Union will enable us to answer that question. What level of efficiency, democracy and transparency can be expected from the EU in its external political relations. An analysis of the results achieved by the EU and its Common Foreign and Security Policy will be the best criterion to determine which reforms are necessary to undertake before enlarging. Central Europe represents an institutional challenge for the European Union because its political goal is very clear: to join the EU. Consequently the EU has to think now about the reforms to undertake. There is no consensus at all about what should be done and about what the EU is going to be. Will it be a federation or will the Member States try to preserve the present balance between supranationalism and intergovernmentalism? Is there a choice? Chapter 4 considers the consequences of the enlargement on the European Union.

# *Chapter 1*

## *What is Central Europe?*

## *Chapter 1*

### *What is Central Europe?*

#### *1) The European integration process: Theoretical and historical background.*

'J'ai toujours pensé que l'Europe se ferait dans les crises, et qu'elle serait la somme des solutions qu'on apporterait à ces crises.'

Jean Monnet. *Mémoires* p. 622

It is common place to say that theories do not mould the course of events but are invented to explain them, <sup>1</sup> however it is no less true to say that the European integration process has challenged many scholars in their theorizing work, be it normative or explanatory. The European Community is a regional group of nations-states of a complex nature which does not respond to any usual theoretical framework. As a matter of fact its decision-making process and its structure are cumbersome, and its political finality uncertain and not clearly defined. The attempt to provide the EC with a theoretical explanation is rendered even more complex by the fact that nation-states and international relations are undergoing massive changes, and that the question of adaptiveness of the states to manage complex economic interdependence is at stake in this theoretical battle. It is not the place here to explain *in extenso* the theories of International Relations or those of regional integration, but it is nevertheless necessary to have an overview of the different theories

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<sup>1</sup> R.W. Cox 'Social forces, states and world orders: beyond international relations theory' *Millennium* 10:2 1981 pp. 126-55.

which tried to explain the European integration and what kind of challenge Central European countries represent for the European Community.

It is difficult to find a satisfactory, comprehensive and systematic theoretical model to apply in rigorous analyses of the European Community and to explain the interaction between the apparently contradictory forces which are the engine of the integration process. As C. Webb put it

Faced with conceptual and methodological anomie, uncertainty as to the long-term political significance of the EC, or even the most appropriate criteria by which this could be measured, the analyst is inclined to despair.<sup>2</sup>

Theories are furthermore changing because they have to adjust their concept to the changing nature of international relations and to the changing reality of the European integration process. In a rapid overview of the different theories which have been used in the political interpretations of the EC, we could say that none of them is sufficient in itself but they all give a useful insight into the whole integration process. Amongst those which proved to be quickly dismissed by events are Federalism which foresaw a steady and homogeneous transfer of sovereignty to a central and unique decision center and Functionalism which assumed that integration was progressing thanks to automatic spill over. According to C. Webb<sup>3</sup>, only three theoretical frameworks are still more or less valid: Neo-functionalism, Intergovernmentalism and interdependence. At the basis of these three theories are different conceptions of modern state which are themselves defined by three fundamental concepts: boundaries, sovereignty and national interests. For each of them, two opposed sets of interpretation are available:

- states boundaries: billiard ball and cobweb theories
- sovereignty: intrinsic or functional
- national interest: domestic and international politics.

Because European integration theories used different premises, their conclusions on the purpose and the evolution of the European Community are therefore divergent. What are they?

*Neo-functionalism* and the tenants of the cobweb model of international politics affirm that governments could be divided into sets and layers of diverse interests, some of which would

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<sup>2</sup> C. Webb 'Theoretical Perspectives and Problems' in H. Wallace, W. Wallace and C. Webb *Policy making in the European Community*. London 1983. pp. 1-41

<sup>3</sup> C. Webb *Policy making in the European Community*. pp. 1-41.



naturally have links with similar groups in others states. <sup>4</sup> In the neo-functionalist's view, this natural cooperation is particularly necessary in the economic sphere and is bound to evolve, through the 'concept of spillover', into deeper economic and political integration. The logical consequence of this process is the eventual emergence of a supranational political entity which would be more efficient than national states to manage economic interdependence. The assumption of automatic spillover has been dismissed by a growing influence of intergovernmental bargains and structure in the Community-building process. *Intergovernmentalism* is based on the concept that national governments, as subjects and actors of international relations, are large units which can legitimately and effectively claim to manage the external interests of their societies. <sup>5</sup> This political creed leads the governments to preserve a 'billiard ball' mentality in international negotiations. The EC would thus be the result of strategies pursued by rational governments acting on the basis of their preferences and power. The European integration process would be acceptable only insofar as it strengthens nation-states' control over domestic affairs, permitting them to attain goals otherwise unachievable. The major agenda-setting decisions in the history of the EC, in which common policies are created or reformed, are negotiated intergovernmentally (i.e. European Councils)

*Interdependence analysis* has given up the 'billiard ball' theory but still believes in the resilience of states to manage interdependence. <sup>6</sup> It draws attention to the diminishing importance of the formal boundaries of states as they become enmeshed in, and dependent on, extensive economic exchanges. The concept of interdependence explains the conditions under which governments have to contemplate some form of collaboration; but unlike the

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<sup>4</sup> E. Haas *The Uniting of Europe*, Stanford, 1957, *The Obsolescence of Regional Integration Theory*, Research Studies 25, Institute of International Studies, Berkeley 1975. and 'Turbulent fields and the theory of regional integration', *International Organisation*, Vol. 30 n°2, Spring 1976. pp. 172-212. D. Puchala 'Of Blind Men, Elephants and International Integration' *Journal of Common Market Studies*, Vol. 10. 1972. pp. 267-85. L. N. Lindberg *The Political Dynamics of European Economic Integration*, SUP, Stanford, 1963.

<sup>5</sup> R. Dahrendorf, *A Third Europe*, Jean Monnet Lecture, European University Institute, Florence, 26 November 1979.

Moravcsik 'Negotiating the Single European Act: National Interests and Conventional Statecraft in the European Community' in *International Organization*, Vol.45, Winter 1991. pp. 19-56.

<sup>6</sup> R. Keohane and J. Nye 'International Interdependence and Integration' in F. Greenstein and N. Polsby *Handbook of Political Science*, Vol. 8, Massachusetts, 1975. pp. 363-414 and *Power and interdependence: World Politics in Transition*, Boston, 1977.

M. Camps, *The Management of Interdependence*, Council on Foreign Relations, New York, 1974.

R. N. Cooper 'Economic Interdependence and Foreign Policy in the Seventies' *World Politics*, Vol. 24 January 1972. pp. 159-81 and 'Interdependence and Co-ordination of Policies' in *Economic Policy in an Interdependent World: Essays in World Economics*, MIT Press, Cambridge 1986.

integration theory, it does not necessarily define the outcome very precisely. Interdependence serves as a justification for maintaining the EC in spite of disagreements amongst its member states about its ultimate political purpose. This theory has the same starting point as neo-functionalism, but where the neo-functionalist sees here a reason to transform completely the structure of the nation-states, the interdependent argues for their adaption to a new international environment.

Because the European integration process has no precedent, and because it does not respond to a precise pre-established and coherent model of elaboration,<sup>7</sup> theorists came to treat the EC as a *sui generis* phenomenon which cannot be the object of theoretical generalization<sup>8</sup>. As a *haut fonctionnaire* of the EC would put it 'the Union is not a natural unit but a voluntary construction. In a fundamental way, it is a contract through which common policies are conducted and rules are established to attain agreed purposes among member-states.'<sup>9</sup> Moravcsik cautiously suggests considering the EC as an international regime for policy coordination where national preferences are determined by the constraints and opportunities imposed by economic inter-independence. The outcome of intergovernmental negotiations is determined by the relative bargaining power of governments and the functional incentives for institutionalization created by high transaction costs and the desire to control domestic agendas.<sup>10</sup> In fact, this theoretical confusion is a consequence of the extreme institutional elasticity and adaptability that the EC is capable of to accommodate national concerns and interests. As a matter of fact, European integration history shows that, when established mechanisms were judged to be unsuitable or unacceptable for a specific purpose, the EC has set up either an intergovernmental non-treaty approach, a non-treaty partial membership approach or non-community pillars. Of course, at the end of such a process the original idea of the Founding Fathers fades away, transforming the European Union into an impalpable reality feeding scepticism. As J.A. Caporaso argues

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<sup>7</sup> The European integration is said to be supranational in intention and intergovernmental in practice. C.Webb *Policy making in the European Community*. p. 23.

<sup>8</sup> A. Moravcsik 'Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach' in *Journal of Common Market Studies*, Vol. 31 n° 4. December 1993. pp. 473-524. p. 477.

<sup>9</sup> Speech on prospects for the European Union given by the head of the Commission of the EC to the United Nations. Unpublished, New York, 19 May 1994.

<sup>10</sup> A. Moravcsik 'Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach' in *JCMS*, Vol. 31 n° 4. December 1993. p. 517

'the important achievements of Western Europe, particularly in NATO, EC and CSCE were the products of self regarding and rather hard-headed bargains among states rather than concessions to 'community spirit' transnational economic forces, or supranational Eurocrats. <sup>11</sup>

The European integration process has evolved following three axes that A. Lloyd had detailed as follows: <sup>12</sup>

- The Communitarian method
- Use of extra Community mechanisms
- Enlargement

The *Communitarian method* is based on institutional balance, a constant objective (the Union) and a strategic functional growth. One of the major characteristics of the European integration process is the mixing of the innovatory federalist approach and the more classical intergovernmental approach. The adoption of practical solutions has given birth to an hybrid system wherein supranational and intergovernmental bodies are interacting toward a common objective: a European Union. This concept of political union has always been present in the history of the European integration process, but was never defined. The Maastricht Treaty (signed on 7 February 1992) implements a European Union which was adopted on 1 November 1993, but its nature is still not clearly defined juridically speaking and seems bound to evolve at the 1996 Intergovernmental Conference. European Union institutions are complex, its powers ill-defined and its constitutional nature is still hesitating between an intergovernmental structure and a more federalist orientation. In the absence of a substantive consensus on the long-term political objectives of the EC, the Community, given its structure, has to look to its policy performance to win support and stature. The communitarian method consists of emphasizing the economic efficiency and necessity and of keeping a low profile on political and institutional issues where stronger opposition would have been met. This pragmatic link which exists between economics and institutional, embodied in the Jean Monnet's method, gives to each major step towards more integration a precise task: ECSC was aimed at preserving peace on the continent, the EEC to ensure the economic prosperity of the European continent and the European Union the reunification of the European continent after the 1989 revolution. The political aspect was never absent from European Community concerns but was hidden in technical or economic achievements. This

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<sup>11</sup> J.A. Caporaso 'Has Europe changed? Neorealism, Institutions and Domestic politics in the new Europe' in R.J. Jackson *Europe in transition the management of security after the cold war*. Praeger, London 1992.

<sup>12</sup> Alexis Lloyd 'Les étapes et la méthode' in A. Lloyd & A. Winckler *L'Europe en chantier*, Hachette, Coll. Pluriel, Paris 1993. pp. 11 - 32.

method has had a long lasting dramatic effect because it has cut off the populations from the European process. It is not without irony that Moravcsik affirms that the EC's 'democratic deficit' may be a fundamental source of its success.<sup>13</sup> The lack of public support to the European integration process is now a major weakness of the present European Union. The rediscovery of the European Community has created a feeling of fear and deep scepticism which could be seen during the ratification of the Maastricht Treaty.

The paralysis of the European Community which followed the Luxembourg compromise in 1966 has obliged the European Community to adopt pragmatic solutions which escaped the Community legislation. Several initiatives developed on an intergovernmental non-treaty basis. Amongst them we can find the Franco-German treaty of cooperation in 1963, the creation of the European Political Cooperation (EPC) in 1970, the creation of the European Councils in 1974. Some other initiatives are following a non-treaty partial membership approach such as the European Monetary System (EMS) in 1979, and the Exchange Rate Mechanism (ERM). More recently, the EC has created two non-Community pillars (Common Foreign and Security Policy, and Justice Home affairs).

European integration also progresses in the enlargement process, as it often goes with more integration if there is strong political will of the political actors at the Community level and at the same time a well defined strategy. As a matter of fact, during the first enlargement, the 1969 Hague conference spelt out the typical community model of integration: completion, widening and deepening. The acceptance of the United Kingdom, Denmark and Ireland into the EEC enabled it to launch the Economic and Monetary Union project (EMU Werner Plan 22 March 1971). It also enabled the Community to develop its own budgetary resources and set up an embryo of political cooperation (see *infra* Davignon report). The second enlargement brought Greece in the EC into 1981 and beforehand, the EMS and the election of the European Parliament in 1979. With Spain and Portugal in 1986, the Single European Act was signed on 17 February 1987.

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<sup>13</sup> A. Moravcsik 'Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach' in *JCMS*, Vol. 31 n° 4. December 1993. p. 477.

### *III.) Central Europe: a new impetus for European integration.*

Central Europe may be the necessary impetus that the EC needs to compensate for its weaknesses as an EC fonctionnaire saw them: Economic recession, political rift in the public opinion support and perception that fundamental divergence about the future of the EU has been mostly papered over. Central European economic and political crises are also very important for the European integration process, because, as Jean Monnet put it in his *Mémoires*: 'only emergencies make actions necessary'.<sup>14</sup> Through its action in Central Europe, the EU will have the chance to show its political maturity and to organise a real debate on its relevance as an international political actor and the urgency to achieve a political union to take its world wide economic and diplomatic responsibilities. Of course, Central Europe is not the only challenge that the EU is going to face, but Central European countries represent many problems which are common to the rest of Europe and for which it would be good to find a solution now in order to put into place a comprehensive and efficient external policy. In my view, because of the Central European challenge, the EU is most likely to pass from a reactive external policy to an active policy, and to affirm itself as a major international partner to the United States, Russia and Japan. As far as the economic recession is concerned, the pressure that Central Europe put on the EC and then the EU to destroy its trade barriers has opened new possibilities and new markets for European companies. Concerning the widespread perception that fundamental questions about the EC have been avoided, Central Europe will provoke the Member States to make up their mind because the prospect of enlargement to a European Union of 20 Member States, would for sure put an end to the continuous ambiguity between half-hearted federalism and disguised intergovernmentalism. All the ingredients for a revival of the European integration process are present in the Central European challenge. Central Europe represents first a clear historical challenge which could lead to the reunification of the European continent if the EU takes it successfully

With the end of the cold war and its simplistic division, between East and West, a number of countries, Poland, Hungary and Czechoslovakia, have re-adopted the name of Central Europe. This concept of Central Europe, whose history is the clearest illustration of

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<sup>14</sup> Jean Monnet *Mémoires*. Livre de Poche, Fayard, Paris 1978. p. 356.

the East/West antagonism,<sup>15</sup> and the field of the major European Civil war, has resurrected from the Soviet grave. What is Central Europe? Does its re-emergence mean a new phase in the East West struggle? Or does it mean the definitive peaceful settlement based on freedom and liberty?

Central Europe has never been easy to define because it depends on the whole concept of Europe first and on the moving concept of Western and Eastern Europe. What does it mean today? Having for its basis an ill-defined geographical reality, the notion of Europe takes a variable geometry according to which aspects one looks at. These aspects could be civilisational, such as history, religion or culture, or more politically oriented such as diplomatic construction, security-based prospective or economic integration. Hugh Seton-Watson presents Europe as physical reality 'define[d by] the north-west peninsula of the Asian land mass'.<sup>16</sup> However, if its western boundaries are naturally clearly defined, its eastern limits are less static. The Russian writer Elgiz Pozdnyakov affirms that Russia is 'part of another type of civilisation, another religious and cultural type', and that it never, and will never belong to Europe.<sup>17</sup> Vaclav Havel, former dissident and now Czech President, argues, in the *Tragedy of Central Europe*,<sup>18</sup> that Europe, from the Atlantic to Ural mountains, has always been divided, religiously and historically into two halves which have evolved separately'. Central Europe is the child of the East/West stormy relationship and as V. Havel put it 'Central Europe's borders are imaginary and must be drawn and re-drawn with each new historical situation'.<sup>19</sup>

Central Europe had been constantly between these two influences. Considered as 'the window on Europe' by Russia, Central Europe was seen by the West as 'the eastern post of Western civilisation',<sup>20</sup> defending the cultural heritage of West as the *OstReich* did in 1685 by stopping the Turkish invasion. The fundamental difference of culture and civilisation was

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<sup>15</sup> for J.Eberle 'Central Europe is a political question for policy makers'. in V. Havel *Spring in Winter, the 1989 revolutions* Gwyn Prins (ed) Manchester University Press, Manchester, 1990. p.197.

<sup>16</sup> Hugh Seton-Watson 'Thoughts on the concept of West and East in Europe' in *Government and Opposition*, vol. 20 no.4. 1985. pp. 157-165.

<sup>17</sup> Elgiz Pozdnyakov 'The Soviet Union: the problem of coming back to European civilisation' in *Paradigms*, vol. n° 5, n° 1/2, pp. 45-57.

<sup>18</sup> Vacláv Havel in M. Kundera 'The tragedy of Central Europe' in *New York Reviews of Books*, 26 April 1984. p.36.

<sup>19</sup> M. Kundera, 'The tragedy of Central Europe' in *New York Reviews of Books*, 1984. p.36.

<sup>20</sup> Kumar, 'The 1989 Revolutions and the idea of Europe' in *Political Studies*, vol. n° XL, 1992. p.449.

the pretext for numerous hegemonic interventions in the centre of Europe, making Central Europe this huge 'playground'.

After the first World War, the Versailles Treaty and the subsequent treaties confirmed the importance of Central Europe in the settlement of the Franco-German antagonism. The French were convinced that the only way to control and balance the authoritarian German power was to encircle it thanks to Central Europe, by organising it diplomatically and politically, according to French needs. Great Britain developed another view of Central Europe, which was to be a *cordon sanitaire* between the Soviet Russia and the West.

This definition of Central Europe as a buffer zone between the two major powers slightly changed after the implementation of the Yalta manipulations which gave the Soviet Union her beloved *glacis protecteur*. The ideological war which followed merged Central Europe into an Eastern European geopolitical role and proved that the whole concept of Central Europe could die with a reinforcement of the East/West opposition. Eastern countries became an important concern for Stalin who wanted to protect Ukrainian plains from Western invasions and Soviet Union from Capitalist influences, and German hegemony. Stalin committed himself to destroying the anti-Russian and anti-Communist seeds in Croatia, Bulgaria, Romania, Hungary, Slovakia, Bohemia and Moravia which had links with the Nazi power, and to put Central Europe under military control. The Soviet Union removed all latent conflicts between states, nationalities, ethnic groups and religions by imposing Communism and by carrying out massive deportations of minorities. The de-nazification of Central Europe conducted by Russians went in parallel with a de-Germanisation of these areas. <sup>21</sup> As a result of both the Nazi and the Soviet occupation, Central Europe was unrecognisable and transformed into a 'disinfected' and unproductive area, as its two basic influences, Jewish and German, were destroyed.

Despite the achievements of the Central European countries in the revolutionary process of 1989, it would not have been possible without the reforms implemented by Gorbachev in the Soviet Union between 1985 and 1990. In his speech on the 70th anniversary of the October revolution, Gorbachev reaffirmed the existence of different roads to Socialism stating that all parties are fully and irreversibly independent'. <sup>22</sup> The self limited interference of Soviet Union in national affairs, and Gorbachev's call urging Polish communists to join the

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<sup>21</sup> J. Rupnik, 'Le problème Allemand vu de l'Europe du Centre-Est', in *Revue Française de Sciences Politiques*, Vol. 37 no.3. Juin 1987.

<sup>22</sup> K. Dawisha *Eastern Europe, Gorbachev and reform, the great challenge*, Cambridge, C.U.P. 1990. p.76.

non-communist majority government led by Mazowiecki, in August 1989, signalled the end of Soviet support to most of the founding fathers. Honecker retired on 18 October 1989 and Husak was forced to leave in November, and other hard-line communists, who were no longer backed by popular sympathy, had to leave. The Russian reforms helped the reform process in Hungary and Poland, where debates accelerated in 1989 on even more thoroughgoing political, economic and military reforms, including neutrality (the issue on which USSR intervened in Hungary in 1956). The first popular demonstration hardly received any state opposition. Central Europe was then given the opportunity to redefine its role within Europe, and therefore its relations with the unified Germany, which reappeared to be at the centre of the European Chess set.

The traumatic forty year experience of Communism that Eastern Europe has undergone pressed countries like Poland, Hungary and former Czechoslovakia to emphasise their historic, cultural and religious allegiance to Western Europe. But are they that similar? Even if they affirm to belong to the same European family, they are still different in many aspects from Western Europe. The 1989 revolutions gave them the opportunity to reaffirm their peculiarity first as a distinct nation, and second as a group of nations with common traditions and regional ties.<sup>23</sup>

### *III.) Visegrad, Poland, Czech Republic Slovakia and Hungary*

Each country is now looking to their past to find some guidelines of what would be an ancillary experience and would reflect the true nature of their nation. However, this process is dangerous, as is revealing atavistic oppositions. National egoisms have to be taken into account. As Charles Gati put it

'History signifies a search for the usable past. To be usable, the past must fill the post-communist ideological vacuum, help to discover long-suppressed indigenous values and rekindle national self-assurance and self-respect. Alas, the past may also assist those who seek to escape from complex and often painful present realities into an ostensibly golden age of glory and grandeur'.<sup>24</sup>

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<sup>23</sup> T.Garton Ash. 'East Europe's opposition' in *The New York Review of books* Vol XXXV no 15 October 13, 1988. p.3

<sup>24</sup> Ch. Gati 'East Central Europe: the morning after' *Foreign Affairs*, Vol. 65, 5. Winter 1990-91. p.131.



Although Central European intellectuals emphasise that they truly belong to Europe, and not to Russia, they remain extremely critical of the political concept of Central Europe. Havel claimed that 'Central Europe is not a state: it is a culture or a fate.'<sup>25</sup> K.Kumar emphasises that the heavy Soviet occupation has created a superficial Eastern identity, from which the search for a Central European distinctiveness would be as superficial if not meaningless.<sup>26</sup> Feher adds that 'Yalta created a geographical entity 'Eastern Europe' which as a polity or a community of destiny had never before existed.'<sup>27</sup> Kumar carries on by affirming that if Poland, Czechoslovakia and Hungary may count themselves as Central European, there is no need for them to pursue a common path, and that they are not condemned to the same destiny. This point is indeed important, but if we do not subscribe entirely to his negation of a different Central European entity therefore, we should always bring to the attention of the reader the particularities of each of the components comprising Central Europe.

This political definition has nevertheless found a diplomatic reality in the Visegrad (Hungary) Agreement signed in December 1991, and for an unlimited period of time (taking effect on March 1992<sup>28</sup>). The Visegrad agreement is aimed at the complete integration of its members into the political, economic, and legislative European order and into the European security system.<sup>29</sup> On 21 December 1992, the Visegrad 4, signed an agreement in Krakow on the establishment of a free trade area from 1 March 1993 and decided to coordinate their views on several important questions such as their relations with the Council of Europe, EFTA, EC or NATO. The agreement's timetable is almost identical to European Agreements' one, as the free trade area should be implemented by 2001.<sup>30</sup> This initiative promoted by The European Community reveals in fact difficult to put into practice. Central European economies are not very complementary, the intra-trade existing between them has been completely disorganised (different customs duties) and none of them want to bear the consequences of its neighbour's economic failure. The process of trade liberalisation is also uncertain as restructuring is evolving quickly, which therefore makes commercial agreement

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<sup>25</sup> Vacláv Havel in M. Kundera 'The tragedy of Central Europe' in *New York Reviews of Books*, 26 April 1984. p. 36.

<sup>26</sup> K.Kumar 'The 1989 Revolutions and the Idea of Europe.' *Political Studies* Vol. XL. 3. September 1992. pp. 439-461. p. 454.

<sup>27</sup> F. Feher, 'Eastern Europe's long revolution against Yalta', in *Eastern European politics and Societies*, 2:1 (1988) p. 20.

<sup>28</sup> This date is symbolic as it corresponds to the entry into force of Association Agreements.

<sup>29</sup> Jean Yves Potel 'L'Europe Centrale à la recherche d'une nouvelle cohésion' in *Le Monde Diplomatique*, 4 October 1992, n° 463. p. 4.

<sup>30</sup> 'Free Trade Zone in Central Europe', in *East West*, 28/01/93, n° .541. p. 2.

extremely unstable.<sup>31</sup> Moreover this idea itself does not meet the approval of every contracting party. Thus, despite an original political will, the Czech Republic and Slovakia which split on 17 November 1992 (decision put into force on 1 January 1993), did not find any incentive to make work the monetary union and customs union ruling economic relations between the two countries (Monetary Union broke down on 8 February 1993 and the Customs union disappeared at the end of May 1993). As far as the free trade area between the Visegrad 4 is concerned, the Czech Prime Minister, Vaclav Klaus, who is asserting his leadership on International relations at the expense of the President Vaclav Havel, is re-orienting the Czech foreign policy away from sub-regional integration in Central Europe. He emphasised the practical character of the free trade area among Central European members, as such actions could facilitate the integration of his country into the European Community, however, in the meantime he affirmed that:

This is not a creation of a trade block, nor a signal that the Four Central European countries are ready for somewhat closer political cooperation.<sup>32</sup>

Furthermore, in a world completely out of tune, bilateral negotiations seem easier to achieve, and to satisfy public opinions rather than multilateral negotiations which demand a strong and stable forum, and moreover a common political project. On top of political difficulties, the economic integration of Central Europe seems to be a very long process (more than 10 years will be necessary to achieve a free trade area), and no country seems to be strong enough or to have the necessary resources to achieve such a goal. The split up of Czechoslovakia added to this pessimism, and these tensions made Visegrad 4 more unstable than ever. The political definition adopted by the Community means that, geographically speaking, Central Europe is 455,007 square kilometres in area (Poland 312,677, Hungary 93,030, former Czechoslovakia 49,370 sq.km.) and its population is 64.0 million strong (Poland estimated in 1991 37.8 m, Hungary 10.5 m and former Czechoslovakia 15.7 m).

In conclusion we would say that Central Europe is politically a superficial concept which changed with time and with international relations. The 1989 revolution and the renationalisation of Central European societies seem to be the prerequisite for the reunification of the European continent. This resurgence of nationalism does not ease the cooperation between the four Central European countries but they are unified by one political

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<sup>31</sup> M.Percynski 'la collaboration subrégionale dans le cadre du groupe de Visegrad' in *Revue du Marché Commun et de l'union Européenne*, n° 369. Juin 1993. pp. 541-546.

<sup>32</sup> 'Free Trade Zone in Central Europe', in *East West* 28/01/93, n° 541. p. 2

project: their reintegration into Western Europe. Economic and political reintegration is possible and under way, but it is important to bear in mind that the problem of Central Europe will not be solved unless Western and Eastern Europe come to terms with each other.

*Chapter 2*  
*Central Europe and the*  
*Completion of the*  
*Common Commercial*  
*Policy*

## *Chapter 2*

### *Central Europe and the Completion of the Common Commercial Policy.*

Post-war relations between the EEC and Central Europe were dominated by intra-bloc relations leaving little room for any autonomous commercial policy or political debate about the relevance of such policy. However, the West started to make its presence felt through commercial links, even if most of the time, this meant competition between the United States and EEC Member States for a bigger share of the Eastern bloc market and even though they were drastically limited by the COCOM to non-strategic products. In order to achieve a more consistent approach and to get a more powerful leverage in trade negotiations, Member States began to give life to the European Common Commercial Policy as established in the Treaty of Rome. The CCP was, at first, aimed at completing the single market programme, but Central European countries economic situation forced the Member States to change their attitude and to flesh out the CCP in order to transform it into a real external trade policy. The mastering of the CCP by the Community as a means to conduct a common external economic policy is a long process which could be divided into three simplistic stages. The first stage is an institutional and administrative struggle over the interpretation of the treaty which establishes the Common Commercial Policy and subsequently over the competencies of the Member States and those of the Community. The second stage comes in parallel and is illustrated by a continuous fight between the Community and its Member States to impose consistent external trade policies and to harmonize commercial practices. In this stage the Community finds its limits but also a natural ally in the GATT. The third and last step is for the Community to ensure that its competencies in trade related matters are integrally recognised by Member States (i.e. transfer of sovereignty) and by its international partners. To achieve such a task, it is absolutely necessary that both national and international partners understand that the CCP is the product of a genuine and legitimate political will.

The whole process cannot, however, be put into gear if there is no perception of a common interest or a common view over the solution to be brought to a particularly urgent problematic situation. International pressure or threat is often the source for governments to find the courage to act together.

### *D) Central European economies and external trade structure.*

After the military invasion of Central Europe, the Soviet Union imposed a specific model of social compact based on consumerism in order to consolidate its political control.<sup>1</sup> Consumer satisfaction became the basis of political stability but was dependent on the subjective perception of consumers. This situation proved to be unstable as the fear of popular discontent obliged political elites to sustain practices damaging the whole economy, such as food subsidies. In 1970, Hungary and Poland used one third and one fourth of their respective budget to keep the prices low.<sup>2</sup> Moreover, despite its isolation from the world economy, Central and Eastern European economies were affected by Western inflationary pressures. They increased Western import's prices and Russian raw materials' prices. As a result they put national budgets under harsh pressure, usually resulting in the discontent of public opinion which sharpened the economic contradictions of the Central European societies. These tensions paralysed the political elite who did not take the necessary reforms which could have saved their economies. Indeed these reforms needed a certain political courage because they were, in a number of issues, opposed to the Communist economic management and the nature of socialist economies. Such reforms would have had unpredictable consequences for the Communist political leadership of these governments and dramatic effects on the ideological justification of democratic centralism.

An import-led growth plus an international rationalisation of Central European economies (conducted by Soviet Union) appeared to be the solution to the destructive effect of inefficient economic policies. Central European countries expanded their trade with Western countries by importing expensive technology and know-how, but this decision did not solve Central European economic difficulties in the long term. The failure of Eastern and Central European industries to compete with Western technology, or to increase the quality of their

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<sup>1</sup> Z. Gitelman 'The world economy and elite political strategies in Czechoslovakia, Poland, Hungary' in M. Bornstein *East West Relations and the future of Eastern Europe* London, 1981. p. 129.

<sup>2</sup> Alex Pravda 'East West interdependence and the social compact in Eastern Europe' in M. Bornstein *East West Relations and the future of Eastern Europe*. Allen and Unwin, London, 1981. p. 175

product, prevented them from entering Western markets and from earning the necessary hard currency to repay the Western credits necessary to finance these imports. Moreover, because their products could only be sold in CMEA markets, Central European countries became more and more dependent on Soviet Union. The Soviet Union largely used this as leverage to secure political domination. The expansion of trade with Western countries increased the dependence on Western technologies, worsening the balance of payments and intensified many of the pressures already existing on the Central European economies, narrowing therefore their margin to govern an unsatisfied population. In Poland, the rise in food prices in 1970, due to the reduction of subsidies granted by the government, triggered massive popular demonstrations which ended with the re-establishment of subsidised food prices. From 1970 to 1976, Gierek increased its imports six fold.<sup>3</sup> This habit to express any discontent through demonstration and social upheavals created a precedent in Central European politics. The volatility of popular expectations is crucial when dealing with Central European economies and reforms after the 1989 revolution.

With the creation of the CMEA, Soviet political elites tried to control the economic life of Central European satellites by completely submitting their economy to Soviet needs and by reducing to nothing the economic cooperation between Central European members.<sup>4</sup> In 1962, the basic principles of international Socialist division of labour were laid down, but did not succeed in reinstating trust between Central European partners and Soviet Union. Brezhnev tried to rationalise the relations between CMEA member-states, first in 1965 by developing a trade policy with the Third world on a commercial approach and secondly, by introducing monetary measures to facilitate inter-enterprise trading in 1967. These experiences ended with the 1968 Prague Spring and Brezhnev imposed a Socialist economic integration to replace the doctrine of international socialist division of labour. In 1971, the proposals to specialise production through bilateral and multilateral agreements and the introduction of certain economic lessons experienced by Hungary (introduction of market relations between countries and full scale integration) were embodied in the 1971 *Complex Program*. This reform was essentially political as the drive to more integration was in fact aimed at tightening the economic framework to avoid further rebellion.<sup>5</sup>

The CMEA, whose integrating process was based neither on political nor economic common interests, emptied Central and Eastern Europe of their economic substance and

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<sup>3</sup> Alex Pravda 'East West interdependence and the social compact in Eastern Europe' in M. Bornstein *East West Relations and the future of Eastern Europe*. 1981. p.165.

<sup>4</sup> W.Wallace, R. Clarke, *COMECON, trade and the West*. Frances Pinter, London 1986. p.4.

<sup>5</sup> W.Wallace, R. Clarke, *COMECON, trade and the West*. 1986. p. 9.

transformed them into expensive and greedy parasites of the Soviet Union. The insufficiency of the CMEA and the increasing needs of Western technological goods and credits made Central and Eastern Europe heavily dependent on Western European credits to survive economically. Western Europe responded quite favourably to these demands, but the crises of the 1970s made money and credit less available and forced Member States to adopt more common norms to conduct their economic bilateral policy with Central and Eastern European countries.

The favourable international environment between 1960 and 1968 gave a boost to East / West economic relations. The improvement of American and Soviet relations, the loosening of Soviet control on Central Eastern Europe (i.e. Moscow declaration of 1957 and Socialist Commonwealth) and the economic crisis that occurred in these countries, increased the demand for Western goods and inclined Western European countries to adopt independent commercial policies towards the Eastern Bloc. Britain was the first country to accord a 15-year-credit to the Soviet Union in 1964. The Eastern policy of de Gaulle was supported by scientific and technological exchanges and by the removal of quotas in 1965. Thus between 1958 and 1970 the EEC exports to the CMEA increased by 385 per cent and the EEC imports by 300 per cent.<sup>6</sup> In 1969, France signed a new agreement with the Soviet Union aimed at doubling Soviet-French trade within 5 years. The independence of the Member States in the conduct of their economic policy was furthermore accentuated by the political resistance of some members, such as France and Britain, to delegate the necessary power to the Community to achieve a common stance toward Central Europe. This voluntary exclusion of France and Britain from the integrating commercial process allowed Germany to set the basis of the Community's Common policy.<sup>7</sup> A.Gyorgy argues that

`Ostpolitik in the early 1960s may well be considered an essential and thinly camouflaged bridge between an involuntary Eastern-oriented commercial alliance system and a wholly voluntary and prosperous Western set of Economic treaty arrangements.<sup>8</sup>

The different East/West economic and technological cooperation systems put into place in the 1970s did not enable Central European countries to improve their economic efficiency

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<sup>6</sup> G. Yannopoulos 'Economic Relations between the EEC and Eastern Europe' in *The EEC and Eastern Europe*, Cambridge University, 1978. p. 2.

<sup>7</sup> J.Pinder *The European Community and Eastern Europe*, London RIIA, 1991. p. 5.

<sup>8</sup> A. Gyorgy 'Ostpolitik and Eastern Europe' in Ch.Gati, *The International Politics of Eastern Europe*, 1976. p. 166.



but made heavier their financial difficulties and their national debts. This situation forced Central and Eastern Countries to tighten their belts, to import less and to accept less credit. This policy meant the loss of important export markets for the Member States who accepted a lowering in their interests rate and proposed extremely favourable terms of contracts. This competition led to damaging excesses and the Member States decided to adopt common minimal norms to conduct their credit policy. The 1970s feverish credit policy conducted to preserve western export market shares, was accentuated by the world crisis and the new competition for world markets. The Commission tried desperately to coordinate credit policies among Member States, but did not succeed in producing a clear policy statement before late 1970. The Council of Ministers adopted common, but loose, standards on insurance for medium and long term credits. Eventually, a gentlemen's agreement came into existence in 1974, within the OECD framework, but not the EC. However the Community adopted this agreement which stated that 'consensus rates' reflecting the evolution of market interest rates be granted to Eastern European countries.<sup>9</sup> They limited the minimum interest rate on government export credit to 7.5 per cent per annum and forbade subsidies on such credits. Common credit policies were extremely difficult to implement at the European level, as Member States carried out their own policy in this sensitive area. Despite the fact that the European Court recognised the right of the Commission to rule in this field in 1975, it was not until 1976, at the Puerto Rico economic summit, that the four leading EEC states decided to adhere to a set of loose guidelines on export credits set by the Community. French opposition on the question of government-supported export credits, impeded the Council of Ministers from approving the guidelines before 1977. This common credit policy has been difficult to achieve but it was a step forward in the integrating process and a precedent which could be followed by a more ambitious programme, the Common Commercial Policy.

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<sup>9</sup> M. Maresceau, *The Political and legal framework of Trade Relations between the European Community and Eastern Europe*. Dordrecht, Martinus, Nijhoff, 1989. p. 247.

### *III ) The Common Commercial Policy.*

#### *III.A. ) Structure and Content*

Once it became obvious that common action was needed to deal with the Central and Eastern situation, Member States reactivated and fleshed out the Common Commercial Policy in order to use it in external economic relations. It took almost 17 years to provide the European Community with external competencies.

The Treaty of Rome aimed to create a common market and a Customs Union with a Common External Tariff (CET) and including a Common Commercial Policy (CCP). This CCP was originally set up to complete the common market programme and was far from being a common external commercial policy vis-à-vis third countries. This CCP is embodied in the Treaty of Rome (1957, Art. 110 to 116) and gave the EC an exclusive authority in trade-related matters.<sup>10</sup> Article 113 states

'the CCP shall be based on uniform principles, particularly in regard to changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures towards the liberalisation, export policy and measures to protect trade such as those to be taken in the case of dumping or subsidies.'<sup>11</sup>

Four different trade instruments were at the EC's disposal. The Community has the right to establish a Common External Tariff towards third countries, as it did on 1 July 1968. The Treaty of Rome also states that only the EC is allowed to conclude regional trade and cooperation agreements with third countries, as it did with EFTA, ASEAN, ACP. However, this should not be confused with *political* cooperation agreements which stay one of the Member States' prerogatives. The Commission has exclusive powers and became the sole trade unit acting on behalf of its Member States. The treaty also affirms that the Community may grant Third countries special tariff preferences. Finally, the Community has, according to art 115, to fight illegal trade practices. The EEC treaty contains the procedural framework

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<sup>10</sup> N.A. Neuwahl 'Joint participation in international treaties and the exercise of power by the EEC and its member-states mixed agreements' in *Common Market Law Review*, vol 28, n° 4, winter 1991. p. 724.

<sup>11</sup> EEC Treaty of Rome Article 113.

for the design of Common policies, but does not give any rule for the implementation of the different procedures, let alone when it is related to individual trade policy areas.

The process for the formulation of the Common Commercial policy is identical to the 'normal' Community decision making process, but as Al Agra puts it: 'Common Commercial Policy is inherently complex. It is multi-faceted and multi-dimensional, the outcome of numerous compromises at EC Council and Commission level.'<sup>12</sup> The Council role is political because it gives the general orientations of the CCP, it decides the opening of negotiations with third countries, it gives directives to the Commission for the conduct of these negotiations and finally concludes agreements. The Commission is in charge of the negotiations, submits proposals to put the CCP into practice and has exclusive responsibility for the conduct of the negotiations. However, the Commission has to have the assent of the Council before starting any negotiations and when negotiating, it is assisted by a committee nominated by the Council as foreseen in EEC art. 113: the so-called *113 committee*. The Council eventually decides upon the ratification of the agreements negotiated by the Commission. The rules often provide the Council with powers to review, then confirm, reject or modify a Commission decision. Community decisions respond to a very low common denominator and are the result of several internal processes for reconciling divergent views.<sup>13</sup> The negotiations with Hungary about cooperation agreements in 1987, are a clear illustration of the lack of independence of the Commission on the interpretation of its Council's mandate, the difficulties encountered by Hungary to deal with a lengthy decision making process and the small gains that she could receive from the Community as a whole. This state of affairs was progressively improved through closer cooperation between Member States and the Commission in the major trade agreements. In the case of no general Community trade agreement, the Member States retained their existing arrangements, which then had to be consistent with the European legislation, the general commercial aims embodied in the CCP and the GATT provisions. The result has been an incoherent division of responsibilities and rights between the Commission and the Council which did not enable the CCP to be comprehensive. 'European commercial policy' has been made up of bits and pieces from different authorities (European level and Member States level) in which it is extremely difficult to determine responsibilities. This state of affairs led to for institutional and administrative struggles.

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<sup>12</sup> Al Agra, *Economics of the EC*, 3rd Ed. London 1990. p. 420.

<sup>13</sup> 'the European Community as a world trade partner' in *European Economy* n° 52. Directorate General for economic and financial affairs. p.190.

If the Community's role has not been really challenged by the Member States as far as the CCP is concerned, a long institutional dispute between the Commission and the Member States has been going on about the external powers which should be given to the former. The Member States affirm that only the powers to conduct the CCP should be given to the Commission, while the Commission affirms that it should be given enough powers to, not only implement the CCP, but also conduct a parallel external policy on matters on which she has internal exclusive competence. This definition, the so-called *parallel approach* has been confirmed by the European Court of Justice on several occasions and allows the 'Community to control thoroughly external trade by autonomous or contractual means'.<sup>14</sup> This view clearly opposes the narrow definition that the Member States want to implement in order to safeguard their power and their leeway to protect their national interests in international trade. This institutional battle has had administrative consequences. The opposition of interests has been reflected in the difficulties encountered by the Commission in setting up the CCP. The time-table for the implementation of the CCP was postponed several times between 1964 and 1974,<sup>15</sup> as the Commission was dependent on the Council's agreement before setting up the procedure necessary to the harmonisation of the Member States' commercial policies. Despite the fact that Member States agreed, on 16 December 1969, to give the Community exclusive jurisdiction in matters concerning commercial relations with states trading economies, it was not until 1974 that a true common policy emerged. On 7 May 1974, after the enlargement of EEC to Britain and because most of the Member States agreements with State-trading economies would finish in December 1974; the Council stated that any commercial negotiations should be conducted by the Community after 1 January 1975. On 22 July 1974,<sup>16</sup> a decision was taken to institutionalise the exchange of information between Member States and the Commission in order to make new negotiations on Cooperation agreements with third countries consistent with the Common Commercial Policy.

Member States were not the only ones to prevent the Commission from asserting its authority in trade related matters, the Eastern bloc firmly refused to deal with the EEC as an economic partner. CMEA, which was supposed to represent the Eastern bloc in its external commercial relations, did not recognise the EEC as a competent body and both EC Member

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<sup>14</sup> Case AETR of 31 March 1971, Case 8/73, *Hauptzollamt Bremerhaven v. Massey Ferguson GmbH* (1973), E.C.R. 1135 and avis 1/76 of 26 April 1977. Case quoted by J. Steenberg 'The Common Commercial Policy' in *Common Market Law Review*, May 1980. pp. 229-250.

<sup>15</sup> P.Marsh 'The development of Relations between the EEC and CMEA' in A. Shlaim and G.N. Yannopoulos *The European Economic Community and Eastern Europe*. CUP, Cambridge, London, 1978. p. 38.

<sup>16</sup> General Secretariat of the Council of the EC Twenty-second review of the Council's work, 1974. OFPEC, 1975. p.83.

States and CMEA members found ways to bypass the Commission. A number of EC Member States were intrinsically reluctant to transfer their powers and generally refused to harmonise their practices along a European norm. EC Member States often used cooperation agreements as a substitute for former Trade agreements.<sup>17</sup> Some countries adopted completely illegal measures, such as Italy, which granted, illegally, the Most Favoured Nation clause to a third country in signing a Cooperation agreement.<sup>18</sup> This preference was shared by Central European Countries who found it easier to obtain more tariffs and quotas reductions by signing bilateral agreements. The EC took a unilateral trade policy towards Central Europe which, in fact, turned out to be an amalgam of national norms gathered together according to the lowest common denominator acceptable to all members. As far as the Common Commercial Policy is concerned, Farrands argues that 'the enormous difficulty of reconciling the different national and community interests, explained to a great extent why EC External policy was made up of day-to-day understandings and sheer improvisation'.<sup>19</sup> Thus the different national restrictions to trade; special safeguards for steel and textiles, anti-dumping policies and discriminatory measures (sub-national quotas) which were implemented against state-trading economies, were still effective even inside the Common Market.<sup>20</sup>

Many similarities exist between the GATT and the EEC<sup>21</sup> as they have the same sphere of activity and as EEC competencies are delimited by those of the GATT. Considering this special relationship, EEC's efforts to complete a CCP are parallel and conditional on GATT's achievements in reducing non-tariff barriers and in promoting fair competition. In the early 1970s, the Commission had no choice but to leave national Member States to do their business under the European label of 'autonomous policy'. With the GATT asserting itself, the EEC was disposing more clout to impose an integrated commercial policy, allowing less and less leeway for Member States to act independently. However, numerous opportunities

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<sup>17</sup> S. Senior Nello, *The New Europe, changing economic relations between East and West*. Harvester Wheatsheaf, London, 1991. p. 44.

<sup>18</sup> S. Senior Nello in *The new Europe, changing economic relations between East and West*, 1991. p. 32.

<sup>19</sup> El-Agraa, *Economics of the EC*, 1990. p.420.

<sup>20</sup> M. Maresceau 'The European Community Eastern Europe and USSR' in J. Redmond *The external relations of the European Community. The international response to 1992*. New York, 1992. p.93.

<sup>21</sup> EEC Art. 229 provides that 'it shall be for the Commission to ensure the maintenance of all appropriate relations with the organs ... of the GATT' Also under EEC art.111, the Commission submits recommendations to the Council concerning tariff negotiations with third countries in respect of the Common External Tariff.

enabled EC Member States to violate the GATT spirit and at the same time slowing down the integration process.

The GATT (to be replaced at the time of writing by the World Trade Organisation) aimed at promoting free trade in the world by ensuring equal conditions of competition -Art I- (through MFN provision) and by implementing the rule of non discrimination -Art XIII- (equal treatment). Former Czechoslovakia was one of its founding members but following a Soviet order, she was not allowed to participate in trade rounds and therefore could not oblige its trading partner to fulfil their obligations. Poland and Hungary became members of the GATT on 9 September 1973, but only after signing a protocol of accession limiting their rights and their prerogatives. The problem of accepting 'non -market economies' within a club of free trading economies posed a big problem to Central European countries who had to accept through these protocols a different status and discriminatory measures (Quantitative Restrictions. QRs).<sup>22</sup> Despite the fact that the EC's Founding Fathers were clearly committed towards a liberal trading order, number of measures embodied in GATT regulations to fight illegal competition have been used by the EEC and its member-states (Art 115 EEC) to set discriminatory measures especially towards Central European countries. In 1982, the Council issued the regulation 288/82 in which are enumerated specific exceptions to the 'unrestricted market access' guaranteed by the Community. These exceptions are listed in an annex and the Commission is the competent body for initiating at the request of member-states, investigation on safeguard measures, when considered justified. This investigation may lead to the introduction of surveillance measures, which are based on the issuance of an import document. In emergency and specific cases, member-states may implement surveillance measures at the national level after having informed the Commission.<sup>23</sup> For Central European countries this safeguard clause was included in their protocol of accession, which introduced a 'super' safeguard clause in the Hungarian case. Regulations 288/82,<sup>24</sup> 1766/82,<sup>25</sup> and 3420/83<sup>26</sup> provide the legal basis for introducing safeguard measures. If foreign products are being imported into the Community in such quantities as to create major injuries to an Community industry, safeguard measures, such as additional duties, tariffs or quotas, may be imposed on these imports.

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<sup>22</sup> Janos Martonyi 'East European countries and the GATT' in M. Maresceau *The Political and legal framework of trade relations between the EC and Eastern Europe*. 1989. p.269.

<sup>23</sup> i.e.. EEC Article 115 and comments on this article in *European Economy*, n° 52. p.191.

<sup>24</sup> 288/82 OJ L 35. 9/02/1982

<sup>25</sup> 1765/82 OJ L 195. 5/07/1982.

<sup>26</sup> 3420/83 OJ L 377. 2/12/1983.

Anti-dumping measures are adopted in accordance to Art. VI GATT and the 1979 anti-dumping code. This EC legislation is directly inspired by the Art XIX of the GATT, which states that a GATT member can take action to prevent market disruptions due to illegal competition from another countries (dumping or subsidies). The EC basic legislation is the Council regulation no 2423/88 (2424/88 for ECSC products.) Market disruptions are defined by the selling of a product under 'normal price' creating subsequently injury to national industry (generally assessed in term of unemployment). Protections are however, limited in time (6 months to 1 year) and extent to prevent or remedy the injury. This 'normal price' is defined by different norms which take different elements into account, such as the materials, energy, production mode and so forth. Because Central European countries were defining almost all their prices administratively, it became extremely difficult to assess fairly their comparatives advantages. In fact, it was extremely rare that Central European countries were recognised to be more competitive than Western Europe, leaving complete open door to discrimination and unequal treatment. As a matter of fact, the Council (regulation No 3420/83 <sup>27</sup>) established a list of quotas for Eastern European imports and known as the Annex or the liberalisation list. This list was defined and renewed every year for one year, but it could easily be amended, anytime during the year by the Commission, leaving no chance to Central European economies. <sup>28</sup>

As a result of anti-dumping several actions may be taken. If the injury caused is less than the dumping margin, <sup>29</sup> the amount of measures will be limited to what is necessary to remove the injury. Usually the exporter accepts the raising of export prices -price undertaking- or to see his exports being levied -countervailing duties-, so that the injury suffered by the national industry is eliminated. (50 per cent of the cases during the period 1985 1990). However, after a review, the council can decide if these provisional duties have to be transformed into definitive duties. The implementation of QRs may also be done by member-states. These QRs are either embodied in cooperation agreements, or are the legacy of some old agreements signed before 1970. These residual restrictions are being progressively eliminated by the European Community because they are disrupting the completion of the single market. <sup>30</sup> Thus the SEA eliminated national quotas and stated that national VERs were unenforceable, but thanks to the very same Article 115 EEC, Member

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<sup>27</sup> Reg: 3420/83 in OJ L 377 2/12/1983

<sup>28</sup> M. Maresceau, *The Political and legal framework of Trade Relations between the European Community and Eastern Europe*. 1989. p. 14.

<sup>29</sup> Dumping margin = Normal price - 'export price'.

<sup>30</sup> M. Cremona, 'The completion of the internal market and the incomplete commercial policy of the European Community' in *European Law Review*. August 1990. pp. 283-297.

States, once authorised by the Commission, are allowed to take specific measures in the absence of Common Commercial Policy. This was the very position of Central European states. In most cases, as far as Central and Eastern Europe are concerned, the EC gives the exporter the opportunity to offer an appropriate restraint arrangement which generally last for 3 years. This solution is preferred by most Central European exporters who fear harsher anti-dumping measures which may lead to a complete loss of market share. Thus, during the 1970-1982 period, 122 out of 315 EC anti dumping actions were taken against Central and Eastern Europe.<sup>31</sup>

Moreover, the fact that states economies did not have any tariffs whatsoever created another problem as they could not offer anything in return for reductions in duties. To match tariff concessions, they had to increase their import commitments, making their trade balance worse off. At the end of the day, weaknesses in GATT's rules and discipline (that we cannot detail here) gave its members and therefore EC Member State, freedom to use and abuse the safeguard clause and to infringe the very spirit of GATT ideals by signing sectoral agreements. Often the fear that the EEC could proceed to anti-dumping measures whenever it wanted, strongly influenced Central European states into signing special agreements, which were not on the most favourable terms for them.

Under Council regulation 2641/84, the Community is empowered to adopt measures to combat illicit commercial practices. This allows individuals within the Community to complain to the Community authorities, who decide after investigation, if retaliatory measures may be adopted against the infringing country.

Most trade controls which are relevant for our study are present in sectoral agreements which in broad terms escape the GATT multilateral negotiations and which also escape EC legislation because they are embodied in bilateral cooperation agreements.<sup>32</sup> There are different techniques to restrict free trade such as the Voluntary export restraint' (VER) or government to government arrangements (Export Restraint Arrangements, ERAs) and which are negotiated every year. It is then crucial to study them because they have been increasing in the past few years in order to assess to what extent they are impeding the liberalisation of trade between the EEC and Central Europe.

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<sup>31</sup> S. Senior Nello, *The new Europe, changing economic relations between East and West*, 1991. p. 49.

<sup>32</sup> M. Cremona, *European Law Review*. 1990. p. 289.



The Common Agricultural Policy (1967-8) entailed a limitation of imports of food and agricultural products, as the Community became self-sufficient and later a net exporter. EEC introduced a high protection for import of dairy products (butter, cheese and skimmed milk powder), olive oil, beef and sheepmeat, an intermediate restriction for wheat and coarse grains and defending to a lesser extent pigmeat, rice oil seeds and poultry imports. As far as Central Europe was concerned a huge quantity of Hungarian exports (agriculture represented the highest share in all Hungarian exports to EC) saw European doors closed. Indeed, Hungary could no longer export beef and cattle to its traditional German and Italian markets, this represented a heavy loss as their export counted for 52 per cent of CMEA agricultural export to the Community. Hungary estimated that the CAP caused a 30 per cent fall in its exports to the Community between 1973 and 1976. On top of that, Hungary had to suffer new quantitative restrictions, new imbalances with the EC and finally completely disagreed with the 1974 Community's *schéma d'accord*<sup>33</sup> which did not change this discriminatory policy against Hungary. From 1974 onwards, Hungary signed nonetheless a government to government agreement (Orderly Market Arrangements OMAs are in fact another version of ERAs) specifying rules with regard to goat and sheep meat export supplies and monitoring trade flows.<sup>34</sup> The Greek enlargement shrank even further the Hungarian market share, but the EC was not able to compensate new Hungarian losses (failure of 1983-4 bilateral trade agreement), until the European Parliament urged the Commission to start trade and cooperation agreement with Hungary on 13 June 1986.<sup>35</sup>

Concerning imports of textiles products, the Community applied the Multi-Fibre Agreement to Central European countries. The MFA was created by the GATT to respond to 'market disruptions' therefore allowing its members to sign bilateral agreements in order to restrain disruptive imports. However, this MFA had been abused and became a clever way to avoid multilateral agreement and to impose QRs and discriminatory measures through

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<sup>33</sup> P. Balazs, 'Trade Relations between Hungary and the EC' in M. Maresceau, *The Political and legal framework of Trade Relations between the European Community and Eastern Europe*. 1989. p. 58.

<sup>34</sup> Sheepmeat and goatmeat agreements with Czechoslovakia in OJ L 204/82 amended by OJ L 95/90

Hungary in OJ L 150/81 and OJ 154/84 amended by OJ L 95/90

Poland in OJ L 137/81 amended by OJ L 95/90

<sup>35</sup> P. Balazs, 'Trade Relations between Hungary and the EC' in M. Maresceau, *The Political and legal framework of Trade Relations between the European Community and Eastern Europe*. 1989. p. 68.

bilateral agreements.<sup>36</sup> In 1977, Hungary and Poland were ready to negotiate separately, within the framework of MFA, textile agreements with the Commission.<sup>37</sup> Despite the fact that in 1986, at the beginning of the Uruguay round, (Punta del Este declaration) the GATT decided to abolish the MFA, more products and more bilateral agreements have been put under MFA's aegis.<sup>38</sup> Until that moment, under MFA IV (1986), 19 bilateral agreements with restraints on the imports of textile products have been signed. Under the same regulation 3420/83, Member States are able to apply QRs on certain textiles and clothing imports from state-trading countries. Further quotas have later been introduced into their bilateral agreements.<sup>39</sup>

Steel production is an extremely sensitive sector affected by a world crisis since the late sixties. Harsh competition between United States, Europe, Eastern Europe and New developed countries resulted in a protectionist spiral and a trade war. After the presentation of the Davignon plan on 22 November 1977, the Community tried to regulate world steel production and signed sectoral agreements with Hungary and Czechoslovakia in 1978, which agreed to limit their steel exports. In fact their exports into the Community had to be reduced to the 1980 level and then to be stabilised to a zero increase.

To conclude with these barriers to trade, we might recall an UNCTAD study of 1986 which affirmed that 33 per cent of all imports were covered by some form of Non Tariffs Barriers (NTBs) with the percentage rising to 58 per cent for clothing and 74 per cent for textile yarns and fabric.<sup>40</sup> In 1982, 97,8 per cent of Hungary's trade faced some kind of barrier (33 per cent were quotas and restrictions). Between 1981 and 1990, Eastern Europe and Russia were subject to more anti-dumping enquiries than other parts of the world with 39.3 per cent of the total enquiries launched by the EEC.

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<sup>36</sup> S. Senior Nello, *The new Europe, changing economic relations between East and West*, 1991. p. 37.

<sup>37</sup> Textile agreements: Czechoslovakia: OJ L287/87 modified OJ L 13/91, OJ L 53/91 OJ L 90/92  
Hungary: OJ L 331/87 amended by OJ L 53/91  
Poland : OJ L 156/87 amended by OJ L 53/91

<sup>38</sup> M. Marescau, *The Political and Legal Framework of Trade Relations between the European Community and Eastern Europe*. 1989. p. 285.

<sup>39</sup> DG for economic and financial affairs. *European Economy, The European community as a world trade partner*. n° 52. 1993.

<sup>40</sup> S. Senior Nello, *The new Europe, changing economic relations between East and West*, 1991. p. 89.

*Table 1. Anti-dumping Enquiries of the EEC from 1981 to 1990.*

<i>Regions.</i>	<i>Number</i>	<i>% of the Total</i>
Eastern Europe and USSR	158	39.3
Far East	111	27.6
Western Europe	35	8.7
Latin America	34	8.5
Middle East	27	6.7
North America	26	6.5
Rest of the World	11	2.7
<b>Total</b>	<b>402</b>	<b>100.0</b>

Source: EEC in *Enjeux les Echos*. Avril 1992.

As a result of these discriminations, Central European economies were at the bottom of the Community's preferences. They did not have any preference apart from MFN and they have seen their market shares in the EEC reduced significantly, especially for animal and vegetable oils, textiles, clothing and footwear, because of obvious discriminatory measures.

Numerous infringements and loopholes in the CCP impeded the Community from establishing the external dimension of a Single Market and a coherent policy. In spite of all technical improvements brought to the CCP since 1957, it became obvious that a real political will was missing. To achieve these goals, Member States adopted the Single European Act in 1987, which amongst others, went further in the elaboration of a Common Foreign Policy by associating the Communitarian CCP to the intergovernmental EPC. If this step was necessary, it nevertheless proved to be inefficient as it was rather difficult to organise the expression of a common political will and as it was hardly possible to reconcile two completely different approaches.

### ***II.B.) Common Commercial Policy, Single European Act and European Political Cooperation.***

At the beginning of the European integration process, Community commercial agreements were exclusively based on economics. However, with the globalisation of world economics and the domesticisation of international relations it has been extremely difficult

to disassociate economics from politics. Furthermore with the enlargement of the Community, the EEC has gained an enormous weight in the world and could not therefore ignore its political responsibilities. No decision could be any longer purely economic or purely political.

Originally, both aspects of international decision making process were separated: the EC has exclusive responsibility for economics and trade affairs, while the Presidency and the Council were in charge of all political aspects of the Community business, even if the EPC was outside the Community process as such. Foreign policy is extremely difficult to integrate as it represents the ultimate prerogatives of the state and different historic diplomatic interests are at stake. Economic interests and protection of national industries are jealously kept by Member States as the refusal of the draft Treaty of the EP in 1984, which aimed at merging EC and EPC into a unique Single Union, showed. The seventies and eighties brought the necessity to coordinate both aspects of European foreign policy, economics and politics and to try and coordinate them into a Common Foreign Policy. It is not the place here to detail the ins and outs of the European political cooperation, however it would be unthinkable to approach the CCP without paying attention to the political side of all the Community's decisions in foreign trade. The EPC was not included in the original Treaty of Rome, but came into existence in 1970. Its role was to make sure that a structure was in place to facilitate political cooperation enabling Member States to coordinate their position and to implement joint actions.<sup>41</sup> The Single European Act (SEA), adopted in 1986 and ratified by all Member States in 1987, attempted to bring the EPC and the EC to closer cooperation. The SEA institutionalises the EPC, grants it a small permanent secretariat headed by the Presidency and states in Art 30.5, that

'policies adopted in EPC and external EC policies must be consistent and assigns to Presidency and Commission the special responsibility, each within its own sphere of competence, to ensure and maintain that consistency'.<sup>42</sup>

The Community acts on behalf of the Member States in external commercial policy (the EC still has exclusive power in this matter) and cooperates with Member States in other foreign policy fields which were foreseen in the Community Treaties but not under its

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<sup>41</sup> R. M. Alonso Terme 'From the draft Treaty of 1984 to the intergovernmental conferences of 1991' in Reinhardt Rummel *Toward Political Union, Planning a CFSP in the European Community*. Oxford, Westview Press 1992. p. 269.

<sup>42</sup> Maarten W.J.Lak, 'The constitutional foundation' in Reinhardt Rummel, *Toward Political Union, Planning a CFSP in the European Community*. 1992. p. 48.

exclusive competencies.<sup>43</sup> In practice the direction of that common action is determined by the Council of Ministers.<sup>44</sup> Trade agreements and more particularly post-1987 agreements with Central Europe, respond to the definition of 'mixed Agreements' which means that they embody both economic and political aspects in the same document and that they are the result of this cooperation between the Commission and Member States. Thus if the Community shares more power in the political field, it has as well, to accommodate Member States and allow them the possibility to enact norms in fields which were withdrawn from their jurisdiction.<sup>45</sup> As M.Cremona puts it:

'Where the negotiation of trade agreements is involved the situation is made more complex by the Community negotiating procedures: The Commission negotiates, but under a mandate from the Council of Ministers and the watchful eye of a committee of national representatives; the agreement is then concluded by the Council and any implementing regulation (including the possible division of the Community quota into national sub-quotas) is enacted by the Council. There is therefore plenty of scope for national governments to ensure that their interests are well represented.'<sup>46</sup>

The European network regulates Member States' activities, but the actual division of power remains, however, unbalanced as the Community possesses only two interventionist instruments: trade measures and financial aid which depend moreover on a very limited budget. Conversely, the Member States have freedom to offer financial assistance, credits or grants, to offer government guarantees for private exports credits and finally to send business, cultural and scientific missions.<sup>47</sup>

Thus in the definition of a common foreign policy, both EPC and EC are cooperating, but both economic and political dialogues are maintained in parallel, responding to their own institutional structure and have completely different rationale. The CCP is conducted by the Commission which is the supranational guardian of the Community's interests, while the Council of Ministers is in charge of the EPC and represents and protects national interests. The final decision is implemented through Community instruments. The EC is making great efforts to be able to speak with one voice, but we have to admit that there is no easy way to achieve it and that for the time being, the EC is more a decision taker, than a decision

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<sup>43</sup> R. M. Alonso Terme, 'From the draft Treaty of 1984 to the intergovernmental conferences of 1991' in R. Rummel *Toward Political Union, Planning a CFSP in the European Community*. 1992. p. 278.

<sup>44</sup> M. Cremona 'The completion of the internal market and the incomplete Commercial Policy of the European Community' in *European Law Review*, August 1990. p.286.

<sup>45</sup> N.A. Neuwahl 'Joint participation in international treaties and the exercise of power by the EEC and its member-states mixed agreements' in *Common Market Law Review*, vol 28, n° 4, winter 1991. p. 726.

<sup>46</sup> M. Cremona. *European Law Review*. 1990. p. 297.

<sup>47</sup> R. Rummel, *Toward Political Union, Planning a CFSP in the European Community*. 1992. p.35.

maker. As a matter of fact the implementation of the single market in 1993 planned for the elimination of some 6,500 national quantitative restrictions (1, 700 concerning GATT members, 4, 700 concerning state-trading countries.) replacing them by a new Community-wide import regime, consisting of few quotas. The management of these new Euro-quotas belonged of course to the Commission. The subsequent increase of Commission power was however feared by the Netherlands, the UK and Germany who are very sensitive about the protectionist stance that the Community could take, not only towards Third countries (matter for the UK), but also towards Central and Eastern Europe (German concern). Therefore, these three states decided to re-conduct their national trade policies, by opening import possibilities for non-liberalised imports from 'state economies countries' without the Commission's approval. The Commission decided, in February 1993, to start an infringement procedure against these countries who took individual actions. This was not so much to protect other Member States economies, or to keep high the protectionist barriers, but to harmonise all Member States commercial policies and make the European liberalising policy coherent and comprehensive.<sup>48</sup> As L.Brittan stated

'It is not acceptable for Member States to take the law into their own hands on the Community's external trade policy'.<sup>49</sup>

However, it has to be said that this action taken by the Commission seems to be ineffective, as the aforementioned countries kept their own policies.<sup>50</sup> As a matter of fact, the Commission was considering taking legal action, in June 93, against Germany which broke up the Common European attitude by opening up its telecommunications markets to the United States.<sup>51</sup>

The Maastricht treaty on the European Union has slightly amended the EEC treaty concerning the CCP. Art. 111, 114 and 116 have been abrogated, with the consequence that the Commission is likely to represent more often Member States in economic-related international negotiations on the basis of art 113 and art 228.<sup>52</sup> Furthermore the Maastricht treaty enables the Commission to decide whether it wants or not to apply protectionist

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<sup>48</sup> L. Barber 'EC goes to court over trade policy' in *Financial Times* 6/07/93. p. 2.

<sup>49</sup> Commission opens infringement proceedings because of 1993 quotas' in *East West* 542, p. 3. 15/02/93.

<sup>50</sup> 'Commission opens infringement proceedings because of 1993 quotas' in *East West* 542, p. 3. 15/02/93.

<sup>51</sup> 'EC shaken after Bonn breaks ranks on trade' in *The Times* June 15, 1993. p. 22

<sup>52</sup> 'L'extension des compétences de la Communauté' in *Regards sur l'actualité, Special Maastricht*, n° 180 avril 1992 p. 26.

measures requested by Member States. The Commission may do so and this is a step towards a more uniform Commercial policy. This was the case in the harmonisation of trade practices (tariffs and NTBs) with third countries which had been completed at a slow pace by the Community. However, because the European Community is a high contracting member of the GATT, there is a certain state of affairs which cannot be solved at a European level.

### *III) International recognition.*

In the third stage on the road to completing the CCP, international recognition plays an important role. The Community has a limited legal personality recognised by its Member States,<sup>53</sup> but declarations are not sufficient to create a new international subject. The Community's international capacity depends very much on the establishment of a common policy and on the subsequent degree of authority that the EC inherits in this field. Today, the EC has diplomatic relations with 117 countries. The Community has observer status at the United Nations and also in some of its specialised organisations. The Community participates as a negotiator at numerous international conferences on trade (GATT), development (UNCTAD, UNIDO, North-South dialogue). This process was however quite long and the eastern bloc was the last major international actor to recognise the EC.

In October 1973, the Commission proposed cooperation agreements. However, because the Soviet Union forbade relationships between the Common market and East European countries, no agreement could be signed by the Commission before 1988. As we saw earlier, European policy toward Central and East European countries was a mix of autonomous policy and of national trade legislation which did not help the Commission to establish clear economic objectives and powers to implement them. The Commission did not succeed until late in the eighties in implementing a 'European model of cooperation' between the EC and third countries. The first European socialist country to benefit from this improvement was Hungary, but it came only after the recognition of EC by the CMEA group.

The feebleness of the CMEA as an integrating body did not allow it to face the disastrous consequences of the international economic crisis, even if, for the first time, Central Europe and Soviet Union did not seem to be affected. However, in the long term,

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<sup>53</sup> ECSC art 6, EEC art 210, EURATOM art 184.

the increase of Russian raw material prices put Central European economies and societies under pressure. At the very beginning, Soviet Union saw the creation of the EEC as detrimental because of its clearly 'capitalist' origin and condemned it as 'lust of imperialist contradictions'.<sup>54</sup> The Soviet Union therefore did not want to recognise a 'group [which was] serving the monopolistic class interests of exploiters'.<sup>55</sup>

With the elaboration of the Common Commercial Policy, it became clear that the Soviet Union had to recognise the EEC before concluding any global economic agreements with Western Europe. An era of *détente* started in 1972 with the preparation of the Conference on Security and Cooperation in Europe. However both the Soviet Union and the Community were totally opposed to giving any official recognition to each other. Firstly because the Community would have been a means for the Soviet Union to strengthen its political authority on its satellites and secondly because the USSR did not recognise EC's competencies in trade-related matters. Moreover, the EC considered that the CMEA could not negotiate because it was not a supranational organisation. Because the Soviet Union was almost self-sufficient and autarkic, not many important economic interests pressed the USSR to overcome its political and ideological aversion of the EEC. However, the small countries of Central Europe, which were much more dependent on Western trade were looking for an agreement with the EEC and further increased the dissensions existing within the CMEA. Talks started under the Danish Presidency in 1973 but they were limited to intergovernmental level and progressed very slowly until they were definitively stopped with the invasion of Afghanistan (1979) and the introduction of Martial law in Poland (1981).

The unofficial talks between the CMEA and the EEC took a long time to restart. The arrival of Gorbachev in power had a major impact on relations between Western and Eastern Europe. Gorbachev stated, on 29 May 1985, that 'It was time not only to organise mutually advantageous relations' in economic matters but also to 'seek a common language on political matters to the extent that EC Member States act as a political entity'<sup>56</sup> Talks started again in September 1986 and mutual recognition was finally granted on 25 June 1988. This declaration, however, lacked substance since the domains for cooperation were not indicated from the outset but had to be determined at a later stage. Moreover, due to the virtual

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<sup>54</sup> A. Shlaim and G.N. Yannopoulos *The European Economic Community and Eastern Europe*. 1978. p.26.

<sup>55</sup> J.Pinder, *The European Community and Eastern Europe*. 1991. p. 6.

<sup>56</sup> Speech on receiving Prime Minister Craxi in J.Pinder, *The European Community and Eastern Europe*. 1991. p.23.



collapse of the Comecon as an international organisation, further cooperation between the two blocs was never fixed and therefore was replaced by bilateral cooperation agreements.<sup>57</sup>

From 1985 began a new era in relations between the Community and the CMEA. This period was rather short lived but it created a precedent which would be used in the post-1989 discussions. Indeed, on 26 September 1988, the Community signed the first EC-wide Agreement with a member of Central Europe -Hungary- on trade, commercial and economic cooperation (October 1990 for Czechoslovakia and Poland). In the trade chapter of the EC proposed the elimination of specific QRs by 1994 for Poland and Czechoslovakia and 1995 for Hungary. The agreements also granted the MFN clause (i.e. GATT), but as Pinder points out, this was not very significant as the Central European countries were already committed to this clause because of their accession to the GATT.<sup>58</sup> These agreements were for ten years (Poland 5 years) and concerned all products except those already covered by bilateral agreements. As far as economic cooperation was concerned, the agreement aimed at stimulating trade and business contracts and at reinforcing and diversifying economic links between the contracting parties. For Czechoslovakia it entailed technical assistance to structural adjustment, education and vocational training and environment (pollution and nuclear plants). Because the European Community is committed to reciprocity, Hungary had to agree not to apply discriminatory measures and procedures in areas such as business facilities, import and licensing. This agreement also contained a detailed safeguard measure consisting of a consultation procedure as well as a procedure to introduce import restrictions (Voluntary Restraint Agreements VRAs)<sup>59</sup>

At an European Community level, these agreements did not represent a victory as far as the exclusive powers of the Commission were concerned. These cooperation programmes were not financed by the Community and were under Member States legislation. Member States therefore could run their own cooperation agreement in parallel with the Community's cooperation agreements and maintained the right to conclude where appropriate new economic agreements. These first cooperation agreements rapidly became outdated as the political situation in Central Europe was under revolutionary pressures.

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<sup>57</sup> J. Reszler, *Rejoindre l'Europe, destin & avenir de l'Europe Centrale*, Genève, 1991. p.96.

<sup>58</sup> J.Pinder, *The European Community and Eastern Europe*, 1991, p.26.

<sup>59</sup> M. Maresceau *The Political and legal framework of trade relations between the EC and Eastern Europe*. 1989. p. 6.

European integration movement and establishment of common policies are complex and uncertain processes which challenge theorisation. They are determined by historical environments and by pragmatic steps which offer a huge range of possibilities and different options. The Common Commercial Policy is certainly a product of pragmatism but the initial European commitment provided Europeans with a sound platform on which they could base their arguments and develop a Common External Commercial Policy. This opportunity was present in the Treaty of Rome, but its setting took a very long time and had to pass through three stages before asserting itself. The first stage was indeed to prove that the Treaty has the necessary and sufficient juridical basis on which could set up the EC's external capacity. This Holy Grail search was riddled with dramatic institutional and administrative duels. With the problem of interpretation sorted, the second stage was to impose it in practice by overcoming national resistance. The third and last stage was a day-to-day battle for the Community to make sure that its competences were respected both by its Member States and recognized by international subjects. This is not, however, the end of the integration process as far as the emergence of a true European external policy is concerned. To be efficient and comprehensive, a fourth step is necessary as a genuine common foreign policy must integrate both economic and political approaches. This process has slowly been taking place since the Single European Act, but 1989's extraordinary events showed that they were insufficient. A major revision of Community external intervention tools has been undertaken and realised in the Europe Agreements but is it enough to meet the Central European political and economic challenge and to help Central European countries to return to Europe? Chapter 3 tries to answer this question.

*Chapter 3*  
*Europe Agreements*  
*Problems of Economic*  
*Re-integration*



*Chapter 3*  
*The Europe Agreements:*  
*Problems of economic re-integration*

`Western Europe is an economic magnet,  
drawing Eastern Europe closer toward the  
Commonwealth of free nations.'  
President Bush. May 1989.

*1) Central Europe after 1989.*

With the 1989 revolution, an economic crisis, mainly due to distortions and misallocation of resources, that we detailed in the previous section, broke out in Central Europe. This crisis was particularly intensified by the international situation. The collapse of CMEA in January 1990 completely disorganised the Central European export market and put an end to the advantageous terms of trade they were enjoying with the Soviet Union. That meant that a country, such as Czechoslovakia, lost 80% per cent of its trade with the former CMEA members in 1991 and that the European Community became the largest economic partner of Central Europe as a whole. The Gulf War further disturbed the supply in energy and raw materials and worsened the economic crisis in the EC Member States, who had to reduce their imports from Central Europe. The wealth created by exports to the EC vanished and put Central Europe under tense economic and political pressures, as the evolution of the basic figures between 1990 and 1992 shows. Central Europe had to speed up the reform process.

Several common features characterise the transformation process of the Central European countries. If one had to structure what Central European countries need to do to transform their economies into market economies, one would say, that there are two major steps: the first step is to change the macroeconomic situation by regulating the major economic policy instruments such as monetary, fiscal and exchange rate policy, inflation, external debts and currency convertibility. At the same time it is necessary to reform the major economic actors such as an independent central bank, an exchange market and an efficient fiscal administration. The second phase of the transformation process is at

microeconomic level and concerns the privatisation of economic agents, the liberalisation of prices and trade, the industrial restructuring, the elimination of subsidies and trade restrictions.

However, there is no monolithic picture of transition. All three countries are at a different stage of the process, they have adopted a different strategy according to their initial conditions, their traditions, even if, in the long term, they have the same objective: to be economically integrated into the world economy.

*Table 2. Central Europe: basic economic figures*

Countries	Hungary			Czechoslovakia			Poland		
	1990	1991	1992	1990	1991	1992	1990	1991	1992
GDP Change	- 5%	-10.2%		0%	-16%	-15%	-11.6%	-7.6%	
Inflation rate	28.9%	35.0%	22.2%	10.0%	58.0%	11.0%	249.3%	60.4%	45.4%
Unemployment rate	1.7	8.5	11.6	1	7	5	6.3	11.8	13.5
External Debt (\$ bln)	21.3	22.7	21.6	8.1	9.3	9.1		46.6	46.9

Sources: Economie Européenne supplément A. Août-Septembre 1992. 'la situation économique en Europe Orientale'. pp. 2-15.

Hungary was the first country to introduce gradual reforms, therefore the passage to a market economy was foreseen to be less difficult. In 1992 Hungary had almost set up the necessary institutional and juridical framework in which economic activity should take place. However the debt burden and the worsening of its position after the collapse of the CMEA, slowed down the whole process and making it more difficult. Poland was facing a huge debt of \$48.5 billion in February 1991, with an hyper-inflation of more than 740% in 1989.<sup>1</sup> That is why Poland decided to adopt a 'big bang policy' (Balcerowicz-IMF plan July 1991) implementing at the same time, a price liberalisation, a macroeconomic stabilisation (firmly demanded by the IMF) and a microeconomic restructuring (privatisation law ratified in July 1990). First successes appeared in 1991 with the development of the private sector (+50% in 1990)<sup>2</sup>, a better financial situation and commercial surplus (see table ). However, Poland

<sup>1</sup> S. Senior Nello, *The New Europe, changing economic relations between East and West*. Harvester Wheatsheaf, London, 1991. p. 125.

<sup>2</sup> S. Senior Nello, *The New Europe, changing economic relations between East and West*. 1991. p. 162.

had to suffer a rapid increase of unemployment, serious inflation, a strong industrial recession and slow privatisation of the big companies.<sup>3</sup> The quick emergence of 'savage capitalism' with the increasing disparities between classes, under the restructuring regime, had considerably undermined the social cohesion and therefore the conduct of the reform programme. During the elections following the dismissal of the Parliament, Lech Walesa even called Balcerowicz 'a pure and simple thief'.<sup>4</sup> The situation was alarming in May 1991. Czechoslovakia remained a carefully managed economy until the very end of the Communist era with only a 2-3 per cent inflation rate per year.<sup>5</sup> As a result Czechoslovakia did not have to proceed with a drastic macroeconomic stabilisation and concentrated on microeconomic restructuring. However, because it was heavily industrialised, it had to get through a very difficult conversion of its manufacturing sectors, especially once Slovakia became independent.

Although these countries had different reform programmes and were at different stages of the process, they were facing the same problems: the establishment of new economic relations.

### *I.A.) Central European trade structure after 1989*

Within the context of economic reforms, Central European countries have to recreate institutions which respond adequately to people's needs such as a social protection. Moreover, they have to reorganise the interaction of the different economic actors according to a corpus of laws, which most of the time have to be invented, or if it is adopted, (i.e. EEC competition law), will demand time before being completely digested and operating. This process is long, extremely expensive and the pressure that the restructuring of an outdated economy puts on social cohesion does not allow room for manoeuvre and therefore makes more difficult the search for a political compromise. This is why a stable and encouraging international Community is important in Central European politics and this is why

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<sup>3</sup> E. Lhomel and T. Schreiber 'L'Europe Centrale et Orientale, conflits, incertitudes et restructurations' in *Notes et Etudes Documentaires*, Documentation Française, special issue. Paris 1992. p. 150.

<sup>4</sup> E. Lhomel and T. Schreiber 'L'Europe Centrale et Orientale, conflits, incertitudes et restructurations' *Notes et Etudes Documentaires*, Documentation Française, special issue. Paris 1992. p. 153.

<sup>5</sup> J. Williamson *The economic opening of Eastern Europe* published by the Institute for international Economics, Policy Analysis in International Economics, May 1991, n° 31 Washington D.C. p.66.

international trade can help at the implementation of economic reforms. Indeed opening one's economy to world economies enables the country not only to survive economically, but also to resist internal protectionist pressures, to comfort the reform programme by exposing it to competition and to avoid counter-revolutionary backlashes.<sup>6</sup> The OECD concluded in autumn 1991 that

'Open access to their markets [OECD] is the single most important contribution that OECD countries can make to improving prospects for transition in the region.'<sup>7</sup>

The EC proposed to Central European countries association agreements that it signed twenty years ago with Turkey and Greece. Within the framework of the first generation of Europe Agreements that Hungary signed on 26 September 1988, Poland on 19th September 1989 and former Czechoslovakia on 24 September 1990, the EC accorded limited<sup>8</sup> economic benefit to Hungary and Poland<sup>9</sup> by applying the Generalised System of preferences (GSP). The GSP covered 320 products and involved tariff reductions of 20-50%<sup>10</sup>, but it represented only 35% of all dutiable imports from Poland and Hungary.<sup>11</sup> This policy however did not concern steel and coal products which are covered by annual arrangements, as are 87% of sectoral Community imports from Central and Eastern Europe.<sup>12</sup> The GSP gave tariff-free access to some agricultural and manufactured products but not to certain sensitive products which were subject to quotas. As far as the quotas are concerned, the Community decided to either eliminate them, increase their ceiling or suspend them for a limited period of time. Thus, for 1990-91, Poland and Hungary saw some of their quotas ceiling increased respectively by 23 and 13%. Some other quotas concerning glass, shoes, toys, leather, some machinery, some non-MFA products and some non-ECSC steel products were suspended until the end of 1991.<sup>13</sup> The GSP regime was extended to Czechoslovakia in January 1991.

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<sup>6</sup> CEPR annual report, *'Monitoring European integration, the impact of Eastern Europe'*. London. October 1990. pp. 20-21.

<sup>7</sup> Conclusion of OECD autumn discussion on transition issues in Central and Eastern Europe, 3/4 October 1991. p.4.

<sup>8</sup> S. Senior Nello notes that 'the concessions proposed by the Commission met with opposition from the Council of Ministers and the EC farm lobby'. Senior Nello, *The New Europe, changing economic relations between East and West*. 1991. p. 115.

<sup>9</sup> H. Kramer, 'The European Community's Response to the 'New Eastern Europe' in *Journal of Common Market Studies*. Vol.. 31.2. June 1993. pp. 213-244. p.227.

<sup>10</sup> S. Senior Nello, *The New Europe, changing economic relations between East and West*. 1991. p. 114.

<sup>11</sup> *European Economy*, n° 52. 1993. p. 38.

<sup>12</sup> *European Economy*, n° 52. 1993. p. 34.

<sup>13</sup> *European Economy*, n° 52. 1993. p. 35.

At the end of the day, this first generation agreement had a rather limited impact on the liberalisation of trade between the European Community and Central Europe, as most of the quotas and the Voluntary Restraint Agreements (VRA) were maintained.

The closing down of traditional markets for Central European exports have made the EC the first commercial partner of Central and Eastern European countries after 1989. As we can see from the table, the proportion of trade between COMECON countries and EC has been inverted. As an example, ex-Comecon countries absorbed in 1989 42.2 per cent of Central European exports and EC only 24.5 %. <sup>14</sup> In 1992, the EC represented 48.2% of Central European imports and the ex-Comecon countries only 18.8%. Central and Eastern European countries account for a tiny 3 per cent of total Community imports while the EC accounts for more than 50 per cent of Central and Eastern European exports.

*Table 3. Share of the different partners in the external trade relations of the CEECs 1989-1992 ( in %)*

in %	Exports	Exports	Imports	Imports
Former	42.2	18.8	46.5	23.3
EC	24.5	48.2	20.8	44.7
EFTA	7.3	9.9	8.3	12.8
United States	2.6	2.4	1.5	3.6
Japan	1.0	0.9	0.7	1.9
Rest of the world	20.5	19.2	20.0	12.5
Total	100	100	100	100

Sources: Services de la Commission DGII. IMF, Direction des Statistiques Commerciales

The crucial importance of international trade for the Central European reform process and the importance of the EC within Central European international trade made the EC the first international body to be able to help Central European in its reform process.

<sup>14</sup> We must use the 1989 datas with care because of the disparity of sources and the different method used



<i>EC Trade with Central Europe.</i>						
	Imports			Exports		
	1990	1991	% growth	1990	1991	% growth
Poland	6728.0	7786.8	15.7	5666.8	9784.8	72.7
Cze-kia	3426.8	5068.2	47.9	3328.2	4731.8	42.2
Hungary	3849.9	4615.2	19.9	3688.4	4330.5	17.4
Total	14004.7	17470.2	<i>24.74</i>	12683.4	18847.1	<i>48.59</i>

Source: OECD in East West, no 527, p.3, 29 May 1992. (Millions of US dollars)

*Table 4. EC trade with Central Europe*

*I.B.) Central Europe and EC assistance.*

After the rapid decay of their economies, once faced with world competition, Central European countries needed the financial intervention of Western countries to stabilise the macroeconomic situation as the completely disorganised national capital markets could not regulate capital flux. They were anyway disproportionately insufficient in comparison with the needs of reform. . This international financial help, decided at the G24 meeting<sup>15</sup> in July 1989, was aimed at creating foreign exchange reserves to maintain the convertibility of national currencies and to stabilise their exchange rates. International finance is also needed to set up a social safety net as the necessity to restructure drastically the whole economic process made a lot of people redundant. Finally, the international Community decided to lighten the debt burden contracted by the Old regimes, which was very damaging to the reforms.<sup>16</sup>

At the G7 World Economic Summit in Paris on 15-18 July 1989, the seven richest countries decided to provide extensive aid to the new democracies and gave the Commission the responsibility to coordinate it on behalf of the OECD countries. The Commission, though it was willing to accept the challenge, was not able to take this initiative. It was only after President Bush's intervention that the Commission could affirm its leading role in

<sup>15</sup> G24 is constituted of EC 12 and Australia, Austria, Canada, Finland, Iceland, Japan, New Zealand, Norway, Sweden, Switzerland, Turkey and the USA.

<sup>16</sup> 'Eastern Europe's economics' in *The Economist*. 13/01/90. p. 28.

Europe (mostly because the US did not want to pay the bill <sup>17</sup>) as the Member States were still reluctant to give it the necessary powers. The American attitude was supported by Germany who worried about the reaction of its Eastern neighbours vis-à-vis a too strong German presence in the restructuring process of Central Europe. Although the Commission was not particularly adequate to undertake this mandate; Jacques Delors its President and Frans Andriessen, (the then Foreign Affairs Commissioner) took no chance and, with 20 of the best staff of the Commission, elaborated the PHARE programme ( Pologne et Hongrie Assistance à la Reconstruction Economique, regulation 3906/89) that they presented on 26 September 1989. <sup>18</sup>

The aid brought by this programme was conditional upon

- i) the organisation of free elections
- ii) the establishment of a multi-party system
- iii) the respect of Human rights
- iv) the introduction of a market economy.

Another important condition is that would-be recipient countries have to make an agreement with the IMF, before the Community could work and provide the necessary funds. One year later, on 17 September 1990, the Council agreed (reg. 2698/90) on extending this programme to other Central European countries which fulfilled the above conditions ( i.e. Czech and Slovak Federal Republic along with Bulgaria, Romania and Yugoslavia). The scope of the aid programme is to assist in the process of transition from a command to a market-driven economy with a focus therefore on core issues such as:

The privatisation and the restructuring of enterprises.

The restructuring and modernisation of banking and financial services.

The promotion of small and medium enterprises and of the private sector generally.

The establishment of laws, regulations and services for market economy, taxation.

PHARE is also instrumental in assisting policy reform in other sectors, such as the environment, science and technology and social welfare. There are PHARE-funded programmes in support of energy policy development, incorporating strong linkages with environmental policies.

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<sup>17</sup> 'The headless superpower' in *The Economist*. 16/12/89. p.17.

<sup>18</sup> 'European Community Survey' in *The Economist*. 16/07/1993. p.19.

Despite the priority areas set by the Community, R.Gibb and V.Michalak affirmed that a significant proportion of funds have been used to purchase EC agricultural products at market prices.<sup>19</sup> Denmark, whose contribution is about Ecu 271 million, expressed dissatisfaction with the management of the aid by the Commission. Soren Rishoj, a Danish MP, expert on Eastern and Central European affairs, argues that 'a high proportion of the aid money is filtered into the hands of independent West European consultants instead of reaching people in need in the East for whom it is intended'.<sup>20</sup> The amount of money made available from the annual EC budget to carry on these project were: Ecu 500 million in 1990, Ecu 850 million in 1991 and Ecu 1 billion in 1992.<sup>21</sup> Originally planned for five years, the Community decided, in November 1992, to extend it for five more years until 1997.

*Table 5. PHARE Programme, financial commitments from 1990 to 1993.  
(situation at 31.12.1993)*

(mln Ecu)

	Hungary	Poland	Cz-kia	Cz rep	Slovakia	regional prgs	Total
Private sector, restructuring, privatisation, SMEs	113.5	139.0	90.0	27.0	19.0	23.0	411.5
Financial sector	19.0	42.7	0	0	0	0	61.7
Agriculture restructuring	68.5	165.0	0	0	3.0	0	236.5
Environment, nuclear safety	47.0	75.0	35.0	0	0	89.5	246.5
Social dvpts and employment	28.5	117.2	19.0	8.0	3.0	13.0	188.7
Education training and research	88.5	104.3	38.0	8.0	5.0	94.3	338.1
Infrastructure (Energy transports...)	11.3	117.4	21.0	9.0	5.0	69.0	232.7
Administration and institutions	13.0	8.5	0	0	0	9.5	31.0
integrated regional measures	10.0	0	0	0	0	10.8	20.8
Other (multidisciplinary..)	6.5	33.6	30.0	8.0	5.0	51.0	134.1
<b>Total</b>	<b>405.8</b>	<b>802.7</b>	<b>233.0</b>	<b>60</b>	<b>40</b>	<b>360.1</b>	<b>1901.6</b>
<b>%</b>	<b>21.34</b>	<b>42.22</b>	<b>12.25</b>	<b>3.15</b>	<b>2.10</b>	<b>18.94</b>	<b>100.0</b>

Source: PHARE exécution budgétaire, established by DGI. unpublished March 1994

<sup>19</sup> R. Gibb and W. Michalak *The European Community's response to the liberalisation of East Central Europe: illusions and Reality*, unpublished paper presented at Royal Holloway, University of London in 1993. p. 7

<sup>20</sup> 'Eastern grants to be reassessed' in *The European* 8-11/07/1993. p. 13.

<sup>21</sup> *PHARE Assistance for economic restructuring in the countries of Central and Eastern Europe: An operational guide*. Commission of the EC, Luxembourg 1992. p. 7

*Table 6. Repartition of PHARE financial assistance (mln Ecu)*

Countries	Commitment (mln Ecu <sup>p</sup> )	%
Albania	195.0	6 %
Bulgaria	308.5	9 %
Estonia	22.0	1 %
<i>Hungary</i>	<i>405.8</i>	<i>12 %</i>
<i>Poland</i>	<i>802.8</i>	<i>24 %</i>
Romania	441.7	13 %
<i>ex-Czechoslovakia</i>	<i>233.0</i>	<i>7 %</i>
<i>Czech Republic</i>	<i>60.0</i>	<i>2 %</i>
<i>Slovakia</i>	<i>40.0</i>	<i>1 %</i>
Slovenia	20.0	1 %
ex-GDR	35.0	1 %
Latvia	33.0	1 %
Lithuania	45.0	1 %
Regional prgs	389.1	12 %
Other prgs	138.3	4 %
Total	3.293.2	100%

Sources: PHARE: exécution budgétaire, established by DGI. Unpublished March 1994.

The Commission had some difficulties not only because it had to coordinate about 170 different initiatives <sup>22</sup> (public and private) aimed at helping Central and Eastern Europe, but also because the Commission did not have adequate financial, diplomatic or administrative resources to carry out this business. Moreover, the Commission had to deal with reluctant Member States - about 80 per cent of the money provided by the EC and the Member States were still granted by individual Member States. <sup>23</sup> - who refused to come under the Commission umbrella. Britain developed and funded her own 'Know How fund' and

<sup>22</sup> J. Rollo, 'Western policy: the room for manoeuvre' *The New Eastern Europe, Western responses*, London 1990. p. 110.

<sup>23</sup> R. Rummel *Toward Political Union, Planing a CFSP in the European Community*, Oxford Westview Press 1992. p. 36.

organised seminars on British Parliamentary concepts, creating disruptions in the Commission's job and in the elaboration of joint projects.<sup>24</sup> Furthermore, if there is some form of coordination in Western Countries, there is no such effort in Central Europe, where priorities are not clearly established.<sup>25</sup> So far, the Commission has managed to set up some joint projects in Poland as the cleaning up of the Mazuriani Lakes (EC, World Bank and the US) and the establishment of a Polish Privatisation Agency (with the International Finance corporation)<sup>26</sup>

*Table 7. Financial assistance to Central Europe*

	Total assistance	of which grants
EC and Members states	23.0	7.0
(EC only)	(5.0)	(2.4)
EFTA	4.2	1.6
United States	5.5	3.5
Japan	2.5	0.5
Canada	1.7	1.2
Total G24 without international financial institutions	37.8	14.1
Total G24 + International fin. Institutions	52.8	14.1

Sources: 'Scoreboard' of the G24.

Despite the fact that the PHARE is the major answer of the Community, Western aid invites many criticisms. Indeed as *The Economist* put it: of the various types of aid pledged so far by the G24, only Ecu 5.7 bln out of Ecu 27.7 bln (out which 73 per cent from the EC and its Member States) was in the form of grants, the most generous type of aid,<sup>27</sup> the rest consists of loans and credit guarantees. These credits and guarantees are generally aimed at paying for Western exports, contributing to a further collapse of the intra-Central European trade as they capture the trade in favour of donor countries. Moreover, this policy is bound to put more pressure on the western markets as the Central European production is oriented

<sup>24</sup> 'European Community Survey' in *The Economist* 16/07/1993. p.20.

<sup>25</sup> OCDE *Réussir les réformes des économies d'Europe Centrale et Orientale* Paris 1992. p.64.p.81.

<sup>26</sup> 'European Community Survey' in *The Economist* 16/07/1993. p.20.

<sup>27</sup> 'Aid to Eastern Europe' *The Economist* 29/06/91. p. 11

towards them. Poland has proposed that the EC should give them some credits to export their productions to the former Soviet Union instead.<sup>28</sup>

Other have complained about the scarcity of capital flows. According to a study carried out by International Economics in Washington D.C., \$1.5 trillion are needed to raise the amount of productive capital per worker in Eastern Europe and the Soviet Union to that of the West within 10 years. So far only \$55 billion have been attributed.<sup>29</sup> Other criticisms reveal that Community actions lack coherence. As Kennedy and Webb put it more severely:

The PHARE programme is a grab bag of initiatives ranging from emergency food aid to Poland to the establishment of the BERD [...] initiatives contain few surprises and repeat many aspects of prior development programmemes, including lengthy bureaucratic procedures for each Ecu spent and a bias toward purchases of EC agricultural surpluses.<sup>30</sup>

Thus, despite the PHARE programme, the Commission is still dependent on Member States' goodwill. PHARE in fact does not go further than the existing Community initiatives towards third world countries,<sup>31</sup> and its provisions can be withdrawn at any moment if the conditions mentioned above are not satisfied. Alongside the PHARE programme a European Bank for Reconstruction and Development was set up.

Although the European Investment Bank (EIB), which is a European institution, can intervene outside the Community on authorization of the Council of Governors (Art 18. of its constitution) and did so to support Cooperation Agreements,<sup>32</sup> and despite the fact that

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<sup>28</sup> OCDE *Réussir les réformes des économies d'Europe Centrale et Orientale* Paris 1992. p.64.i.e. The EC has accorded a \$2.5 bln to USSR to buy Community's surplus, instead of promoting the selling of Central European agricultural products and lightening the Central European pressure on Community markets.

<sup>29</sup> 'Eastern Europe and the World', in *The Economist* 6/07/91. p. 73.

<sup>30</sup> Kennedy and Webb 'Integration:Eastern Europe and the European Community'. *Columbia Journal of Transnational Law* 28(3), p.650.

<sup>31</sup> H. Kramer, 'The European Community's Response to the New Eastern Europe' in *Journal of Common Market Studies*, Vol.31, no 2. June 1993, p. 234.

<sup>32</sup> About 6% of the EIB total investment went to third Countries, (i.e. ACP countries and mediterranean countries). Out of Ecu 892.8m lend outside the Community, Ecu 320.0m (35.8%) went to Eastern and Central Europe, which is more than what has been lent to ACP countries (Ecu 252.0m 28.3%) and about the same amount given to mediterranean countries. The money lend by the EIB is on a long term basis and concerns high priority budgets i.e. Trans-European network, telecommunications, industrial restructuring. From 1989 to November 1992, the EIB lend Ecu 85m to the Federal Republic of Czecho-Slovakia. Ecu 285m to Hungary and Ecu 240 m to Poland. In top of these activities, the EIB plays an important role in expertise and advising. in *EIB information*, no 72-75, no 77, *EIB annual Report 1992*,(March 1993), *EIB 1958-1993, 35 years*, Belgium, April 1993.

a special unit within the Bank was created in November 1989 to deal with Eastern Europe, the Community decided to create another institution: the European Bank for Reconstruction and Development (BERD). Based on a French initiative to be a part of the PHARE programme at the Strasbourg Summit in December 1989, the BERD (operational in March April 1991) is especially dedicated to Central European countries to promote market economy. The BERD is not strictly a European institution since it is composed of 41 members including Japan, the USA and recently Russia. However, the EC and its members states hold 51% of the capital stock. The bank purposes are explained in art.1 of the BERD's Articles of Agreement. The bank has

'to foster the transition towards open market oriented economies and to promote private and entrepreneurial initiative in the Central and Eastern European countries committed to and applying the principles of multi party democracy, pluralism and market economies.' (BERD 1990 art.1).

However, its potential is considerably reduced because of restrictive operating conditions such as commercial criteria for investment and soft loans that the US has categorically refused to relax.<sup>33</sup> Moreover, the Bank has to make at least 60 per cent of its total loans and investments to private borrowers. These restrictions limit enormously the bank activities, since the bank cannot find enough viable private projects. With Ecu 10 billion as capital the bank does not lack money only sustainable projects. By the end of May 1993, the BERD had financed 34 projects for a total of Ecu 230 million and approved 95 other projects worth only Ecu 2.3 billion,<sup>34</sup> whereas the BERD President affirms that Eastern Europe needs Ecu 4,000 billion. A long on-going conflict between its president, J. Attali, and the Americans over his extravagant spending and bank management almost paralysed the bank's activities - the American Congress refusing to approve this year's \$70 million American contribution to the Bank -<sup>35</sup> until J. Attali eventually resigned in the summer 1993.

If J. Attali declared that the BERD had achieved 'an admirable performance',<sup>36</sup> Vaclaus Klaus, (Czech finance minister) is more sceptical and argues that 'So far the role of BERD in our part of the world has been no more than marginal'.<sup>37</sup> A confidential report commissioned by J. Attali, even went further by accusing the BERD

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<sup>33</sup> N. Denton 'US set to block EBRD expansion in East Europe' in *Financial Times*, 13/04/92. p. 8.

<sup>34</sup> 'Europe angry at US stance on BERD', *The Times*, June 5, 1993. p. 22.

<sup>35</sup> 'Attali reshuffle will leave him in full charge' in *The Times*, 7 June 1993. p. 40.

<sup>36</sup> 'Attali claims history will vindicate BERD's record' in *The Guardian* 8 June 1993. p. 14.

<sup>37</sup> *Financial Times* 15/4/92 p.2.

'of failing to make a coherent [...] contribution to the [East European] economic transition process and that investments in the public sector have been confined to limited sectors (communications, construction and energy.)'<sup>38</sup>

Despite its limits and insufficiencies and notwithstanding the difficult period of the early 1990s, the PHARE programme and its management by the Commission to an extending number of 'Liberalised countries' represents an impressive achievement as far as short-term response is concerned. However, if these circumstantial actions were helpful in facing immediate macroeconomic and stabilisation problems, the longer process of restructuring needed a long-term structure to develop steadily. The PHARE programme is widening its scope of activities along the lines defined at the European Council of Copenhagen in December 1992. The *Growth initiative* has been launched at the Edinburgh European Council to accelerate the financing of infrastructure investment (i.e. transeuropean networks) by providing a total of 5 bln Ecu in the form of a new temporary European Investment Bank facility. In order to facilitate the access to funds for infrastructure investment, the Copenhagen Council created the possibility for an increasing utilisation of PHARE funds for the following areas (PHARE guidelines 93-97): environmental improvements, energy savings, regional reconversion, job creation, SME developments, research, education, local infrastructure, health, housing.

Since 1989, old barriers to foreign investment have been dismantled and replaced with new liberal regulations. As a result, with a few exceptions, foreign investors have the same legal protection in Central Europe as in the EC. Western investments could play a major role in privatising state-owned enterprises as well as attracting western technology and business expertise. Foreign Direct Investments has four major roles

- a) Import substitution. Creating national manufactures producing products which were mainly imported, reducing therefore the trade deficit and the foreign debt.
- b) Promoting exports by raising quality standards, competitiveness.
- c) Reducing the technological gap between the EC and Central Europe
- d) Privatisation through joint ventures increasing therefore opportunities for foreign investments.

The needs of Central Europe in investment have been estimated at \$2,000 bln for the next 10 years. (UNECE 1991). Compared to the \$9.6 bln provided in 1991, the present level of FDI is extremely small. Furthermore, it has been estimated that up to 50 % of this FDI is

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<sup>38</sup> R. Peston 'BERD under criticism over impact on Eastern Europe' in *Financial Times*. 18/06/93. p. 16.



essentially inactive. Indeed some companies invest only the minimum amount of capital required for a legal registration just to establish a market presence before taking the final decision.

*Table 8. Cumulated Foreign Direct investments received by Central and Eastern European countries until 1.07.1993 (mln US\$)*

Receiving Countries	FDI in mln US\$	%
Hungary	3875.5	42.9
Czech republic	1850.0	20.5
Poland	1800.0	19.9
Rumania	678.8	7.6
Slovakia	320.4	3.5
Baltic states	418.5	4.6
Bulgaria	57.0	0.6
Albania	37.0	0.4
<i>Total</i>	<i>9037.2</i>	<i>100.0</i>

Source: United Nations, Economic Commission for Europe, Statistic survey, Nov. 1993

*Table 9. Geographical origin of FDI between 1987 and 1991*

Countries	% mln\$
Austria	17.3
Germany	14.8
UK	4.8
Italy	4.6
Luxembourg	4.0
Netherlands	3.8
France	2.7

Source: UNECE 1992.

Hungary is the country which received the most financial direct investments with 62% of the investments made in Central Europe. As far as the origins of these investments are concerned, they are from different sources, Hungary received some from 50 countries whereas for the Polish they are about 90 for 1993. The share of the Member States represents 53,6% for Hungary and 52% for Poland. In terms of projects, Germany is the first

investor in Poland, Czech Republic, Slovakia, Hungary, Romania and Bulgaria.<sup>39</sup>

*Table 10. Geographical origin of FDI*

	EU	EFTA	USA	Others	Total
Czech Rep.	52%	5.5%	29%	13.5%	100%
Slovakia	36.6%	30.7%	14.5%	18.2%	100%
Hungary	53.6%	23.6%	5.1%	17.7%	100%
Poland	50.6%	7.9%	38.9%	2.6	100%

Sources: United Nations Statistical Survey of Recent Trends in FDI in East European Countries, 23/10/1993

### *III.) Europe Agreements.*

Financial help and investment are important in the reform process of Central Europe, but they are rather limited in comparison with the benefits that Central Europe could take from a structure where fair trade could take place and develop. Central Europe, in order to balance its exchange, urged the Community to open its borders in the sectors where they had a comparative advantage such as raw materials, machinery, transportation equipment, agricultural products, textiles and food. Even if the European Community is attached to free trade, this represented a double challenge at the time. Firstly, because both parts had to reverse a 40-year legacy of discrimination and asymmetry. Secondly, because the European Community had to adopt a common policy on tariff and quotas and create new commercial agreements, while the political debate was focused on the German reunification problem. The British, champion of the wait and see approach and the French, paralysed by their vision of a future big Germany, were for a while, united in their common political apathy. But when France realised that Germany was ready to go her way and help Central European countries (mainly to avoid massive immigration) and these centrifugal forces could be fatal to European integration process, they decided to speed up the European integration process. In a joint address of November 1989, they declared

<sup>39</sup> United nations, Economic Commission for Europe, Statistic Survey, November 1993.

'that EC political integration and democracy in the East must go together and that the best way to respond to events was to strengthen the EC bounds so that the EC could maintain its magnetic attraction to the East'.<sup>40</sup>

The perspective of the German reunification emphasised the need of deepening the Community before any other consideration. This introspection, very much criticised by Central Europe, impeded the European Community from implementing an original, consistent and generous policy towards Central Europe. In August 1990, the European Council approved the British proposition to associate the Central European countries with the Community and gave the Commission the right to start negotiations for a second generation of agreements. It was only after this intergovernmental decision and under pressure of Central European countries that the Commission was able to propose a more coherent and long-term approach to deal with Central Europe and a new kind of agreement which could respond to the new needs of the EC in the realm of foreign affairs and security as M. de Largentaye argues.<sup>41</sup> Negotiations on the 'Second generation' Europe Agreements started officially on 20 December 1990.

It is only after 11 months of long and difficult negotiations, that the EC could solve the problems due to the formulation of the safeguard clause but also due to the fact that Member States of the EC pressed the Commission to withdraw the abolition of Quantitative Restrictions on imports of steel planned for March 1992. Countries like France, Italy and especially Spain demanded that Central European countries promise to reduce their excess capacities and threatened them with reintroducing self-restraint arrangements in case of non-fulfilment of provisions concerning state aid and other restraints.<sup>42</sup> Other problems arose with the fear that European presence in Central European countries could damage irreversibly the Central European national economies such as the banking and service sectors. Textiles was also revealed to be extremely difficult to negotiate, as the GATT did not foresee any definitive solution for the MFA before a transitional period of at least 12 years. As a

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<sup>40</sup> R. Rummel, *Toward Political Union. Planning a Common Foreign and Security Policy in the European Community*. 1989. p. 125.

<sup>41</sup> M. de Largentaye 'La Communauté et les Pays de l'Est' in Alexis Lloyd and Antoine Winckler *L'Europe en chantier*. Collection Pluriel Hachette, Paris 1993. p. 242.

<sup>42</sup> 'Europe Agreements between EC and Central Europe to be initiated'. *East West*, 19/11/91, n° 514. p.2.

consequence, Member States' bilateral agreements were still valid.<sup>43</sup> The European Community eventually signed the second generation agreement with the Central European countries on 16 December 1991.

Europe Agreements are conditional upon political and economic criteria: democracy and market economy. ( preamble of the Europe Agreements) There are as many Europe Agreements as there are Central European countries involved in these agreements, but they have a common framework:

a) to favour a climate of stability in Europe.

'Association Agreements should help create a climate of confidence and stability favouring political and economic reform and allowing the development of close political relations which reflect shared values [...] consolidation of democratic political systems and market-based economies.'<sup>44</sup>

b) to be a basis to strengthen the foundations of the new European architecture. 'This will give tangible form to aspirations to return to the mainstream of European political and economic life and bring concrete reciprocal benefits'.<sup>45</sup>

c) to enhance a better climate for trade and investment  
a long-term relationship between the Community and the Associated members would guarantee smaller firms from uncertainties from the new market conditions.<sup>46</sup>

d) to facilitate the transition to a market economy  
By improving trade between them [Associate members] and supporting them through technical assistance, training and contacts.<sup>47</sup>

e) to assure transparency and rational financial support through consultation mechanisms and financial cooperation.<sup>48</sup>

f) to enhance cultural cooperation.<sup>49</sup>

Two major innovations of the Europe Agreements are the institutionalisation of the political dialogue between the contracting parties (creation of an *ad hoc* institutional framework) and the establishment of a free trade area between the EC and the Associated members in less than ten years. Two periods of 5 years each enable assessment of the progress made by the

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<sup>43</sup> 'Europe Agreements between EC and Central Europe to be initiated'. *East West*, 19/11/91, n° 514. p.3.

<sup>44</sup> Commission of the EC, COM(90) 398 final, Brussels, 27 August 1990. p. 3.

<sup>45</sup> Commission of the EC, COM(90) 398 final, Brussels, 27 August 1990. p.3.

<sup>46</sup> Commission of the EC, COM(90) 398 final, Brussels, 27 August 1990. p. 3.

<sup>47</sup> Commission of the EC, COM(90) 398 final, Brussels, 27 August 1990. p. 3.

<sup>48</sup> Commission of the EC, COM(90) 398 final, Brussels, 27 August 1990. p. 3.

<sup>49</sup> Commission of the EC, COM(90) 398 final, Brussels, 27 August 1990. p. 3.

contracting parties to achieve the free trade area.

The legal basis of the Association Agreements, (Europe Agreements) is EEC art 113 (for commercial dispositions) and EEC art.238 which states that the:

Agreements establishing an association involve reciprocal rights and obligations, common actions and procedures. Such agreements 'create special privileged links with a non-member country which must at least to a certain extent, take part in the Community system.'

That implies that the Commission should have the power to achieve and guarantee such commitment vis-à-vis Associated countries in all fields covered by the EEC Treaty.<sup>50</sup> Moreover, any agreement signed on EEC art 238, requires the assent of the European Parliament, which has reminded the Commission of the inadequacy of its role in the decision process of the Community - the Parliament has however ratified the Europe Agreements in September 1992-<sup>51</sup> The signature of a Association Agreement can be motivated by two different purposes: enabling former colonial powers, member of the EC, to keep close links with their former colonies, or preparing the associate state for its accession to the Community by establishing a customs Union (i.e. Greece 1962, Turkey 1964).<sup>52</sup> The Europe Agreements are obviously from the second category, however, despite the fact that the preamble states that full membership is the ultimate objective of the Association, it is not legally binding and they prepare neither for accession nor for a customs Union<sup>53</sup> and do not give a timetable. The European Parliament has criticised this lack of commitment arguing that

The association agreements should provide clear guidance to the timing of negotiations on future membership of the partner countries.[...] A signal of this kind is politically and psychologically important to the associated countries.<sup>54</sup>

In addition to economic and trade provisions, the European Agreement set the conditions for a political dialogue and cultural cooperation, which are not within EC competence, they need

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<sup>50</sup> J. Redmond *The external relations of the European Community, the international response to 1992*. 1992. p.103.

<sup>51</sup> The European Parliament calling to be associated in the negotiating process and to be represented an observer status in the commission delegation, as it is the case for GATT and EFTA negotiations. In European Parliament session document PE 146.342/fin, 13 March 1991 p. 15.

<sup>52</sup> K-D. Borchardt *The ABC of Community Law* 3rd Edition, Bruxelles 1991. p.33.

<sup>53</sup> M. Maresceau 'Les Accords Européens: Analyse générale', in *Revue du Marché Commun et de l'Union Européenne*, n° 363, June 1993, pp 508-526.

<sup>54</sup> European Parliament, Session Documents PE 146.342/fin 13 March 1991. Report of the Committee on External Economic relations. Rapporteur: Mrs C. Randzio Plath. p. 11.

therefore to be approved by national parliaments (i.e.. mixed agreements) and would not enter into effect before their complete ratification. The ratification process was completed in November 1993 and Europe Agreements with Hungary and Poland, adopted by the Council on 13 December 1993, entered into force on 1 February 1994.<sup>55</sup> However, because the process of economic reconversion could not be delayed, the economic part of the Europe Agreements had been put into effect without ratification since March 1992 under the form of 'Interim Agreements'

Second generation Association agreements, now called Europe Agreements after their ratification in November 1993, aim at consolidating all previous multilateral trade concessions and are to set free movement of services, capital and people and a free trade area before March 2002. The structure of the Europe Agreements is the same for every agreement.

The four freedoms of the single market have been used as landmarks to establish the Europe Agreements, however, the notion of free trade does not have the same meaning when applied to the EC or Central European countries. As far as the free movement of goods is concerned more will be said in the next section. Concerning the free movement for services and capital and the freedom of establishment, the aim of Europe Agreements is to establish a 10 year transitional period at the end of which, when an enterprise establishes itself in the territory of the other party it shall receive treatment not less favourable than national enterprises. Protective measures are possible in cases where Central European companies are forced to accept a 'dramatic' loss of their domestic market shares. Free movement of persons is not dealt with in the Association agreements.

The general structure of the European agreements is as follow:

- *Principles*
- *Political dialogue*
- *Free movement of goods*
  - i) free trade for industrial goods with some exceptions
  - ii) Sensitive sectors
  - iii) Accompanying measures
- *Free movement of persons, services, capital*

Progressive liberalisation of supply of services across the border to nationals and companies of the other party. Specific provisions for transport services.

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<sup>55</sup> OJ: L 114 30/04/1992.

- *Approximation of legal provisions*

- i) National treatment of establishment
- ii) Public contracts. Polish and Hungarian companies have access to contract award procedures in the Community under the same conditions as Community companies.
- iii) Liberalisation of payments and financial transfers
- iv) Competition rules
- v) Intellectual, industrial, commercial property. Legislation has to be introduced which gives the same protection as in the Community; Associated countries have to adhere to international conventions

- *Economic cooperation*

- *Cultural cooperation*

- *Financial cooperation*

The EC accepted asymmetrical reductions of tariffs in favour of Central Europe. In doing so they recognised their much weaker economic position and let the Central European countries the time to restructure their economies before facing the western concurrence. The EC has liberalised about 70% of its imports from Central Europe on 1 March 1992.<sup>56</sup> The remaining 30%, mainly agricultural products, iron, steel, chemicals, textiles and apparel as listed in Annex Ia, Ib and II, will be fully liberalised over 5 or 6 years. In March 1992, Central European countries had to liberalise 20 to 25% of its import from the European Community, the rest being liberalised over a 9-year period.<sup>57</sup> The immediate consequences of such a liberalisation was a huge increase of trade activities between the EC and Central Europe. As we can see from the following tables, Central and Eastern European exports to the EC increased by 83% between 1989 and 1992, whereas imports increased by 120%. This asymmetry is even bigger for individual Central European states. When Hungary and former Czechoslovakia had almost the same volume of export in 1989, respectively 2586 and 2557 mln Ecu, former Czechoslovakia doubled her exports whereas Hungary increased them by only 54%. The most worrying aspect of this evolution is that the EC has doubled its exports towards Central Europe (+ 162.7 % to ex-Czechoslovakia) leaving a growing deficit. Deficit with Poland has increased five times and the overall deficit for the Central European region six times.

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<sup>56</sup> 'EC concludes Europe Agreements with Poland, Czechoslovakia and Hungary', *East-West*, 16/12/91. n° 516. p.2.

<sup>57</sup> 'EC concludes Europe Agreements with Poland, Czechoslovakia and Hungary', *East-West*, 16/12/91. n° 516. p.2.

*Table 11. Evolution of trade with CEECs<sup>58</sup> with the EC, EFTA, United States, Japan and Canada between 1989 and 1992 (Percentage calculated from US\$)*

In US\$	Exports	Imports
EC	+ 83%	+ 120%
EFTA	+ 39%	+ 87%
United States	- 9%	+ 84%
Japan	- 18%	+ 23%
Canada	- 37%	+ 73%

Source: Eurostat Comext

*Table 12. Evolution of trade with Central Europe with the EC between 1989 and 1992 (mln Ecu)*

	Exports to the EC			Imports from the EC			balance	
	1989	1992	%	1989	1992	%	1989	1992
Poland	3857	7078	+ 83.5%	3944	8153	+106.7%	-87	-1075
ex -Czka	2557	5534	+ 116.4%	2384	6263	+162.7	+173	-729
Hungary	2586	3985	+54.0%	2987	4060	+135.9%	-401	-75
<b>Total CE</b>	<b>9000</b>	<b>16597</b>	<b>+84.4</b>	<b>9315</b>	<b>18476</b>	<b>+98.3</b>	<b>-315</b>	<b>-1879</b>

Sources: Eurostat

The strong growth of trade existing since 1989 has, however, increased the asymmetry existing between the EC and Central Europe and has therefore significantly aggravated the deficit of the Central European countries' trade balance. Although Central European economies have dramatically increased their exports between 1990 and 1992, this could not match the augmentation of Central European imports of EC products. The EC trade surplus with its eastern partners was 1.7 billion Ecu for the 11 first months of 1992.<sup>59</sup> This trade deficit has provoked a number of criticisms and was seen as proof of the EC protectionism. Two points should be raised here. First of all, a certain trade deficit is typical of developing economies and is usually due to a deficient structure of the national financial market which cannot respond to demands of investment. Secondly, the study of the trade structure of

<sup>58</sup> Poland, Hungary, former Czechoslovakia, Romania, Bulgaria, Albania.

<sup>59</sup> Communication by the Commission to the Council, in view to the meeting of the European council in Copenhagen, 21-22 June 1993. pp.8-9 quoted by G. de Vries 'Hungary and the European Community - a West European view' in *the World Today* n° 139, July 1993.



Central Europe shows that the European market is the most open to Central European products. As we can see from table 12, the deficit, in 1992, in absolute value, is much higher in the trade with the EC, than with Japan or United States. However, American and Japanese surplus are relatively more important than the European Community's. On top of that, the evolution of trade between Central Europe and other parts of the world between 1989 and 1992, shows that exportations to the EC and to EFTA have increased by 83% and 39% respectively, whereas exportations to the United States and Japan have decreased by 9 and 18% for the same period. (see table 11 p. 72)

*Table 13. Evolution of trade between CEECs<sup>60</sup> and EC, EFTA, USA, Japan and Canada (in mln US\$)*

	Export to	Import from	balance
EC	24,606	28,230	- 3,624
EFTA	4,528	6,407	- 1,879
USA	1,211	1,714	- 503
Japan	545	715	- 170
Canada	168	167	+ 1
Total	31,058	37,233	

Source: Eurostat Comext.

As far as protectionist barriers are concerned, Europe Agreements have not significantly improved the Central European situation since they had one of the lowest protectionist tariffs in the world and they had to reintroduce some tariffs barriers in certain sectors in order to protect their national industries against highly subsidised European exports.<sup>61</sup> Mr Rasko, state Secretary at the Agriculture Ministry of Hungary, the largest food exporter of Eastern Europe, said 'we cannot compete at dumping prices'.<sup>62</sup> According to the OECD, subsidies account for 45% per cent of EC agricultural production, while they represented only 30 % of the Hungarian production in the 1980s, down to 8% in 1992 and a forecast 6% in 1993. During

<sup>60</sup> Poland, Hungary, former Czechoslovakia, Romania, Bulgaria, Albania.

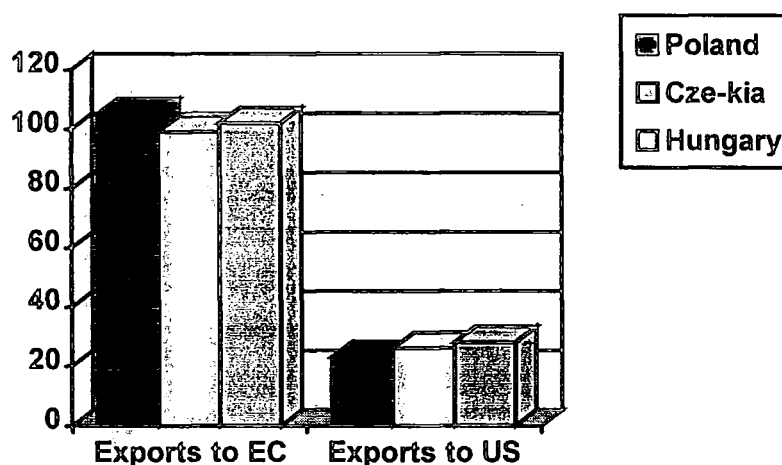
<sup>61</sup> i.e. 'EC expenditure on exports refunds for cereals grew from Ecu 1175 million in 1980 to Ecu 2773 million in 1989' Agra Europe, 2 March 1990 in Senior Nello, *The New Europe, changing economic relations between East and West*. 1991. p.143.

<sup>62</sup> N. Denton 'EC dumping of farm produce upsets Hungary' in *Financial Times* 22/06/1993. p. 6.

the first half of 1993, Hungarian exports have diminished by 28% in comparison with the first half of 1992. Many critics have seen this drop as the consequence of the commercial restrictions imposed by the EC.

Furthermore, as far as the Central European exports to the EC are concerned, their prices doubled because of the European barriers such as duties and tariff, while the price of their exports to the United States increased only by 20 per cent, five times less than Europe. The following table shows that EC protectionism doubles the price of most agricultural exports from the Central Europe, whereas American tariffs represent only 20 to 25% increase of Central European prices.

*Table 14. Agriculture Implicit tariff rate 1985-90*  
(Price increase owing to all forms of protection, in percentage)



Sources: FT 13/04/92 p.4. 'EC protectionism threatens east European growth' based on P. Messerlin. (1992)

In its restructuring of customs tariffs, Czechoslovakia, with the approval of the GATT, has raised 1000 tariff items, covering 20% of all its imports. Similarly and in order to protect the domestic food and agricultural market, Czechoslovakia has introduced compensatory amounts when import price is lower than domestic production.<sup>63</sup> As a consequence of the trade liberalisation and of the whole revolutionary process, the expansion of EC exports was mostly directed towards Poland (Exports increased by 73%) and

<sup>63</sup> 'New Czech customs tariffs in *East West* no. 518, p.13.

Czechoslovakia (exports increased by 42%).<sup>64</sup> Central European exports to the EC are more modest.

Although the interim agreements aimed at the complete liberalisation of trade between the EC and Central Europe over a long transitional period of 10 years, numerous special provisions for agricultural products (Protocol 1), steel, coal (protocol 2) and textiles (protocol 3) are still present and are impeding Central European economies from gaining full benefits from the EC market. The establishment of these protocols came at the end of a particularly acrimonious debate between the EC and Central European countries, when the Commission had to defend national interests. (i.e. 'Spanish clothes makers, Irish beef farmers and Scottish raspberry' as *the Economist* put it<sup>65</sup>). Polish negotiators were particularly upset and threatened to withdraw from the negotiations in July 1991. The liberalisation of sensitive products trade has been strongly opposed by national interests, which has limited the extent of Community generosity. Central European countries are responding differently to the economic challenge of transition and if upgrading their products for export will need time, it is therefore vital that Central European countries could export sensitive products to the West.<sup>66</sup> Sensitive products account for an important part of the Central European exports to the EC as they represent 33 per cent of Czech and Slovak exports to the EC, 42 per cent of Polish exports and 51 per cent of Hungarian exports.<sup>67</sup> They are less than 1 per cent of total EC Gross Production. This shows a huge disproportion in the 'relative importance of these products to EC and Central European countries. So, even if they were to increase of 400 per cent, EC production would not fall more than 4.6 per cent in textiles, or 1.3 per cent in food products.<sup>68</sup> Moreover, it is unlikely that Central Europe could maintain this pace for ever, as internal consumption will certainly absorb most of the national production.<sup>69</sup> Another argument is that losses for producers will be compensated by consumer gains.<sup>70</sup>

Concerning **Textiles**, Europe Agreements imply the progressive elimination of import duties over six years and the disappearance of quantitative restrictions in less than 5 years. However, the requirement for their complete removal will be the object of **bilateral**

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<sup>64</sup> 'EC trade with East Europe' in *East West*, 29/05/92. no.527. p.2.

<sup>65</sup> 'Open up' in *the Economist*, 3/08/1991, p. 15.

<sup>66</sup> DG for Economic and financial affairs, 'The European Community as a world trade partner, in *European Economy*, no. 52, 1993, p. 33.

<sup>67</sup> 'Fortress Europe keeps eastern neighbours out' in *Financial Times* 19/10/92. p.6.

<sup>68</sup> E.Balls 'Fortress Europe keeps eastern neighbours out', in *Financial Times* 19/10/92.p.6.

<sup>69</sup> i.e. 'Four tigers' example quoted by Al Agra, *The Economics of the EC*. p. 41.

<sup>70</sup> J. Rollo 'Maybe not even Jam for Eastern Europe' in *Financial Times* 18/06/93. p.15.

negotiations and will, to a large extent, depend on MFA negotiations.<sup>71</sup> The MFA had been prolonged until 31 December 1993 because of the Uruguay round deadlock and its reintegration into the GATT exclusive competence has not yet been discussed. The removal of tariffs planned by Europe Agreements have little effect on the export capacity of Central European countries, because they still have to face important quotas.<sup>72</sup> The Community has increased certain quotas ceilings,<sup>73</sup> but has introduced new ones on other areas. Moreover, such increase of quotas ceilings does not necessarily imply a growth of Central European exports to the Community, because most of the time these exports failed to comply with the requirement of the rules of origin and therefore cannot enter the EC.<sup>74</sup> Statistics do not reflect the real capacity of these industries which are struggling to find new markets and which cannot force the Community to grant more liberalisation, because it will argue that they do not take full advantage of their current allowance. Another fact is that these quotas and the different limits to exports are not an incentive for Western Companies to take advantage of the cheap Central European labour, or to invest there, as their production will not be allowed in. This lack of capital and foreign investment impedes these countries from developing new structures of production in sectors that are less protected and less sensitive and in which they could develop a comparative advantage. As a consequence, they cannot diversify or re-orientate their production and this renders their economic survival even more dependent on sensitive sectors.<sup>75</sup>

As far as **coal and steel products** are concerned, customs duties will slowly but progressively be suppressed by 20% every year (nil after 6 years) and the quantitative restrictions and VRAs were abolished by March 1992. Central European countries have to do the same but in a longer period, from 6 to 9 years. State subsidies may be maintained if they are linked to a policy of global reduction in production capacities, if they help to

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<sup>71</sup> *European Economy*, no 52, 1993, 'The European Community as a World Trade partner', published by the DG for economic and financial affairs. p.35.

<sup>72</sup> P. Messerlin 'The Association Agreements between the EC and Central Europe: Trade liberalisation vs Constitutional failure'. in Flemming and Rollo, *Trade, Payments and adjustment in Central and Eastern Europe*, RIIA, BERD, March 1992. p. 121.

<sup>73</sup> 'EC concludes Europe Agreements with Poland, Czechoslovakia and Hungary' *East West*, n° 516. 16/12/1991. p.3.

<sup>74</sup> See page 80.

<sup>75</sup> P. Messerlin in Flemming and Rollo, *Trade, Payments and adjustment in Central and Eastern Europe*. 1992. p. 122.

ensure normal market conditions by the end of the transition period.<sup>76</sup> P.Messerlin, in his analysis of the Interim Agreements reveals three interesting conclusions:

- i) The association agreements delivered for a second time many zero-tariffs previously granted under the GSP scheme. This means that the European Community did not improve the conditions of Central Europe since 1988. Only 20 per cent of the 7,500 industrial goods are concerned by a total liberalisation.
- ii) The tariff cuts which are been granted according to a timetable concerned the highest tariffs in the sector. This means that most of the most sensitive products, about 10% of industrial goods, will be taxed before coming into Europe.
- iii) Tariffs reductions and tariffs concessions (GSP) are clashing, as certain tariffs, during the first year of the Interim Agreement will be higher than previously because tariff cut have been made of a MFN basis.<sup>77</sup>

As a consequence, free trade in industrial goods planned by the Europe Agreements will take some time before being implemented. The agreements in a number of cases (80%) have accorded what has been already accorded in the previous agreements such as MFN and GSP. In some cases duties were actually increased and most importantly, the number of sensitive products are being liberalised at a very slow pace. Moreover, on the particular insistence of Spain and Greece,<sup>78</sup> a safeguard clause has been included in the protocol for these products and anti-dumping actions have also been launched. In response to Eurofer complaints about Czech and Polish 'dumping' practices, the Commission has imposed additional tariffs on imports of steel. The Commission's proposal to restructure the European Steel industry in the Community, made on 17 February 1993 and launched by the Council on 25 February, to reduce the European over-capacity will have some influence on Central European countries who will have to limit their steel exports and give a guarantee of fair prices. On top of that the Community has started new negotiations on a 3-year quota plan which will enable Central European countries to increase their exports by only 35%, in comparison with the 1991 level.<sup>79</sup> This plan will put in place a new device: the '*Tariffs quotas*'. This instrument is more flexible and allows exporting countries to export to a certain limit at normal price. Once they reach that limit and go beyond it, the exports are levied at 20 to 30 % above the normal tariffs. The threat of anti-dumping procedure will be a strong incentive for Central

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<sup>76</sup> 'EC concludes Europe Agreements with Poland, Czechoslovakia and Hungary' *East West*, n° 516, 16/12/1991. p. 3.

<sup>77</sup> P. Messerlin in Flemming and Rollo, *Trade, Payments and adjustment in Central and Eastern Europe*. 1992. p.118.

<sup>78</sup> Contact Groups on Steel, in *East West*, 29/05/92, n° 527 p.4.

<sup>79</sup> 'Bad news for East European steel exports' in *East-West* no 542, 15/02/1993. p.5

European countries to sign these accords. As an example, the Czech Republic is likely to accept the following regime.

The Agricultural sector is an important one, as it represents 30% of active population in Poland and 20% in Hungary and was particularly hit by the recession. Agriculture was the most problematic sector where concessions have been the most difficult to reach. In 1991, 50% of all agricultural exports from Central European countries entered the EC market free of any imports duty or quantitative restrictions (57% for Poland, 47% for Hungary and 46% for CSFR)<sup>80</sup>, however the level of protection faced by Central European countries could exceed 100 per cent for certain products.<sup>81</sup> The interim agreements are based on reciprocal concessions, but provide only for the *suspension* of quantitative restrictions and not their complete removal. Moreover, interim agreements do not have any major effect on the import of competitive products from Central Europe, as the concessions are granted within the existing system of quotas or tariffs ceilings. The liberalisation of agricultural products depends, in fact not only on their political sensitivity, but also and more importantly on the results of the GATT negotiations and on the reform process of the Common Agricultural Policy. J.Redmond argues even that VERs contained in previous sectoral arrangements would continue to be applicable.<sup>82</sup> Moreover, there are two specific safeguard measures related especially to agricultural products (i.e. meat in Annex X, processed agricultural products in protocol 3)<sup>83</sup>

After the discovering of 'foot-and-mouth' disease in Italian imports, the European Community imposed, on 8 April 1993, a one-month regional embargo on twenty countries, including the Visegrad group. This embargo banned exports of meat and dairy products, although no traces of this disease had been found in Central European exports and without real certainty that the contaminated imports came from this region. On the basis of art. 29 of the Europe Agreements, 'prohibitions, or restrictions on imports, exports or goods in transit [can be taken when] justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals or plants.' This article clearly specifies that 'such prohibitions, shall not however, constitute a means of arbitrary

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<sup>80</sup> *European Economy* no. 52. p.35.

<sup>81</sup> P. Messerlin in Flemming and Rollo, *Trade, Payments and adjustment in Central and Eastern Europe*. 1992. p. 116.

<sup>82</sup> J.Redmond, *The external relations of the European Community, the international response to 1992*. 1992.p. 107.

<sup>83</sup> P. Messerlin in Flemming and Rollo, *Trade, Payments and adjustment in Central and Eastern Europe*. 1992. p.126.

discrimination or a disguised restriction of trade between the Parties. Central European countries have accused the European Community of such practices, as this trade represents about \$10 million a month for the Czech Republic, Poland and Hungary, representing one-fifth of total EC imports.<sup>84</sup> The *Prague Post* reported that 'The Visegrad countries denounced the embargo as protectionist and said it threatened to mushroom into a protracted regional trade war.'<sup>85</sup> Indeed Central European countries reacted by banning EC exports, Poland going further by banning imports from Hungary, Czech Republic and Slovakia. This 'meat-war' has put some stress on the Visegrad countries who reacted in a disorderly fashion and showing how imperfect the Visegrad forum was to coordinate policies. As the *Prague Post* put it,

'The differences in response were astounding. The Hungarians tried to be quick, firm but reasonable. The Poles were just as quick and firm, but rather unreasonable -how else to describe the fact that along with banning Western food products they also put off-limits the same of goods from their 'guiltless' neighbours to the South.'<sup>86</sup>

This trade war cooled off after the lifting of the embargo by the European Community at the beginning of May, after the Central European countries accepted stricter control. Cattle destined for slaughter have to undergo 15 days of quarantine and pigs a blood test.<sup>87</sup>

In conclusion we would say that even if trade liberalisation is on its way, the European policy does not respond completely to Central European needs. The slow removal of trade barriers is often understood as protectionism and it does nourish the suspicion that member-states, through heavy lobbying, are protecting their declining industries<sup>88</sup> and destroying the short term competitive advantage that Central European industries have now.

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<sup>84</sup> P. Messerlin in Flemming and Rollo, *Trade, Payments and adjustment in Central and Eastern Europe*. 1992. p. 116.

<sup>85</sup> *The Prague Post*, Vol. 3, no 16, 21/04/1993. p.1.

<sup>86</sup> D. Kumermann 'Neither side can win 'meat wars' in *The Prague Post*, vol 3, no. 16, 21/04/1993. p.15

<sup>87</sup> Meat import ban, in *East-West* no. 547-548, p.4. 5/05/1993.

<sup>88</sup> E.Balls 'Fortress Europe keeps eastern neighbours out', *Financial Times* 19/10/92.p.6.

*Table 15. Trade structure of Hungary to the EC*

	EC Exports to Hungary		EC imports from Hungary	
	01-06/93 MEcu	% 01-06/93 01-06/92	01-06/93 MEcu	% 01-06/93 01-06/92
Equipment, Machines	606	+ 20%	368	+ 23%
Textiles	293	+ 10%	329	+ 9%
Agriculture	163	+ 52%	288	- 28%
Industrial products	159	+ 48%	172	- 19%
Chemical products	285	+ 23%	107	- 13%
All sectors	2343	+ 23%	1821	- 5%

Sources: IMF - Direction of trade statistics.

As Central European countries were complaining that the EC did not open its gate wide enough to enable them to trade, the Commission re-assessed and tried to improve the European policy towards Central Europe during European Summits. Thus, at the Edinburgh Summit in December 1992, the British Presidency took a certain number of measures promoting the integration of Central European reforming economies. The Commission proposed, during this Summit, although without the support of all Member States, to shorten the transition period for the Community's dismantling of customs duties and quantitative restriction, to improve Community market access for agricultural products and for textiles. The PHARE programme was to be extended and finally the Commission proposed the creation of a free trade area between EFTA and Visegrad 4 and between the Visegrad members themselves.<sup>89</sup>

Another Summit which had its importance in the formulation of the Community policy towards Central Europe is the *Copenhagen* Summit held in June 1993. In top of political decisions that will be discussed in the next chapter, the Commission has proposed more asymmetry in the liberalisation of trade in favour of Central Europe. However, after opposition from France and Portugal, the Commission withdrew its proposal to change the rigid 'quota-based' system for a more flexible 'ceilings'.<sup>90</sup> Thus even if some quotas on the

<sup>89</sup> 'Edinburgh Summit to suggest limited initiatives for Central and Eastern Europe' in *East-West*, 3/12/92, n° 538, pp. 2-4.

<sup>90</sup> L.Barber 'EC agrees package to boost market access for Eastern Europe' in *Financial Times* 10/06/1993.



sensitive products listed in annex IIb, (Mineral, chemical fertilisers, footwear, semi-finished products of iron, motor cars...) are abolished one year before, Central European countries will still have to pay extra-duties if they breach import restrictions. Secondly, the Commission has re-proposed the relaxing of rules of origin for all products from all associated countries of Central and Eastern Europe. The Foreign Affairs Council weakened these concessions, on 9 June 1993 by putting aside rules of origin changes for later consideration. The trade concessions offered by the Copenhagen Council to the Associated Countries include:

- the abolishment of import duties on certain sensitive industrial products at the end of the second (instead of the fourth) year after the entry into force of the agreement
- the abolishment of import duties on former GSP products (annex III) at the end of the third year (instead of the fifth) and increase at higher rates of the amounts of the tariff quotas and ceilings concerning these products.
- reduction of the import levies/duties on agricultural quota six months earlier than was foreseen; increase in the quotas six months earlier than was foreseen.
- abolishment of the import duties on textile products after five instead of six years
- abolishment of the import duties on steel products after four instead of five years

*The Financial Times* comments that

the weaknesses of the trade concessions, however, undermine both immediate export and growth prospect in Central and Eastern Europe, in the longer term, the very objective of EC membership.<sup>91</sup>

The European Agreements contain 8 *safeguard clauses* (two general (Art 24 , EA 30) and six specific) which resuscitate the EEC Art.115 redundant after the implementation of the Single Market programme in 1993, <sup>92</sup> and which states that

Where any product is being imported in such increased quantities *and* under such conditions as to cause or threaten to cause:

- i) serious injury to domestic producers of like or directly competitive products in the territory of one of the parties or
- ii) serious disturbances in any sector of the economy or difficulties which could bring about serious deterioration in the economic situation of a region,

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<sup>91</sup> J.Rollo 'Maybe not even jam for East Europe' in *Financial Times* 18/06/93. p.15.

<sup>92</sup> J.Redmond, *The External relations of the European Community, the International response to 1992*. NY.1992. p.6.

The Community or the Associate members, whichever is concerned, may take appropriate measures under the conditions and in accordance with the procedures laid by the agreement'.<sup>93</sup>

As P.Messerlin explains it, the elimination of *and/or* by the restricting *and* was the only improvement in comparison with former safeguard measures, but it was immediately balanced by the introduction of serious disturbance as an incentive to entail safeguard procedures.<sup>94</sup> However, it has to be said that Member States have less and less power to apply national safeguard measures on their own initiative.<sup>95</sup> As a matter of fact, surveillance measures have dropped from 1.300 in 1987 to 185 in 1991.<sup>96</sup>

Amongst NTBs, are rules of origin, norms and standards. Definition of *rules of origins* is complex and restricting, they take into account the ownership of manufactures and products have to undergo 'sufficient working or processing'.<sup>97</sup> Thus for most industrial goods, inputs from non-EC sources should not represent (in Added value) more than 40 or 50 per cent of the value of the production, which means that assembly plants which are not based on bilateral trade between the EC and the Central European countries were *de facto* excluded.<sup>98</sup> The cumul of origins is now possible between associated countries. *Anti-dumping procedures* have been renegotiated by the GATT. Changes are embodied by the 'Dunkel text' signed on 20 December 1991, which redefines the determination of dumping, the determination of injury and the procedure of implementation.<sup>99</sup> This text represents an improvement in comparison with the 1979 text, as less discretion and leeway are given to the importing authorities to conduct or interpret anti-dumping actions or laws. In top of that, the Commission approved, on 17 June 1992, the proposal of 'Harmonisation and streamlining of decision-making procedures for Community instruments of commercial defence and modification of the relevant council regulations' which gives the Commission the right to impose or not, duties after consultation of the Member States. However, the Member States

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<sup>93</sup> Commission of the EC, COM(91) 524 final, Brussels, 13 December 1991. p.19.

<sup>94</sup> P. Messerlin in Flemming and Rollo, *Trade, Payments and adjustment in Central and Eastern Europe*. 1992. p. 127.

<sup>95</sup> E. Vermulst and F. Graafsma 'Commercial defence actions and other international trade developments in the European communities: 1 July 1992 - 31 December 1992. in *European Journal of International Law*, vol.4 no. 2. 1993. pp.283 - 304.

<sup>96</sup> *European Economy*, no. 52 p.189.

<sup>97</sup> P. Messerlin in Flemming and Rollo, *Trade, Payments and adjustment in Central and Eastern Europe*. 1992. p. 129

<sup>98</sup> P. Messerlin in Flemming and Rollo, *Trade, Payments and adjustment in Central and Eastern Europe*. 1992. p.129.

<sup>99</sup> E.Vermulst and F. Graafsma 'Commercial defence actions and other international trade developments in the European communities: 1 July 1991- 30 June 1992. in *European Journal of International Law*, vol.3 no. 2. 1992. pp.371 - 427

may overturn the Commission decision in the following twenty days by a majority vote. Thus, in September 1992, the Commission resisted the pressure of the Member States to implement a general safeguard clause against all ECSC products imported from Czechoslovakia.<sup>100</sup> The application of this proposal limits the Council's power to impose anti-dumping procedures and therefore completes the harmonisation of the Common Policy. If this is a good thing for the Community which could harmonise the implementation of the tariff at a Single Market level, it also means that decisions and negotiations with Central European countries are therefore confined to the Association Committee, which, as we will see below, is not a model of transparency. This was however an incomplete measure as the individual states could still implement national protection after having appealed to the Commission on the basis of EEC art.113 to issue a recommendation against illicit trade practices. On 14 August 1992, the Commission authorised Germany, France and Italy to control imports from Czechoslovakia at their own frontiers.<sup>101</sup> Moreover, similar draft regulations have been issued for other commercial policy regulations, such as safeguard regulations, common rules for imports, common rules for imports from states-trading economies,

What P.Messerlin sees as a 'constitutional failure of the European Agreement'<sup>102</sup> is simply the continuation of a long struggle that we have exposed in chapter 2 and on which was modelled the whole attitude of the European Community towards Central European countries. The first major lack of the Europe Agreements is that Central European countries have not been granted the full rights due to the status of market economies. This can be very damaging as far as anti-dumping measures are concerned (see infra) and gives an unrestricted leeway for the Community to settle disputes at its convenience. Moreover, the new way of settling disputes 'administratively'<sup>103</sup> is affirmed to be a non-transparent procedure by Messerlin.<sup>104</sup>

We have already seen that managed trade was heavily present in the system of quantitative restrictions, but also in the safeguard and rules of origin provisions set up by the

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<sup>100</sup> 'Safeguard clause applied on certain Czechoslovak steel imports' in *East West*, no.532. 1/09/1992 p.11.

<sup>101</sup> 'Safeguard clause applied on certain Czechoslovak steel imports' in *East West*, no.532. 1/09/1992 p.11.

<sup>102</sup> P. Messerlin in Flemming and Rollo, *Trade, Payments and adjustment in Central and Eastern Europe*. 1992. p. 125.

<sup>103</sup> Art. 27 in COM (91) 524 final, Brussels 13 December 1991. p.19.

<sup>104</sup> P. Messerlin in Flemming and Rollo, *Trade, Payments and adjustment in Central and Eastern Europe*. 1992. p. 127

treaties. The main difference however, is that the settlement of disputes with Central Europe will from now onwards be settled within the framework of the *Association Council* which is designed to

- make it easier for the associated countries to settle into the family of democratic nations,
- increase the tempo at which the contracting partners of Central and Eastern Europe move in the direction of the European Community,
- widen and consolidate the consensus on international issues.<sup>105</sup>

Any dumping cases or safeguard procedures have to be immediately referred to the *Association Council* which has thirty days to settle the dispute. After this period, the contracting party is able to take unilateral actions. As Art.27, 3.c. refers the '*Joint Committee* may take any decision needed to put an end to the difficulties', however, if exceptional circumstances demand immediate actions, the Community or the Central European countries concerned, can short-circuit the procedure mentioned above. The settlement of dispute remains however on a bilateral basis that may bring an arrangement infringing GATT procedures and which could enable the Community to put pressure on the exporting parties. These loose rules are a major drawback to the 'liberalisation' process described earlier, as it is uncertain to what extent contracting parties will be forced to comply with the application of the Europe agreements. The *Parliamentary Association Committee* is a forum for cooperation between members of the European Parliament and parliamentarians of the Associated Countries. Its main purpose is to facilitate an exchange of information and ideas.

The process of harmonisation in trade related matters, started in the 1970s with the CCP, confirmed in 1985 with the Single European Act and put into effect with the implementation of the Single Market in 1993, is part of the institutional process which gives the Commission more exclusive power to implement a genuine Common Commercial Policy and to put into practice more trade liberalisation. This trend has been very slow, because of the opposition of Member States who delayed their economic restructuration. The 1989 revolution disturbs completely the lengthy European integration. Former protectionist state-economies have been transformed into evolving market economies which are putting the EC under economic and commercial pressure. The Commission which spends so much time in creating a common minimal protectionist barrier towards third countries has now to undo its work and organise

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<sup>105</sup> ESC Economic and Social Consultative Assembly *EC relations with the countries of Central and Eastern Europe*, Brussels 1991. p. 19.

a common approach to more trade liberalisation, while Germany and Great Britain are running ahead and France dragging its feet. Moreover, as we have seen earlier, the increasing importance taken by cooperation in the decision making process of the Community, which entails more compromises and more 'middle-of-the-road' solutions is likely to deter efficient policies. Furthermore, the political consequence of such liberalisation on European integration, with Central European states knocking at European doors, favours a vision of Europe that has to accept long-term diplomatic responsibilities. These new European agreements also have a very important political dimension which needs to be further developed as the EP stated it:

'The new generation of agreements with these countries, whose economic dimension is already almost outweighed by the political dimensions, require a political response from the Community which overcomes the earlier sharing of influence among Western Countries which are now Community Member States.'<sup>106</sup>

If the step taken by the Member States in signing the Maastricht Treaty is understandable and can be seen as a major achievement towards more European integration, it has to be said that once again, it came very late and that the European integration process will be made at the expense of Central and Eastern Europe which needs more liberalisation and more commitment that the Community can possibly give them at the present moment. The consequences of a long inward-looking Community and the subsequent manifest lack of vision of its role in the international scene have now to be faced and accepted in their entirety.

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<sup>106</sup> Report of the Committee on Foreign Affairs and Security on shaping the European Community's common Foreign policy. Rapporteur Mr. Josep Verde I Aldea. EP session documents. PE 201.471 \fin. Or. IT\FR . 23 October 1992. p. 12.

# Chapter 4

## Political reintegration of Central Europe and Foreign Policy of the European Union



## *Chapter 4*

# *The Political Reintegration of Central Europe and Foreign Policy of the European Union*

When the EC was created back in the 1950s there was little room and little concern for its political dimension because the two superpowers were dominating the European continent. As a consequence, the EC was undeveloped politically but with economic success in the hand a progressive political awareness appeared in the 1970s and 1980s. Now, the collapse of the Soviet Union changed the whole cold war political and security set up, leaving more opportunities for the EC to affirm itself on the international scene as its political and security responsibilities grew. The EC was not able to carry out such responsibilities as it did not have an adequate security doctrine or sufficient political means to intervene. The only certainty was that union might bring the force necessary to face the new world challenges. The European Community has no alternative but to experiment, and retry old remedies to face its responsibilities. As J. Delors the President of the Commission put it:

`[La Communauté Européenne] est une sorte de laboratoire de la gestion des interdépendances; malgré ses rides et ses manques'.... `Contrairement à l'après seconde guerre mondiale, qui avait été `préparé' pendant vingt ans du point de vue théorique, l'après communisme a dû en effet être totalement improvisé, d'où le recours à des concepts existants, car il n'était pas possible de rattraper en quelques mois ce qui n'avait pas été pensé pendant des années.'<sup>1</sup>

This chapter outlines the new concept of security and the new Central European perceptions of threat and their political and security expectations. Following this analysis, we shall see how the EC has developed its international role since the 1970s and how Central European revolution has entailed the EC to further develop its foreign policy along two tracks: first a progressive political integration with the countries which signed a Europe Agreement and which aim at joining the EC/EU; second a security policy which aims at providing peace on the European continent and which tries to reconcile cold war institutions with post-cold war

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<sup>1</sup> J. Delors 'l'avenir invisible' in *Le Monde*, 7-8 Novembre 1993. p. 7.

needs. It is, however, arguable that these policy advancements constitute only a basis for a common foreign European policy and that decisive improvements, such as a transfer of sovereignty, will not come before a dramatic change of the European Union structure and nature. The question is therefore: Will the pressure due to the enlargement of the EU to Central European candidates on both its policy and institutional set up be strong enough to overcome Member States resistances to further integration?

## *I. Central Europe: domestic and international politics.*

With the notion and the role of state and politics having been completely undermined by the Soviet experience and with interdependence making the role of the state more difficult to appreciate and to justify, the traditional societal reconstruction according to Western principles is rendered very difficult and uncertain in Central Europe. This is not without influence on International Relations as they are now considered as the external expression of internal developments. As R.W. Cox argues,

International Relations cannot be understood as simply a system where states aggregate power. Distinction between the state and civil society, which allows the separation of foreign from domestic policies cannot be maintained.<sup>2</sup>

It is therefore important to take into account these internal developments in order to realise that the international assistance that the EC could provide is not only financial and economic but also political.

In 1990, Central European countries have adopted democratic regimes and new constitutions, but since 1918 these countries have had little experience of what is democracy. Former Czechoslovakia with a record in Central and Eastern Europe can claim 23 years of democratic regime between 1918 and 1989, followed by Poland with 8 years and Hungary with only 2.<sup>3</sup> New democratic regimes are weakened by several aspects, such as low elections turnout, extreme partition of the political spectrum and possible authoritarian or ultra-national drifts. In the democratic political life, parties have an important role to play because they represent the connections between Society and government, they express interests and values of the different social groups and they finally organise people's need into

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<sup>2</sup> R.W. Cox 'Social forces, states and world order: Beyond international relations theory' in *Millennium* 10:2 126-155. 1981

<sup>3</sup> 'Democracy in Eastern Europe' *The Economist* 1/02/1992.



coherent policies. Central European parties usually issue from former 'umbrella' organisations such as the Polish Solidarnosc, the Slovak Public against Violence, the Czech Civic Forum and the Hungarian 'Alliance of Young Democrats'. Some were divided into two or three big components as was the case in Hungary and Czechoslovakia, while the Polish organisation suffered an extreme partition. Because of this partition, the largest parties cannot rule on their own, they need to create a coalition which unites from three (Hungary: 3, Czech Republic: 4 and Slovakia) up to 7 different parties for Poland. Given the fragmentation and confusion of interest, aspirations and traditions, it is very difficult to sustain a voluntary consensus to carry out painful economic policies. Most parties are, however, committed to dismantling State Socialism, even if they do not agree on the method to achieve it. Another common point to all these parties, is their commitment to the return to Europe and the accession to the European Union. Democracy is fragile and its institutions receive small support from the population.

As parliamentary regimes seem not to fulfil population hopes, a certain attraction for authoritarian rule has emerged amongst Central European countries. In an opinion polls published in January 1993, about a third of Polish electors would support an authoritarian regime and about 33% in May 1992 would give Lech Walesa the power to rule by decree. <sup>4</sup>Lech Walesa is a controversial figure who is often compared to the former Polish President\dictator Pilsudski. He met bitter criticisms in late 1990 from one of his former advisors: Adam Michnik. In an article in *the New York Review of Books*, he affirms that

'Walesa wants to be an 'axe wielding' president who rules by decree and who likens democracy to a drivers control over a car.... Walesa is irresponsible, ... incompetent... also incapable of reform'. <sup>5</sup>

Thus in Poland, in early 1992, the struggle between the Prime Minister and Lech Walesa finished to the benefit of the latter who inherited substantial powers and imposed his choice for new premiership with Hanna Suchocka. The Polish case also illustrates the difficulty of management of the former Communist elites for two reasons. First because they still have a lot of economic power in the country and secondly because they could be the victim of a witch hunt. Thus politicians would be tempted to stigmatise the Communists and to offer their heads to the public opinion's anger and frustration.

In the same article Adam Michnik warns new democracies of

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<sup>4</sup> *Eastern Europe Newsletter* Vol. 7 no 3. 2 February 1993.

<sup>5</sup> Adam Michnik 'My vote against Walesa' in *the New York Review of books*, vol. XXXVII, no. 20. December 20, 1990.

'phantoms from the past awaken: movements that combine populism, xenophobia, personality cults and a vision of the world ruled by a conspiracy of Freemasons and Jews.'<sup>6</sup>

In Hungary, in 1992, Istvan Csurka the deputy leader of Hungary's ruling party, the MDF, affirmed that the rebirth of the Hungarian nation was fighting a Communist-Jewish-Liberal conspiracy and was demanding vital space within Europe to live, as Hitler justified his policy. Slovaks also show worrying signs of political insanity. They commemorated the day in 1939 when the Fascist puppet state was founded (14 March) and they were honouring the War Criminal J. Tiso in October 1990 on the very day the Israeli president was making a state visit to Prague.

With the Warsaw pact and the cold-war security structure collapsing, every Central European state got rid of the anti-western Soviet perception of threat. The dual antagonistic structure disappeared and let other conflicts of different varieties and intensities take over. Amongst those, Poland is especially concerned with Russian hegemonic diplomatic attitude and the Ukrainian unstable political and economic situation which could both lead to civil wars, flows of refugees or even military incursion. The new Polish military doctrine stipulates that the army must safeguard all borders against any potential threat, whether from the east (Russia or Ukraine) or the west (Germany). As a consequence, Poland abandoned its offensive stance against Western Europe and redeployed its army along the eastern border. Another major concern for the Polish government is the illegal border crossings and influx of well-armed Russian and Ukrainian narcotics gangs into Poland. Some measures were taken to modernise patrol equipment and to redeploy many extra-units of rapid reaction border guards. Some 12 to 15 new watch towers were built up. Hanna Suchocka, the former Polish Prime Minister affirmed that

'Poland is perhaps the only post-Communist country that is not threatened with disintegration, that is not making territorial claims on its neighbours and whose borders are not questioned by neighbours'

Poland is not completely free of ethnic problems. Of course Poland gave up the myth of ethnic homogeneity cultivated by Communists and recognised its minorities.<sup>7</sup> Amongst

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<sup>6</sup> A. Michnik 'My vote against Walesa' in *the New York Review of books*, 20 December 1990.

<sup>7</sup> Working document of the European Parliament on 'La situation des minorités en Europe'. Série Politique W-4. Avril 1993.

them, are large minorities of German and Belorussians on Polish soil and a certain number of Poles in Byelorussia, Lithuania and Ukraine, whose rights are not fully respected.

Hungarian position is more delicate because minority problems are a key issue of concern in domestic politics and in determining its relations with its neighbouring countries. Hungary has 3.3 million Magyars outside her borders, Romania (2 m), Slovakia (0.6 m) and the Vojvodina (0.4 m). Former Prime Minister Antall claimed to be Prime Minister 'in spirit' to ethnic Hungarians and Hungary has adopted a 'model' law on the collective and individual rights of the minorities within its own borders, hoping that this would favourably influence the behaviour of neighbouring countries towards Hungarian minorities. Current Hungarian policy is based on the promotion of local autonomy in areas where Hungarians form a majority of the population in neighbouring states and it support local councils which seek to protect and improve the existing provision guaranteeing information, culture and education of these minorities.

Because of its 621-km border with the former Yugoslavia, Hungary is very concerned with the situation in Bosnia. A number of unchallenged incursions into Hungarian air space were made by Yugoslav air force fighters during the 1991 Serbo-Croat war. Serbia has inherited from the federal army long range surface-to-surface missile systems that have Budapest within their range. Hungary's relations with Serbia have deteriorated since Budapest supplied infantry armaments to both Croatia and Slovenia in 1990-91. They are further strained by the tense situation in Vojvodina where 20% of the population is ethnic Hungarian and is threatened to by be displacement or expulsion by Serbian refugees coming from the South. UN economic sanctions are pushing Serbia to take greater advantage of the economically more developed Vojvodina

Hungary concluded a cooperation agreement with its neighbours and has developed a defence policy which condemns the use of force to solve a minority problem. This policy of good neighbourhood was adopted at the unanimity less one vote by the Hungarian parliament in March 1993. The Hungarian government signed a cooperation treaty with Ukraine which states that Hungary has accepted the inviolability of its borders with Ukraine. In exchange, Ukraine has pledged that its 200,000 Hungarian population will enjoy full minority rights.

In Romania, the vast majority of ethnic Hungarian are located in the Transylvania region which covers the north-western third of the country. There were still numerous clashes between Hungarian minorities and Romanian government which were used for political ends by both sides. In Hungary, it has upset and reinforced the nationalist opposition such as the extremist Istvan Csurka who, before being expelled by the ruling party -MDF-, declared that

Hungary should consider changing its border.<sup>8</sup> Hungary resents the way that the Romanian 'unitary national state'<sup>9</sup> treats the Hungarian minorities whereas Romanian President Ilescu affirmed that Hungary was using its diaspora as 'fifth column' in very much the same way that Hitler used ethnic Germans to destabilise bordering states during the run-up to World War II. Hungary's new state treaty does not include guarantees of territorial inviolability whereas Hungarian minorities' rights are constitutionally provided for. In February 1993, a sub-Carpathian 'Euroregion' was established with the aim of cultivating cultural and economic ties between its member states which include Hungary, Slovakia and Ukraine. Despite the fact that the bulk of the Carpathian mountain range lies across Romanian territory, Hungary refused to let Romania in. On 4 October 1993, Romania's admittance to the Council of Europe was endorsed by all the member states except Hungary. Despite a meeting at ministerial level in November 1993 there is no prospect of a genuine improvement in their relations. More seriously, Serbia is informally allied with Romania against Hungary.

'000	Gypsies	Hungarians	Poles	Slovaks	Others
Bielorussia	-	-	600	-	-
Czech Rep.	114	-	-	308	-
Hungary	500	-	-	120	-
Lithuania	-	600	258	-	-
Slovakia	80	-	-	-	-
Ukraine	-	-	-	25	-
Vojvodina	-	-	-	-	-
Poland	4	-	-	25	500 *
Romania	-	2 m	-	-	-

\* 500 of which 300 are German and 200 Bielorussians.  
 Source. National Statistical Offices. EIU. in *The Economist* 13 March 1993. p.18.

**Table 16. Minorities in Central Europe**

After the split of Czechoslovakia, numerous minorities appeared in both parts, however they do not seem to create a real problem as their rights are recognised in the 'Agreements on the Common Policy towards Nationals of third countries' and they are so far respected. Hungary's relations with Slovakia are also volatile because of a long standing dispute over

<sup>8</sup> Survey Eastern Europe. 'Little Local Wars?' in *the Economist*. 13 march 1993. p. 18-19.

<sup>9</sup> Term used in the Romanian constitution.

the Gabčíkovo hydroelectric dam on the Danube river.<sup>10</sup> It fears for the large number of Hungarian minority there because the Slovak government put a lot of emphasis on ethnicity to justify its independence. As a matter of fact, it has obliged ethnic Hungarian local authorities to remove bilingual road signs and there is a project of redrawing local district boundaries in such a way as to dilute the proportion of Hungarians in any given commune. This was a very symbolic and sensitive issue. Here again, Hungary abstained from voting for Slovakia's admission to the Council of Europe at the end of June 1993. Budapest also expressed concern about the treaty of cooperation signed in 1993 between Romania and Slovakia because that treaty provides for coordinated policy towards ethnic minorities. This has awakened the old Hungarian fear of conspiracy against itself. All its neighbours army gathered together are eight times more powerful than the Hungarian army. As a consequence, Hungary has adopted a doctrine of 'all-round defence', adopted in March 1993, that called for troops to be redeployed more or less evenly throughout the country.

Political instability in Russia has also created concerns for the Czech Republic, but non-military concerns are more prominent on the government's agenda such as economic insecurity, rising crime, nuclear insecurity and migration (economic refugees and asylum seekers). Immigration is an important problem especially since Germany has tightened its immigration on 1 July 1993 and would-be migrants are staying in Czech Republic (about 100.000 people). Military threat has not disappeared because Russia retains a huge military force and that most of the nuclear and conventional capability has become much less predictable and more dependent on the vagaries of power politics in Moscow.

The 1989 revolution and the collapse of the Soviet Union were very good news for those who wanted to develop the international political identity of the European Community. They have also brought an area of instability that the EC is enabled to deal with. This is not only due to historical reasons but also to the nature of the EC and of its institutions dealing with external political affairs.

## *II) The European Community and its foreign policy*

The European Political Cooperation (EPC) was established in the 1970s through the first Davignon Report of 27 October 1971<sup>11</sup> and was mentioned in many different ministerial

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<sup>10</sup> 'Danube dam threatens to open floodgates of hostility' in *FT*, 29 October 1992. p. 2.

<sup>11</sup> The first Davignon report is also known as the Luxembourg report.

reports which brought incremental changes.<sup>12</sup> As a support to organise and discuss the EPC business, Heads of Governments decided, in 1974 at the Paris Summit, to meet three times each year (and then only twice a year) as the 'European Council' of Heads of State and Foreign Ministers. The European Council was supposed to palliate the insufficiencies of both the Commission and of the Council of Ministers, which for various reasons, were lacking leadership. The communique produced at the end of the Paris Summit announced that:

'Recognising the need for an overall approach to the internal problems involved in achieving European unity and the external problems facing Europe, the Heads of government consider it essential to ensure progress and overall consistency in the activities of the Communities and in the work on political cooperation.'<sup>13</sup>

The European Council was not formally and legally integrated into Community, because of the political sensitivity of the problems discussed in EPC meetings and because the decisions issued by them did not really need the backing of Community.<sup>14</sup> This gave the EPC and the European Council the freedom to evolve practically, according to the needs and preferences of its members. The European Council was to be organised on the same structure as the Council of Ministers (e.g. national delegations, working groups, and a committee: the Political Committee; to prepare ministerial meetings). Decisions within the EPC are taken by the unanimous vote and therefore impose a consensual approach on policies even for the most controversial issues, which is not without consequence on the efficiency and the range of the decisions taken by the Council. Thus, if the European economic legislation is 75% proactive and 25% reactive, the ration is inverted for the European Foreign policy.<sup>15</sup> Decisions taken through EPC are outside of the Community law system and are not legally binding. They could be reversed in theory. The Single European Act signed in 1987 institutionalised this phenomenon by giving the EPC an autonomous juridical status which conforms more to international law than to Community law. EPC is made a European institution for foreign policy coordination, but it was not integrated into

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<sup>12</sup> Davignon Reports in 1970 and 1973. Report on the European Political Cooperation (London 13 October 1981), Stuttgart declaration of June 1983, and article 30 of the Title III of the Single European Act in 1987 which institutionalised the existing system.

<sup>13</sup> Neil Nugent *The Government and Politics of the European Community*. 2nd Edition, MacMillan, London 1991. p.194.

<sup>14</sup> Terry G. Birtles 'A Single Western Europe? Implications of the Changing Division of External Relations Powers between the European Community and Member States. in *Political Geography Quarterly*, Vol. 9. no. 2. April 1990, pp. 131- 145.

<sup>15</sup> European Community survey in *The Economist* 7 July 1990. p. 33.

the Treaties. SEA art.31 denies the European Court of Justice the right to intervene or to control if EPC decisions are implemented or not. <sup>16</sup>

The Single European Act (title III) improved the EPC and the cohesion existing between its Member States. EPC members were obliged to consult each other on foreign policy issues in order to ensure that (their) combined influence was exercised as effectively as possible through coordination, the convergence of their positions and the implementation of joint actions. The SEA also urged the European Community to make coherent and consistent both their economic and political decisions and assigns to the Presidency and the Commission the special responsibility, each within its own sphere of competence, to ensure and maintain that consistency. With Article 30.5, the Commission was to exercise its power and jurisdiction in both economic and political spheres, under the conditions and for the purpose of each sphere. The European Council was institutionalised and became a European institution as such. The EPC's spokesman is either the Presidency, the Troika (the previous, current and future presidency) or the 12 who must remain mute and let the Presidency do the talking. <sup>17</sup> Therefore, if the EPC wished to recourse to Community instruments to conduct a specific policy (e.g.. economic concessions or sanctions for bargaining purposes), it had to pass through normal Community procedures. This did not guarantee however, that this particular policy would be adopted. Any dialogue involving politics and economics (EC and EPC business) has to be done according to the EPC procedures. In his study on the EPC, Jean de Ruyt affirmed that the efficiency of the Community on an international level was

'hampered by the schizophrenic divisions of competencies between the integrated EC institutions and the intergovernmental EPC process'. <sup>18</sup>

The European Council proved to be very important not only in the definition of medium and long-term Community goals, but also in initiating and dispensing policy guidelines and finally in taking decisions in constitutional and institutional affairs. Thus, in 1990, four European Summits took place to deal with the consequences of the 1989 revolution in

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<sup>16</sup> T.G. Birtles 'A Single Western Europe? Implications of the Changing Division of External Relations Powers between the European Community and Member States. in *Political Geography Quarterly*, April 1990. p. 137.

<sup>17</sup> Simon Nuttall 'The institutional network and the instruments of action.' in R. Rummel *Toward Political Union*. Oxford, Westview Press 1992. p. 69.

<sup>18</sup> Jean de Ruyt *European Political Cooperation: Toward a Unified European Foreign Policy*. Washington DC: The Atlantic Council, October 1989.

Central European countries and their effects on the internal structure of the European Community (i.e. Dublin 1 & 2, Rome 1 & 2). It has therefore undermined the Commission by its inter-governmentalism and the Council of Ministers which is now managing the policies detailed and set up by the bi-yearly European Council.

The 1989 revolution and especially the pressure put on the Community by Central European countries, have led the European Community to reinforce its internal structures and to revise the collaboration of the EC and EPC which proved to be inadequate.<sup>19</sup> To face the German reunification and the collapse of the Soviet Union, F. Mitterrand and H. Kohl proposed reactivating the European Political Union in April 1990, a proposition which met British reluctance, as the UK did not see the need for big structural changes, especially if it were to give more power to European institutions. This project was further developed during the 28 April 1990 Dublin European Council when it was declared that:

In accordance with the conclusions reached by the European Council at Dublin, the Community will act as a Political entity on the international scene.<sup>20</sup>

This will to intervene politically in the international scene was embodied in the creation of the European Union and of its second pillar: the Common Foreign and Security Policy (CFSP in title V of the Treaty on European Union TEU).<sup>21</sup> The treaty, which was officially adopted at Maastricht on 11 December 1991 and signed on 7 February 1992, gives the European Union the objective

`to assert its identity on the international scene, in particular through the implementation of a common foreign and security policy including the eventual framing of a common defence policy, which might in time lead to a common defence.'<sup>22</sup>

The Maastricht Treaty gives the European Union a potential CFSP but its achievement will be very much determined by the nature of the European Union itself. The EU is built on a 3 pillar structure which comes under a single institutional framework. The first pillar is rooted in the Rome Treaty as modified by the Single European Act and the others two - Common and Foreign Security Policy and Justice and Home Affairs -are based on

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<sup>19</sup> PE 201.471. Fin. p.7.

<sup>20</sup> *Agence Europe*. 30/04/1990.

<sup>21</sup> CFSP principal references are: Treaty on European Union: Title V and common provisions Title I and VII, the role of the Community (art 228, 228a et 223) and Title VI. Five declarations annexed to the Final Act of the Conference on political Union. Conclusions of the European Council (Maastricht, Edinburgh, Copenhagen and Brussels).

<sup>22</sup> Title I Article B of the TEU.



intergovernmental cooperation. This pillar structure was favoured by France, UK, Denmark and Portugal who wanted to protect their national sovereignty in the foreign policy realm. On the one hand, the Maastricht Treaty represents real progress in the sense that the institutional framework ensures the coherence and consistency of the actions taken by the EU and that the EU becomes more ambitious. The single institutional framework of the Union is indeed an important step, eliminating the separation between political cooperation and Community action. On the other hand, the single institutional framework is not really unique because common institutions have completely different responsibilities, rationale and powers according to which pillar they are working in. As a matter of fact, the European Court of Justice is still absent from pillars II and III, the role of the Commission and of the European Parliament have been less important in pillars II and III than in pillar I. In those pillars, the Commission is not the 'conscience' of the European integration process, but it is 'fully associated'<sup>23</sup> and it may submit proposals to the Council. The European Parliament is consulted on the main aspects and the basic choices of the CFSP.<sup>24</sup> As a consequence only one institution has strengthened: the European Council. It has acquired a much more important role as it '*shall provide the Union with the necessary impetus for its development and shall define the general political guidelines thereof.*'<sup>25</sup> This pillar structure represents not only a serious risk of decommunitarisation but, more importantly, does not give the Union the means to carry out its basic objectives in the International scene.<sup>26</sup> Member States have not given the EU the juridical personality hence it cannot fulfil the basic requirements and duties of an international actor. Thus, the EU cannot conclude international conventions, cannot assume the responsibility of its acts, cannot be represented and cannot defend its interests before a court. Without juridical personality, the Union does not have the capacity to define and exercise its competencies and powers that its objectives are implying. The political power to act in International Relations lies within the Member States acting within the framework of the intergovernmental CFSP. Of course an evolution is still possible towards deeper integration but the communitarisation of the CFSP is unlikely to happen. Several reasons can be put forward. First, all the instruments that the Community had used to complete the Common Commercial Policy are absent from the political field namely a

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<sup>23</sup> Articles J.5 -J.9 of the TEU.

<sup>24</sup> Art. J.7 of the TEU.

<sup>25</sup> Art. D ~ 1 of the TEU.

<sup>26</sup> The EU's objectives are:

- to promote economic and social progress which is balanced and sustainable...
  - to assert its identity on the international scene...
  - to strengthen the protection of the rights and interests of the nationals of its Member States..
- TEU Title I art. B.

general pro-European atmosphere, juridical control of the ECJ, dynamic supranational bodies and above all an initial transfer of sovereignty which gave the Communities juridical personality. Secondly, it is difficult to foresee a transfer of sovereignty in the international political field because it would mean the emergence of a federation, which is completely unacceptable to UK and Denmark <sup>27</sup> and the subsequent replacing of the nation state-based legitimacy by a popular legitimacy. Although, many political analysts conclude with R.Rummel that

‘As long as the Community is not determined to transform itself into a federal entity, implementing the two essential components of defence and macroeconomic policy, there will not be a full fledged Community foreign policy.’<sup>28</sup>

there is no chance that an intergovernmental conference or body could take such a revolutionary measure in a time of global political re-nationalisation.

The Common Foreign Security Policy, despite its innovations, is therefore quite limited by the nature and the structure of the EU. <sup>29</sup> Its main aspects are to implement an active foreign policy (rather than ‘reactive’) and to put unity and consistency in the external action of the Union. The CFSP covers all areas falling within that policy and has five fundamental aims. <sup>30</sup>

- to safeguard the common values, interests and independence of the Union,
- to strengthen the security of the Union and its Members in every way,
- to preserve peace and strengthen international security, in accordance with international law,
- to promote international cooperation
- to develop and consolidate democracy and human rights

There are two modes of implementation. The first one concerns coordination of national policies in the conduct of policy in all areas covered by the CFSP that are of general interest, and adoption of a common position whenever the Council deems it necessary. This is not

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<sup>27</sup> ‘The transfer of competencies that compose the notion of foreign sovereignty to the Union is the necessary and sufficient condition to qualify it as a federal state.’ A. Pliakos in ‘La nature juridique de l’Union Européenne’ *Revue Trimestrielle de Droit Européen* n°2, avril-juin 1993. pp. 187-224.

<sup>28</sup> R. Rummel, *Toward Political Union, Planning a CFSP in the European Community*. Oxford Westview Press 1992. p. 36.

<sup>29</sup> The set up of the CFSP has entailed institutional changes: closer cooperation between the Political Committee and the COREPER, the fusion of the political cooperation secretariat with the general secretariat of the Council, collaboration between the General Secretariat of the Council and the Commission.

<sup>30</sup> TEU art J.1.

however a single Union foreign policy, it does not cover the whole of the foreign policy of the Member States. The second mode of implementation is to set up Joint Action in areas in which the Member States have important interests in common. The adoption and implementation of joint action are subject to a precise and heavy juridical procedure. On the basis of general guidelines laid down at the highest political level by the European Council, the Council decides that a matter should be the subject of joint action and specifies its main components. The Council is also responsible for ensuring that action by the Union is uniform, coherent and effective. Its decisions are unanimous and the discipline between the Member States is strengthened. National policies must conform to the common positions and Member States are bound both in the positions they adopt and in their action in the case of joint action. These general guidelines established from respective national interests would not however replace a systematic assessment capability at Union level based on the definition of the common interests and the long term implications of foreign policy decisions. This lack of European capacity for foreign policy and analysis and planning has confined CFSP to limited joint actions and could result in Member States taking individual action without any regard to the constraint of the Union's interests or capacity. The European Council has given certain general guidelines on areas in which joint actions could be particularly beneficial for the attainment of the objectives of the Union. Its geographical priorities are Central and Eastern countries, Russia and the former Soviet Union, ex-Yugoslavia, the Maghreb and the Middle East. Four joint actions have been developed so far:

- Peace process in Bosnia-Herzegovina,
- Peace process in the Middle East,
- Stability pact in Central and Eastern Europe,
- Monitoring the transition towards democracy in South Africa.

The CFSP is essentially a mechanism which needs a strong political will but it will oblige Member States to define the geopolitical interests of the Union *in a particular external situation* as a basis for a common position and possible common action and encourage them to build a consensus on how to protect such interests. It should also make it easier for Community instruments to be mobilised in the pursuit of political objectives or for political action to be taken in support of Community action. Another major advantage of the CFSP is that it is comprehensive and includes the eventual framing of a common defence policy which might in time lead to a common defence. The European Council has also identified domains within the security dimension which could be subjects of joint actions:

- the CSCE process
- disarmament and arms control, including confidence building measures
- nuclear proliferation

- economic aspects of security (i.e. transfer of military technology and arms exports to third countries.

However, CFSP has so far neither improved visibility nor continuity of the Union's global external action.<sup>31</sup> The six-month presidency and the separation of international representation of the Commission itself between three Commissioners is damaging to the EU. Sir Leon Brittan represents Foreign Trade, Manuel Marin development policies and Hans Van Broek Political affairs. Several clashes appeared between Sir Leon and Hans Van Den Broek over the representation of the Commission at European Council and international summits. As E. Mortimer foresaw and put crudely 'A Coherent Foreign policy is not likely to emerge from this mish mash of disparate procedures and rival bureaucracies.'<sup>32</sup> If the CFSP embodies real progress in the affirmation of the EU as an international partner, the conditions of its exercise are not fulfilled to meet the ambitions it was set in the Maastricht Treaty.

Europe agreements implied the setting up of a political dialogue in the structures that they established: The Association Council, the Association Committee and the Parliamentary Association Committee (see *infra*). This dialogue was, however, limited to economic aspects and to the resolution of trade disputes. Because the European Council of Copenhagen pledged to integrate the Associate Countries, the EU established a more comprehensive structure in order to prepare those countries for accession. The EU at the Copenhagen Summit decided to set up a *structured relationship* between the Associated countries and the institutions of the European Union within the framework of a reinforced and extended multilateral dialogue operating in parallel to bilateral dialogue provided for in the Europe Agreements.<sup>33</sup> The framework involves the holding of meetings at different levels on matters of common interests, decided in advance, arising in the EU's areas of competencies such as energy, environment, transport, science and technology... The European Council's proposal was to be modified by the Hurd/Andreatta letter of 17 December 1993 which proposed detailed initiatives to implement Copenhagen resolutions.<sup>34</sup> As a consequence, the

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<sup>31</sup> i.e. six monthly rotating presidencies, Community budget or Member States' budget to finance CFSP expenditure? Difference between Community action and joint action...

<sup>32</sup> E. Mortimer 'The dangers of 'disorder' in *Financial Times* 9 Sept 1992.

<sup>33</sup> Conclusions of the Copenhagen Summit. 'The Community proposes that the associated countries enter into a structured relationship with the institutions of the Union within the framework of a reinforced and extended multilateral dialogue and coordination on matters of common interest.'

<sup>34</sup> The main points of the Hurd Andreatta initiative proposed the 12+6 format instead of the Troika + six format for ministerial meeting to cover CFSP issues, the extension of the number of working groups to cover security, Terrorism, Planners and Human Rights, appointment of a European correspondent in the associated countries, encourage CEEC to adopt a single representation on a rotating basis at EU meetings, the association of CEECs with some joint actions, the adoption by the

final structure of the structured relations with Central and Eastern European countries was presented as such to the Press: <sup>35</sup>

- a *meeting once a year between the presidents of the European Council and Commission be arranged with the Heads of State and Government of the associated countries;*
- briefing of CEECs by Presidency of EU after each European Council;
- *Semestrial 12 + 6 meetings Foreign Ministers* <sup>36</sup> (in the form of a special Council) once per presidency to look at problems involving the CFSP with a view to arrive as much as possible at common operational conclusions and to accommodate specific concerns of the associated countries;
- a *meeting* once a presidency between *Political directors* in the form of a special session of the Political Committee (12 + 6);
- Expert *working group meetings* extended to security, terrorism, planners and Human Rights;
- as appropriate, *CEECs will be invited to publicly align themselves with EU declarations;*
- attendance of representative of CEEC at selected Troika demarches;
- *CEECs invited to associate with implementation of EU joint actions*, as appropriate;
- intensified cooperation in international organisations;
- CEECs to be invited to appoint *Shadow European correspondents* and identify CFSP contact points in Brussels missions;<sup>37</sup>
- Regular contacts between EU missions in third countries and at headquarters of international organisations and missions of Associate countries;
- EU notes that in some cases the modalities of cooperation require the Associated countries to nominate a single representative. In particular, Associate countries are invited to establish a system providing for a single representative on rotation for coordination purposes.

Because the uncertainties of the internal development of the EC have delayed the political cooperation with Central Europe, the Community has decided to exploit as far as possible the political dialogue set up in the European agreements. As the spokesman for the Danish Presidency said

'This is not a perfect package, but it is really an expression of our commitment to work for the gradual enlargement of the Community to the east in the years to come.'<sup>38</sup>

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CEEC of EU declarations.

<sup>35</sup> *Agence Europe* n° 6186. 9 March 1994. p.4.

<sup>36</sup> First Troika meeting at ministerial level held on 21 September 1993.

<sup>37</sup> That was already put into place by Poland, Czech Republic and Hungary at the time of the proposal.

<sup>38</sup> 'East gets a lukewarm welcome' in *the Guardian*, 22 June 1993. p. 8.

The European Community underlines the importance of Political cooperation before economic integration, which a major reversal of traditional European process. J. Delors recognised it in a speech given in Hanover in April 1994 saying that

'Turning the Community process on its head, political cooperation would outstrip economic integration. In this way pernicious ultra nationalism could be combated, human rights consolidated and acceptable solutions found to protect the interests of minorities.'<sup>39</sup>

The first meeting under multilateral political dialogue between the Union and the associated countries (Hungary Poland, Czech and Slovak republics, Bulgaria, Romania) took place on 8 March 1994. CEECs welcomed the reinforcement of the political dialogue as presented by the Political Committee, but objected to the last point suggesting closer cooperation among the six associated because Visegrad countries do not speak with a single voice on political issues (i.e. Czech reluctance) and there is no political will to institutionalise foreign policy coordination. The first ministerial meeting between the EC troika, the three Central European countries and representation of the EC Commission has been held on 5 May 1992, during which the Community has reminded its attachment to a close regional political cooperation. At this occasion the Visegrad 3 made part of their will to a fuller participation in the dialogue on the future shape of the Community, (1996) knowing that they will have to compel to what will be decided then. This aspiration did not receive a warm welcome from the EC delegation.

The setting up of a structured political dialogue with the EU institutions represents an important step in the political reintegration of Central Europe into Europe. However, it is part of the accession process and does not directly answer present Central European security needs. Surely, with Maastricht and the CFSP, the EU has acquired a security and defence dimension but the extent of security guarantees that the EU can give to Central European countries is dramatically limited by the cold war heritage (i.e. inadequate institutions, outdated military theories...) and has to cope with the present European security landscape.

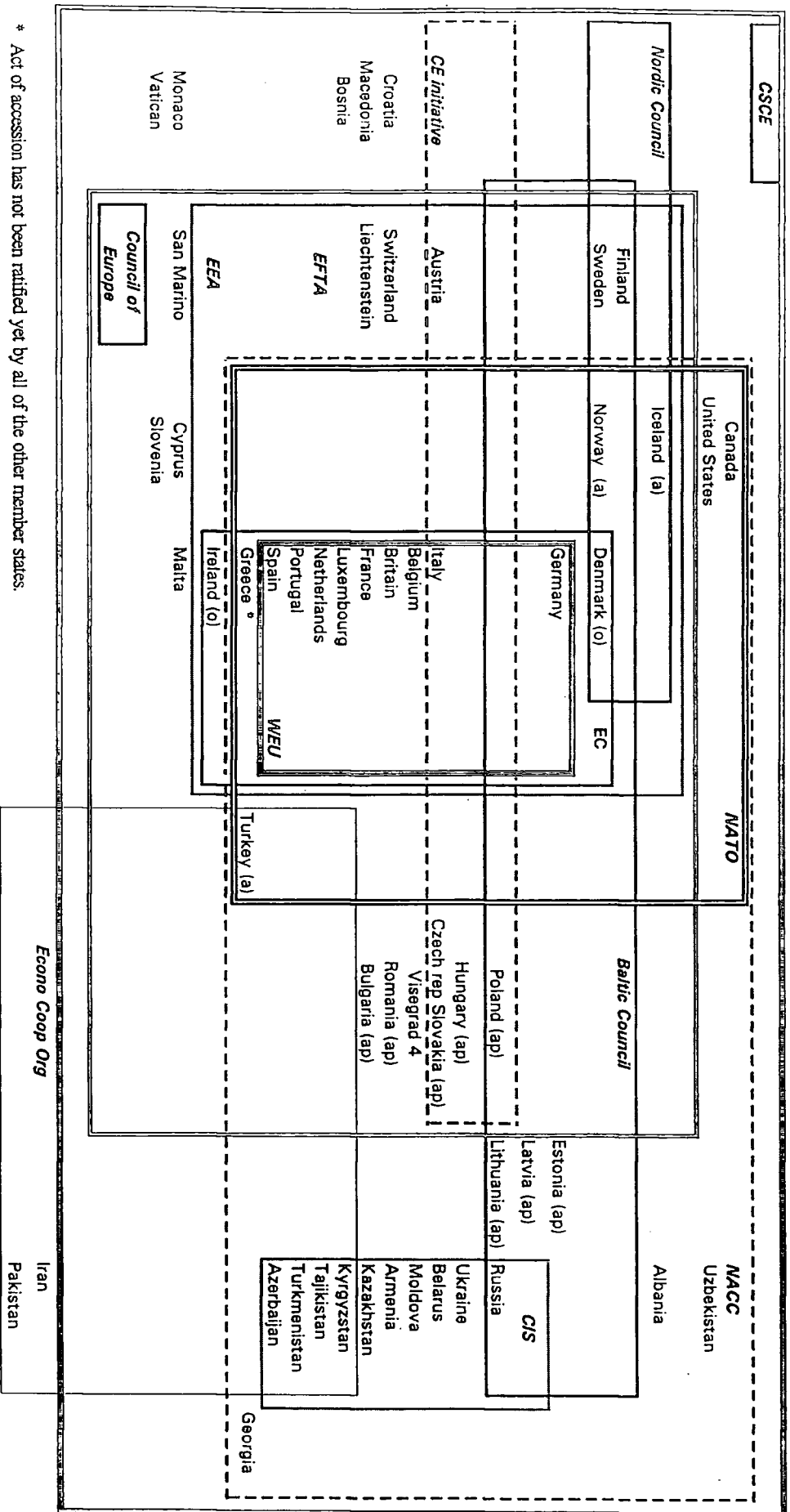
### *II.B.) The European Security System*

The collapse of the Soviet Empire changed the whole European security structure and the concept of security itself. In the cold war period, security referred to the relationship between states and was concerned with sovereignty, alliance, strategic deterrence, conventional and nuclear battlefields. Now, economic problems, environment, the lack of stable and democratic regimes, ethnic problems, the rise of nationalism and religious

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<sup>39</sup> *Agence Europe*. 21/04/1993.

Table 17. European Cooperation and Security Frameworks: A proliferation of forms



\* Act of accession has not been ratified yet by all of the other member states.

- (a) Associate members of the WEU, i.e. other European member states of the Atlantic Alliance which have not signed the modified Brussels Treaty.
- (ap) Associated Partnership to the WEU, associated partners can participate in every other meeting of the WEU Permanent Council.
- (o) Observer at the WEU, i.e. member states of the European Union which have not signed the modified Brussels Treaty.

Source: CFSP-Forum Newsletter of the Institut für Europäische Politik (IEP) March 1994

fundamentalism are major threats to the European security. That makes military means less important in the dealing with such problems. These developments have important consequences on the European security policy. First, there is a need to establish a more coherent link between the military and non-military aspects of security policy. Second, the end of the Cold war is leading towards less American involvement in Europe leaving more political and financial responsibilities to European states who may lack cohesion and leadership. Third, Central and Eastern Europe have to be closely involved in the new European security architecture (see Table 17 page 100 on the European Security Framework) if the new European security policy is to be effective. These new tasks and objectives cannot be easily fulfilled by the institutions created during the cold war period. Not only were they left in a state of complete unpreparation as far as military doctrine was concerned, but they were also totally unable to carry out new tasks such as preventive diplomacy, peace-making, peace-enforcement and crisis management which correspond better to the needs of the new European political and security landscape. They all need major institutional reforms and a complete re-assessment of their role on the European continent. Though it came as a general conviction in Central Europe that integration into NATO and the European Union may be the best option to counteract threats to stability and reduce risks of escalation, it seems that Havel's statement is correct, namely that

[their] countries are dangerously sliding into a certain political, economic and security vacuum: the old, imposed political, economic and security ties have collapsed, yet new ones are developing slowly and with difficulty, if at all' <sup>40</sup>

The first institution dealing with security in Europe as a whole is the CSCE. Born in the seventies after the Helsinki Final Act, the Conference on Security and Cooperation in Europe (CSCE) was created to maintain a *modus vivendi* on a divided continent by promoting cooperation and rapprochement. Until 1989, 35 states took part in the CSCE but with the collapse of the Soviet Union, this number was raised to 53 in February 1994. The role of the CSCE changed quite dramatically and the Paris Conference of 1990 gave it a new role: to provide Central European countries with political support and backing for the process of change in those countries. This has entailed a progressive institutionalisation of

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<sup>40</sup> 'President Havel's address to the NATO Council', *NATO Review*, vol. 39, n° 2 April 1991, p.33. Quoted in Pál Dunay 'Security Cooperation in Central Europe' in *Paradigms*, Vol. 6.2, Winter 1992, pp. 26-42.





the CSCE.<sup>41</sup> However, the capabilities of the CSCE in conflict settlement and crisis management are inefficient mainly due to its complicated crisis management mechanism, its decision-making process which requires unanimity less one and a lack of financial and operational resources. The CSCE receives the full support of Russia who wants to see in this institution 'the supreme security structure in Europe'<sup>42</sup> because it is the only pan-European security organisation in which Russia has a veto right. A growing competition is taking place between the EU and Russia for control of the institutional framework which will determine the eventual political alignment of most CEECs, an area that Russia still sees as its natural sphere of influence.<sup>43</sup> Consequently, the Russian attitude towards new EU initiatives does not prove to be very cooperative<sup>44</sup> and the imposition of the CSCE as the only security structure in Europe would mean the disappearance of most of EU foreign affairs and security plans.

To short circuit the inertia of the actual CSCE, French Prime Minister Edouard Balladur proposed, at the Copenhagen Summit of June 1993, the creation of a small CSCE consisting of the 12 and the Central and Eastern European countries.<sup>45</sup> The Paris Conference of 26-7 May gave birth to the first concrete expression of EU pan-European 'joint Action' under the CFSP<sup>46</sup> and the field of preventive diplomacy. The *Stability pact's* intention was to organise a series of bilateral conferences and regional round tables between neighbouring Central and Eastern European countries (CEEC) states with potential or actual disputes over borders and/or minorities.<sup>47</sup> Each conference would be 'moderated' by an EU official. In order to secure CEECs cooperation, the EU proposed the promise of eventual membership, financial and trade incentives. The resulting agreements, conducted on basis of existing principles (UN, CSCE, Council of Europe), would be part of a *Global Pact* which would be monitored and implemented by the CSCE but will not lead to the creation of a new institution.<sup>48</sup> The plan was met with scepticism and resentment. First, because some countries such as Poland,

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<sup>41</sup> Creation of the Council of Foreign Ministers, a Conflict prevention Centre in Vienna and an office for free elections in Warsaw later transformed into an Office for Democratic Institutions and Human Rights with wider responsibilities within the human dimension. Nomination of a Secretary General and the nomination of a High Commissioner on National Minorities.

<sup>42</sup> Russian Defence Minister Pavel Grachev at a NATO meeting in Brussels on May 25 1994.

<sup>43</sup> Reference found in the official foreign policy document approved by President Boris Yelstin at the end of April 1993.

<sup>44</sup> 'Le pacte de Stabilité accueilli froidement à l'Est' in *Libération*, 26 May 1994.

<sup>45</sup> 'Balladur: un "pacte" pour la sécurité' in the *Figaro*, 21 Juin 1993. p. 5.

<sup>46</sup> The stability pact was adopted at the Brussels Council meeting in December 1993.

<sup>47</sup> Text of the Stability Pact is in Europe Documents in *Agence Europe*, n° 6240, 30-1 May 1994. Nine countries were identified as primarily involved: Estonia, Latvia, Lithuania, Poland, Hungary, the Czech Republic, Slovakia, Bulgaria and Romania.

<sup>48</sup> *Conclusions de la Présidence Belge*. Bruxelles, 10-1 décembre 1993.

Czech Republic (see *infra*) Bulgaria and Lithuania were estimated to have no such problems. Secondly, CEECs did not appreciate that Edouard Balladur, in a communication to the Commission on 9 June 1993 about the pact, put their accession to the EU under new conditions, namely solving all their border and minority problems before joining. Thirdly, countries such as the Balkans and the Caucasus who most needed a political solution were excluded from the pact.<sup>49</sup> Fourthly, the pact does not alleviate other European security structure's weakness: lack of enforcement power. E. Gazzo regrets that

`the world has still not understood, in spite of the experience of the past, that it is not by creating collective assemblies (which do not replace dialogue) that peace will be ensured. The growing number of such assemblies may create jobs and certainly confusion.'<sup>50</sup>

US and Russia have expressed general political support but there are some doubts about the need for a pact, considering existing CSCE mechanisms sufficient. The EU is however identified as the key player in this initiative and has a strong interest in proving that the CFSP is working and in facilitating political reintegration of CEECs.

The CFSP introduced a major innovation by including defence-related questions in the European political integration process,<sup>51</sup> however, the insertion of defence in the Maastricht Treaty which could lead to the eventual framing of a common defence policy and common defence, has only been possible at the price of complete absence of supranationalism in this field. As a matter of fact, the WEU, a purely intergovernmental institution, was asked by the EU to `elaborate and implement decisions and actions of the Union which have defence implications'. The emergence of a European defence policy has entailed major rethinking of the European security framework: One of the most important questions is being debated between *Europeanist* and *Atlanticist*. The latter seeing the American presence on European soil as crucial for its defence (UK, Denmark) and the former believing in the progressive emergence of an autonomous European defence mainly based on the Franco-German couple. Relations between the two major security structures in Europe; NATO and WEU; are therefore influenced by this debate.

The WEU's defence policy is politically conditioned by the EU but it is dependent on NATO as far as operational means are concerned. Both NATO and the West European Union (WEU), as reactivated at the 1989 Rome Summit, are assuming a different and

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<sup>49</sup> *Agence Europe* n° 6239. 28 May 1994. p. 3.

<sup>50</sup> E. Gazzo in *Agence Europe*, n° 6140, 3/4 January 1994. p. 1.

<sup>51</sup> TEU, Art J.4. § 1.

complementary role and have developed integrated answers to the security challenge of Europe. Central European diplomatic and defence objectives are quite clear: they want to join NATO and WEU and see their integration in other European institutions such as CSCE and other programmes as the best way to accomplish this wish. As Peter Boross, Hungarian's Foreign Minister put it

'It is good for no one if a vacuum would be created again in the middle of Europe that might trigger different ambitions from different powers, the country's security rests on belonging somewhere and due to the western European orientation this can only be NATO.....I think it is very important that we do everything in order to get closer to NATO and finally to become a member'<sup>52</sup>

Soon after the 1989 revolution and the disintegration of the Warsaw Pact (officially on 1 July 1991), Central European countries established a complex system of direct military contacts with NATO. From early 1990 onwards, they forged close bilateral military relations with individual NATO countries<sup>53</sup> and they began providing facilities to NATO for military purposes. Both Hungary and Czechoslovakia gave Germany permission to fly combat aircraft over their territory during the Gulf war in early 1991 and US aircraft were able to refuel at Hungarian bases. They expressed the will to go further. Long before the collapse of the Soviet regime, the Polish leadership was lauding NATO as the 'central pillar of European security', President Havel asked for NATO membership during his visit to Brussels in March 1991 and officials in Budapest called for 'Hungary's integration into the existing Western security systems'. These requests received a mixed reception. Of course, NATO states welcomed Central European participation in the Alliance's activities but formal membership could create a major risk of isolating and antagonising Russia and NATO did not want to create a new division in Europe. Moreover, the enlargement of NATO to four new members could paralyse the decision making process which is based on unanimity. Surely NATO does not want to be a second CSCE. There will also be many constraints and a lot of work to do to harmonise so many different structures. After the failure of the 1991 coup in Moscow and the disintegration of the Soviet Union four months later, many of NATO's earlier reservations ceased to be relevant but it was still reluctant to propose full alliance membership with complete security guarantees. Consequently, NATO began to develop a new policy taking greater account of local security concerns and created the North

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<sup>52</sup> NATO press service, *latest news*. 23 December 1993.

<sup>53</sup> Since 1991 Poland has signed military treaties with all neighbouring states and with several NATO countries including the US, Germany, France, Greece, Belgium, the Netherlands and UK.

Atlantic Cooperation Council (NACC) at the Alliance Summit of Rome on 7-8 November 1991.<sup>54</sup> NACC has now 38 members and provides a post-Cold war forum where Central and Eastern European countries have a direct link with NATO. The idea behind it is to develop it into a more independent body, able to coordinate peace-keeping activities and military co-operation.<sup>55</sup>

Central European countries although welcoming this initiative were not very impressed with the level of commitment present in the NACC and thought that the NACC was more a substitute for NATO membership than a preparation for it. A new concept was then elaborated at the Brussels NATO Summit in January 1994: *Partnership for Peace*. This concept is based on bilateral agreements and gives the opportunity for a state to discuss with NATO if it feels insecure on a 16 + 1 basis. NATO may then offer some security guarantees. If there is any problem between two partners, then NATO will bring them together around a table in order to find a solution. Central European countries were still not very satisfied but NATO argued that it was the only thing it could do. Polish President Lech Walesa expressed his concern to the Italian newspaper *la Stampa* saying:

'Eastern European countries must be admitted into the European Union and NATO or Russia would seek to re-assert its influence in the region by taking the initiative and exercising economic pressures on us. We will have to give in to compromises and the former Soviet Bloc will organise itself again.'<sup>56</sup>

NATO is supposed to be the perfect remedy for Central European security headaches but NATO has three weaknesses. It lacks expertise in the management of small crises, it is unable to intervene out-of-area and it is reluctant to give security guarantees to CEECs. Moreover, as the Europeanisation of the Western security structure was considered essential, both NATO and the European Union saw the West European Union (WEU) as an 'integral part of the development of the Union'<sup>57</sup> in the field of security and defence. As its Secretary General, Willem van Eekelen put it in his speech at the European Parliament: 'WEU will take the lead when NATO cannot act'.<sup>58</sup>

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<sup>54</sup> V. Soulé 'La Communauté bousculée par l'Europe de l'Est' in F.Féron, Armelle Thoraval *L'Etat de l'Europe*. ed. La Découverte, Paris 1992. pp.466- 468.

<sup>55</sup> NATO press service, latest news, 3 December 1993.

<sup>56</sup> NATO press service, latest news. 3 January 1994.

<sup>57</sup> TEU, Art. J.4. § 2.

<sup>58</sup> Speech of W van Eekelen at the Commission for Foreign Affairs and Security. European Parliament, Brussels, 30 March 1994. unpublished.

WEU is based on the Brussels Treaty of 17 March 1948 modified by the Paris agreements of 23 October 1954. Its aims were to create in Western Europe a firm basis for European economic recovery, to afford assistance to each other in resisting any policy of aggression promote unity and encourage the progressive integration of Europe.<sup>59</sup> WEU played an important role in integration of the Federal Republic of Germany into the Atlantic Alliance, in assuming responsibilities for arms control, and in settling the Saar problem but it lost some of its purpose during the seventies and eighties. It was re-activated in 1989 at the Rome Summit and was given two new objectives: the definition of a European security identity and the gradual harmonization of the defence policies of Member States. Following the Summit in Rome, the WEU Council was to hold two meetings a year at ministerial level. WEU is now seen as the European pillar of the Atlantic Alliance in the new European security architecture alongside NATO and CSCE, considering itself an integral part of the process of European unification and the future defence arm of a European Union.

The Atlantic Alliance Summit in Rome (7-8 November 1991) recognized the European security identity and its role in defence and at the EC Summit in Maastricht (9-10 December 1991), the WEU Member States adopted a declaration on the role of the WEU and its relations with the European Union and with the Atlantic Alliance.<sup>60</sup> This text states that WEU will be developed as the defence component of the European Union *and* as the European pillar of the Atlantic Alliance. To this end, WEU will

- formulate a European defence policy and carry forward its concrete implementation through the further development of its own operational role
- implement the decisions of the European Union which have defence implications<sup>61</sup>
- promote the introduction of joint positions of its members into the Alliance's consultation mechanisms.

In the Petersberg Declaration adopted during their meeting in Bonn, 19 June 1992, the Foreign and Defence Ministers of the WEU countries decided to create a military force that could intervene at the request of the CSCE or of the Security Council of the United Nations. These forces could be used for humanitarian missions, peace keeping operations and for

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<sup>59</sup> Western European Union. European Parliament, Committee on Foreign Affairs and Security, Sub-committee on security and disarmament. 7 June 1993. Document PE 205.114

<sup>60</sup> This declaration reflects the consensus obtained on the basis of two bilateral initiatives: the Italian-British Declaration of 4 October 1991 and the letter from Pt Mitterrand and Chancellor Kohl of 14 October 1991 proposing the creation of the Euro-corps.

<sup>61</sup> Disposition that we can find in the Treaty of the European Union (TEU) article J. 4. § 2. 'The Union requests the WEU, which is an integral part of the development of the Union; to elaborate and implement decisions and actions of the Union which have defence implications. The Council shall, in agreement with the institutions of the WEU, adopt the necessary practical arrangements.'

conflict management actions, including operations to re-establish peace. WEU has established very close relations with NATO which developed, in January 1994, the idea of Combined Joint Task Forces by which NATO forces could be made available to WEU such as the Allied Rapid Reaction Corps,<sup>62</sup> headquarters, communication and surveillance systems and different national assets such as intelligence services, satellite. As a result of WEU/NATO cooperation, NATO is able, since June 1992, to conduct peacekeeping operations and out-of-area activities under a mandate from the CSCE. To respond to CEECs needs, the WEU offered an enhanced status of association to CEECs.<sup>63</sup> The Associate Partner Status gives the CEECs the possibility to

- participate in meeting of the WEU Council unless otherwise decided;
- receive regular information on the activities of the Council working groups;
- arrange for a liaison with the Planning Cell;
- associate themselves with decisions taken by Member States and participate in their implementation

First CEECs reactions were positive, as they were satisfied with the extent to which they would be involved and participate in the work of WEU. They see their present status with WEU as far more reaching than the status offered to the CEEC by NATO in its Partnership for Peace programme.

Both the Europeanised NATO and the WEU are complementary and very important military structures, however, the relevance of non-military elements in the formulation of the European security policy makes the European Community the best forum to discuss and to back up financially and economically diplomatic initiatives. The Polish Ambassador in Paris Jerzy Lukaszewski notes,<sup>64</sup> 'the European Union represents the stability, an effective support to the institutionalisation of a democratic system in these countries, and finally because it represents a clear goal to the population who has to suffer from the economic restructuring.' Central European countries have clearly expressed their policy in the Visegrad 3 memorandum of November 1991:

'Our three countries are convinced that stable democracy respect for human rights and continued policy of economic reforms will make accession possible. We call upon the Communities and the member-states to respond

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<sup>62</sup> The Allied Rapid Reaction Corps consists of four divisions from European NATO Member States under the leadership of the United Kingdom.

<sup>63</sup> Decision taken during a meeting of the Consultation Forum at ambassadorial level on 19 April 1994. See official document on a status of Association with WEU for Bulgaria, Czech Rep., Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovak Rep.

Association status very similar to the one given to Iceland, Norway and Turkey in November 1992.

<sup>64</sup> 'L'Europe centrale et les Douze' in *Le Figaro*, 21 Juin 1993. p. 2.

to our efforts by clearly stating the integration of our economies and societies, leading to membership of the Communities, is the aim of the Communities themselves. This simple but historic statement would provide the anchor which we need.'<sup>65</sup>

However, the consequences of this enlargement have made more urgent the discussion of institutional changes at the European level. The debate is therefore on how to enlarge to Central Europe without putting into jeopardy the already limited efficiency of the European institutions and the continuity of the European integration process. This debate left Central European in a disabused mood as the Hungarian minister Jeszenszky's comments illustrate:

'We hope that Western Europe wants to be more than merely a neo-Carolingian empire, and that it will not miss the opportunity to open up new horizons. Naturally, much will depend on the EC's further internal development and on the economy. The present slump does not encourage integration.'<sup>66</sup>

### *III) The question of enlargement and conditionality.*

We said earlier on that the EU is unlikely to develop an integrated common foreign policy unless there is an initial transfer of sovereignty from Member States to the EU in this sphere. If that were the case, as a consequence, the European Union would be transformed into a federal system. However, the time when European integration and delegation of sovereignty was anonymously done through application of very technical decisions is now over. Any transfer of sovereignty in the highly sensitive realm of international political affairs demands a political debate which gives citizens the opportunity to face their responsibilities and to question their governments in order to choose which standard of democracy, transparency and efficiency they want to put in the EU. The structure on which its international political capacity is based is intergovernmental and preserves national privileges, but it is probable that it will find its limits with the next enlargement. As their economic and political situation has put the EC/EU under pressure to adapt its policies and structure of intervention (i.e. CCP, Europe Agreements, CFSP, TEU, EMU), in the same way,

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<sup>65</sup> Michalski and Wallace. *The European Community, the Challenge of Enlargement*. RIIA. Nov. 1992. 2nd Edition. London. p. 114.

<sup>66</sup> Article of Hungarian Minister Jeszensky, 'We are well Placed for EC' in the Dutch newspaper *Groot Bijgaarden De Standard* 19-20 May 1993. p. 4.

Central European countries by the prospect of their accession, may force the EU to adapt its institutions and to define more precisely its nature. Will this be enough to secure a transfer of sovereignty?

Enlargement is usually the best occasion for states and peoples to debate on the advantages and disadvantages of European integration and to find the right political solutions to preserve and improve the heritage of the Founding Fathers. The EU has, however, missed such a historical opportunity with the EFTAN enlargement because the debate on institutional reforms has been postponed to the Intergovernmental Conference of 1996 and widening and deepening have been dangerously dissociated. Without being excessively pessimistic, it is very unlikely that major and far reaching reforms will be undertaken in 1996 because there is simply no consensus and no pressure on the Member States to find one on either the scope of these reforms or on the agenda. This section details Member States attitudes towards enlargement to CEECs and reform prospects. The absence of consensus and the different interests illustrate the lack of vision that the EU suffers at the international level and consequently demonstrates that a CFSP as explained earlier on will be more and more difficult to put into place. The second section argues that the conditions of accession set up by the Copenhagen Summit reveal that the ultimate decision to enlarge the EU is political and that it is in the Member States' hands to decide which reforms to undertake. The last section introduces us to the limits of the EU present institutional framework in the light of the enlargement to Central European countries and illustrates the gap which exists between the ideal solution and the political reality.

The enlargement to Central European countries is a difficult question for the European Union because it will command more drastic reforms, at both institutional and policy levels, than those which have been adopted so far by the Union to cope with the enlargement to Nordic countries, Austria. In the past the Community associated widening and deepening of the Community, however in the nineties, Member States' attitudes and interests led to an inward-looking stance which limited the EU international efforts quite dramatically, especially towards Central Europe. It is arguable that the economic and political external policy of the EU has been dominated to a certain extent by national political interests and concerns.

Germany is particularly interested in integrating Central European countries into the European Union for a number of reasons. First, that would be a source of stability in the regions where the economic and political situation could create important emigration waves. Second, the German presence in these countries would be more acceptable if Germany



behaved as an ally in the integration process. W. Brandt, in the late sixties, was already thinking of Federalism as a means of re-structuring relations between Germany and the East European countries which had common economic interests.<sup>67</sup> Third, Germany is favourable to enlargement for economic reasons. Along with Britain, she thinks that economic restructuring could be faster and more efficient if those countries were inside the EC framework, furthermore the creation of a single market would undeniably benefit the massive German presence in that area. With reunification, Germany has become the giant of Europe. It represents 25% of the EC total population with 79 millions inhabitants, its has a GNP twice as much as that of Britain and its economic growth (4.6% in 1990, with 700,000 jobs created) has transformed her into the locomotive of the European integration. This growth of Germany has, in turn, pushed small countries to favour enlargement in order to dilute it. Thus Belgium, which was opposed to the Austrian enlargement, became a supporter after German reunification. The German share and role in the redevelopment of Central Europe is without doubt the most important. *The Economist*, in illustrating its comments on the recognition of the Baltic States, Slovenia and Croatia, alleged that Germany had taken the lead in foreign politics towards Central and Eastern Europe because France and Britain had no alternative strategy of their own.<sup>68</sup> As Theo Sommer put it

'We think it is absolutely indispensable to contain the emerging united Germany within the larger framework of a United Europe with Western Europe at its core but Eastern Europe not forever beyond the pole.'<sup>69</sup>

Germany has forced her partners to redefine their policy towards the European Community. France whose prime concern was to contain German power was reluctant to enlarge the Community before tying Germany closer to European integration. France was also worried that Germany could be less interested in the European integration process than before its reunification and that Central and Eastern European would see things the German way. Germany, understanding her neighbour's concern, accepted association in the EMU and EPU processes, even if some doubts were raised about their relevance in a difficult economic and international climate. This decision proved to be very expensive not only to Germany, who has to face a costly reunification process and her financial responsibilities in the Gulf war, but also to European states which have to bear the consequences of the 1992 ERM

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<sup>67</sup> M. Burgess *Federalism and European Union Political Ideas, Influence and Strategies in the European Community, 1972-1987*. London 1989. chap. 4. 'The origins and growth of European Union 1969-1979'.

<sup>68</sup> 'From the Atlantic to where' in *The Economist* 31/8/91 p.44.

<sup>69</sup> Theo Sommer 'We can be trusted' in *Newsweek*, 9 July 1990.

crisis. As early as 22 November 1989, France and Germany, in a joint address, insisted that 'EC political integration and democracy in the East had to go together and that the best way to respond to events was to strengthen the EC bonds so that the EC could maintain its magnetic attraction to the East.'<sup>70</sup> Their common attitude toward European security is commanded by a German reaffirmation of allegiance to the West and a worry to quell French fears.<sup>71</sup> This Franco-German couple, supposedly at the heart of the European integration process, was put under serious strain by the Yugoslav crisis and the German monetary policy, which reflect a more powerful German role in the conduct of international affairs of the EC. To calm down Central European impatience, President F. Mitterrand proposed the creation of a European confederation and suggested a first meeting in Prague in June 1991. This proposition did not really satisfy Central Europe and received a cool welcome after Mitterrand's declarations that the enlargement of the European Community would take 'des dizaines et des dizaines d'années'.<sup>72</sup>

Italy, and to a certain extent Belgium and Spain, was strongly committed to the idea of a federal European Union and to any policy that would give more powers not only to the Commission but also to the European Parliament.<sup>73</sup> However, this commitment to more European integration is in competition with specific Italian interests in the Central European zone and lessened by nationalist pressures. Italian market shares represented almost 15% in 1991, - just behind Germany - and Italy is quite active in the development and organisation of a regional cooperation called Pentagonal created in 1989 and enlarged to Poland in 1991 to form the hexagonal. If this association was to serve as a vehicle for Italian influence, *The Economist* affirms that it was also to act as a barrier to German expansion into Central Europe.<sup>74</sup> Great Britain is eager to enlarge the EC, not for their economic or political benefit, but rather to dilute the integration process into a more intergovernmental structure. The Thatcher government was ready to accept Central European countries whose economies would have seriously impeded the completion of EMU and EPU. The lack of consensus amongst Member States and their national interests did not produce the outcome that CEECs were expecting from the EC. As Ryszard Piasecki expresses it :

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<sup>70</sup> R. Rummel. op. cit. p.125.

<sup>71</sup> Guy de Carmoy 'Franco-German relations in the new Europe' in R. J. Jackson *Europe in transition, the management of security after the cold war*. Praeger, London 1992. p. 143.

<sup>72</sup> V. Soulé 'La Communauté bousculée par l'Europe de l'Est' in F.Féron, Armelle Thoraval *L'Etat de l'Europe*. ed. La Découverte, Paris 1992. pp.466- 468.

<sup>73</sup> J. Pinder '1992 and beyond: European Community and Eastern Europe' in *the International Spectator*, vol. XXV, no. 3. July September 1990. pp. 172-183.

<sup>74</sup> 'Hello Neighbours' in *the Economist* 13/07/91 p. 35.

'The Community is not yet ready to satisfy our desires and our vital needs. It does not seem yet disposed to really and plainly cooperate with the Visegrad countries.'<sup>75</sup>

Central European commitment to join the EU and its progress towards more democracy and more market economy, which has not been matched elsewhere in Eastern Europe, compelled, however, the EU to react and to offer to CEECs more than individual Member States were ready to give. The EC decided at the June 1992 Lisbon to promise enlargement to capable candidates and the EU repeated its pledge at the Copenhagen European Council:

'the associated countries in Central and Eastern Europe that so desire shall become members of the European Union. Accession will take place as soon as an associated country is able to assume the obligations of membership by satisfying the economic and political conditions required.'<sup>76</sup>

The Treaty of Rome uses the concepts of *European* and *democracy* as eligibility criteria. They are based on European identity, the respect of Human rights, democracy, respect and protection of ethnic minorities. On top of these general principles, the candidate must have a 'functioning and competing market economy, an adequate legal and administrative framework in the public and private sectors... and the capacity to implement the Community's system'.<sup>77</sup> The European Council declared at the Edinburgh Summit that it accepted the eventual membership of Central European states when they are able to satisfy the conditions, which are as follows:

- i) The capacity of the applicant countries to assume the obligations of membership (*Acquis communautaire*)
- ii) democratic society
- iii) a functioning market economy
- iv) the capacity to cope with competitive pressure
- v) market sources within the EU
- vi) provision which is the Community's capacity to absorb new members while deepening.

Applicant countries must meet certain economic criteria in their economic capacity which are defined by the Maastricht criteria of convergence. For example, the Maastricht criteria requires the government's budget deficit to be 3% of GDP or less. The Czech republic's

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<sup>75</sup> Ryszard Piasecki 'La Pologne dans la nouvelle architecture européenne' in *L'Europe en formation* n° 287, Hiver 1992-1993. p.24.27. My translation.

<sup>76</sup> *Conclusions of the Presidency*. Copenhagen, June 21-22 1993.

<sup>77</sup> Point 5 of the *Challenge of the Enlargement*.

deficit is less, while Hungary's and Poland's are both lower than Italy's. On inflation, all do as well as or better than Europe's southern economies. Overall, Poland, the Czech republic and Hungary seem readier than some current Member States.<sup>78</sup> At the Lisbon meeting, the Commission reaffirmed also the importance for the applicant countries to accept fully the *acquis Communautaire* and the political objectives of the European Union.<sup>79</sup> The definition of the Community's *acquis* is defined as follow by the Lisbon Council:

- i) the contents, principles and political objectives of the Treaties, including the Maastricht Treaty;
- ii) the legislation adopted in implementation of the Treaties and the jurisprudence of the Court;
- iii) the declarations and resolutions adopted in the Community framework;
- iv) the international agreements and the agreements between Member States connected with the Community's activities.

This *acquis communautaire* that the new entrants cannot refuse in the long term, put the price of entry at a very high level. This threshold has furthermore been upgraded by the Maastricht Treaty. Several EU Member States political leaders have insisted that opt out clauses, protocols and declarations attached to the Treaty would be applicable only to the existing member that is explicitly mentioned.<sup>80</sup> If this is the price to homogeneity in the future, that is fine, but the development of a *de facto Europe à la carte*, with the Schengen group, the decision of 11 members to go ahead with a European social policy and the fact that economic and monetary qualifications will probably divide further the European integration make it extremely difficult to define what would be the basis of the negotiations. The elaboration of the political union will certainly give the answer to this problem, but here again it is necessary to define more exactly what are the ambitions and the philosophy of the European Union. Whereas the Central European states would have some problems to integrate economically speaking, they leave no doubt about their commitment to the political goal of the Union. But as M. R. Hodges noted: 'the Maastricht Treaty missed several vital elements, [and does not give] a clear statement of the purpose and nature of the Community'.<sup>81</sup> Even if Member States do not know exactly what is the *finalité politique* of

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<sup>78</sup> *The Economist* March 13th 1993. p.21.

<sup>79</sup> J. Delors 'Inaugural address to CEPS Sixth Annual Conference' Centre for European Policy studies 6th Annual Conference. Bruxelles, 1989. pp. 9-15

<sup>80</sup> A. Michalski, H. Wallace. *The European Community, the Challenge of Enlargement*. London 1992. p. 47.

<sup>81</sup> Hodges M. R. 'The European Union: implications of the Maastricht Treaty for relations with non-members'. Ditchley Conference Report no. D.92/1. Ditchley Park, Oxfordshire, 31/01/92 2/02/1992. p.5.

the Union, it did not impede Janos Martonyi, the Hungarian Foreign Minister of 1992, from reaffirming '[their] unlimited commitment to the *finalité politique*.'<sup>82</sup> Does he know exactly what kind of commitment he is making here? This set of conditions that the CEECs have to fulfil is only a part of the process of enlargement as it is still conditional on the *Union's capacity to absorb new members, while maintaining the momentum of European integration*. In fact, this appreciation of the readiness of the EU to accept Central European countries depends very much on a consensus on institutional reforms that has still to be found.

The Eftan enlargement has not so far modified the institutional setup of the European Union and also showed that Member States were reluctant to change the present institutional setup. However, as far as the Visegrad enlargement is concerned, the number of Member States involved in the European integration process will make the reform of the European institutions indispensable. J. Delors affirmed that

'An enlarged Community will not be able to operate effectively without major institutional change. This will, in particular, affect the Commission, Council and European Parliament. The only realistic path for the Community is towards a federal Europe'.<sup>83</sup> 'We must have a Community which is political, efficient in its decision making and which can constantly deepen its own sense of unity.'<sup>84</sup>

Although we cannot agree more with J. Delors' conclusion and objectives, it is unrealistic to expect similar analysis from Member States and nothing suggests that a federation will emerge in the foreseeable future. It is possible to imagine many scenarios for Europe which could end either in its disolution, its federal accomplishment or in-between solutions. Many propositions have been made these past few years to deal with Europe's institutional changes. However, if the European Union clearly wants a genuine Common Foreign and Security Policy and a Common Defence Policy, meaning the exercise of their sovereignty at a supranational level, it will come with the birth of a federal system. Delegation of sovereignty at foreign policy level cannot be separated from the birth of a federal system. As a consequence, any institutional reform which has not a clearly federalistic purpose could be seen as an obstacle to the international affirmation of the European Union.

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<sup>82</sup> Survey 'The European Community' in the *Economist*, 11 July 1992. p.27.

<sup>83</sup> Survey 'The European Community' in the *Economist*, 11 July 1992. p.18.

<sup>84</sup> 'Resurgent Delors seeks to rekindle Euro-enthusiasm' in the *Financial Times*. 27 May 1993. p.2.

Bringing in the Eftans and the Visegrad 4 would create a 17 official language EU, requiring more than 55 interpreters at every meeting of the European Council and Council of Ministers undermining the efficiency of the Union. The acceptance of possibly 10 new Member States (Nordic countries, Austria, Cyprus, Malta and Visegrad 4) will also put under strain the representation system of the Union. The origins of the voting structures of the EC lies in the will of the EC 6 to ensure that Germany should not outweigh France and that each Member State should be represented whatever their size. This principle creates blatant inequalities. Germany has ten votes in the Council making one vote representing 7,8 m people Luxembourg has 2 votes, making 1 vote for 188,000 people. The Lisbon European Council asks, in point 23, that the relation between the number of seats and the population of Member States be rationalised. Indeed the current organisation cannot possibly be maintained with the perspective of further enlargements. With the present system, the Visegrad 4, with 25.7 million people, would have more votes than Germany.<sup>85</sup> A balance has also to be found between the big and the small countries as the inequality and the number of representatives would politically damage the efficiency of the European voting system.

Another problem concerns the inconsistency of the rotating Presidency in international affairs. There is no exact correlation between small states and the record of achievements, but the EU policy could be greatly influenced by the Member States which hold the Presidency and which could focus on problems which do not directly concern EU interests. The Portuguese Presidency was blamed for pressing its own interests in East Timor while neglecting the Yugoslav crisis, not breaking the budget deadlock or having any impact on the GATT talks.<sup>86</sup> Another disadvantage is the incoherence in style and political priorities of each Presidency and the degree of acceptance at the international level is limited in some cases. The Gulf war and the Yugoslav crisis have illustrated that the outside world tends to address first the larger Member States with a standing at the international level. Furthermore, with a increasing number of states, the chance for a big Member State to preside over the European Union would become extremely rare. The French, in their 1990 proposal, would like to get rid of the present system whereby the Presidency of the Council rotates every six months and propose a large country to hold the Presidency for several years, with small countries holding a six-month vice-presidency.<sup>87</sup> Klaus Hänsch, a German socialist member of the EP's Committee on institutional affairs proposed in his report that

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<sup>85</sup> T. Garel Jones 'Leading the pack into the heart of Europe, in *the Times*, 21 June 1993. p. 8.

<sup>86</sup> 'Survival of the fittest' in *the Economist* 11/4/92 p. 60.

<sup>87</sup> Survey on the European Community, in *the Economist*, 7 July 1990. p. 30.

the presidency of the Community stayed in the hand of the big five and so for one year and that all decisions should be taken by a majority voting.<sup>88</sup> It goes without saying that small states were not very happy with these proposals. Another proposal in the air in early 1992 was to give the Presidency to the big 4 and to organise the vice-presidency on a regional basis. Thus the Benelux countries would have been associated with the vice-presidency and rotate with Spain and Portugal associated in an Iberian Presidency. In case of enlargement other regional associations would naturally be integrated as the Northern European presidency, the Slav presidency (Poland and Czechoslovakia), an Austro-Hungarian and finally a Balkan presidency.<sup>89</sup>

As the number of Member States grows the management of the Commission's work will be more and more difficult. J. Delors insists on the restriction of any 'opting out' policies for the new members, but does not ignore that European affairs will be more and more complex. The Community edifice is based on a number of different policies with different decision-making processes and different stages at which present Member States are evolving and new entrants are benefitting from transition periods. It can be very disruptive for the EU on the international stage as the level of commitment is different from one country to another. As a consequence, the Commission will need a substantial increase of its powers to manage a *de facto* multi-speed Europe and to reorganise more rationally the sharing of powers and tasks between the Community, national and regional governments. This increase of power commands more democratic control and political accountability but also a rationalisation of the interactions of national and supranational administrative structures. The principle that has been chosen is the principle of subsidiarity, already used in the Single act - art 130 R- about the environment and which is defined in art. G of the Maastricht Treaty. It means that what could be realised efficiently at the lowest level should not be attributed to a bigger structure. It is now working in the German federation and would fight against the 'bureaucratic Moloch' which is invading the European Community as H. Kohl denounced it.<sup>90</sup> According to the Lisbon Council, it implies:

- i) a less comprehensive and detailed legislative programme for the Council and the Parliament;

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<sup>88</sup> *Report of the Committee on Institutional Affairs on the structure and strategy for the European Union with regard to its enlargement and the creation of a Europe-wide order* rapporteur Klaus Hänsch. 21 May 1992. PE 152.242/fin.

<sup>89</sup> 'Big is beautiful' in *the Economist* 11/1/92. p. 50.

<sup>90</sup> Pierre Servent 'La subsidiarité contre le Moloch bureaucratique' in *Le Monde* 30 Juin 1992.

- ii) a more balanced attribution of tasks to the appropriate bodies at the appropriate levels (regional, national, or Community levels);
- iii) a clearer distinction between responsibility for decision and responsibility for implementation, which can often be decentralised.

Several legal experts have pointed out that subsidiarity is a political concept which has little legislative value and which would eventually be decided by the European Council. R. Hoffman argues that this would be the source of more trouble and political fights and would increase the byzantine character of European decision making.<sup>91</sup> Hoffman therefore sees the whole concept as irrelevant. If the concept of subsidiarity means decentralisation and more effective democratic control at the supranational and national level, it also means a decentralisation of power from national governments to the regions which certain Member States such as France are politically not ready to accomplish. As Michalski and Wallace argue 'neither the principle, nor the practice of subsidiarity is sufficiently defined to provide political and legal guidance on how a larger and more diverse Community would operate'.<sup>92</sup>

To deal with the lack of democratic control over the Commission and the Council work, the TEU gave more power to the European Parliament. But this delegation of power has been limited by the Member States and national parliaments which are quite opposed to lessening their power and democratic control. The Maastricht Treaty gave the EP a say in the nomination of the Commission on the Council's proposal and associates the EP in the co-operation procedure and in the conclusion of constitutional and foreign treaties. Considering the debate on the ratification of the Maastricht Treaty, the economic recession, the re-nationalisation of European politics and the criticisms about the achievement of the Union, the next enlargement presents many dangers for the Union and the whole integration process. It is indeed difficult to imagine any progress in international relations if citizens do not believe that European structures can answer people's domestic needs. The reappearance of people's electoral sanction in European affairs renders very difficult any change in the institutional balance if the EU cannot produce results and proves that it can achieve what cannot be achieved by Member States. Many *ad hoc* solutions could be imagined but the Maastricht Treaty showed that an institutional syncretism which aims at reconciling intergovernmentalism, pragmatic solutions and federalist rhetoric rendered the EU more

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<sup>91</sup> S. Hoffman 'Reflections of the Nation-State in Western Europe Today' in *Journal of Common Market Studies*, Vol. 21, 1983. p. 21-37.

<sup>92</sup> A. Michalski, H. Wallace. *The European Community, the Challenge of Enlargement*. RIIA. London 1992. p. 47.



complex and opaque to public understanding than before and still does not answer their expectations. Moreover, the increasing number of problems emerging from *ad hoc* solutions or arithmetic improvements, such as the growing lack of transparency, democracy and efficiency, demonstrates that the rationale which was behind the 1994 enlargement cannot be maintained in the Central European case. As J. Delors said 'the only realistic path is towards a federal Europe' but such a political project commands drastic reforms which requires a political maturity which is absent from the European political scene. For example, the federal model as proposed in a study of the European Parliament<sup>93</sup> would transform the Commission into a government representing the Union in all policy fields to its citizens and to the outside world. This government would be responsible to the two assemblies: one being supported by the direct legitimacy of the people (the European Parliament) and the other indirectly legitimized through the States. The EP will therefore be promoted by receiving co-decisional powers in all fields of activity and the Council would in turn be transformed into a 'Senate' with all Member States represented in the same way, with majority voting as the general rule. It will limit quite dramatically the 'executive powers' of the Council and would cut it down to a simple role of representation with the same legislative powers as those of the EP. As the Commission would take the attributions of the Presidency in International Affairs, the Presidency's new role would be limited to the chairing of the meetings of the Council and to formal representation. It does not take too much effort to see that this federal solution is beyond reach against the present trend of renationalisation and that it is not yet evident that Central European pressure on both the European Union and its policies will put Europe back on the federal path.

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<sup>93</sup> European Parliament. DGIV working papers on *Enlarged Community: Institutional Adaptations*. Political Series n°17. June 1992.

## *Conclusion*

The 1989 revolution and the re-emergence of Central Europe on the European diplomatic scene has had important consequences, not only historical but also economic and political. Central Europe resurrected from the Soviet grave and appeared under the name of Visegrad 4. This regional structure took shape in 1991 and gathered four countries: Poland, Hungary, Czech Republic and Slovakia. These countries share the same diplomatic and economic aims which are to create a free trade area among themselves and eventually to join the EC. Their cooperation is, however, uneasy because they are facing the historical consequences of 200 years of European civil wars. Many problems which were neutralised during the Soviet occupation re-appeared such as border disputes, minority problems, political instability of newly democratic regimes and a certain renewal of the East/West antagonism. On top of this historical legacy, 1989 has thrown the whole political and security landscape of Europe into confusion, leaving all major pan-European institutions without a role or without a structure to intervene efficiently. 1989 and Central Europe pose a series of new economic political and security problems, but it also gave the EC the opportunity to affirm itself as a major international partner.

As far as economic and financial assistance was concerned, the EC was the institution most able to intervene on the continent. Chapter 2 explained that with the CCP, the EC has at its disposal a Community instrument which enables it to intervene and to preserve its common interest and the interest of Central Europe against individual discriminatory actions. Although the EC was already quite developed as far as its international economic capacity was concerned, it set up a new instrument of intervention - the PHARE programme - and improved already existing tool by transforming Association Agreements into Europe Agreements. These two instruments were developed very quickly without clearly defined political strategy. As a matter of fact, European agreements had to be updated several times in four years with two different generations and more trade concessions granted at the Copenhagen Summit. PHARE, which assists financially Central European economies in transition, has progressively expanded its scope of activities to finance democratic and structural programmes. As a consequence it has become the largest grant assistance programme. Even if the EC/EU policy has met criticisms from Central European countries complaining about the slowness of trade liberalisation, its selfish attitude and incoherent policy, it has, nevertheless, shown a certain capacity of reaction and adaptability to answer its neighbours' economic needs.

This capacity to respond to international pressure was possible thanks to the completion of the Common Commercial Policy which gives the Community exclusive powers in external economic affairs. The EC is, therefore, competent and able to respond to Central European economic needs but there exist some questions which still need to be solved before we can witness the level of efficiency that we are expecting from the EC. As the process towards domesticization of international relations went on, many more economic decisions are politically motivated. This was very clear from the structure of the Europe Agreement which gives a more important role the political dialogue. This could also be found in the creeping re-nationalisation and politicization of the Common Commercial Policy and the decision making process of the whole European Community. This trend is inevitable because the present international environment demands such identification of politics and economics in any coherent foreign policy.

Several attempts have been made, first in 1987 with the Single European Act and second in 1992 with Maastricht, to reconcile economics and politics within the European integration process, but this major challenge is, however, difficult to undertake. As we saw earlier, political cooperation has developed far away from the Community procedure. European Political Cooperation and Common Foreign Security Policy respond to a completely different logic and intergovernmental model which is lacking the most essential ingredients which made the Common Commercial Policy a success. First, there is no initial transfer of sovereignty which grants the EU juridical personality. The role of the Court of Justice which was vital in helping the Community to interpret the basic articles founding the CCP, to impose and guarantee the consequences of such delegation of power is completely absent from the CFSP. Second, international environment and pragmatism have enabled the Community to impose in practice the entirety of the commercial dispositions of the Rome Treaty but in the case of the CFSP it just shows how impotent the EU is so far. Third, the exercise of its competences has called for international recognition of the Community as the only competent body, but in the case of external political affairs no major international actor has addressed the EU as such because it has no juridical personality whatsoever and therefore the EU cannot conclude international conventions, cannot define and exercise its competences and powers that the objectives that are implied in the Maastricht Treaty. The decision making process of the Common Foreign Security Policy responds to intergovernmental criteria and renders the adoption of common foreign policy difficult. The EU's attempts to provide solutions, not only to Central European countries' minority problems and border disputes, but also to Eastern European countries through the Stability Pact, show the limit of EU's international capacity. Some would say it is because it just does not dispose of the necessary means to intervene or to prevent conflict. The evidences that we have produced

show that these policies are in fact limited by the very nature of the European Union and that the European Common Foreign Policy cannot be achieved without transfer of sovereignty and emergence of a federal system. Thus, even if the EU were developing progressively its military arms through the WEU, it is unlikely that EU's foreign policy would be more efficient in its present setup. As often in the European integration history, external environment played an important role. Central European pressures on the European Union's policies show that they were stretched to their maximum as were the institutional framework in which they were evolving. As a consequence, it is unlikely that the EU acquires an efficient common foreign policy in the near future unless Member States and European citizens realise that it is impossible to have one without a federal Europe.

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