
European Political Union and EC Commercial Policy

The conclusions of chapters 4, 5, and 6 suggest a very broad agenda for the coming WTO negotiations, covering almost the whole world GDP (agriculture, manufacturing, and market services) and including the most urgent horizontal themes—reforms of contingent protection (antidumping, antisubsidy, and safeguards) and of the WTO dispute settlement mechanism. To save the “broad” qualification for the EC agenda tabled at Seattle because it also includes trade-related investment, labor, and competition issues makes little sense—all the more because insisting on these three topics is, for the EC, inconsistent with its *own* internal approach. The Treaties establishing the EC (from Rome to Nice) have carefully avoided imposing links between *intra-EC* trade, on the one hand, and investment, labor, and competition issues *within* the EC, on the other.¹

If confirmed in the next WTO ministerial (to be held in Doha, Qatar, in November 2001), EC insistence on these three issues (that neither the United States nor the developing countries are willing to include in the negotiations) will increasingly raise doubts about EC’s real objective for the next WTO round. It could suggest that the EC may simply want to buy time in order to start serious talks in late 2002 at the earliest (after the 2001–02 British, French, and German elections in the hope of a more ro-

1. The recent German proposals on the EC political constitution (the “Schröder Document”, see below) mention explicitly, once again, the key role of EC member-states in competition and social policy matters.

bust common position among EC member-states), or perhaps even later (after the first wave of accessions of Central European countries to the EC expected in 2004 at the earliest).

Of course, this timing question is also related to the well-known difficulties of further reform of the EC Common Agricultural Policy before 2003 (see chapter 4). And it is also influenced by the persistent uncertainty over the elimination of the quantitative restrictions imposed by the EC under the Multi-Fiber Agreement (MFA): it is now certain that the key EC MFA restrictions will be eliminated only in 2005, and that, until then, the EC will try to get additional concessions from developing countries during the implementation process (such as those from Sri Lanka; see appendix A, case 13–14).

Such an EC tactic of delay may indeed please those developing countries that are reluctant to start a new round of WTO negotiations before the full implementation of the Uruguay Round commitments (i.e., 2005). It is often argued that if industrial countries will not fulfill their Uruguay Round obligations to dismantle MFA quantitative restrictions, developing countries will have the option of retaliating by not implementing their TRIPS obligations due in 2005. However, one may wonder whether the *value* of this retaliation is not rapidly declining. In particular, major pharmaceutical firms are increasingly ready to reduce prices of their products in developing countries, decreasing by the same token the value for those firms of the access to developing-country markets granted by the TRIPS Uruguay Agreement, and consequently the retaliatory leverage of the developing countries in case of ultimately incomplete elimination of the MFA restrictions by developed countries.

This chapter aims to go behind such immediate problems and look at a much broader issue, namely the relationship between EC commercial policy and the concrete solutions for an “ever closer” European political union. This question echoes chapter 1, which underlines the high political content of EC trade policy because the EC is an entity in formation, and so has no other way to express its political views than through its commercial policy.

In 2004, a new EC Intergovernmental Conference (IGC) will be convened, which will focus on EC’s “political constitution”. In late April 2001, the German Chancellor Gerhard Schröder had already launched this debate on constitutional reforms for Europe, by tabling a keynote paper entitled “Responsibility for Europe” for the National Conference of the German Social Democratic Party to be held in November 2001 (*Der Spiegel*, no. 18, 30 April 2001, 17). The so-called “Schröder Document” has been presented as “internal” to Germany to avoid any hard feelings among other EC member-states. But it has, despite its profound ambiguities (see below), already triggered a debate over the whole of EC, with the Dutch supporting German proposals in early May 2001, and the British and French criticizing them, sometimes quite undiplomatically.

This initiative raises a key question: will the EC attitude in the WTO be very different if it aims to become a “federal” entity rather than a more original type of entity—called the “Community” in what follows? This chapter argues that EC’s attitude is indeed likely to differ and that Europe will be much more at ease in the world scene if it chooses the “Community” option.

Europa in the Kingdom of Lilliput

Most European politicians continue to treat Europa as Lilliputians treated Gulliver: they believe that multiplying tiny economic chains that tie European economies together will promote the political union, *even* if these chains are costly. This approach of an intensive and mechanical use of Jean Monnet’s bold initiative raises two questions: (1) Has the use of economic integration as a political instrument not reached the point of negative productivity and become a recipe for political stalemate *and* economic costs? (2) Is it not the right time to leave European economic integration to follow its *own* path and rationale and to address Europe’s political future with political instruments (as suggested by the economic analysis of the adequacy between goals and instruments)?

The impression of rapidly declining productivity of Monnet’s approach should not come as a surprise after 40 years of intensive use. Such an “activism” driven by the existing statist bias in European integration (described in chapter 1) has led to an increasing feeling of “virtuality” in Europe. (To be fair, this virtuality started with Article 205 (ex 148) of the Treaty of Rome stating that the *simple* majority is the *rule*, “*except*” as otherwise provided by the Treaties.) An increasing number of texts have been passed by the EC and its member-states, with too little attention paid to their *effective* implementation, and to a careful assessment of their positive and negative consequences.²

Moreover, an increasing number of initiatives have objectives that they are unlikely to deliver. The Common Agricultural Policy is severely hurting small farmers, the environment, and health safety, but lavishly subsidizes large farmers. Too heavy a regulatory convergence in services is inhibiting the emergence of an effective Single Market, but tends to favor dominant incumbents and to introduce a harmonization perceived as

2. This remark can be extended to political texts, such as the Charter of Fundamental Rights, which was drafted by ad hoc committees that did not enjoy the level of legitimacy needed to oversee such work. The Charter was promptly adopted by the 2000 Nice IGC without being seriously scrutinized by the EC Parliaments, or exposed to public opinion. As a result, and not surprisingly, it contains many poorly drafted provisions, and has the low status of a nonbinding “declaratory statement” because it was not acceptable to all member-states.

valueless or even costly.³ The Social Charter is unlikely to cure unemployment, but it exacerbates tortuous and hidden ways for making more flexible labor markets. The euro is unlikely to be a robust step toward a political union, but a “strong” euro can rapidly generate political strains within the euro zone—to the point that it could put at risk the Single Market itself by opening the possibility of transforming a euro failure into an economic disaster, if a member-state leaving the euro zone were to raise barriers on intra-EC flows of goods and services. Last but not least, the constraints imposed on the candidate Central European countries during the accession process are obliging them to adopt hundreds of laws in haste, a serious source of additional virtuality and future problems in the EC.

This impression of a profound erosion of Monnet’s approach and of an increasingly “virtual” Europe is echoed by the annual Eurobarometer polls, which, despite all the usual intrinsic flaws of polls, provide one clear message: the rise until the mid-1990s, and since then the fall, of a positive image of Europe among the European people.⁴ The negative outcomes of referenda on European issues in certain EC member-states, such as Denmark on the Maastricht TEC version and Ireland on the Nice TEC version, confirm these polls. Meanwhile, business leaders who played a leading role in the late 1980s (see chapters 4 and 5) in promoting the Single Market have turned their energy to more global, often worldwide, markets, increasingly leaving the European integration process to the member-states, and to the inward-oriented firms and vested interests.

During this long process of erosion of Monnet’s approach, EC member-states have been increasingly at odds with what has been their key contribution to European integration. (To be fair, half a century of peace and

3. For instance, it is hard to understand the rationale of the European directive on chocolate, when labeling would seem quite an appropriate measure. It is also hard to see the political legitimacy of the European Court of Justice’s ruling assessing Sweden’s ban of antialcoholic advertising as a barrier to the free movement of (advertising) services within the EC, and the consistency of this ruling with previous Court’s rulings limiting competition in insurance matters when consumers are individuals, on the ground that individuals do not have enough information.

4. To the question “Do you think that your country’s membership of the EC is a good thing?”, 61 percent of responses were positive for the periods 1985–90 and 1991–94, but only 51 percent for the period 1995–99. To the question “Would you say that your country has on balance benefited or not from being a member of the EC?”, 52 and 50 percent of responses respectively were positive for the first two periods, but only 44 percent for the last period. To the question “If you were told tomorrow that the EC has been scrapped, would you be very sorry about it, indifferent, or very relieved?”, 43 and 45 percent of the respondents respectively said during the first two periods that they would be very sorry, but only 37 percent said so during the last period (however there were only two observations for this period). For all three questions, results are also better for the period 1980–84 (but there is missing information for a substantial number of years of this period) than for the period 1995–99.

prosperity has contributed to these drifts toward complacency and inward-looking policies.)

France's major contribution has been the bold political leap of faith of Jean Monnet and Robert Schuman, leading a country profoundly hurt physically and morally by the Second World War to offer, only six years after the end of this war, a totally new future to its archrival. Since then, French influence has too often shrunk to a fight for the survival of the Common Agricultural Policy and of a few public monopolies (such as electricity or railways), at the cost of French comparative advantages in agriculture and at the detriment of its other interests in manufacturing and services.

Germany's key contribution has been the economic leap of faith of Ludwig Erhard in the role of markets and competition, leading a country emerging from 25 years of economic chaos and managed economy to champion market rules on the European manufacturing sector, *when* the rest of Western Europe was fascinated by central planning and industrial policy. Since then, German influence has often been a rear-guard fight for slowing down competition in agriculture, services, and factor markets—as is best illustrated by the Schröder Document, which pledges for restrictions on free movement of labor from Central Europe, for an operative European police force for reasons largely related to illegal immigration, and, even more worrisomely, for restrictions on free movement of services during the transition phase of the accession of the Central European countries.

Britain's major contribution has relied on Margaret Thatcher's conviction that huge sources of efficiency and growth were remaining untapped in services, leading a country suffering from decades of economic decay to promote bold regulatory reforms in services. Since then, and despite the fact that the EC Single Market in services is mostly a British achievement, British influence has been severely curbed by Britain's long-standing underconfidence in its role in Europe (and long-lasting overconfidence in its role in transatlantic relations).

Until recently, Italy and Spain had limited their roles to the mere defense of their immediate interests (except Italy in the 1950s), whereas "small" member-states have suffocated under the Franco-German duo, which has quickly turned into a cartel.

The excessive use of Monnet's approach during the last 20 years has had, and still does, a perverse effect in the long run. It has profoundly weakened, and still does, EC member-states in the following sense: opening markets to foreign competition and undertaking regulatory reforms are now rarely presented in a member-state as healthy initiatives taken for the sake of the *country's* welfare. Rather, such actions are presented as imposed by "Brussels"—the "faceless, soulless Eurocracy in Brussels, at best boring, at worst dangerous" to quote M. Joscha Fischer, Minister of For-

eign Affairs in Germany, often described as a federalist-minded politician—despite the fact that all these actions have been at least discussed, generally negotiated, and often expressly agreed, by member-state governments. Similarly, bad policies are happily implemented by member-states, hiding and protecting their domestic vested interests supporting these bad policies behind convenient EC excuses, as best illustrated by the capture of loudly pro-free trade member-states by the Common Agricultural Policy.

This evolution will be amplified by the EC enlargement to Central Europe. Many Central Europeans want to join the EC because they find their own governments weak and are looking for a “strong” European government. This dangerous motive is amplified by the fact that the current accession process tends to weaken the Central European states, with the EC showing very limited trust in these states—and no trust in market forces to discipline the candidate countries and to induce them to take the necessary reforms (see chapter 6).

Weakened member-states, increasingly perceived by many European people as empty shells at best and as monuments of duplicity at worst, raise a major problem: they cannot be a healthy basis for a robust European political union. This situation is a key factor to take into account when examining the two options available to the EC: a “federation” or a “Community”.

Toward a “Federal” European Union?

The European political union can first be conceived in terms derived from the 19th-century federations. Building such a federation would require three basic ingredients. First, it generally needs common historical references, as with Germany and Italy during the 19th century. But, the EC has been so successful that this will not be the case after its forthcoming enlargements. The EC-6 could refer to the Europe of the early Middle Ages; EC-10 and EC-12 to the Western European core of the 17th–19th centuries. But the emerging EC-26 (from Gibraltar to the Baltics, Poland, Slovakia, Romania, and Turkey) never existed.

Second, a federation often requires “federating” events, such as independence wars (from the Boston Tea Party to Prussia’s wars against Austria-Hungary and France). So far, the EC has been lucky to be built in a peaceful context and, fortunately, it seems that it will continue—despite the repeated attempts to use anti-Americanism as a federating event. The price to be paid for such a happy situation is that the European political union will require time to mature. Meanwhile, Europe will be unable to gain the institutional clarity associated with nation-states or clear-cut federations.

Third, a 19th century-type federation often requires a “dominant” member-state but none exists in the EC. In what follows, dominance is defined as the *impression* of leadership, and may thus be different from effective influence. (For instance, one could not argue that Britain was dominant in the EC of the 1980s and 1990s although it shaped the whole EC approach in liberalizing services, which accounts for 70 percent of EC value-added.) The French dominance of the 1960s is over. Britain’s difficulties in closing the imperial chapter of its history have limited, and still do, its leadership in Europe.

Today, it is fashionable to evoke German dominance by *invoking* the attraction of the German economy for the Central European economies, and the size of the German economy. But, if Central European countries are currently buying many German services, in the future, they will be likely to find those services cheaper elsewhere, or even to produce them themselves—an evolution revealed by the fears of the Schröder Document about competitive pressures on German firms from Central European service providers. Concerning the current size of the German economy, it reflects German population more than German GDP per capita, and should be put in perspective. Germany (as well as any other EC member-state) will face a crucial dilemma during the next 50 years: either it will not accept immigrants (and could shrink to 60 million people by 2050, losing the basis of its current apparent dominance) or it will accept the necessary number of immigrants (roughly 350,000 people per year), in which case how German will such a Germany be? Last but not least, recent German initiatives on European issues, such as the Schröder Document, reflect the concerns of the German Länder and communal governments, which see their autonomy threatened by the EC (particularly in services, with EC irruption in sensitive areas such as subsidies to *Landesbanken* (see chapter 5) or audiovisual regulations) more than a dominant behavior of the German federal government.⁵

In the future, the dominance of one large EC country will be even more problematic, with Italy and Spain recently expressing strong interest in playing a much more active role in EC affairs, and with the future accession of three large Central European countries (Poland, Romania, and Turkey). The convergence of EC incomes, and the fact that there will be five to eight EC member-states with large populations, will make the intra-EC balance increasingly similar to the old European “balance of powers” of the 17th to 19th centuries: fluid coalitions will be the rule, as

5. The concerns of the German Länder may be appealing to Central European candidates, which are also small economies and states. This may contribute to the existing impression of German dominance, whereas it merely reflects common concerns.

illustrated by the Schröder Document prompting a Franco-British-Spanish coalition against it.⁶

In sum, none of the above ingredients necessary for a federal Europe exists in the EC now. In fact, the Schröder Document, generally qualified as “federalist” by the press, devotes only three lines in a 550-line text (in its French translation) to European constitutional problems. Moreover, these three lines are profoundly ambiguous. The future Commission is said to become “a strong executive instance” (one among others?), the Parliament is said to get “full budgetary authority” (on which budget exactly?), and the Council is said to become a “Chamber of European Nations” (with what competences?). By contrast, the Schröder paper insists, in repeated instances, on increased power devolution to member-states and subnational entities on Single Market matters (particularly, services), on the need to take precautions against a “creeping” transfer of competencies to the European level, and on ensuring that member-states “retain the flexibility and structural competence to provide for public and social security”—all suggestions mirroring the often forgotten fact that German public opinion is more *reluctant* about a “federal” Europe than public opinion in many member-states.

Or Toward a Fully Fledged—Political and Economic—European Community?

Indeed, is there a need for a 19th-century type of federal state in 21st-century Europe? This is a legitimate question, when centralized states (from Belgium to Spain, and even to Britain and France) or federal states (the United States) are decentralizing their domestic governance. The enlarged EC will reach 500 million inhabitants. There is no example in human history of a classic federal government running such a huge entity in a democratic and wealthy context. If a soft federalism seems unfeasible and inappropriate for Europe, what then could the alternative be?

The essential role of a European political power should be to energize the EC member-states rather than to “unify” them, and to make them *more accountable*. It should be a “provider of political services . . . whose competence, efficiency, and in-built limitations are the best guarantees of

6. In fact, this opposition may be triggered by other aspects than the political proposals because the Schröder Document deals with many other issues. For instance, the Document argues for the renationalization of the CAP and regional funds—a solution that would solve German budgetary problems to the detriment of French (CAP) and Spanish (regional funds) budgets. Chapter 4 argues that a renationalization of the CAP is likely to make the EC even less open in agriculture, by creating “15 CAPs” (only one or two member-states, such as Sweden, may be willing to come back to a more open farm trade policy that they have experienced in the past).

legitimacy” [Andréani 1999, 17]. Such an approach seems a much better answer to the multifaceted, multicultural Europe of the 21st century than the soft 19th-century type federalism. It suggests reusing the term “Community”, too hastily abandoned for the dull word “Union”, and rediscovering the warm feeling it conveys, and its subtle way of revealing that, though Europe does not have a common memory, it is a “community” of memories.

It is beyond the scope of this book to describe the contours of such a European Political Community. Two brief remarks are sufficient for our limited purpose.

First, when one talks about the European political union, one too often forgets, or dismisses, the fact that the EC already has an elaborate Constitution, namely the Treaties, which often goes very far in the federal direction. For instance, the EC rules on budgetary deficit are stricter than those available to the German federal government with respect to the Länder; the Commission’s competence in terms of state aid is equivalent to the competence of central authorities in a centralized state; and so on. As a result, in “normal” times, one should simply aim at a smooth evolution of the European institutions at the pace desired by the European people. Ideally, such an evolution should deliver more effective (less virtual) outcomes, under increasingly simpler and clearer structures and procedures, at *constant* competences. For instance, one should devolve the two functions—legislative and executive—of the current Council of Ministers to two different institutions; limit majority votes to two types only (simple and population-weighted); give to the European Parliament certain rights of legislative initiation currently held by the Commission, in order to put an end to the Commission’s monopoly; make the European Central Bank accountable to the Parliament; and so on. *Expanding* competences may only be envisaged with a pragmatic and progressive expansion of the European “secretariats” for the Common Foreign and Security Policy and for Justice and Home Affairs.

Second, increasing the Community’s competences is a real issue only in cases of international political “crises”. In such cases, a fully fledged political European Community would need a procedure by which EC member-states would agree to devolve their sovereign powers to a “federal” structure for a *limited* period—the idea being that times of crises are those allowing the emergence of a European public opinion and that limited duration ensures a more robust level of political legitimacy. Such an approach would not be brand new in European integration: it expands to political issues the constitutional framework already present in the Treaty of Paris (see appendix A, case 11) with the “state of manifest crisis”.⁷ In

7. Such a provision has respectable ancestors, such as ancient Rome when the powers exerted by the two consuls in “normal” times could be devolved to a dictator in case of crises for a limited (six months) period. The various existing proposals on European political

this perspective, the key aspects to be examined by the 2004 IGC would then be threefold: (1) the design of the European federal structure operating in times of crises, (2) the procedure of power devolution (how to declare a “state of crisis”), and (3) the necessary arrangements to be implemented during the “normal” times for giving to the federal structure the effective means it would need in times of crises (for instance, the progressive building of integrated military equipment and forces).

The key advantage of such a more complete *political* European Community is to free *economic* integration of Europe from the obsession of *political* union, hence to develop the *economic* European Community on *economic* grounds. For instance, such a fully fledged Community would be more inclined to devote to strategic international issues the full attention they deserve. A key consequence of this evolution would be a shift of the focus of the EC-US dialogue away from narrow trade issues toward more global problems, such as security issues in the Asia Pacific or the European technological gap in military equipment.⁸ As a result, EC-US trade conflicts will be put into perspective and will take more easily the limited importance they have.

On domestic matters, a fully fledged Community would then be in a position to serenely *reexamine* the huge *acquis communautaire* inherited by its too activist approach of economic integration in the past. Forty years of intensive use of the Monnet method has made the EC overregulated. The time has come to eliminate the costs associated with excessive or inappropriate EC *and* member-state regulations, and to consider power devolution from the EC to the member-states, and from the EC and member-states to appropriate subentities (Länder, regions, and so on).

Accountability and *trust-based mutual recognition* are the engines that should define such a power devolution. The Community should thus aim (1) to satisfy the crucial need for increased accountability in modern economies and (2) to review the balance between harmonization and mutual recognition. Chapters 4 and 5 have shown how much the past 20

union provide different trade-offs between the scope of the “common” issues to be federalized and the intensity of federalism. At one end of the spectrum, the Schröder Document minimizes the scope of common issues, and goes “far” on the level of federalism (although the exact content of the term “far” is highly debatable, as mentioned above). At the other end of the spectrum, the French counter-proposal enlarges the scope of common issues, and minimizes the federal approach to the point of losing any credibility. So far, no proposal seems to add a third dimension (such as time limit or geographical limits) to the existing two-dimensional trade-offs.

8. For instance, the handling of the problems raised by North Korea has been a permanent embarrassment for the Community, from the public disagreements between EC member-states at the eve of the ASEM meeting in Seoul in late 2000 to the rush of EC officials to Pyongyang in early 2001 (endangering the emerging EC-US understanding on the EC’s rapid reaction force).

years have ignored accountability and been biased toward excessive harmonization, both in goods (technical norms) and services (regulatory convergence).

Increased accountability and mutual recognition will constitute the major differences between a fully fledged European Community and a European integration process, which would remain based on the concept of “nation-states”. A Europe based on nation-states will have inherent difficulties in including these two key features, simply because European nation-states inherit a deep-rooted tradition of nonaccountability, and because they tend to be suspicious of each other. Such a lack of increased accountability and mutual recognition is particularly clear in the French counterproposal to the Schröder Document (but it may also be present in the Schröder Declaration to some extent, behind the smokescreen of power devolution).

Impact of the Type of Political Union on EC Commercial Policy

The choice between a more federal Union and a fully fledged Community is important for the future development of the EC commercial policy.

Under the federal option, Europe will be more inclined to economic harmonization, internally, and hence externally—an evolution that would thus be a potential source of severe (intra- and extra-EC) trade conflicts. It would be less inclined to pay attention to the right balance between sovereignty and integration in the international trade regime, hence to allow for different (i.e., adapted to each country) complementary policies accompanying the opening of domestic markets to foreign competition (such complementary policies are a key aspect in service liberalization). Last but not least, a federal Europe would be more tempted to believe that the weakening of the United States is good for Europe, precisely at the time when the crucial challenges emerging in the WTO (such as the beneficial membership of China and of a few other large countries) are so huge that they require *joint* EC and US efforts in the decades to come.

By contrast, a fully fledged European Community will be an easier party for its WTO partners. It will be more inclined to recognize that its fantastic success flows from extremely favorable initial conditions. In the mid-1950s, all the EC member-states exported more than 25 percent of their total exports to the rest of the Community, *and* they represented more than 18 percent of intra-EC trade (except Italy with only 11 percent). In other words, all EC member-states have had both high stakes and high power in the EC creation process. That is not denying the EC success, but it is an essential signal for the rest of the world that the EC experience will be hard to transplant elsewhere.

A fully fledged Community will be an easier WTO partner in liberalizing services because it will be more inclined to accept the principle of competition in regulations, and the use of different complementary policies. It will pay more attention to the intrinsic limits of the WTO constitutional regime. For instance, it will be more inclined to impose sensible limits on the dispute settlement system, in order not to substitute the powers of arbitrators for those of negotiators in matters that have not been discussed and negotiated before. It will also be more open to the implementation problems in the WTO. For instance, it will be more sympathetic to give credit to new WTO members, from China to Vanuatu, for the liberalization that they will achieve, by freeing them more rapidly than scheduled from the constraints imposed by the special instruments of contingent protection included in their accession protocols. Lastly, a European Community will be more inclined to treat with care the fragile sovereignty of many developing countries, in particular by requesting limited reciprocity from its least developed trading partners coupled with the implementation of a uniform tariff by them, instead of requesting full reciprocity, which eliminates tariff revenues—that is, an essential share of developing country public budgets and a core component of their emerging national governance that they have to learn to master.