CHAPTER 4

COMMON FOREIGN POLICY

A nation's foreign policy is the expression of its national interest vis-à-vis other nations.¹

External Relations or Foreign Policy?²

When the Treaty of Rome was drafted, the Six paid little attention to foreign policy. The Community’s impact on the international system can best be described as a “civilian power, exercising influence by commerce and diplomacy, not traditional military strength”.³ Traditionally, a nation’s foreign policy is defined as the expression of its national interest with respect to other nations. National Interest is defined by some in terms of power – “we assume that statesmen think and act in terms of interest defined as power, and the evidence of history bears that assumption out”⁴ – and others claim that there is no such thing as absolute power. “Whatever the wealth, the power, and the prestige of a nation may be, its means are always limited. The problem of the maker of policy is to select objectives that are limited – not the best that could be desired but the best that can be realized without committing the whole power and the whole wealth and the very existence of the nation”.⁵

The history of Europe is replete with instances of nation states’ relentless pursuit of power. Ever since sovereign states made their presence felt in the late fifteenth

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³ Ibid., p.2.
⁵ Walter Lippmann, cited in Stoessinger, n.1, p.27.
century, "each individual state in Europe acknowledged no superior and recognized no moral code other than that voluntarily accepted by its own conscience".\textsuperscript{6} As each state could justify itself only by being able to resist with force the forcible encroachments of others, the history of Europe is one of almost uninterrupted wars; but two World Wars in the space of two decades completely devastated and shook the very edifice of the nation state in Europe. The European states were so weakened by their experiences over the period 1914-1945 that they had to almost re-create themselves as functioning units in the immediate post-war period.

However, the immediate worry of the countries of Western Europe was to ensure that there would not be a German resurgence ever again. In order to ensure that, the Anglo-French Dunkirk Treaty was signed on 4 March 1947, to be followed by the Brussels Treaty of 17 March 1948, which rapidly developed into a Western Union comprising the Benelux countries, and then took a decisive turn with the signing of the Atlantic Alliance in 1949 and the setting of NATO in December 1950. The French especially were driven by the goal of permanent weakening of Germany. France knew that in order to downsize Germany, it had to seize some kind of direct or indirect control over the German coalmines and steel industries in the Ruhr area. When France's plan to internationalise the Ruhr area failed and when America and Britain insisted on creating a federal German state with a strong central government, French policy makers started to think in terms of an association of Germany in a larger European framework, which would make German steel part of a European steel cartel. In that way, France would also be able to guarantee indirect control over the German

coalmines and steel industry.\textsuperscript{7} The European Coal and Steel Community (ECSC) presented France with that opportunity and also a chance to play a decisive role in the process of Western European integration.

Whereas Western Europe was preoccupied with containment of Germany, the United States considered it a secondary issue. Its main worry was the Soviet expansionism in Europe. The Soviet rulers seemed "determined to have along their western frontier a series of satellite states, ruled by men who in all matters of policy took their orders from Moscow. Their trusted agents, the Communist parties were to convert their countries into Soviet bases, whether defensive to guard the approaches to Soviet territory, or offensive as strategy points for the next phase of Communist expansion in Europe".\textsuperscript{8} As a result, the US post-war strategy was to encourage the development of Western European integration efforts whereby Germany would be allowed to re-industrialise and partially re-arm in order to provide a stronger, more cohesive Western European element to the united Western front against Soviet expansionism.\textsuperscript{9}

Faced with the monumental task of rebuilding their economies, containing Germany, and with the threat of Soviet expansionism, the Six chose a new form of international framework - integration. Integration was seen as the best that could be realized "without committing the whole power and the whole wealth and the very existence of the nation state".

In the early 1950s negotiations on integration followed two lines, one for the economic security of a customs union and the other for the military security of the


Defence Community. In 1952 the European Defence Community (EDC) Treaty was signed. However, EDC and the consequent European Political Community (EPC) had to be shelved as France refused to ratify the treaty. "European security, in the full sense of the word, did not crucially depend on a German army. It did crucially depend on German prosperity". In the post-war period every state's main concern was promotion of industrialization and modernization. Western Europe's foreign trade with the new West German state became of central importance to the growth and stability of the entire region. Commercial policy guarantees became an indispensable part of any policy to bind West Germany to Western Europe. At the same time, barriers to trade such as tariffs and quotas were losing their importance in national economic development. But, there was the need to protect the new developing industrial sectors from becoming uncompetitive so it demanded a selective and sophisticated form of protection. As a result, the customs union was established. "Between them the outmoded tariffs were progressively removed, the remaining quotas removed somewhat more cautiously, and both replaced by the regulation of trade within the new customs union by mutually agreed sets of other non-tariff barriers". Further, behind the protection of a common external tariff they forged an instrument both protectionist and expansionist which gave all of them part of an increasing share of the trade within the Common Market.

So, whereas the EDC and EPC went into oblivion, EEC was established. In the ensuing arrangement there was no mention of such defining functions of a nation-

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11 See Chapter 1
12 Milward, n.10, p.119.
state, such as foreign and security policies. These continued to be in the exclusive
domain of national policy. What the Treaty of Rome dealt with was “External
Relations” and not “Foreign Policy” of the European Community.

The Treaty of Rome and External Relations
The Treaty of Rome stipulated five areas in which the Community had an external
role:

(1) The provision for a Common Trade Policy based on a Common Customs Tariff
(CCT) [Articles 18-29] and a Common Commercial Policy [Articles 110-116].

(2) The association with overseas territories (Articles 131-136).

(3) The association agreements with third countries [Article 238].

(4) The power to conclude international Treaties [Article 228].

(5) The ability of the EC to receive and establish diplomatic missions.\textsuperscript{14}

The formal status of the EC is that of an intergovernmental organization, which is
entitled to act only in areas of legally established competence. Competence is the EC
term for “powers”, and can be defined as – “the authority to undertake negotiations,
conclude binding agreements, and adopt implementation measures”.\textsuperscript{15} However, it has
been seen that there is a tension between external demands that the Community
should play an active role in the international system and reluctance on the part of
Member States’ governments to accord competence to the EC in areas considered
sensitive domestically. As Elfriede Regelsberger explains, given the external
challenges faced by the smaller and medium-sized countries of Western Europe, the

\textsuperscript{14} This is allowed for only indirectly in the Treaty in the Protocol on Privileges and Immunities, which
grants the customary diplomatic immunity to missions of third countries.

\textsuperscript{15} Charlotte Bretherton and John Vogler, \textit{The European Union as a Global Actor} (London: Routledge,
1999), p.17.
EC’s will to endeavor jointly to formulate and implement a European foreign policy may be regarded as a natural reaction. Given also the uncertainties about political and economic developments elsewhere in a world of global interdependence, some kind of collective problem-solving would seem to be an appropriate strategy to preserve national interests. But, for the Member States this means that national foreign policies become more vulnerable to pressure from the rest of the group. It limits the Member States’ autonomy in foreign policy, which ranks so high in the traditional perceptions of the sovereign nation-States in Western Europe.\(^{16}\)

This dynamic operates in the Community foreign policy in two ways—first, in areas where the Member States have no interests, i.e. they do not stand to gain or lose anything, there is “one voice”, but if even one member state has a stake or an overriding interest then either the Member States “do it alone” or the others agree to acquiesce. And, second, any foreign policy decision is a cumbersome bargaining process, in which short-term national interests prevail over common values and goals. Each participant measures his consent to a common decision against the profits he can immediately draw from it.

**The Community External Relations in Practice**

*Common Trade Policy*

In deciding on a level for the common external tariff the Member States were bound by GATT, which stipulates that the general rate of customs duties in the Customs Union cannot be higher than the rate previously in force in the countries constituting the Union. The solution adopted by the Community was that the level would be at the arithmetical average of the duties applied in the four customs areas of the Community.

\(^{16}\) Elfriede Regelsberger, “The dialogue of the EC/Twelve with other regional groups: a new European identity in the international system?”, in Geoffrey Edwards and Elfriede Regelsberger, eds., *Europe’s*
Accordingly, products were grouped under various Lists and the rate of customs duties was fixed for each List.\textsuperscript{17} For a number of products, however, it was decided that the level of customs duties would not be fixed at the arithmetical average, but by negotiation between the Member States. These products are enumerated in special Lists appended to the Treaty, and the duties for most of them were settled by agreement before the Treaty was signed. No agreement was reached on seventy products, and these were placed in List G.\textsuperscript{18}

When a Member State imports from a third country, then it imposes the customs duty on the good according to the Common External Tariff (CET); and once the good enters one member state it is free to circulate throughout the Community. However, Member States are very particular that such imports do not affect their domestic industry. Even for inane products and for negligibly small quantities, Member States have imposed either some restriction or charged higher duties on some pretext or the other. For example, in \textit{ELBA Elektroapparate-and Maschinenbau Walter Goettmann KG v Hauptzollamt Berlin-Packhof},\textsuperscript{19} ELBA, an undertaking, imported from Taiwan via the Hauptzollamt Berlin-Packhof a certain quantity of flashing light circles for which it applied for release into free circulation. These light circles could best be classified as "Christmas tree decorations" and thereby would fall under tariff heading 97.05 of the Common Customs Tariff (CCT) which meant a customs duty of 10 percent, however, the Berlin-Packhof classified them under tariff subheading 39.07E IV of the CCT and imposed a customs duty of 17.6 percent. In \textit{Anglo-Irish Meat Global Links: The European Community and Inter-Regional Cooperation} (London: Pinter Publishers, 1990), p.9.


\textsuperscript{19} Case 205/80, \textit{ELBA Elektroapparate-and Maschinenbau Walter Goettmann KG v Hauptzollamt
Company Limited v Minister for Agriculture the Anglo-Irish Meat Company exported beef from Ireland to the UK. The beef exported consisted of chilled forequarters from which the atlas bone, a small bone of approximately 0.5 Kg situated in the neck of the carcass, had been removed. The Irish classified this meat as “bone-in-cut” under subheading 02.01A II (a) 4aa of the CCT, but the UK authorities claimed the meat fell under the category “separated forequarters”, 02.01A II (a) 2bb of the CCT. In reality, the presence or absence of the atlas bone has no significance in trade, but during the period in question the monetary compensatory amounts (MCA) applicable on forequarters was much lower than on bone-in-cut, so the Irish authorities had to pay the exporter a sum of 4,42,069 Pounds less than otherwise. In Firma Anton Diirbeck v Hauptzollamt Frankfurt am Main-Flughagen Firma Anton Diirbeck applied to the German authorities for the release into free circulation of two boxes of dessert apples originating in Chile, with a weight of 45 Kg, which had been transported to the FRG by air. However, the German customs authorities refused to release them on the ground that the Commission had adopted a protective measure wherein free circulation of all apples, except cider apples, imported from Chile were to be suspended. But, this regulation had been postponed and the Commission allowed the free circulation of apples where “the ships transporting the apples from Chile had reached the Community port before 19 May 1979”. The consignment had reached by the said date, but it had reached not by “ship” but by “airplane” and hence the German authorities refused its release. Another example is that of the car industry. The Community still does not have a Common Market in cars. Further, cars imported into the Community from third countries also do not enjoy free movement. The most

_Berlin- Packhof [1981] ECR 2079._

20 Case 196/80, Anglo-Irish Meat Company Limited v Minister for Agriculture [1981] ECR 2263

21 Case 112/80, Firma Anton Diirbeck v Hauptzollamt Frankfurt am Main-Flughagen [1981] ECR 1095
widely known case is that of Japanese cars. All the four major car-producing countries of the Community ensured by various means that their domestic markets would not be flooded with the Japanese cars. Italy invoked Article 115 of the Treaty of Rome, which allows Member States to retain national controls on imports and thus restrict intra-Community flows of third country goods where the Member State has a valid derogation from the common commercial policy.22 While the Commission allowed Italy to invoke Article 115 it did not allow France when it tried the same. As a result, France resorted to aggressive protectionism without any legal foundation.23 The Germans alone were confident of competing with the Japanese as Germany alone had a huge domestic market, especially after unification.24 In Britain poor management, poor quality and poor labour-management relations forced the Renault group to invite Japanese investment. Collaboration subsequently led to the Japanese setting up transplant facilities in the UK.25

In the light of the ensuing 1992 Single Market Programme such protectionism practiced by Member States was worrying for the Commission. But the Member States were unwilling to budge from their national positions. As a result, the Commission had to enter into a negotiation with the Japanese, wherein it was agreed that targeting of particular national markets would be prohibited and that country quotas would be retained. This agreement was recognition of the fact that member governments had the power to resist threats to the equilibrium of their markets.26

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21 Elie Cohen, “The Interplay of Corporate, National, and European Interests”, in ibid., p.147.
21 Holmes and Mcgowen, n.22, p.161.
Association with ‘Countries and Territories’

At the time when the Treaty of Rome was being negotiated, France was an imperial power and her overseas dependencies experienced the closest possible economic relationship with her. Almost two-thirds of the exports and imports of the French Empire in Africa went to, and came from France. In France the market for French-African products was protected and guaranteed, and special prices in excess of world market price were paid to primary producers. French companies had a preferential right of establishment in the dependencies, French exports to them had special advantage and there was a substantial programme of French public investment in them.27 Therefore, France insisted and managed to bargain an arrangement for its dependencies despite the German reluctance. And so, was born “Association with Countries and Territories”. Between 1960 and 1962 most of the dependencies became independent; they continued to remain associated with the EC under the Yaoundé Conventions of 1963 and 1969. The convention had an institutional structure that recognized the sovereignty of the associates. When Britain joined the EC, twenty commonwealth countries from Africa, Caribbean and the Pacific (ACP) were included in the category via the Lomé Convention of 1975.

Lomé is supposed to be a very liberal regime but it seems to be tuned more to serve the interests of the Community Member States rather than the Lomé countries. EC-ACP trade, which forms a major component of the Lomé Convention, is dominated by a small number of countries. Eight ACP countries account for nearly 70 percent of ACP exports to the EC.28 ACP goods have duty free access to the EC market, but a

major portion of the ACP exports comprises of raw materials (75 percent), of which one-fourth is petroleum; these are products that the EC would have wanted to import irrespective of Lomé. Other products that the EC need to import, but can be available not just from ACP, such as cocoa and bananas, there is a tariff preference for ACP exporters. Industrial products have free access to EC markets but the ACP's capacity to export industrial products is very limited. Further, the EC insisted that the ACP grant most-favoured-nation (MFN) treatment to them as per the GATT rules for both imports as well as exports. The ACP wanted to limit the MFN clause to imports from the Community but they were forced to accept the EC's wish. In effect, the Community has ensured for itself security of supplies. In other words, the EC would never suffer from discrimination regarding the export of raw materials from ACP. The forty-six agreed never to boycott goods to any or all of the EC members. Moreover, agricultural products subject to the Common Agricultural Policy (CAP) are not covered by the principle of free access for the ACP. At the same time, ACP products are also subject to the 'rules of origin' condition. The EC requires that more than 50 percent of the value of any product should be manufactured inside the exporting country, which is a considerable limit for the developing and under-developed ACP countries. Even in terms of volume of trade, the figures for associates have not risen in any significant way. There has been no trade diversion say from the non-associates to the associates. If in 1958 the figures for imports and exports of the EC with non-associates was 979 Eur. Million and 1,517 Eur. Million, for the associates the figures were 915 Eur. Million and 714 Eur. Million respectively. In 1974, whereas the figures

29 Ibid., p.151.
31 Ibid., p. 136
for non-associates had jumped to 10,086 and 5,843 Eur. Millions, for the associates it increased merely to 3,327 and 2,178 Eur. Millions. 32

So, in effect the EC-ACP trade has not made the ACP group any better off. Though on paper it may seem that the ACP has an enviable position with the EC and that the Lomé provisions are extremely favourable for the ACP, in actuality, the EC-ACP relation is badly unbalanced. The EC has merely taken care of its interests. The ACP countries, mainly exporters of raw materials and agricultural products are faced with the disadvantage of no free access for agricultural goods covered by the CAP. Industrial goods have duty-free access. Similarly "the most up-to-date" list of products are exempt from the application of rules of origin, but the ACP hardly produce and export industrial goods and virtually zero percent of ACP products fall into the category exempt from rules of origin. At the same time, the EC Member States' national interests always gain precedence over ACP interests. For example, when the UK joined the EC, the Yaoundé was recalled and Lomé introduced, as Britain wanted to protect the Commonwealth interests in sub-Saharan Africa, the Caribbean and the Pacific Islands. When Greece acceded to the Community, concessions were made for Greece, as it was a producer of some products, covered by EC-ACP preferential arrangement, like bauxite, to the detriment of ACP interest. Similarly, Spain and Portugal are producers and exporters of raw materials and semi-finished products for which the ACP had been granted concessions. So, the tendency to endorse Lomé provisions is less among these EC Member States. 33 At the same time, the more developing markets and vibrant economies in the developing world


have been the Asian and Latin American ones. The EC finds it difficult to ignore
them. Similarly, with the fall of the Berlin Wall, East Europe has become a reality for
the EC. So, trade with the East and aid to the developing East Europeans has
preoccupied the EC in recent times.

Power to Conclude International Agreements
As per Article 113 of the Treaty of Rome, the Community's competence regarding
international agreements is strong and the Commission, as the Community's sole
international trade negotiator, occupies an advantageous position to assert its
autonomy vis-à-vis the Member States. However, the two cases we shall examine,
The GATT Kennedy Round Negotiations concluded in 1967 and the GATT Uruguay
Round concluded in 1994, show that even though the Commission has been granted
an advantageous position, the prerogative rests with the Member States.

The Kennedy Round: In 1963, when Britain first applied for membership of the EC, it
sparked a worry in the Kennedy administration that if Britain became a part of the
Community then the US would lose one of its biggest markets - a market that
absorbed not just manufactured products but also agricultural exports. So, it became
imperative for the US to call for comprehensive trade negotiations in order to ensure
free trade for its products. As a result, the American Trade Expansion Act was passed,
which empowered the President to negotiate reciprocal linear tariff cuts within the
framework of GATT. The trade negotiations were to be conducted on a MFN basis
and on the principle of reciprocity to cover all classes of products, industrial and non-
industrial including agricultural and primary products. The trade negotiations were to

34 Caroline M. Miles, "After the Kennedy Round" International Affairs, January 1968, Vol.44, No.1, p.16-7
deal also with non-tariff barriers, and were to be based upon a plan of 50 percent linear tariff reductions.\textsuperscript{35}

The Community presented a picture of unity when it opposed the United States on its demand for 50 percent linear tariff reductions. The American tariffs were originally very high and such a reduction would mean that the Americans still had a higher tariff than others. Therefore, the Community demanded that the US reduce her highest tariffs by larger than average amounts.\textsuperscript{36} Similarly, the EC forcefully opposed the United States’ anti-dumping measures, especially the American Selling Price. However, on all other accounts, the Member States were dismally disunited.

As required, the Commission made the recommendation to the Council and the Council granted the Commission the mandate to proceed with the negotiations. A committee called the “Article 111 Committee” was constituted to assist the Commission. Since the mandate granted to the Commission was very similar to Commission’s own draft, one would feel that the Commission had great clout in the decision-making process, however, that is not true. Firstly, the Commission’s draft had been drawn up after consideration of the different national points of view and it had been a very general document. Secondly, up to the middle of 1966, the Commission was given very little discretion with which to negotiate. The Commission had to halt its progress in order to get the necessary renewal or re-interpretation of its mandate from the Council.\textsuperscript{37} And, lastly, France refused to grant the Commission the required mandate to negotiate on tariff reduction for agriculture.


France and Italy, both previously high tariff countries, were not pleased with the Kennedy Round, as they already had considerably reduced their high initial levels of protection to be a part of the Community. Furthermore, France realized that it had almost nothing to gain in industrial terms and so saw the negotiations as a political means of "resisting the pretensions of the United States"[^38] and as a lever to force the Germans to agree on the common cereals price. During the negotiations, the Commission kept pressing the Council to agree to proceed with discussion of tariff items in the agricultural side of the negotiations and leave aside until later that of commodity agreements such as on cereals. This met with strong French opposition and led to bitter attacks on the Commission's conduct of the negotiations[^39].

Meanwhile, France had resorted to the boycott of all Community activities[^40] and this brought the Commission's role in the Kennedy Round also to a dead-end. Finally, when France returned to the fold in January 1966, one of its conditions for returning was "accepting the ten-point programme for cutting the European Commission down to size"[^41].

Germany and the Benelux, on the other hand, were previously low tariff countries and were enthusiastic about being able to restore their previous position and about the clear gain of a worldwide tariff reduction. However, not being a major producer or exporter of agricultural products, Germany was not so keen about negotiations on tariff reductions in agriculture. At the same time, Germany had been resisting the French and the Commission's move to introduce the common cereals price, which was to be below the German price levels but much higher than the French level. The

[^38]: Ibid., p.177
[^39]: Ibid., p.183
[^40]: See Chapter 3
French in fact behaved as if adopting such a policy was their sole remaining interest in the Community. And, what resulted was a deadlock.

As Germany felt that it stood to gain more from a worldwide tariff reduction, it was ready to break the deadlock and agreed on a package deal. The deal was that Germany would agree on the common cereals price and thus pave way for the CAP and France would agree to serious negotiations in the Kennedy Round. Linking the two issues thus was the “symptom of progress” and the package gave something to everybody.

The Uruguay Round: The Uruguay Round Negotiations was formally launched in 1986 by way of the Punta del Este Ministerial Declaration. In 1984, the Commission had made the required recommendations to the Council for a mandate to participate in the Round. Though discussions on the matter continued in the Council for a year, nothing came off it. Then, the Commission submitted another draft, which came to be known as the Overall Approach, drawing out the objectives, the agenda and the topics to feature in the negotiations. This was adopted by the Council and the Commission was given the mandate to represent the EC at Punta del Este. The Commission played an active role in drawing out the aims, the method and the subjects to be discussed in the new Round. This Punta del Este Declaration was sent to the Council for approval and for a further mandate for the Commission to open negotiations. The Member States believed that subjects such as trade in services and trade related intellectual property rights did not fall under the competence of the Community and therefore instead of the Commission negotiating for the EU, the Member States should negotiate themselves. However, the Punta del Este Ministerial Declaration was approved by both the Council and the representatives of the Member States “to the

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42 Coombes, n.37, p.186.
43 Henig, n.36, p.42.
extent that they were concerned”, without indicating to what extent that was.\textsuperscript{44} This Council meeting explicitly stated that this joint approval did not prejudge the question of the competence of the Community or the Member States on particular issues and that the Commission would act as the sole negotiator on behalf of the Community and the Member States.\textsuperscript{45} Though the Commission was the sole negotiator, Member States continued to discuss the Round with other countries. While some discussions could be viewed as being helpful for the Commission, most of the time Member States resorted to unilateral decisions as in the case of Chancellor Kohl, when he suggested that the Community could accept quantitative limitations on its agricultural exports, in exchange for a ‘freeze’ by the Americans of their exports to the Community of cereal substitutes.\textsuperscript{46}

As the Uruguay Round negotiations started to unfold, the main conflict within the Community was over the agricultural trade component of the negotiations. The Community was quite wary about liberalization of agricultural trade. France, with the support of Germany and Ireland, spearheaded an opposition to negotiations on the subject. The consequence of such a strong Franco-German-Irish opposition was that the Commission was granted a very restrictive mandate with which to negotiate. As a result of the rigid EU stand, the 1990 GATT Brussels Summit collapsed.\textsuperscript{47} Failure of the Brussels Summit, the consequent threat of an international trade war, the insurmountable agricultural surplus and the increasing CAP expenditure, prompted

\textsuperscript{46} Ibid., p.58
the Community to adopt the most radical reform of the CAP in 1992.\textsuperscript{48} The Mac Sharry reforms underlined big cuts in the guaranteed prices and a land set-aside scheme to curb production. In general Member States with small farms welcomed the proposals, while those with large and/or efficient farms, such as Britain, Denmark and Holland, opposed them. The House of Lords Select Committee on the European Communities was of the view:

In this country, the most frequent reaction to the Commission’s proposals...has been the accusation that the proposed ‘modulation’ of market mechanisms and compensatory measures is discriminating against farmers in the UK, whose holdings are larger than those on the continent, and that it will penalize the very efficient producers whom it should be the objective of policy to enable to compete.\textsuperscript{49}

However, the fight seemed to be between France and Germany. France was opposed to the compulsory set-aside component whereas Germany opposed the big price cuts. The Franco-German conflict over the reform dominated much of the debate in the Agricultural Council. Finally, there was a trade-off between the two, with Germany agreeing to price cuts on the condition that they are compensated by direct payments. Germany agreed not to veto the cut in cereal prices. France, on its side, agreed not to block the GATT treaty and to display “goodwill” in the Uruguay Round.\textsuperscript{50}

Talks with the US on agricultural trade issues resumed however, the Chicago talks also failed, following which the US threatened to impose sanctions on EU agricultural exports. The French government demanded that the EU also threaten to impose counter sanctions on US exports to the EU. However, the French move for counter sanctions did not get the required qualified majority votes and could not be passed in

\textsuperscript{48} See Chapter 3


\textsuperscript{50} Webber, n.47, p.53
the General Council. Germany voted against the French. As the tussle continued within the Union, the External Trade Commissioner, Andriessen and the Agricultural Commissioner, Mac Sharry struck a deal with Washington largely in secret. They agreed on reductions in external protection, domestic subsidies, levels of export subsidies and the volume of subsidized exports. The deal, known as the Blair House Accord, was immediately rejected by France saying it was incompatible with the May 1992 reform of the CAP, and therefore in violation of the negotiating directions given to the Commission. The Commission, on its part claimed, "we had to take a lead and pull the Council along with us...we had to put the French under pressure".\textsuperscript{51} However, France zealously opposed the Blair House Accord and threatened to veto it. In principle the Blair House Accord could be adopted by qualified majority vote, but France claimed that the accord threatened its "vital interest" and thus implicitly invoked the Luxembourg Compromise, which had not been used for some time. Other Member States, such as Belgium, Spain, Italy, Portugal and Ireland also supported France and so it was decided not to put the Blair House accord to a vote. It remained without the Council’s approval.

In France, it became a major domestic issue. The government collapsed and the opposition had a landslide victory. The new government called for a revised accord, and tried to bring other Member States also to see their point of view. Their main target was Germany. Subsequent to meetings between the two, Germany also announced that it had problems with the accord, and "we must find a compromise acceptable to everyone".\textsuperscript{52} Franco-German talks continued, delegations from France and Germany met the Belgian Presidency and the Commission and France managed

\textsuperscript{51} Ibid

\textsuperscript{52} Douglas Webber, "High Midnight in Brussels: An Analysis of the September 1993 Council Meeting on the GATT Uruguay Round", \textit{Journal of European Public Policy} (London), Vol.5, No.4,
to mobilize the southern Member States to question the accord. While Britain, Denmark and Holland were opposed to fresh talks with the US, France put enormous pressure on the Presidency, stressing its preparedness to veto the GATT treaty if they did not get satisfaction on the Blair House Accord. Finally, the Presidency and the Commission declared that the EU vote on GATT treaty, including the Blair House Accord, would be by consensus, thus conceding France a right to veto.

However, reopening talks with the US was not acceptable and after a lot of drama, France changed its stand and coaxed the Presidency to pass a resolution asking the Commission to conduct new talks with the US with a view to “clarifying and complementing Blair House”.

France submitted a “Franco-German” text containing points to be discussed. When Commissioner Leon Brittan opposed the memorandum, Allain Juppé replied, “Things don’t work like that here. It’s not you, but us who have the power to make decisions”. Finally, Lord Brittan gave in. The accord was revised and an agreement was reached with the US on 6 December 1993. France still was not ready to approve the agricultural chapter of the Round. France wanted an internal promise from the Community that it would make additional financial resources available to French farmers whenever the Uruguay Round agreement would cause “sacrifices” going beyond those foreseen by the reformed CAP. France obtained satisfaction on this point. France also demanded that simple majority voting be introduced in the Council, instead of qualified majority voting, to impose anti-dumping penalties on imports into the EU. Britain, the Netherlands, Luxembourg, Germany and Denmark

December 1998, p.583

Ibid., p.585

Ibid.

Youri Devuyst, “The European Community and the Conclusion of the Uruguay Round”, in Rhodes and Mazey, n. 33, p.456.
were against the idea but later Germany moved towards France taking Luxembourg with it and thus this demand of France was also fulfilled. France also managed to exclude the audiovisual sector from the Round.

All through these events, Portugal solidly sided with France, not because it had anything much to gain from the agricultural chapter of the Round but because it had a lot to lose in the trade in textiles agreement. Textile industry is a major industry in Portugal, with 25 percent of its industrial employment depending on the sector. Moreover, the sector is concentrated in a few areas that rely entirely on the textiles industry. The textile imports to the Community were traditionally restricted by means of Multi Fibre Arrangements (MFA) but during the Round, developing countries demanded dismantling of MFAs and the Community agreed to phase them out in return for improved access for European exports. Portugal believed that while the EU as a whole and especially the northern states would obtain major gains from the conclusion of the Round, Portugal alone would have to bear a disproportionate and untenable cost with respect to textiles. Portugal claimed that its "vital interest" was at stake and, on the eve of the European Council of 10 and 11 December 1993, stated that it could not accept the conclusion of the Round. Finally, a grant of 400 million ecu to help modernise the Portuguese textile industry made it approve the Rounds Final Act. Similarly, the southern Member States managed to get a pledge from the rest of the Community that the 1992 CAP reform would be extended to Mediterranean products, for some of which no market organization currently existed.

The Uruguay Round negotiation was formally closed on 15 December 1993. The Final Act was formally signed on 15 April 1994 at Marrakesh. The interesting feature was that Mr. Pangalos, the Council President and Commissioner Brittan signed the
Final Act on behalf of the Community and at the same time, all the representatives of the Member States signed on behalf of their respective governments.

Whereas, the Kennedy Round is hailed as a success story of the Commission and as an example of what the Community can achieve when the Member States act together, the Uruguay Round clearly emphasized who runs the show in the EU. During the Kennedy Round, France forced the Community through a new low of "empty chair" crisis but when France and Germany decided to cooperate, the Commission could manage a good deal for the Community. However, the field of foreign policy, of which the field of international economic relations is an even more important part, is a jealously guarded area of national sovereignty. Member states have openly refused to surrender completely their competence in this area. The Treaty of Rome has also not defined properly the competence of the Community. The Uruguay Round was a struggle between the Commission and the Member States over this competence. Again, France, the major exporter of agricultural products in the Community managed to orchestrate the entire Community's role in the Round. With Germany supporting France all the way, France managed to take care of all its interests. Britain also tried to play the same card, as France did, with the 'mad cow' crisis, however it could not succeed. The major difference was that France had the support of Germany. Most importantly, the fact that along with the Council Presidency and the Commissioner for External Trade, the individual Member States' representatives also signed the GATT treaty is an indication of Member States' assertion of their sovereignty.

To conclude, at Marrakesh, the French Industry Minister, Longuat, had a high profile meeting with the American trade negotiator, Kantor, even before Commissioner

56 Ibid., p.459
Brittan could meet him. Later at a press conference Longuat spoke of France’s
cosition on the major issues in international economic relations. When questioned on
this unilateral act, the French minister said that Member States were entitled to act
independently in all these areas, which were not covered by the Community’s
exclusive competence. 57

Association Agreements with Third Countries

“The Community may conclude with a third state, a union of states or an international
organisation agreements establishing an association involving reciprocal rights and
obligations, common action and special procedures”. 58 The 1970s and 1980s saw
quite a few Community associations with a group of third countries—notable among
them being the Mediterranean Policy, the Euro-Arab Dialogue, and the Conference on
International Economic Co-operation (CIEC).

The two Mediterranean Community Member States—France and Italy, were
instrumental in the Community’s Mediterranean Policy. Clearly, the Community’s
Mediterranean Policy relied on political considerations rather than anything else. 59
France had successfully negotiated Article 227 in favour of Algeria, which granted it
free movement of goods, liberalisation of services and rules of competition, among
other things. Furthermore, France realised that it “lacked the minimum economic and
political dimension needed for a Mediterranean Policy which was independent of that
of the two superpowers and it felt that the Community instrument appeared the most
appropriate for that purpose”. 60 However, at the same time, France was also wary of

57 Jackson and Sykes, n.45, p.71
58 Article 238, EEC Treaty
59 Corrado Pirzio-Biroli, “Foreign Policy Formation Within the European Community with Special
Regard to the Developing Countries”, in Leon Hurwitz, ed., Contemporary Perspectives on European
Integration: Attitudes, Nongovernmental Behaviour, and Collective Decision Making (London:
60 Ibid., p.239
the concessions granted to the Mediterranean on agricultural goods and the industrial products, especially from Spain. Italy, on the other hand, knew it would benefit greatly from the Mediterranean Policy, as it would move from the Community’s periphery to a centre stage of a larger integrated region. However, its structural weakness could not cope with concessions granted to these countries. So, whereas Italy favoured the Mediterranean Policy it also obtained compensation for itself, like in April 1975 it refused to accept additional concessions to Maghreb agricultural products unless its southern farmers were compensated. Similarly, in order to grant better terms to migrant labour from the Maghreb Italy first demanded the Community preference for migrant workers from within the Community be clearly established.\textsuperscript{61}

The northern Member States – Germany, Britain, Holland and Denmark lacked enthusiasm in such an endeavour. They were clearly not affected by the Mediterranean. So, in effect, their attitude and France and Italy’s enthusiasm almost cancelled each other out and what existed of the Policy was tariff-free entry to the Community market for Mediterranean industrial goods, a most-favoured-nation treatment, a limited tariff concession for import of agricultural products, and financial assistance in the form of grants and loans.\textsuperscript{62}

At the December 1973 Copenhagen Summit meeting, the Arabs put forward a proposal for a Dialogue between the Arab League and the EC. After the Yom Kippur war, the EC was particularly vulnerable due to its dependence on the Arab world for its oil supplies. The Arab League perhaps thought of pressurising the EC on this vulnerability to change its stand on the Arab-Israeli conflict. The Member States were themselves divided in their views: France supported the Arabs, whereas Germany, the

\textsuperscript{61} Ibid., p.238
\textsuperscript{62} Dennis Swann, \textit{The Economics of the Common Market: Integration in the European Union}, 8\textsuperscript{th} edn.,
Netherlands and Denmark were against. The anti-Arab faction was apprehensive about antagonising the US by negotiating with the Arabs. And so, the accepted method was – to hold a meeting between the two sides, between the French Foreign Minister, at the time the EC’s Presidency, the President of the Commission and the President and Secretary of the Arab League. Interestingly, throughout the decade long dialogue, the Commission was involved along with the representatives of the Member States. This suited the Member States as they could avoid the touchy political issues of oil and Arab-Israeli conflict and the Commission had the competence and so would deal with issues like economic and technical cooperation.

Whereas in “questions of a purely political nature, of which the implications for economic integration were few or not immediate, the tendency of member governments was to exclude the Commission from any role in negotiations”, in the Euro-Arab Dialogue the Commission was allowed to negotiate for the Community as it suited the Member States. However, in case of the Mediterranean Policy, in spite of proposals and memoranda submitted by the Commission, the Council never showed any particular interest and only when France and Italy pushed it and the other Member States were willing to acquiesce, could a policy be formulated. And, in that also Member States ensured that their own interests were safeguarded.

Another form of association implied in the Treaty of Rome is that the EC may negotiate the accession of potential new members. This competence was exercised

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65 Ibid.,
with respect to Britain, Ireland, Denmark and Norway in 1973, Greece in 1981, Spain and Portugal in 1986 and Austria, Finland and Sweden in 1994.

Taking the case of Britain, it first applied for membership in the early 1960s. Negotiations started between the Commission and Britain. By January 1963, The Commission issued a report suggesting that substantial progress had been made in the negotiations and that Britain had demonstrated a willingness to accept the Treaty of Rome. However, Britain's application was rejected by way of a unilateral French veto. The French President, de Gaulle claimed that the UK had not grasped that the Community membership was incompatible with "special relationship" with the US. Though de Gaulle's main fear was that "...finally it [EC] would appear as a colossal Atlantic Community under American domination and direction which would quickly have absorbed the European Community"67, he also was apprehensive of the UK joining the Community with its Commonwealth links. Britain got agricultural products from all over the world at less than world price. So, foodstuff cost much less inside Britain. France, on the other hand, could not "conceive of a Common Market in which French agriculture would not find outlets in keeping with its production".68 The Six had not been able to agree on a common cereals price and also on the formalities of the Common Agricultural Policy. In such a situation, granting UK membership would lead to flooding of the EC with cheap Commonwealth agricultural products. France had to ensure safeguards for its own surpluses. Hence the veto.

Britain applied for membership yet again in 1967 and once again de Gaulle vetoed the application unilaterally. He claimed Britain was still preoccupied with its "special

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66 Norway later withdrew after a referendum rejected EC membership.
relationship" with the US and also its relations with the Commonwealth; Britain could never and would not adhere to the agricultural regulations of the Community, and the international position of the Sterling prevents the common market from including Britain. However, the underlying factor as a Gaullist Minister privately put it was “now with six members, there are five hens and a rooster. If you join (along with the other countries), there will perhaps be seven or eight hens. But there will be two roosters. That isn’t as agreeable.”

Another venue where the common position of the Community could be demonstrated is the plenary sessions of the United Nations General Assembly through the roll-call vote on resolutions. A random selection of two such sessions – the 38th and the 39th sessions – helps us understand how the dynamics of EC foreign policy works.

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Case</th>
<th>Votes For</th>
<th>Against</th>
<th>Abstain</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Kampuchea</td>
<td>All Ten</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2.</td>
<td>Armed Israeli aggression against the Iraqi nuclear installations</td>
<td>All Ten</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>3.</td>
<td>The Question of Falklands</td>
<td>-</td>
<td>UK</td>
<td>Others</td>
</tr>
<tr>
<td>4.</td>
<td>Apartheid, South Africa</td>
<td>-</td>
<td>Others</td>
<td>Greece</td>
</tr>
<tr>
<td>5.</td>
<td>Situation in Afghanistan</td>
<td>All Ten</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>6.</td>
<td>Comoron Islands</td>
<td>-</td>
<td>France</td>
<td>Others</td>
</tr>
<tr>
<td>7.</td>
<td>Question of Namibia</td>
<td>Greece</td>
<td>-</td>
<td>Others</td>
</tr>
<tr>
<td>8.</td>
<td>Question of Palestine</td>
<td>Greece</td>
<td>-</td>
<td>Others</td>
</tr>
<tr>
<td>9.</td>
<td>Israel aggressor in Middle East</td>
<td>Greece</td>
<td>Others</td>
<td>-</td>
</tr>
</tbody>
</table>

68 Ibid., p.88.
70 Salmon and Nicoll, n.67, p. 87
It is clear from Table 1 and Table 2 that the Member States vote together, without any problems in cases where they have no interests – Kampuchea, armed Israeli aggression against Iraqi nuclear installations, and Afghanistan. In cases where one member state has an over riding interest, the others simply abstain – Falkland Islands where Britain had an over riding interest and Comoro Islands, where France had. And, in cases such as Apartheid, Namibia, Palestine and the Middle East, Member States are driven by their interests - historical, economic or political.

Table 2: 39th Session

<table>
<thead>
<tr>
<th>S.No.</th>
<th>Case</th>
<th>Vote For</th>
<th>Against</th>
<th>Abstain</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Kampuchea</td>
<td>All Ten</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>2.</td>
<td>Falkland Islands</td>
<td>-</td>
<td>UK Others</td>
<td></td>
</tr>
<tr>
<td>3.</td>
<td>Armed Israeli aggression...</td>
<td>Greece,</td>
<td>-</td>
<td>Others</td>
</tr>
<tr>
<td>4.</td>
<td>Situation in Afghanistan</td>
<td>All Ten</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>5.</td>
<td>Situation in the Middle East</td>
<td>-</td>
<td>Others</td>
<td>Greece</td>
</tr>
<tr>
<td>6.</td>
<td>Question of Namibia</td>
<td>Greece</td>
<td>-</td>
<td>Others</td>
</tr>
<tr>
<td>7.</td>
<td>Question of Palestine</td>
<td>Greece</td>
<td>-</td>
<td>Others</td>
</tr>
</tbody>
</table>

**European Political Cooperation (EPC)**

As seen above, the Commission has exclusive representational competence only in matters of trade; the competence being granted by the Treaty of Rome, the Member States themselves or via the European Court of Justice’s rulings. In all questions relating to purely political nature, the Member States excluded the Commission of any role in negotiations. However, it was soon felt that the Community needed to play a more active role in the international arena; it needed to respond to the various

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72 UN, General Assembly, Official Records of the Thirty-Ninth’ Session, Plenary Meetings, Vol. 1, 2, and 3, Verbatim Records of the 1st to 31st Meetings, 18 September – 11 October 1984, 32nd to 70th Meetings, 17 October – 23 November 1984, and 71st to 108th Meetings, 23 November – 18 December
happenings around the world. Though each Member State had its foreign policy machine functioning, the need was felt for a Community voice. But, granting that competence to the Commission was anathema for the Member States. Hence, a new system had to be developed and what resulted was the EPC.

When President de Gaulle, who had constantly and effectively sought to limit the authority of the Community institutions, resigned from office. His successor, Pompidou and the other five Member States set about the re-launching of the Community. At the Hague Conference of European Community Heads of State or Governments in December 1969, they called for “a united Europe capable of assuming its responsibilities in the world of tomorrow and of making a contribution commensurate with its traditions and its mission”. The emphasis of the Conference, according to Martin Holland, was more on “rhetoric” rather than “substance”. Further, the Conference instructed the Foreign Ministers to examine how progress could be made in the field of political unification. Accordingly, the Foreign Ministers under the chairmanship of the Belgian Foreign Minister, Davignon, proposed the Davignon Report or the Luxembourg Report in July 1970. The Report stated that as the concern was progress towards political unification, the Member States must decide to cooperate in the field of foreign policy. The objectives of such a cooperation being: (1) “to ensure greater mutual understanding with respect to the major issues of international politics, by exchanging information and consulting regularly; and, (2) to increase their solidarity by working for a harmonisation of views, concertation of


attitudes and joint action when it appears feasible and desirable.” Further, the Report stated that the governments would consult each other on all major questions of foreign policy and the Member States would be free to propose any subjects they wish for political consultation. The Commission would be consulted only if the activities of the European Communities were affected by the work of the Ministers.

As a procedure the Luxembourg Report is the first step that the Community took towards political cooperation. However, this cooperation was not to be a Community procedure. It was to be outside the EC institutional process. It was purely inter-governmental but most importantly there was no commitment to agree, but simply to “consult on all important questions of foreign policy”. According to Wolfgang Wessels, “EPC [is] a diversion from the real economic and social problems of Europe. An exclusively inter-governmental procedure with no integrational quality”.

The next landmark in the life of EPC was the Paris Summit Conference held on 21 October 1972. Here, it was decided that consultations between the Member States must be intensified at all levels and the Member States declared their intention to transform before the end of the decade the whole complex of their relations into a European Union. Next year, the Copenhagen Report declared that “every member state [was] obliged to consult each other on all important foreign policy questions before adopting their own final positions.” Accordingly the COREU communications system was introduced, which provided a telegraphic link between

the foreign ministers so as to enable improved quality of joint information and quicker consultation.

The EPC had served well in passing resolutions, ambiguously worded notions and unimplemented guidelines. It took just one crisis, however, to reveal the fundamental dissension among the Member States and their pursuit of national interest even when a united effort could have benefited all of them.

The Politics of the Energy Crisis

In early November 1973, the Arab oil ministers decided to reduce Arab oil production to an immediate twenty-five percent below September 1973 levels for each country. This twenty-five percent reduction would be followed by further cutbacks of five percent of the November's output level in December. Thereafter, reductions of five percent per month would continue until the political conditions of Israeli withdrawal were met. The twenty-five percent cutback level included volume deducted as the result of embargoes against the US and the Netherlands. The Arab ministers decision to use oil supplies as ransom worked very effectively as it threw the entire world, especially the European Community into complete disarray.

The dependence of the Member States on the oil exporting countries for their oil supplies has to be highlighted in order to understand their behaviour during the ensuing crisis. Germany and Belgium had rich oil reserves and the German pre-1914 oil industry had been quite promising, but was smashed by the victors of the First World War. Since 1935, they followed a laissez-faire approach and from the 1960s onwards Germany was the only country in the EC where no price controls existed. Competition was particularly high, so prices were low and the domestic market was
dependent on new cheap sources of oil such as Libya and Algeria. Britain and the Netherlands were better off than the other EC members as Britain had the resources of the North Sea oil and gas and also coalfields; and the Dutch had natural gas reserves. However, both imported heavily from the Arab world. Twenty-five percent of the British supplies came from Saudi Arabia, thirteen percent from Kuwait and twenty-two percent from Iran. The British and the Dutch governments controlled the Royal Dutch-Shell and the British government had a stake in British Petroleum. So, both favoured the continued existence of major companies and followed laissez-faire policies in regard to their domestic oil markets. Both held the same official position as the Americans on the international oil industry.

France had always been short on coal. As early as the 1914-18 War, the French realised the importance of oil. The French government, as a result, helped establish the Compagnie Francaise des Petroles (CFP), in which it took a share, and through its stake in the Middle East hoped to turn the "colonial influence into economic benefit". However, with the advent of the Americans in the region, France's world role was replaced and the CFP lost its territorial rights. Since then France has nurtured a deep-seated suspicion of the Americans and has consciously followed an independent policy. It has resorted to bilateral agreements with producers such as Iraq and Iran, often accompanied by generous deals. On the domestic front, government intervention in order to secure supplies for the French market, by establishing

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80 Taylor, n.64, p.151.
82 Ibid., p.407.
nationalised companies and offering them a national protected market, so that they can expand and become profitable, has been the policy of the French. 83

Italy’s position was the closest to the French as Italy too never had abundant sources of energy and so established a national company. The government was directly involved in the oil sector, by instituting price control, through price ceilings.

So, when the Arabs announced the cutbacks, all the Member States panicked. The Dutch hoped it would get some kind of overt support from its partners but that was not to be. And, to add insult to injury, the Dutch were forced to join the Council of Ministers in issuing a resolution on 6 November 1973 calling for Israel to give up the occupied territories. The resolution was significant as it recognised the “rights”, and not just the “aspirations” of the Palestinian people. 84 The British and the French in particular went to great lengths to woo the Arabs and the Arabs rewarded them by being declared friendly nations. In spite of there being no cutbacks for them, the two were rushing to conclude bilateral deals with oil producers, in the process including arms transfers on a large scale. All this had a pronouncedly anti-Israel effect. The Dutch, facing a complete ban wanted an intra-Community allocation system. However, the British and French rejected the idea saying the Community had no such mechanism for allocation. The OECD was equipped to undertake the task, but the OECD’s oil committee met on 21-22 November and decided not to do it. It is believed that the British and French insisted that the OECD not take any official action, lest they antagonise the Arabs. 85 However, allocation within the Community did take place through the oil companies. Again Britain and France are believed to have

83 Bacchetta, n. 80, p.106.
85 Turner, n.81, p.410.
pressurised the companies not to undertake the allocation task but gave in only when the Dutch threatened to retaliate by stopping supply of natural gas, on which the Parisian region of France was heavily dependent.86

So, the entire episode was laden with self-interest. Though in the end, because of British and French pacifism the Arabs warmed up to the Community and wanted to start the Euro-Arab Dialogue, the blatant pursuit of only their own interest to the detriment of the others was too stark. Also, the Netherlands did not really suffer from lack of supplies but again just a few months back the Community had decided to consult each other and would increasingly act on the basis of agreed common positions. The Dutch got no support from the Community. There was not even a semblance of consultations among the Nine and the crisis revealed that when vital interests were involved the Member States would think in national terms and not Community terms.

After the embarrassing affair was over, three procedural reforms were introduced in the EPC. Firstly, there began a blurring of the formerly strict distinction between EC and EPC business, allowing decisions on political issues within the margins at the Community’s Council of Ministers meetings. Secondly, the Commission was also given cautious access to EPC working groups. Lastly, in order to enhance continuity the ‘Troika’ arrangement was introduced, whereby the country holding the Presidency together with preceding and succeeding presidencies worked in joint consultation.87

Further, in December 1973 a “Document on the European Identity” was produced, which was the Community’s “self-definition and projection of its role in the world”.88

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86 Ibid., p.411.
87 Holland, n.74, pp 4-5
88 Smith, n.9, pp 32-3
The December 1974 Paris Summit meeting established the European Council. The *raison d'être* behind the European Council was to provide leadership. “In contrast to the role of the Council of Ministers it was not intended to be a forum where policy technicalities were discussed or majority voting took place. Rather it is a body that operates along informal lines to establish a common European perspective at the elite level”. 89

The Paris Summit further commissioned the Prime Minister of Belgium, Leo Tindemans, to produce a report on how political union might realistically be achieved. The Tindemans Report stated: “European Union implies that we present a united front to the outside world. We must tend to act in common in all the main fields of our external relations whether in foreign policy, security, economic relations or development aid”. 90 Regarding EPC, Tindemans wanted:

(a) to put an end to the distinction which still exists today between ministerial meetings which deal with political cooperation and those which deal with the subjects covered by the Treaties: in order to decide on a policy the Ministers must be able to consider all aspects of the problems within the Council.
(b) That the institutions of the Union can discuss all problems if they are relevant to European interests and consequently come within the ambit of the Union. 91

But, most importantly, he proposed “changing the political commitment of the Member States which is the basis of political cooperation into a legal obligation”. However, nothing much changed as a result of these recommendations. The EPC continued to remain passive and by early 1979 it was apparent that a plateau in

90 “European Union: Report by Mr. Leo Tindemans to the European Council”, December 1975 in Salmon and Nicoll, n.67, p.143
91 Ibid., p.144
political cooperation had been reached. It seemed to function most efficiently when it was not confronted with any serious issues.

The London Report of 13 October 1981 stated that the Community “should seek increasingly to shape events and not merely to react to them.” Further, Member States must agree “to consult partners before adopting final positions or launching national initiatives on all important questions”. However, a commitment to act in unison on all important questions was very hard to come by.

The Falkland Island Crisis 1982

The Falkland Islands, captured by the British during the heyday of its glorious colonial period, was now merely a vestigial remnant from that past. When Argentina attacked the Islands, Britain reacted as though Argentina had threatened its sovereignty. Britain's first step was to call the in aid the Security Council and get the Security Council Resolution 502 passed, which called for the withdrawal of Argentinean forces. This was an important move as it was achieved very fast and it helped winning the support of many governments for further action. The UN became the focal point for the UK government. At the same time, UK held that only the American administration was likely to have any influence with the Argentinean Junta if it chose to use it. However, the US remained ambivalent until the end of April, but still Britain tended to focus on Washington rather than Brussels.

92 Holland, n.74, p.5
The Community response was one of solidarity with Britain. As Emmanuel Gazzo, the Editor of Agence Europe put it: “it is clear that since the Falklands are part of the overseas territories associated with the Community, it is the Community which has been attacked...” 97 Most Member States felt that if aggression in Falklands were allowed to succeed, it would be encouraged the world over. The French related it to its own overseas territories, Greece to Cyprus and Germany to West Berlin. And so, the Community response was prompt. The Germans, French and Italians were leading arms suppliers to Argentina, and they showed willingness to introduce an arms embargo. Furthermore, 27 percent of Argentina’s trade was with the EC; its exports to the EC alone amounted to 1.5 billion pounds. So, an embargo on imports from Argentina would be very effective and the Ten agreed on such an embargo with effect from 16 April, valid for a month, though it could be renewed further. As the Economist put it: “Britain’s EEC partners surprised even themselves at the speed with which they agreed to ban all imports from Argentina”. 98 On the flip side, “the decision, taken after some high level arm-twisting was eased by the belief that the Falkland Islands dispute will be over before the sanctions have an economic bite rather than a purely diplomatic one”. 99 Firstly, the ban was merely for a month; secondly, about two-third of the Community’s imports from Argentina consisted of beef, oilseeds and leather, and with the EC producing surplus beef, such an embargo was more than welcome; thirdly, Italy and Ireland were worried about losing the leather they imported for their shoe industries, but were soothed by the possibility of alternative

97 Quoted in Ibid., p.302
98 The Economist, “Europe Surprises Itself”, The Economist, 17 April 1982, p.27
99 The Economist, 17 April 1982
supplies; and lastly, all goods in transit or for which contracts had been agreed before the actual date of the decision were excluded from the embargo.100

Furthermore, Britain and Denmark wanted the imposition of sanctions to be legally based as per Article 224 of the Treaty of Rome whereby Member States gave effect to common action through national legislation. However, the Belgian Presidency, Germany and Ireland were insistent that Article 113 be used, as it was a trade matter on which common action was necessary. In the end Article 224 prevailed but soon enough the newfound promptness and unified action of the EPC started to fall apart.

As long as the common action was limited to sanctions, the Member States were alright with it, but as soon as Britain became embroiled in the use of force, attitudes began to change. The British Prime Minister, Margaret Thatcher’s refusal to allow mediation efforts to stand between her and a complete military victory, did not help either.101 Some claimed that EPC was merely a diplomatic operation and not identified with military operations, while others were worried because the EC sanctions had not really affected Argentina and other South American countries were clearly siding Argentina, which threatened the economic interests of most EC Member States.

Ireland faced with economic loss especially in the leather industry and also faced with parallels between British colonialism in Northern Ireland and Falklands (though the feeling was never direct, it was close enough to excite interest)102 declared that British action had gone too far and that the UN should be involved immediately. As a member of the Security Council it wanted to convene a meeting immediately to prepare a new resolution. Further, it claimed that it no longer felt sanctions against Argentina appropriate and therefore it withdrew from the sanctions imposed by the

100 Ibid.

Community. Ireland’s action caused considerable embarrassment to the Community and resentment in Britain.\textsuperscript{103} Following Ireland’s withdrawal, Italy also withdrew from the sanctions citing national considerations on the basis of Article 224.\textsuperscript{104} This collapse in the Community consensus saw Denmark assert that Community measures can be applied only until they could be succeeded by national measures.

Though Britain greatly appreciated the Community’s prompt response and support throughout the crisis (till Ireland and Italy fell apart), somehow Britain was more focussed on the US. It was America’s support that Britain craved for and it was America that provided the required logistics support and military support to Britain. Besides, during the crisis, within the EC itself there was a mini crisis of sorts. The EC agricultural price settlement was due and Britain had been stalling it saying first its budgetary imbalance problem be solved. The rest of the Community wanted Britain to cooperate on the agricultural prices issue in return for their support over Falklands.

Though such a linkage was never directly mentioned “the indirect links, the psychological links, the atmospheric links between the Falklands and Europe’s other business have been as real as they have been inevitable”.\textsuperscript{105} Britain claimed that there was no link between Falklands and agricultural prices whereas Britain herself linked the two unrelated issues of agricultural prices and its budgetary problem. Finally, the Community threatened not to renew the sanctions due for renewal on 17 May. Britain refused to relent as a result of which it lost the unanimous support of its partners for

\textsuperscript{102} Edwards, n.96, p.310

\textsuperscript{103} The Economist, 8 May 1982

\textsuperscript{104} Article 224 reads: Member States shall consult each other with a view to taking together the steps needed to prevent the functioning of the common market being affected by measures which a Member State may be called upon to take in the event of serious internal disturbances affecting the maintenance of law and order, in the event of war, serious international tension constituting a threat of war, or in order to carry out obligations it has accepted for the purpose of maintaining peace and international security.

\textsuperscript{105} The Economist, 22 May 1982
import sanctions against Argentina. Renewal was granted only for a single extra week and it was further morally undermined as Italy and Ireland had exempted themselves from even that small decision.\textsuperscript{106}

Another loss for Britain was that it lost all sympathies from the rest of the Community regarding its budget contribution problem. At the Agricultural Council on farm price settlement, Britain invoked the Luxembourg Compromise, linking budgetary imbalance to farm prices and saying its vital interests were involved. However, the other farm ministers in a unified manner overrode the British objections and had 62 separate votes for each of the 62 items for which the prices had to be fixed; seven in favour, no against and three abstained (the UK, Denmark and Greece). With seven in favour, the "qualified majority" was reached and so the farm agreement was passed.\textsuperscript{107}

With the Falkland Crisis coming soon after the London Report, the Community Member States viewed it as a great opportunity to prove their good intention of unified action. They started off well, however, as the economic realities hit them – Italy and Ireland – they backed off; and as usually happens in the normal Community functioning the Member States expected quid pro quo and when that did not happen all semblance of unity fell apart.

The 1980s saw various attempts at reforming EPC, notable among them being the Genscher-Colombo Plan, which was a German and Italian proposal for an "European Act" intended to link more closely the basic pillars of European unification i.e. the EC and the EPC. Further, they proposed that the practise of consensus give way to

\textsuperscript{106} Ibid.
\textsuperscript{107} Ibid.
majority voting.\textsuperscript{108} Similarly, the Solemn Declaration taken by the Member States was supposed to be a reiteration of their desire for political unification.\textsuperscript{109} However, nothing much came of these attempts. Finally, the 1985 European Council At Milan established an intergovernmental conference with the mandate to "achieve concrete progress on European Union."\textsuperscript{110} The result of the IGC was the Single European Act of 1986. The SEA, for the first time legally recognised EPC. Article 30, SEA contains the definition of EPC, and sets out how it will function. Article 30(2) provides a fuller definition of EPC. The Commission is given status within the EPC for the first time, under Article 30(3), and, to a lesser extent, the European Parliament under Article 30(4). The beginnings of a concern with security issues can be found in Article 30(6)(a).\textsuperscript{111}

Although the SEA provided EPC with a legal basis, a distinction between the EC’s and EPC’s judicial base was maintained. Article 3, SEA specifies that Community activities are governed by the provisions of the original treaties and by the amendments of the SEA, whereas EPC could only draw on those competences explicitly delineated in Title III of the SEA. Consequently, EC and EPC business were distinguished by their decision-making structures (majority voting versus unanimity) and by the role of other Community institutions (EPC operating outside the normal structure that gave the Commission the exclusive right of initiative and redress through the Court of Justice).\textsuperscript{112} The SEA too could not bring about any significant change in the actual practise of EPC. The glaring gap between the

\textsuperscript{108} Martin Holland, \textit{European Community Integration} (London: Pinter Publishers, 1993), 119-120


\textsuperscript{110} "The European Council Meeting", 29 June 1985, Milan, in ibid.


\textsuperscript{112} Holland, n.108, p.121
aspirations of Article 30 and the actual functioning became obvious during the sensitive Gulf War and the Yugoslav Crisis.

The Gulf War

When Iraqi forces moved into Kuwait and captured the Kingdom on 2 August 1990, the Community was quick to react. In a Joint Statement published on the same day the Community declared: “The Community and its Member States strongly condemn the use of force by a member state of the United Nations against the territorial integrity of another state ... They therefore fully support the Resolution adopted today by the Security Council ... They ask for an immediate withdrawal of Iraqi forces from Kuwait territory”.\(^{113}\) The Community also adopted economic measures swiftly; it imposed economic sanctions on Iraq on 4 August.\(^{114}\) On the military level, there was no Community action. The Gulf War could have been used to pave in a Community security policy, however, the opportunity was lost in the endless debate over whether WEU should be developed as the link between NATO and EC or should the EC develop its own defence commitment. In any case, Member States, especially Britain and France acted unilaterally. Britain immediately took steps to enhance its naval presence in the Gulf and on 8 August sent aircrafts to Saudi Arabia following a request from the Saudi government. France decided to despatch an aircraft carrier to the Gulf the following day. Both the British and French global approach to international politics was shaped by their imperial past, their vision of themselves as great powers, their status as permanent members of the UN Security Council and their capacity for unilateral action. The British had intimate knowledge of, and had

\(^{113}\) *Bulletin of the European Communities*, 1990, Vol.23, No.7/8, pp121-22

\(^{114}\) The economic sanctions comprised of – an embargo on oil imports from Iraq and Kuwait; freeze Iraqi assets in the territory of Member States; an embargo on sales of arms and other military equipment to Iraq; suspend any cooperation in the military, technical and scientific spheres with Iraq; and suspend the system of generalised preferences. See *Bulletin of the European Communities*, 1990, Vol.23, No.7/8, p. 122.
commercial interests in the Gulf and also had historical ties with Kuwait. Besides, Britain was keen to strengthen the "special relationship" with the US and so there was never a doubt in Britain that it would go to war with Iraq if required.¹¹⁵ Mrs Thatcher’s enthusiasm to please the US was recognised by President Bush when he announced that Mrs Thatcher “stands shoulder to shoulder with the US ... For more than a decade there has been no better friend of freedom in the world than Margaret Thatcher”.¹¹⁶ Britain also had a relatively successful record of military intervention and enjoyed comparative advantage in terms of military capability as compared to the other EC members. As a result, the British were quick to criticise the EC response as being “patchy and disappointing”.¹¹⁷

The French action was based on two factors: one, its traditional need to pursue a policy independent of the US; and two, its need to preserve the friendly relations it shared with the Arab world. So, whereas France did join the international coalition against Iraq and sent in its troops, it remained a reluctant ally,¹¹⁸ and continued in its independent and unilateral ways. The belief in France was that even if they failed in their unilateral action, “it would serve the dual purpose of demonstrating independence of the US and of portraying France as the ‘friendly enemy’ in the eyes of the Arabs. If they did work, France would score a diplomatic triumph at the expense of the US, and its relative weakness in the field of military power vis-à-vis Britain would remain undisclosed.”¹¹⁹

¹¹⁶ The Economist, “Follow My Leader”, The Economist, 11 August 1990, p.46
¹¹⁹ Jakobsen, n.115, p.21
Germany was more preoccupied with its reunification to be quick with responding to the Gulf War. More importantly, Germany claimed its Basic Law prohibited it from sending troops to outside NATO area. Chancellor Kohl was willing simply to commit to financial and economic support. However, when there was a lot of criticism that since 1945 NATO had protected Germany, and now Germany was reluctant to do its part, Germany did send its Alpha fighter aircraft and some 300 air personnel to help defend Turkey. It also sent Patriot missiles to Israel and a flotilla of minesweepers to the Gulf to help clean up after the war.\(^\text{120}\) There was, however, certain angst in Germany over these actions.

Italy sent two frigates and a support ship. Its military commitment was tiny and it did not want to antagonise its southern Muslim neighbours.\(^\text{121}\) Spain sent a modest flotilla but considered the Gulf problem as a regional issue and not their problem.\(^\text{122}\) The Dutch agreed to military response due to their general desire to remain close to the US and also to bolster international solidarity. Moreover, the Gulf region was important to Europe as a whole and could not be simply ignored. Denmark, Greece and Portugal were supportive. Belgium wanted a European action, at least through the WEU and when that did not happen the Belgians were not always cooperative as in the case when Belgium refused to sell ammunition to Britain.\(^\text{123}\)

So, whereas the Benelux insisted on WEU coordination, Britain ensured that the Community did not adopt policies which contradicted American plans. France tried to use WEU to find a peaceful solution and move away from the US, and when that failed it simply acted unilaterally.

\(^\text{120}\) Salmon, n.117, p.238  
\(^\text{121}\) The Economist, n.118, pp 97-8  
\(^\text{122}\) Ibid.  
\(^\text{123}\) Salmon, n.117, p.241
Another aspect of the crisis was the situation of foreigners in Iraq and Kuwait. In a joint statement the EC declared “no effort or initiative will be spared to ensure that EC citizens be allowed full and unconditional freedom of movement within and out of these countries”, and that “the Presidency will ... ensure the appropriate coordination aimed at guaranteeing the safety of EC citizens in Iraq and Kuwait”. Further, the Foreign Ministers are determined “not to send representatives of their governments, in any capacity whatsoever, to negotiate with Iraq for the release of the foreign nationals and to discourage others from so doing ... any action by the Twelve should have the objective of securing the release of all hostages ... [rule] out any negotiations on the matter between their governments and Iraq”. However, all of the more than 300 French hostages were freed after Claude Cheysson’s (former French Foreign Minister and EC Commissioner) contact with Baghdad, 33 Britons were freed after Edward Heath’s (former British Prime Minister) visit to Baghdad and even after the 12 November declaration, Willy Brandt, former Chancellor of Germany, visited Baghdad with the intention of negotiating the freeing of German nationals. This is a striking example of national interest that undermined the goal of united action and also the rhetoric of unity. Furthermore, Italy had attempted to formulate a common EC proposal for a UN Resolution condemning the Iraqi violations, but France rejected it and submitted its own proposal to the Security Council. Britain also kept away from the call for common action. This is a striking example of Britain and France’s anxiousness to protect the UN Security Council as their domaines reservés.

The Gulf crisis showed that the EC spoke with one voice when it was to condemn an act of violence. It could also manage unitedly with respect to economic aspects – in

124 "Joint Statement Published in Rome and Brussels on 10 August", in Bulletin of the European Communities, 1990, Vol.23, No.7/8, p.123
125 "Joint Statement Published in Rome and Brussels on 12 November", in Bulletin of the European
this case – the sanctions. But as soon as national interests came to be involved – the hostage problem – at the diplomatic level there was no unity of action. The EC had never had a security policy but only in 1986/87 they had agreed, “to coordinate [their] positions more closely on the political and economic aspects of security.” Yet again it was proved that national concerns ruled supreme in the realm of foreign and security policies.

The Yugoslav Crisis

Immediately after the Gulf crisis, the Community was faced with a new crisis, this time closer to home, in Yugoslavia, leaving it with no time for introspection of its performance over the previous eighteen months. Yugoslavia, a multinational, multiracial and multicultural state, had always had a “nationalities problem.” With the collapse of the Communist regime in the Soviet Union and Eastern Europe, it was inevitable that the “revolution” would reach Yugoslavia too; in the wake of which demands for self-determination among the various nationalities became very strong.

The Serbs, who accounted for only slightly more than a third of the population, but dominated in every sphere, be it administration, army or security services, tried to crack down on the others. As the tension began in early 1991, the US declared it to be a “European problem” and the UN Secretary General, Javier Perez de Cuellar too washed his hands off Yugoslavia saying, “the UN [had] no role in Yugoslavia”. As a consequence, the EC was forced to become involved. But, the EC also saw Yugoslavia as a European problem as compared to the Gulf. So, within a week the EC “froze” economic aid to Yugoslavia, established two Troika missions, an observer mission and an arms embargo. The EC, throughout the crisis, tried to use mainly the

Communities, 1990, Vol.23, No.11, p.89

126 Article 30(6)(a), SEA

127 Duncan Wilson, Tito’s Yugoslavia (Cambridge: Cambridge University Press, 1979), p.5
economic weapon.\textsuperscript{129} It threatened to cancel the EC credits and assistance if there was any military intervention by the Yugoslav federal authorities; threatened that it would not negotiate the privileged association agreement unless there was evidence of peaceful settlement of the crisis; finally, on 5 July the Community imposed an embargo on armaments and military equipment and also suspended the second and third financial protocols with Yugoslavia.\textsuperscript{130}

As the tensions escalated, the ministerial troika made several visits to Yugoslavia. Subsequently, the Community expressed their readiness to convene a peace conference and [to] establish an arbitration procedure.\textsuperscript{131} The peace conference on Yugoslavia convened on 7 September 1991 at The Hague. The Chairman of the conference was Lord Carrington. Throughout, the EC position had been that they would “not recognise changes of borders by force”\textsuperscript{132} and that they would “wait and see” the situation as it develops in the secessionist republics.

There were two issues regarding the conflict – one, the recognition policy and two, military option – and on both there was no Community policy as Member States held divergent views. By July 1991 Germany started to speak in favour of recognising Croatia and Slovenia. Chancellor Helmut Kohl and his Foreign Minister, Hans-Dietrich Genscher argued, “we won our unity through the right to self-determination. If we ... do not recognise the right to self-determination in Slovenia and Croatia, then we have no moral or political credibility. We would start a movement in the EC to

\textsuperscript{129} The Economist, “The Serbs Start to Play Rough”, \textit{The Economist}, 25 August 1990, pp 35-6
\textsuperscript{129} Salmon, n.117, p.249
\textsuperscript{130} “Joint Statement Published in the Hague on 5 July”, \textit{Bulletin of the European Communities}, 1991, Vol.24, No.7/8, p.108
\textsuperscript{131} “Joint Statement Published in the Hague on 28 August”, ibid.
\textsuperscript{132} Ibid.
lead to such a recognition”. Accordingly, in July Germany made its first proposal for recognition of Croatia and Slovenia.

In July 1991, Slovenia agreed to a cease-fire and as a result the Community was required to send a monitor mission. Differences arose on the nature of such a mission: however, the monitor mission went to Brioni but could not help bring peace as the scale of fighting increased. Some Member States – Luxembourg and the Netherlands – suggested a European interposition force to isolate the sources of conflict as far as possible. France insisted such a force must be under the aegis of the WEU. Britain, Spain and Greece objected the idea. Britain considered WEU to compete with NATO and not complementing it. Even as the Community discussed how WEU could play a role, Britain insisted there be no military intervention as it had the experience of being drawn into a long-term anti-insurgency operation in Northern Ireland. Whereas France, Benelux and Italy wanted some sort of intervention, Germany pushed for military intervention. The German position was suspect to the others as only recently during the Gulf crisis Germany had claimed its constitution forbade it from sending its troops and now it wanted military intervention in Yugoslavia still insisting that its constitution forbade German troops being involved in Yugoslavia. Finally, as fighting increased in Yugoslavia, the EC called for UN intervention and gave up the idea of military intervention.

Meanwhile, the peace conference and Arbitration Commission continued in their efforts to bring peace in the region. Lord Carrington had been using recognition as a

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134 George, n.101, p.233
“carrot” for Slovenia and Croatia and as a “stick” for Serbia at the negotiating table but Germany was not in favour of negotiations at this stage and insisted for Community recognition or else it threatened unilateral recognition. As the domestic pressure in Germany in favour of recognition increased, the government threatened to do it alone if the EC did not oblige. For the Community the only way to present a unified position was to go along with Germany and so in an extraordinary ministerial meeting held on 17 December 1991, the Community “adopted a common position with regard to the recognition of Yugoslav Republics”.

However, they put across certain conditions to be met by the Republics, following which the Community would implement its decision of recognition on 15 January 1992. In the meantime, fearing Germany’s unilateral recognition, France and Britain tried to draft a UN Resolution warning that no country should take unilateral actions in Yugoslavia, but during the Security Council debate, they had to retreat because Germany showed no signs of changing its position and France and Britain wanted to avoid a political crisis.

Further, Germany dismissed the EC conditions for recognition and went ahead and recognised Croatia and Slovenia on 23 December 1991. The rest of the Community was finally forced to do the same on 15 January 1992 in spite of the fact that the Republics did not meet the required conditions. Kohl described the events as “a great triumph of German foreign policy” but it was this decision that ultimately led to war in Bosnia-Herzegovina. “Since then, EEC policy has been characterised by inactivity, timidity, and a total failure to halt the fighting, the atrocities or the refugee crisis.”

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135 Lucarelli, n.133, p.40
137 Ibid.
138 Lucarelli, n.133, p.41
Common Foreign and Security Policy

The limited success of EPC in coordinating European action in the international sphere inspired the 1991 Intergovernmental Conference (ICG) on Political Union to extend EPC. In a special meeting of the European Council held in Rome on 27-28 October 1990, the Member States “confirmed the will to transform Community to Union by developing its political dimension”. There was also a “consensus on the objective of a common foreign and security policy to strengthen the identity of the Community and the coherence of its action on the international scene. No aspect of the union’s external relations will in principle be excluded from the common foreign policy. Also [there was] consensus to go beyond the present limits in regard to security”. Similarly, the Belgian government in a Memorandum stated “it is both desirable and necessary that it should be possible to discuss security issues in the broadest sense without restriction in political cooperation”. Italy and the UK made it clear that any European endeavour should not undermine NATO. “Political Union implies the gradual elaboration and implementation of a common foreign and security policy and a stronger European defence identity with the longer term perspective of a common defence policy compatible with the common defence policy we already have with all our allies in NATO”. On the other hand, France and Germany stated, “the objectives of the Union are ... to affirm its identity on the international scene, particularly with regard to the implementation of a common foreign and security policy which, in the long term, would include a common defence”. Finally, what

141 Belgian Government, “Memorandum of 20 March 1990”, in ibid., p.124
142 Italy and United Kingdom, “Declaration on European Security and Defence in the Context of the Intergovernmental Conference on Political Union, 5 October 1991”, in ibid., p.341
143 France and Germany, “Joint Initiative on Foreign, Security and Defence Policy (Letter to Dutch Prime Minister Ruud Lubbers, Published 16 October 1991)”, in ibid., p.344
resulted at Maastricht was Title V, Provisions of a Common Foreign and Security Policy, which established a “common” foreign and security policy for the Community. So, there was not a ‘single’ policy but a “common” foreign policy. This implied that Member States could still continue to adopt national policy as and when they chose. Further, CFSP is not a common Community policy in the way that CAP is. It exists outside the Community institutional framework as a separate pillar of the TEU.144 It also exists alongside national foreign policies.

The main actors of CFSP are the European Council and the Council of Ministers. The European Council sets the guidelines for defining the scope or content of the Community foreign policy. The Council, on the other hand, makes the decision that the subject should be a matter of joint action. This decision has to be unanimous, however, implementation of that policy, can be made via qualified majority voting if the Council so decides.145 The Presidency represents the Union in matters coming within the common foreign and security policy.146 The Presidency is required to consult the European Parliament (EP) on the main aspects and basic choices of common foreign and security policy and has to ensure that the views of the EP have been taken into consideration. The EP also can ask questions of the Council and make recommendation.147 Though it seems as if this provision includes the EP in the CFSP process, it is hardly so. The Commission too has a role, it can refer to the Council any question relating to the common foreign and security policy and can also submit proposals to the Council.148 A Political Committee, established under Article J.8 (5),

146 Article J.5 (1), TEU
147 Article J.7 TEU
148 Article J.8 (3) TEU
has the function of delivering opinions on the international situation, either at the request of the Council or on its own initiative.

Many view CFSP as an improvement over EPC but in reality CFSP too is potentially limited in scope. Firstly, the European Council's guidelines may actually leave little room for devising a common action. Further, it is the Council that decides if common action or common position is required. It is never obliged to act under CFSP. Furthermore, decisions on common action are to be taken unanimously unless the Council decides that the decision requires qualified majority voting. This again leads to the same problem of 'lowest common denominator' that characterised the EPC. Finally, the existence of common position does not hinder the Member States, in any way, from pursuing independent action.

Conclusion
In the final analysis, it has to be said that the EPC introduced a culture of consultations, discussions, joint statements and joint agenda in foreign policy issues, among countries, who had fought bitter wars among themselves, even in the recent past. The EC, which had competence in economic aspects of its external relations, now discussed a large variety, in fact an almost unlimited agenda, of foreign policy subjects. Apart from the 'traditional' topics of EPC such as the Euro-Arab Dialogue, the Mediterranean Policy, East-West Relations, CSCE negotiations, etc., the EPC has been involved in an exchange of views on subjects such as the Western Sahara Conflict, developments in South Korea, Haiti, Senegal, Mauritania, Burma, and so on. There has been a remarkable enlargement of the scope of EPC as well as a remarkable growth of meetings at all EPC levels. There is no contention regarding these. The

149 Charlesworth and Cullen, n.144, p.71
150 Juliet Lodge, “From Civilian Power to Speaking with a Common Voice” in Juliet Lodge, ed., The
EPC, by remaining outside the Treaty structure, played the important role of introducing consultations and discussions on foreign policy issues, a hitherto exclusively national reserve, among Member States. However, to discuss the situation in Haiti or Senegal is easy. No harm is done to the Member States to discuss them and then to probably make a joint statement on the situation there. But, whenever there has been a situation where one member state, or more than one or even all the Member States, have some interests involved, there may be discussions, but concerned Member States almost always resort to either unilateral action or would go along with the rest and issue joint statements and declarations, but act to the contrary. This was quite evident in both the Gulf crisis and the Yugoslav crisis. Even when such actions have an adverse impact on other Member States, if national interests are involved, they almost never care. The Oil Crisis is proof of such behaviour. In spite of more than four decades of Community Building, the Member States cannot think beyond national interests. The hostage situation during the Gulf crisis was an ideal starting point for defining and concretising European citizenship. The Joint Statement issued by the EC stated that they would work to ensure the safety of "EC citizens" in Iraq and Kuwait. However, the opportunity was lost as was the Community initiative when Member States sent their own envoys to Iraq to ensure the safe release of their own nationals.

In most cases EPC was used merely as a back up channel. The Member States, especially the bigger ones prefer to consult with each other bilaterally. The Franco-German bilateralism within the Community set-up is phenomenal. A Franco-German tandem is absolutely essential for any decision to be taken. If that tandem is absent the Community comes to a stand still, as was seen both in the case of the Kennedy Round
negotiations and in the Uruguay Round negotiations. Moreover, the "big three" are not always forthcoming regarding revealing their information to the smaller partners. It has always been the effort of the smaller nations, spearheaded by the Benelux countries, to push for Community initiatives. But, almost always they have been incapable of developing strong coalitions and putting forward a collective agenda. And, whenever they have, the big ones have thwarted such initiatives.

Since the defeat of EDC in 1954, defence was never mentioned at all till the SEA. However, European security was mainly under the NATO umbrella; WEU had almost become dysfunctional. During the Gulf crisis and the Yugoslav crisis, when the EC was called to play a military role, most Member States wanted to develop WEU as the European arm of NATO. However, there was strong opposition from Britain; it could not even imagine the undermining of the Trans-Atlantic relationship. So, during the Gulf crisis and the Yugoslav crisis (when there were talks about military action), it was essentially national armies, navies and air forces that played a role.

The CFSP was devised to correct all these ills that plagued EPC. However, the very same member countries that ran EPC form the CFSP; and as the saying goes old habits die hard. It will take a crisis to reveal how effective CFSP really is. As of now, we can sum up the EC in the words of the Belgian Foreign Minister during the Gulf crisis as "an economic giant, a political dwarf and a military worm."151

151 Jakobsen, n.115, p.15