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Dr. Hassan Abdel HAK Gadel HAK

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Promotor : Prof. Mr H.G. SCHERMERS

To AMAL my daughter

and to my Wife

C O N T E N T S

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Abbreviations
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P R E F A C E

It is hoped that this dissertation may serve a triple purpose. First, it attempts to provide an account on the development of the Community's Common Commercial Policy which constitutes a main instrument of the Community's external relations. For the purpose of implementing this policy, the Community has taken various measures on both the internal and external level of the Community. The Common Commercial Policy has developed during all the stages of the European integration, becoming one of the fundamental instruments of the Community's external policy.

Secondly, an endeavour is made to present a global picture of the Community's relationship with the Mediterranean region, an area which represents special importance for the Community. The Community has concluded several agreements with the Mediterranean countries and attempted to formalize a general doctrine for the relations with these countries through the adoption of the Mediterranean global approach. The analysis of the Mediterranean relations furnishes readers with basic information about the working relationship between the Community and the Mediterranean countries. This background could serve as a base for deeper research about the region and may lead to a more widespread understanding between the Community and the Mediterranean countries.

In the third place, the case study of relationship with Egypt is offered as an exercise in the Community's collaboration with the Mediterranean countries.

The development of a coherent policy in the Mediterranean and the prospect of Euro-Arab cooperation will enable the Community to play an important role in establishing prosperity and peace in this area.

The author wishes to express his deep gratitude to Professor H.G. SCHERMERS, of the University of Amsterdam, for his great encouragement, valuable constructive critism and unfailingly friendly guidance throughout the course of this work. The courteous help of the Officials of the European Commission is gratefully acknowledged. The author is deeply indebted to Miss Helen VAN HOUDT for her diligence in typing the earlier draft of the manuscript and to Miss Ruth PUSCHEL, Miss Simone VAN HOUDT and Mr. Marcel PIRARD for their kind assistance. Sincere thanks also to Mr. K. ADAMS for his careful linguistic review of the text and to Mr. Rudolf A. de WAAL, Librarian of the Europa Institute of the University of Amsterdam for all his assistance in finding literature.

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ABBREVIATIONS

AFDI	Annuaire Français de Droit International
AJIL	American Journal of International Law
APSR	American Political Science Review
ARE	Arab Republic of Egypt
BANK	International Bank for Construction and Development
BENELUX	Economic Union between Belgium, The Netherlands and Luxembourg
Bull. CEE	Bulletin des Communautés Economiques Européennes
BYIL	British Yearbook of International Law
CAD	Comité d'Aide au Développement de l'OCDE
CDE	Cahiers de Droit Européen
ChLRev	Chicago Law Review
CMLRev	Common Market Law Review
CPE	Chronique de Politique Etrangère (Institut Royal des Relations Internationales, Bruxelles)
COE	Council of Europe
COJ	Court of Justice (European Communities)
COMECON	Council for Mutual Economic Assistance
ECE	Economic Commission for Europe (of the United Nations)
ECSC	European Coal and Steel Community
EEC	European Economic Community
ENEA	European Nuclear Energy Agency
EP	European Parliament
EPU	European Payments Union
EURATOM	European Atomic Energy Community
FAO	Food and Agriculture Organization (of the United Nations)
FUND	International Monetary Fund
GATT	General Agreement on Tariffs and Trade
JCMS	Journal of Common Market Studies
JWTL	Journal of World Trade Law
NATO	North Atlantic Treaty Organization

OECD	Organization for Economic Cooperation and Development
OEEC	Organization for European Economic Cooperation
OJ	Official Journal of the European Communities
OPEC	Organization of the Petroleum Exporting Countries
PCIJ	Permanent Court of International Justice
PUF	Presses Universitaires de France
RBDI	Revue Belge de Droit International
RDC	Recueil des Cours de l'Académie de Droit International
REC.	Recueil de la Jurisprudence de la Cour de Justice des Communautés Européennes
RGDIP	Revue Générale de Droit International Public
RTDE	Revue Trimestrielle de Droit Européen
RIDC	Revue Internationale de Droit Comparé
SEW	Sociaal Economische Wetgeving
UNCTAD	United Nations Conference on Trade and Development

INTRODUCTION

The establishment of the European Economic Community in 1957 produced at the time different reactions in the world. The European minded people and the United States greeted the Community with full optimism, sympathy and support, while the Community was received with scepticism and distrust by certain third countries, especially by East European and some developing countries. The fears of third countries were based on the probable adverse effects of the EEC on their exports to the Member States of the Community as a result of the establishment of the common customs barriers around the Community.

The evolution of a distinct Community personality, with the trading importance of the Community, have encouraged both individual nations as well as groups of countries to sign agreements with the Community. Certainly, the European Economic Community found its size and unity to have considerable advantages when dealing with these countries.

During the 1960's, the Community started to develop a common personality and to act as one entity towards third countries. The evolution of a distinct personality can be seen from its policy towards the different areas in the world. The Community was able to establish and deepen its relations with the developing countries through the conclusion of the Yaoundé Conventions, the application of the generalized system of preferences, and recently the conclusion of the Lome Convention in 1975, with forty-six ACP countries. The Community demonstrated a considerable degree of unity when dealing with the United States during the Kennedy Round negotiations. For Eastern Europe, the Community adopted an attitude towards this area based on the Treaty articles concerning the Common Commercial Policy. According to these articles, whereby at the end of the transitional period the Community would negotiate as a body with Eastern Europe. Consequently, there have not been trade contractual relations from January 1, 1975 since Eastern Europe does not recognize the legal personality of the Community.

The Mediterranean, an area of specific importance to the Community, was also a subject of a Community policy evolutated and developed by the events in the Region and by the enlargement of the Community.

The relations between the Community and the Mediterranean region is the main concern of the author and constitutes the essence of this thesis. The author hesitated to deal with the Mediterranean in its entirety, in view of the various and numerous

agreements which link the Community with the Mediterranean States, and the difficulty of having informations about the Mediterranean as one entity. None of the international publications that issue information on the world economy treat the Mediterranean as a whole. Moreover, there are no available statistical compilations concerning the Mediterranean as a unified whole. Only geographers and agronomists admit that it has a certain unity.

The analysis of the Mediterranean fact reveals the strength of ties between the Community and the countries bordering the Mediterranean sea.

An interesting series of factors with specific interdependence resulted in the elaboration of a Mediterranean policy. These factors are numerous, concerning all the fields of international relations from commercial interests to those of security and even civilization itself. An enlarged Community progressing towards an economic and political integration requires stability and security in its surroundings. Thus, the unified geographical aspect of the Mediterranean is vital for the Community considerations of strategy and security. The recent developments in the region revealed the links between the security of the Mediterranean basin and that of Europe and the need of assuring the stability in the region. Moreover, the Mediterranean region represents a market nearly three times more important than the whole of latin America.

On the other hand, the Community represents an important partener in all sectors of developments. Moreover, it could be imagined that certain Mediterranean countries would consider the existence of the Community in the region as a counter-weight to the super-power's influence and an alternative to excessively close links with a single Member State.

The working relationship between the Community and the Mediterranean countries demonstrates that the need for a common Mediterranean policy was imposed upon the Community before a formalized doctrine had been established. In the early years immediately after the establishment of the Community, there had been an attempt to formalize a general doctrine for the relations between the Community and the Mediterranean countries. This initiative came up in May 1964 in the so-called Italian memorandum which was occasioned by the imbalance resulted from the french veto against the accession of the United Kingdom to the Community in 1963. But this doctrine did not come into existence because of economic and political reasons. These reasons together with the international constraints made it difficult for the Community, at the time, to formalize a general doctrine for the relations with the whole Mediterranean countries. Few years ago, the concept of a general doctrine has revived again and the Mediterranean policy became one of the subjects for internal

discussions, most often on the agenda of the EEC Council of Ministers. The development of events in the region and the enlargement of the Community resulted in the adoption of, by the Council in November 1972, a global approach towards the Mediterranean countries.

Before dealing with the Mediterranean relations, the author examines in the first part of this thesis the developments of the Community common commercial policy. This policy and the association system constitute the main instruments of the external relations of the European Economic Community.

The first chapter of this part deals with the legal basis and scope of this policy. The second explains the numerous measures taken by the Community in implementing the common commercial policy. The third deals with the process of negociating and concluding of community's agreements. It also clarifies the roles of the Community's institutions in the decisions-making process and gives a brief account on the Community's bilateral and multilateral agreements.

The second part, which constitutes the essence of this thesis, is devoted to the relations with the Mediterranean countries. The basic aims of this part are :

1) to present a global picture of the Community's relationship with the Mediterranean, through an analysis to the factors of interdependence between the Community and the region, and the various agreements concluded with the Mediterranean countries. This analysis is updated to the last developments in the Community's Mediterranean policy until the end of 1976, and could serve as a base for a deeper research about the region. The Mediterranean agreements were founded on the Treaty articles which constitute the legal basis of the Community's external relations.

2) to show how the Community's policy towards the region has developed over a decade. The development of the Community's policy has taken place during the different stages of the European construction. The Community kept the door open to the accession of the European Mediterranean countries, while the relations with the southern shore seem only to be based on one option, that of cooperation.
The author placed a stress on the southern Mediterranean countries, especially the developing ones, since the northern Mediterranean countries will be integrated in the Community sooner or later. The first generation Mediterranean agreements developed in two stages :

the first stage was characterized by the pre-accession agreements with Greece and Turkey, which were concluded in the years 1961-1963 and based on permanent commitments.

the second, was known by the period of "proliferation", conclusion of several agreements with the Mediterranean States.

Association agreements were concluded with Morocco, Tunisia, Malta and Cyprus. Preferential agreements were concluded with Spain, Israel, Egypt and Lebanon. A non-preferential agreement was also concluded with Yugoslavia in 1970.

The analysis demonstrates whether the agreements of the first generation, especially those of the second stage, responded to the aspirations of these countries.

The third stage agreements were concluded on the basis of the Community's Mediterranean global approach which was adopted by the Council in November 1972. The aim of the new Mediterranean policy is to find arrangements within an overall approach, founded on a larger basis for the Mediterranean countries wanting to improve their relations with the Community in order to meet their specific needs. On the principles of the global approach, the Community concluded agreements with Israel in 1975, with Algeria, Morocco and Tunisia in 1976, with Egypt, Syria, Jordan and Lebanon in 1977.
The analysis demonstrates, whether the Community applied the principles of this policy identically, or it took into account the different levels of economic development among the Mediterranean countries. The analysis also demonstrates whether the new agreements based on the global approach responds to the aspirations of the Mediterranean countries, especially the developing ones, and whether these agreements constitute a model of relationship between developed and developing countries, compatible with the aspirations of the international community towards a more just and more balanced economic order.

3) to show how the Community's policy towards the Mediterranean evolved through the existing legal instruments provided for by the Treaty of Rome, and to show the evolution of the powers of the institutions provided for by the the agreements. The Treaty foresees legal instruments by which it has been possible for the Community to establish agreements with the Mediterranean countries, in particular article 113 concerning the common commercial policy and article 238 which authorizes the Community to conclude association agreements.

The analysis aims at demonstrating whether the Community used new legal instruments to meet the needs of its new policy or whether the evolution of the concepts of these articles helped the Community to realize its objectives without requiring new legal instruments.

4) The evolution of the Community's relations with the GATT. On early stage, no agreement for preferential arrangements could be contemplated outside the context of a customs union or free trade area. Thus, the Community refused preferential arrangements in the sixties. The analysis demonstrates how over a decade, the EEC's attitude has changed towards the GATT, concerning granting preferential arrangements based on the Treaty articles.

Finally, the author of this thesis found it useful to set a part for Egypt as a case study of developing Mediterranean relationship with the Community. The author had the opportunity to participate in Egypts' negotiations with the Community as a member of the Egyptian delegation since October 1970 (1). Experience in the Egyptian case, demonstrates certain observations between theory and application, especially regarding procedures of negotiations and influences of the Member States of the Community in the final results of the agreement.

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(1) The author worked as first Secretary and then Counsellor of the Egyptian Mission accredited to the European Communities, from August 1971 to January 1976, but the views expressed in this book are his own and do not necessarily represent those of his Government.

PART I

PART I

THE COMMON COMMERCIAL POLICY OF THE EUROPEAN ECONOMIC COMMUNITY.

The common commercial policy constitutes an essential element in the external relations of the European Economic Community. The establishment of the E.E.C in May 1957, necessitated the adoption of a coherant policy for the Community in respect to problems of international trade, association, and accession. These matters call for some degree of unity among Member States in their attitudes in the field of external relations. The preferential treatment which the Member States have accorded to each other under the Treaty of Rome have provoked reactions from third countries who feared that their commercial relations might be prejudiced, particularly in consequence of the common customs tariff.

In regulating its relations with third countries, the Community used, autonomous measures e.g. by a change of external tariff or by the conclusion of trade and association agreements with these countries. In this regard, the Community is obliged to observe the relevant rules of international agreements which were binding on the Member States when they concluded the E.E.C. Treaty (1). The principle rules are laid down in the general agreement on tariffs and trade. One of the basic principles of the G.A.T.T. is the general most favoured nation clause. The exception provided in the G.A.T.T. concerns the formation of customs unions or free trade areas, provided they satisfy certain conditions. When the Member States established the E.E.C., they based themselves on this exception.

At the same time, the Community committed itself to applying liberal principles of commercial policy to the outside world. This can be seen from both the

(1) Article 234, paragraph 1 of the Treaty of Rome.

preamble and various provisions of the Treaty of Rome (1). But this liberality towards third countries is restricted by certain limits for the protection of internal economic and social interests of the Member States. Thus, the common commercial policy of the E.E.C. will be determined not only by principles, but also by self-interests. It is, therefore, not surprising that the Treaty of Rome provides for protective measures against third countries if these prove necessary to the progressive establishment of a common commercial policy provided for in the Treaty.

For this purpose, the Treaty has entrusted the Council of Ministers of the Community with the task of taking, on a proposal from the Commission, the decisions needed for the realization of the coordination and uniformity of the commercial policies of the Member States during the transitional period, and the implementation of a common commercial policy after the expiration of this period. Moreover, the Council concludes the community tariff agreements and, after the transitional period, any other trade agreements with third countries, for which the qualified majority vote applies from the third stage of this period.

Concerning the scope of the common commercial policy, it may be stated that this policy embraces the whole set of measures intended to regulate the economic relations with third countries and relating to the movement of goods and the rendering of services and to payments connected therewith. This refers particularly to the import regime including tariffs, quantitative restrictions, protective measures, and the export regime containing export subsidies, export restrictions and measures for the promotion of trade.

In addition, the relations with international economic organizations of which Member States form part are related to a certain extent to the commercial policy. Some of these relations fall outside the context of the commercial policy such as those discussed in the International Monetary Fund and the O.E.C.D. These matters are regulated in article 116 of the Treaty. During the transitional period, the Member States are required to take concerted action and after this period, they are obliged to proceed only by common action with regard these problems.

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(1) Articles 18, 29 para. a and 110 of the Treaty.

Finally, this part is divided into three chapters.

The first chapter deals with the legal basis and scope of the common commercial policy. This chapter is added mainly for the benefit of the non-European readers. For the E.E.C. scholars, it would not be needed.

The second is devoted to the measures taken by the Community for implementing the common commercial policy.

The third deals with the procedures of negotiating and concluding community agreements.

CHAPTER I

THE LEGAL BASIS AND SCOPE OF THE COMMON COMMERCIAL POLICY

SECTION I. THE SCOPE OF APPLICATION OF COMMERCIAL PROVISIONS.

Article 110 and the following articles of the Treaty of Rome were designed to realize the common commercial policy (1). They entrusted the Community with establishing a commercial policy for the E.E.C. Member States in the domain of external trade and to contract with third countries. The Treaty has also defined certain specific obligations of the Member States with regard to the harmonization of their commercial relations during the transitional period (2).

At the internal level, the Community's institutions assume legislative competence in the field of commercial policy which was the task of the national policies of the Member States, before the Community was created. The Member States also have the obligation to abandon their policies in this field in favor of the Community.

At the external level, the Community shall replace the Member States in their external commercial relations. Now that the transitional period laid down by the Treaty has come to an end, the jurisdiction of the Community has be come fully effective and replaces the Member States in their international commercial relations. In this field, the Member States, under the Treaty,

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(1) See articles 110 - 116 of the Treaty.

(2) W. ERNST, "Harmonisation des politiques commerciales et la politique commerciale commune de la C.E.E.", in L'harmonisation dans les Communautés, Bruxelles, Institut de Sociologie, 1968, p. 207.

conferred on the Community sovereign rights and surrendered their national sovereignty both outside and within the Community (1).

These commercial provisions provided for in the Treaty of Rome constitute the source of Community law in the field of external commercial relations of the E.E.C. Member States. But, they form only a general framework, a definition of certain principles and general procedures for the establishment of a commercial policy.

The main instruments of this policy, the common custom tariff and the common agricultural policy are the subject of particular articles in the Treaty. Article 110 and the following articles have complementary effects. Moreover, important elements of the commercial policy such as its scope and its shape raised certain ambiguities (2).

The Member States were, at the time, preoccupied with their own immediate interests to move, in the first place, towards their own economic integration. The preoccupation of the Member States with their own economic integration resulted in the common commercial policy becoming an issue for later. It will be defined according to the development of the Common Market and the evolution of practice in international trade (3).

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(1) L. CARTOU, Organisations européennes , Dalloz, 1967, p. 170; L. CARTOU, Communautés européennes, Dalloz, 1975, p. 531; CAE-ONEKIM, La Communauté économique européenne dans les relations commerciales internationales, thèse, Bruxelles, 1969, p. 30.

(2) J.F. DENIAU, "The external policy of the European Economic Community", Law and Contemporary Problems, European Regional Communities, School of Law, Duke University, vol. 26, n° 2, 1961, pp. 364 - 380; U. EVERLING, "Legal problems of the common commercial policy of the European Economic Community", Common Market Law Review, vol. IV, 1966 - 1967, p. 141.

(3) The section concerning commercial policy in "Spaak Report" was written in general terms. "Rapport des chefs de la délégation aux Ministères des Affaires étrangères", Comité intergouvernemental créé par la Conférence de Messine, Bruxelles, 21 avril 1956, p. 75.

The second is more concrete and consists in respecting the international legal obligations taken by the Member States before the formation of the EEC.

Article 234 - paragraph 1, of the Treaty stipulates that the rights and obligations arising from agreements concluded between one or more Member States with third parties before the Treaty came into force will not be affected by the provisions of the Treaty.

If Agreements concluded by the Member States are not compatible with the function of the Common Market, they have to be modified by all appropriate means for eliminating these existing incompatibilities.

For this purpose, Member States should be ready for mutual assistance and for the adoption of a common attitude when necessary (1).

Thus, article 234 presents to a certain extent, a guarantee that international trade should not be perturbed by the creation of the Common Market.

Since the EEC was based on "the European preference", the authors of the Treaty of Rome have foreseen the possibility of invoking the principle of exception from this preference, in international organizations, of commercial character, especially the GATT.

One of the basic principles of the GATT is the most-favoured nation clause (2). This clause implies that the parties to GATT undertake to accord any advantages which they grant to a given country in connection with the import or export of products to the other GATT members as well. The principal exception provided for in the GATT concerns the formation of customs unions or free - trade areas, provided they satisfy certain

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(1) The obligations of the Member States in the field of external commercial relations are also, defined in other articles of the Treaty, especially in paragraphs 1,4 and 5 of article III.

(2) Article XXIV paragraphs 4 to 8.

conditions (1).

When they established the EEC, the Member States based themselves on this exception (2).

B. Limits to the Principle of Liberalization.

1- Purpose of the Internal Economies

The provisions of the Treaty of Rome persuaded Member States to practice a liberal policy and to contribute to the development of international commercial exchanges (3).

Some authors are of the opinion that political reasons directed the Member States to issue a declaration of intention to dispel the fears of third countries regarding any adverse effects on the international trade (4).

The affirmation of the principle of liberalization conforms with the policies of Member States with liberal tendencies which insisted on the inclusion of this principle in the Treaty, ensuring that the establishing of a preferential zone between the Six should not form an obstacle to the efforts practiced in liberalizing international trade (4).

But, the common commercial policy could not take any shape other than that resulting from a compromise between the national policies of the Member States.

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(1) See M. BOYER, Les points litigieux entre la CEE et le GATT, in Revue du Marché Commun, 58, 1963, p. 197.

(2) See the preamble of the Treaty of Rome, articles 18, 29 (a), 110 and 111 of the Treaty.

(3) See N. CATALANO, Manuel de droit des Communautés Européennes, Paris, 1962, p. 354 ; Cae-One KIM, La Communauté Economique Européenne dans les relations commerciales internationales, Op. cit., p. 43.

(4) Before the creation of the EEC, the Benelux and Germany practiced a liberal policy, while France and Italy were more protectionist.

However, the liberal character of the Community's commercial policy is restricted by certain limits for the protection of internal economic and social interests of the Member States (1).

2- Reciprocity as a limit

Another limit to the principle of liberalization arises from the concept of reciprocity, indicated by articles 18 and 238 (2).

According to article 18, Member States are bound to contribute to the development of international trade and are prepared to reduce trade barriers on the basis of reciprocity and mutual advantages by concluding agreements with third parties.

Article 238 authorizes the Community to conclude association agreements, characterized by reciprocal rights and obligations.

Despite the fact that external trade involves the interests of reciprocity, the principle of reciprocity is not, according to Community practice, completely applied in the Community's relations with third parties, due to the desiquilibrium of economic structures between the Community and third parties.

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(1) Thus, the common commercial policy is not determined only by principles but also by self-interests and internal objectives of the Common Market. See Déclaration of Intention of the Representitives of the Governments of the Member States, annexed to the decision of May 16, 1960 ; O.J. n° 58, p. 1220, September 12, 1960 ; Resolution of the European Parliament, O.J. n° 61, p. 1279, April 19, 1963 ; 2e Mémorandum de la Commission au Conseil relatif à un programme d'action en matière de politique commerciale commune, établi en vertu des dispositions de l'art. 111, doc. I/COM/CEE (62) 10 Final.

(2) For the concept of reciprocity, see V.A. Seyid MUHAMMAD, The Legal Framework of World Trade, London, 1958, p. 101.

From the association (1) and commercial agreements already concluded by the Community with other countries, it appears that the principle of reciprocity was not maintained completely by the Community, especially with the developing countries. This can be seen in the Lome Convention concluded in 1975 (2) in which the Community was satisfied to be granted the most favoured nation treatment as a counter concession (3). This tendency of non-reciprocity is in conformity with GATT rules since the modification of part IV of GATT (4), concerning trade and development, stipulates that developed countries should not expect reciprocity in their commercial relations with non-developed countries. It is also consistent with the current developments in the international economic order concerning the relationship between developed and developing countries (5).

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(1) See Moustapha A. MORSI, L'unification africaine, principaux mouvements de regroupement et incidence de certains éléments politiques internes ainsi que des liens particuliers avec les anciennes métropoles et la CEE (thèse), Bruxelles, ULB, Faculté des Sciences sociales et politiques, 1973, p. 383.
(2) J. RAUX et D. PERROT, Les accords externes de la CEE, in Revue trimestrielle de Droit européen, 1976-2, p. 343.
(3) This treatment was also applied to the agreements concluded with Maghreb countries in April 1976, and with Egypt, Syria and Jordan in January 1977 and with Lebanon in February 1977. Moreover, the most-favoured nation treatment shall not apply in the case of establishment of customs unions or free-trade areas in order to encourage regional cooperation.
(4) This modified part has entered into force on July 27, 1966 ; Doc. GATT 2666, July 7, 1966.
(5) See Cl. DELMAS, L'Europe et le Tiers-Monde, Institut Universitaire International (Luxembourg), cours 1975, p. 222.

C) Factors favourable to the Principle of Liberalization.

1- Dependence of the Member States on External Trade.

One of the important elements which persuaded the Community to practice a liberal policy, was the commercial structure of the EEC Member States which depended traditionally on commerce with third parties notably because they contribute a considerable part to world trade. Moreover, external trade occupies an important place in their national economy.

To meet the needs in the commercial field, the EEC Member States should not adopt a protectionist policy since the Community is short of primary products and depends in this field on third countries (1). In order to maintain a constant supply of these materials, article 29 (c) of the Treaty entrusted the Commission to find out the requirements of the Community as regards the supply of row materials and semi-finished products. (2) In this connection, the Commission shall take care to avoid distorting conditions of competition between the Member States in respect of finished goods.

Adding to this, the conception of external commerce concerns a multitude of economic interests of the Member States. The Community's need for primary materials and its requirements for an external market for its finished products, demand that the Community considers the economic and commercial needs of other partners.

The declaration of intention favouring liberalization constitutes according to P. Pascatore, a solemn undertaking (3). This declaration contains a guarantee for other parties that the establishment of the EEC will not form an obstacle to international exchanges,but will promote external trade which is at the same time an ambition and economic need for the EEC Member States.

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(1) Between 1958 and 1967, import of primary materials constituted 72 an 80 percent respectively of the total imports of the Six. See Doc. EEC, 17.966/XI/68-F - Le commerce extérieur de la CEE au cours de la période 1958-1967, p. 12.

(2) Article 103 - para 4 - authorizes the Council to take appropriate measures in case of the difficulty of supply in certain products.

(3) P. PESCATORE, Relations Extérieures des Communautés Européennes, in RCDI, 1961, II, pp. 13 and 66.

2- The International Division of Labour.

Another factor for favouring liberalization is that the constitution of the EEC was designed to accelerate and facilitate an international specialization of labour first, on the intra-Community level, and then on the international level.

In article 110, the Member States declare their intention to contribute, by establishing the customs union, to the harmonious development of world trade, and to take into account in their actions the favourable effect which the abolition of customs duties among them may have on the increase of the competitive strength of undertakings. This could be interpreted as a clear support of the theory of world-wide division of labour and a liberal trade policy is required for this purpose (1). Consequently, the liberalization which the Community adopts should lead to the integration of the economies of the EEC Member States, through the best international division of labour (2). Member States of liberal tendencies supported this theory. The Benelux countries and Germany believed that the creation of a Common Market between the Six would constitute a step forward towards more liberalization in the international trade.

It should be mentioned that the two factors which allow a liberal international trade policy, may be influenced by the difficulties which would result from the necessity of achieving the internal objectives of the Common Market. Also these two factors may be affected by the entire economic situation of the Member States (3).

D) Community's Instruments for Action.

Liberalization is not just a declaration of intention, since the Treaty of Rome includes ways and means which permit the crossing of the Community's frontiers to third countries. Examples are, accession, association and commercial agreements.

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(1) U. EVERLING, Legal Problems of the Common Commercial Policy, Op. cit., p. 148.
(2) J. TINBERGEN, International Economic Integration, 1965, p. 37 n. 2.
(3) J.F. DENIAU, The External Policy of the EEC, Op. cit., p. 368.

Article 237 indicates the possibility for every European country to become, according to certain political and economic terms, a member in the Community (1). The second formula is the association defined in article 238, which paves the way to a country or group of countries or an international organization to be associated with the Community (2).

The object of "association" is rather vague, it is something between full membership and simple commercial agreements. The commercial agreements represent the third formula and they consist of two categories : proper commercial agreements and tariff agreements (3).

E) The Legal Value of Article 110

Liberalization of Trade constitutes one of the principles of the Common Commercial Policy. What scope is to be attributed to the relevant articles, notably article 110 ?

A number of authors (4) are of the opinion that political and economic reasons persuaded the Six Member States to include this declaration of intention in the Treaty.

On the one hand, the Six intended to remove the fears of third countries about the EEC as an instrument of diversion of trade in international transactions. On the other hand, they desired to secure the success of their goals through increasing their external trade.Concerning the legal character of this provision, a some guarded position is taken by these authors.

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(1) See article 237 of the Treaty of Rome.

(2) See article 238 of the Treaty of Rome.

(3) See articles 111, 113 and 114 of the Treaty of Rome.

(4) N. CATALANO, Manuel de droit des Communautés Européennes, Op. cit., p. 354 ; P. PESCATORE, Relations extérieures des Communautés, in RCADI, Op. cit., p. 13 and 86.

Other authors supported the theory of the obligatory nature of article 110 (1) and according to them the obligation of liberalization binds the Member States as well as the Community's institutions, and this means that theoretically a resourse can be lodged before the Court of Justice on the grounds of the non observation of article 110.

Certain difficulties may appear regarding the object and procedure of this recourse. It is, however, questionable how far any specific conclusions can be drawn from this general wording in a concrete case. We believe with Mr. U. Everling that the margin for the judgement of the institutions and the limits to their discretion are so wide that it is probably only in exceptional cases that non-compliance could be challanged in Court with any chance of success (2).

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(1) U. EVERLING, Legal Problems of the Common Commercial Policy in the European Economic Community, Op. cit., p. 148 ; Baron SNOY et d'OPPUERS, Les mécanismes institutionnels européens et l'ouverture sur le Tiers-Monde, Op. cit., p. 257.

(2) U. EVERLING, Op. cit., p. 148 ; Cae-One KIM, Op. cit., p. 52.

SECTION III. SCOPE OF THE COMMERCIAL POLICY AND THE COMMUNITY COMPETENCE IN EXTERNAL COMMERCIAL RELATIONS.

A. The absence of a precise definition.

There is, in fact, no article in the Treaty of Rome which defines in a precise way the extension of the Community's competence in matters of external commercial relations. The Treaty also does not precisely define the instruments which the Community can use to carry out the common commercial policy, nor the scope of this policy. This means that the commercial policy may consist of the entire external economic relations of the Member States or it may not cover certain domains of these relations.

Article 113, paragraph 1 of the Treaty provides for an argument in favour of an extensive interpretation when it stipulates : "The common commercial policy shall be based on uniform principles, particularly in regard to ..." The commercial policy could, therefore, encompass all measures in use in the international commerce.

It is, on the other hand, difficult to specify, in the light of the treaty provisions, the domains of external commercial exchanges constituting the object of the commercial policy. Should it be limited to exchange of material goods and services (1) or should it be extended to other economic sectors such as capital and transport?

Certain authors have often invoked, in regard to the external capacity of an international organization, the advisory opinion of the International Court of Justice, on reparation for injuries suffered in the services of (2)

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(1) Certain authors define the commercial relations as the exchange of goods and services with third countries. See P. PESCATORE, Relations extérieures des Communautés européennes, op. cit., p. 84; J. MEGRET, "Le pouvoir de la C.E.E. de conclure des accords internationaux", in R.M.C., n° 75, 1965, p. 532.

(2) The Court held : "Under international law, the Organization must be deemed to have those powers which, though not expressly provided in the Charter, are conferred upon it by necessary implication as being essential to the performance of its duties", see I.C.J. Reports, 1949, p. 182.

the United Nations (1). The Court recognized in its opinion the theory of implied powers (2), when defining the competence of international organizations under international law. The international organization must be deemed to have those powers which are essential to the performance of its duties.

Certain authors have extended the theory of the general capacity of an international organization and particularly that of the European coal and steel Community. They indicated that the external capacity of an international organization is judged by its powers of decision within its internal system. If the organization possesses a more integrated structure and it is granted a competence for making decisions, this presupposes that it enjoys the external competence necessary for realizing its objectives within the limits of its constitutional charter (3).

For the E.C.S.C. and EURATOM, the principle of parallelism between internal and external competence seems to be justified (4).

Article 6, paragraph 2, of the Treaty of Paris stipulates that in international relations, the Community shall enjoy the legal capacity it requires to perform its functions and attain its objectives. Article 101 of the EURATOM is

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(1) Advisory opinion, April 11, 1949, Recueil des Arrêts, 1949, p. 174.

(2) See H.G. SCHERMERS, International Institutional Law, 1973, vol. I, p. 155.

(3) J. de SOTO, "Relations internationales de la C.E.C.A.", in R.C.A.D.I., tome 90, 1956, vol. II, p. 39; P. REUTER, Les relations internes et externes de la C.E.C.A., Paris, 1958, p. 118; J.W. SCHNEIDER, Treaty-making power of international organizations, 1963, Genève, p. 135; J. RAUX, Les relations extérieures de la C.E.E., 1966.

(4) P. PESCATORE, Relations extérieures des Communautés européennes , op. cit, p. 97; E. WOHLFARTH, Fondements juridiques des relations entre les Communautés européennes et les Etats tiers, Institut d'Etudes européennes, U.L.B., Bruxelles, 1964, p. 13; R.J. DUPUY, "Du caractère unitaire de la C.E.E. dans ses relations extérieures", A.F.D.I., 1963, p. 805; R. QUADRI, La personnalité internationale de la Communauté, Liège, 1964, p. 49; J.E. ERRERA, E. SYMON, J. VANDER MEULEN, L. VERNAEVE, Euratom. Analyse et commentaire du Traité, Bruxelles, 1958, p. 181.

more vast and enables the Community to enter into obligations by concluding agreements or contracts with a third State, an international organization or a national of a third State.

Th ough article 6 of the E.C.S.C. runs rather parallel to articles 210 and 211 of the E.E.C., it appears difficult to confer a general capacity upon the E.E.C. (1). While the legal personality of the European Communities is dominated by the principle of specialization, their domains do not depend only on their objectives but also on the powers conferred upon their organs (2).

B. Dominated conceptions before ERTA law.

Until the decision of the European Court of Justice in ERTA case, two conceptions were conflicting. The first applies strictly to the Treaty articles and does recognize the Community competence only in explicit provisions. The other conception is in favour of extensive interpretation of the Treaty articles and supports the implicit competence of the Community resulting from this extensive interpretation of the Treaty articles.

1) The restrictive interpretation of the Treaty provisions.

The overwhelming majority of legal writers were in agreement that the Community only possesses a treaty-making power in the cases expressly provided for in the Treaty. They indicated that the negotiators of the Treaty of Rome wanted to grant the E.E.C. its external competence, only in the

(1) Certain authors support the theory of the general capacity of the E.E.C. J. RAUX, op. cit., p. 56; P. DE VISSCHER, Problèmes de droit public et de droit international dans la vie juridique de la C.E.C.A., Cours, 1958 - 1959, Université de Paris, pp. 47 - 48.

(2) R.J. DUPUY, "Le droit des relations entre organisations internationales", R.C.A.D.I., 1960, vol. II, p. 547.

domains explicitly foreseen by the provisions of the Treaty (1). It also seems that certain provisions of the Treaty, such as articles 3, 4, 228 and 235, could be interpretated in favour of this opinion.

First, article 3 of the Treaty enumerates the different tasks of the Community which will be accomplished as provided for in the Treaty and in accordance with the timetable set out therein. Article 4 restricted the activities of the institutions charged with the realization of the Community missions, to the limiting of powers conferred upon them by the Treaty. Moreover, articles 228 and 235 appear supportive of this theory of attributed powers.

Furthermore, not only was the Community treaty-making power generally held to be limited to tariff, commercial and association agreements, but the Council had also succeeded in placing a narrow interpretation on the permissible scope of association agreements. Article 238 was considered to incorporate no more than the substantive grants of treaty-making powers laid down in other treaty provisions. This explains the extensive use made of the so-called mixed procedure to conclude agreements which the Council considered to exceed the narrow bounds of the Community-making power and which therefore required the participation of the Member States both in negotiation and conclusion of the agreement .

The supporters of the explicit competence exclude, therefore, other sectors from the commercial policy such as capital and transport. They based their opinion on the fact that these sectors are subject to other articles in

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(1) J. MEGRET, "Le pouvoir de la C.E.E. de conclure des accords internationaux", in R.M.C., 1964, n° 75, p. 531; P. PESCATORE, Relations extérieures des Communautés européennes, op. cit., p. 97. It can be observed that the opinion expressed by Pescatore supporting the theory of explicit attribution of competence seems to have evolved since the end of the transitional period. See P. PESCATORE, "Les Communautés en tant que personne de droit international", Droit des Communautés européennes, Bruxelles, 1969, p. 107.

the Treaty in which the Community does enjoy explicit competence (1).

2) The extensive interpretation of the Treaty articles in defining the common commercial policy.

Other authors supported the extensive interpretation of the Treaty articles (2) and argued that the silence of the Treaty in the external competence could be explained by the discretion of the Member States who had an immediate interest in unifying their national markets to achieve integration. Thus, they avoided giving strict and precise definition to the external commercial relations of the Community. Moreover, the Treaty of Rome contrary to the E.C.S.C. and EURATOM contains very large economic domains in which it was difficult to define a precise external competence for the Community.
In this situation, the authors of the Treaty have foreseen, among the instruments of external relations, two foreseeable cases at the time; tariff and commercial agreements and association agreements. In the first case, the Member States agreed to confer on the Community institutions the competence to achieve a common commercial policy with third countries, and the second was foreseen because the Member States did not exclude the possibility of associating the Community with third countries which are not applicant for membership. These authors added that the Treaty articles such as articles 3, 4, 228 and 235, which were previously invoked to support the explicit competence seem, on the contrary for defining the limit of the Community action in the internal order of the Community. Moreover, article 228 was designed for the Community procedures rather than defining the external competence of the Community

(1) U. EVERLING, Legal problems of the common commercial policy, op. cit., p. 149; J. MEGRET, Le pouvoir de la C.E.E. de conclure des accords internationaux, op. cit., p. 532; P. PESCATORE, Relations extérieures des Communautés européennes, op. cit., p. 86.

(2) J. RAUX, op. cit., p. 55; CAE-ONEKIM, op. cit., p. 60.

Concerning the scope of the commercial policy, these authors invoked certain provisions of the Treaty which allow the extensive interpretation. Among these provisions the sixth point of the preamble of the Treaty which expressed the desire of the six to contribute, by means of a common commercial policy, to the progressive abolition of restrictions on international trade. Article 3 foresees the instruments for realizing the objectives of the Common Market. The external Community actions were not defined, but the common commercial policy should be extended to all external activities where a Community action proves necessary for realizing the Community internal imperative, especially the liberty of economic exchanges between the Member States and also the Community preference.

The scope of the commercial policy, thus evolves in accordance with the increasing intervention of the public authorities (1). If the commercial agreements comprise, according to the international practice, other provisions for matters designed to facilitate commercial exchanges, the common commercial policy should, therefore, encompass all economic domains for which an action is necessary for the development of intra-Community exchanges (2). This means that the common commercial policy should comprise not only exchanges of goods, but also other sectors which present a direct interest for external trade, and frequently enter in the international practice, such as services, transports (3), payments and movements of capital (4).

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(1) M. BYE, Relations économiques internationales, Dalloz, 1965, p. 250.

(2) CAE-ONEKIM, op. cit., p. 61. See G. le TALLEC, "La politique commerciale de la C.E.E., ses conséquences sur l'action de la Communauté et des Etats membres", R.M.C., n° 143, 1971, p. 172; R. KOVAR, "La mise en place d'une politique commerciale commune et les compétences des Etats membres de la C.E.E. en matière des relations internationales", A.F.D.I., 1970, pp. 783 - 795.

(3) W. Stabenou considered that provisions of the commercial policy apply to transport, referring to the fact that association agreements with Greece and Turkey included provisions for transport (articles 50 and 15 respectively). See STABENOU, "Opportunities for an external policy of the E.E.C. in the field of transport", C.M.L. Review, vol. IV, 1966 - 1967, pp. 32 - 50.

(4) See conception of a commercial agreement given by M. van der Goes van Naters. Europ. Parliament, doc. 119, session 1964 - 65, "Report on the

The extension of the Community powers in these fields, could be effectuated by recourse to article 235, which provides either for the procedure of Community action in order to attain one of the objectives of the Community where the Treaty has not provided the necessary powers (1), or by the institutional practice.

C. The principle of attributed powers and ERTA case.

Differences of opinion between the Council and the Commission over the extent of the Community's treaty-making power and the role of the respective institutions in shaping the E.E.C.'s relationship with third countries came before the Court of Justice. It came in connextion with the negotiations for a revised European Road Transport Agreement (ERTA) and resulted in the Court's judgment of March 31, 1971 (2). The judgment is considered one of the most important decisions of the Court in Community institutional law and was commented on by many legal writers (3).

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(4) following.
types of participation of the European Parliament in the procedure of concluding commercial agreements between the European Communities and third countries. The rapporter enumerated a series of matters which make, in practice, the object of commercial agreement a system of organising the respective nationals, protecting the wealth of the contracting parties, commercial and professional activities, culture cooperation, attainment of properties and wealth, fiscal policy, system of payment and transfer, disposition towards business trips (tours) custom tariff administration, dispositions in matters of internal navigation.

(1) See G. PEETERS, "L'article 235 du Traité C.E.E. et les relations extérieures de la C.E.E.", R.M.C., n° 164, April 1973, pp. 141 - 144.

(2) An extensive report on this case was printed in C.M.L. Review, n° 8, 1971, pp. 392 - 401.

(3) L.J. BRINKHORST, in S.E.W., n° 8, 1971, p. 479; W.J. GANSHOF VAN DER MEERSCH, Cahiers de droit européen, n° 2, 1972, pp. 127 - 158; J.-V. LOUIS, C.D.E., n° 4, 1971, p. 479; M. WAELBROECK, in Integration, n° 2, 1971, p. 79; R. KOVAR, in A.F.D.I., 1971, p. 386; J. RAUX, in R.G.D.I.P., tome LXXVI, 1972, p. 36; J.A. WINTER, "Annotation on Case 22/70, ERTA", Common Market Law Review, vol. VIII, 1971, pp. 550 - 556; L.J. CONSTANTINESCO, in Revue trimestrielle de droit européen, 1971, especially, pp. 796 and the following; D.S. COLLINSON, in Stan f. Law Review, vol. 23, n° 5, 1971, p. 956.

The position of the two institutions opposing each other in this legal dispute clearly reflected the interests which each has a duty to safeguard. The Commission represented the interests of the Community and its institution, claiming that the principle of attributed(enumerated)powers should not be applied with the utmost strictness in the field of the Community's external relations. But it did not request the Court to abandon the principle of attributed powers and to embrace the concept in foro interno, in foro externo. All it claimed was that a grant of power in the external field could not only be read into articles 111, 113 and 238, but that such power could also be derived from article 75, para 1 (c). The Council, on the other hand, clung to a narrow definition of the Community's external powers (1).

Examining whether there is a Community competence in the external field in the sphere of transport, the Court first laid the basis for rejecting the principle of attributed competence (2), on the absence of specific provisions in the Treaty relating to negotiation and conclusion of international agreements in the sphere of transport policy - "One must turn to the general system of Community law relating to agreements with non-member States". After pointing out the incidents of the legal personality enjoyed by the Community in international relations in virtue of article 210, the Court stated that in the determination of whether the Community in a concrete case has external authority, regard should be had to the whole scheme of the Treaty no less than to its specific provisions. The Court ruled that a such authority may arise not only from an explicit grant by the Treaty, as is the case with articles 111 and 113 for tariff and commercial agreements and with article 238 for association agreements, but may equally flow from other provisions of the Treaty and from steps taken within the framework of these provisions, by the Community institutions. These steps taken by the Community institutions can have the effect of divesting the Member States of their power to act externally and supply the Community with a treaty-making power : "In particular, each time the Community, with a view to

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(1) J. WINTER, op. cit., p. 551.

(2) W.J. GANSHOF VAN DER MEERSCH, op. cit., p. 130; A. WINTER, op. cit., p. 553.

implementing a common policy envisaged by the Treaty, lays down common rules, whatever form these may take, the Member States no longer have the right, acting individually or collectively, to contract obligations affecting these rules. To the extent that such common rules come into being, the Community alone is in a position to assume and carry out contractual obligations towards non-Member States affecting the whole sphere of application of the Community legal system. One cannot therefore, in implementing the provisions of the Treaty, seperate the category of measures internal to the Community from that of external relations."

This finding, according to the Court, is supported by a reading of article 5 in conjunction with article 3 (e) of the Treaty (1).

It has been observed that the Court did not opt for the theory of automatic parallelism between internal and external competences. The emergence of an external authority presupposes that common rules have been laid down to implement a common policy envisaged by the Treaty. The Court does not explicitly say that if these conditions are met the Community obtains the Treaty-making power (2).

D. Application of ERTA law.

From the judgment of the Court, it ensues that, besides cases involving commercial policy and association where express provision is made giving the Community exclusive international competence, the Community is alone entitled to negotiate and conclude international agreements on all matters in respect of which "the Community has adopted, in whatever form, measures introducing common rules". The Court added that "Member States may no longer

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(1) W.J. GANSHOF VAN DER MEERSCH, op. cit., p. 130; A. WINTER, op. cit., p. 553.

(2) Professor Brinkhorst stressed the point that the Court has limited itself to the decision that the Community competence in external affairs arises from the implementation of a common policy envisaged by the Treaty by laying down common rules. See L.J. BRINKHORST, S.E.W., op. cit., p. 482.

contract with non-member countries any obligations affecting those rules whether they act either individually or collectively".This means that Member States may not any longer only conclude any international agreement which would be contrary to rules applicable within the Community, but they may no longer conclude an agreement which is an exact reproduction of these rules of the Community. In doing so, they would however, be usurping a field where the Community alone is competent. Moreover, an agreement concluded by the Member States would not be recognized as Community law by the national Courts concerned and the Court of Justice would therefore have no jurisdiction over its interpretation and over its validity.

In a case subject to commercial policy, the Community has had exclusive jurisdiction over the conclusion of agreements ever since the end of the transitional period, irrespective of whether community rules existed in relation to the subject matter under consideration or not. The ERTA decision on the other hand, is applicable only where the Community has already adopted rules applicable within the Community.
The extent of the ERTA judgment's application will progressively increase as the Community adopts rules in the fields of transport, environment, approximation of Laws and currency.

E. The main elements of the concept of common commercial policy.

A commercial policy implies intervention by the State. Action by private economic operators does not usually fall within the compass of commercial policy. However, not all actions of public authorities are included in this concept. They must also specifically involve international trade.

As previously mentioned, the Treaty of Rome offers no definition of the commercial policy. Article 111 refers to matters of trade, and article 113 enumerates, for illustration, some measures which pertain to it (1).

(1) U. EVERLING, Legal problems of the common commercial policy, op. cit., p. 148.

According to legal writers (1) and practice of the Community, the commercial policy may contain measures which are explicitly listed in article 113, and other measures which are not explicitly listed in this article.

1) Measures listed in article 113.

This list contains the customs duties and charges having equivalent effect, including the agricultural levies (change in tariff rates, tariff agreements), the quantitative restrictions and measures having equivalent effect to quantitative restrictions (liberalization measures).

Customs duties and quantitative restrictions constitute by their very nature commercial policy measures.

This list also contains measures to protect trade such as those to be taken in case of dumping or subsidies. They apply to dumping by virtue of the Council regulation n° 469/68 of April 5, 1968, which also applies to subsidies (2).

The list also makes express reference to "trade agreements and export policy" Expressions such as these, are wide enough to include measures other than customs duties and quantitative restrictions. They therefore cover measures of commercial policy within the so-called "modern" label. These expressions thus serve to justify a wide definition of commercial policy.

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(1) The definition given by judge Pescatore : "Commercial policy means the aggregate of measures taken for the purpose of regulating economic relations with other countries". See P. PESCATORE, in R.C.A.D.I., 1961, op. cit., p. 85, and Les Novelles, Droit des Communautés européennes, de GANSHOF VAN DER MEERSCH, n° 2295. See also the definition given by G. le TALLEC, "La politique commerciale de la C.E.E., ses conséquences sur l'action de la Communauté et des Etats Membres", R.M.C., n° 143, 1971, p. 172; R. KOVAR, "La mise en place d'une politique commerciale", A.F.D.I., 1970, p. 783.

(2) O.J.L 93, April 17, 1968.

The list in article 113 must be taken to include, for instance, all measures adopted by the public authorities which have a special effect on exports, such as export subsidies (1), and in particular export credits (2). The Community has already adopted a number of measures on export policy (3). In 1975, progress was also made concerning the Community's power over export credit. The Court of Justice in its opinion of November 11, 1975, stated that export credit including that covering local costs, was an area of the common commercial policy so that the Community had the same powers, there, as in other areas of the common commercial policy. The opinion of the Court contains, in fact, an important interpretation of the extent of the powers of the Community in the field of commercial policy (4).

2) Commercial policy fields not explicitly listed in article 113.

Although referring to the most important forms of Community action in the field of commercial policy, the list in article 113 is not exhaustive. Commercial policy thus may embrace provisions for the following matters :

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(1) Export subsidies are dealt with in certain agreements concluded by the Community on the basis of article 113; Article 9 of the agreements with Spain and Israel. O.J.L 182, August 16, 1970 and L 183, August 17, 1970.

(2) P. PESCATORE, in R.C.A.D.I., 1961, op. cit., p. 90; Les Novelles, le droit des Communautés européennes de Ganshof Van Der Meersch, n° 2296 and 2335; Kriedemann report on common commercial policy, adopted by the European Parliament on May 14, 1970, working document 1970 - 1971, n° 32.

(3) For example directives of October 27, 1970 on the adoption of common credit insurance policies for medium-and long term transactions, O.J.L 254, November 23, 1970; a decision of December 16, 1970 on guarantees and export financing for certain subcontracts, O.J.L 284, December 30, 1970; a directive of February 1, 1971 on harmonization of insurance for short-term transactions, O.J.L 36, February 13, 1971.

(4) O.J.L 268, November 22, 1975. The Court's opinion was commented by J. RAUX, in R.T.D.E., n° 3, 1976, pp. 482 - 495.

- fiscal discrimination against exports of products from non-member countries (1), as well as measures concerning payments relating to trade in goods and services and the transfer of these payments (2);

- rules prescribing technical standards such as those applying to packaging and ticketing and intended for public security, and public health should not at least in theory come within the ambit of commercial policy (3). In any case, the rules in G.A.T.T., article III, are aimed at ensuring that their application should not be prejudicial to imported products. Work is at present going on in G.A.T.T. to decide which technical standards rules are to apply. This at least is an indication that the measures do in fact have something of a commercial policy character. It can even happen that the standards are laid down directly in a trade agreement, but they would not then be the sole object of the agreement. As regards the technical standards, the decision in the E.R.T.A. judgment could be applied;

- measures affecting prices in international trade are also part of commercial policy, that is, when "these measures" are taken by the public authorities for the purposes of inducing changes in the operations of private economic agents. However, not all measures on prices fall within the field of commercial policy (4);

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(1) Prohibited by article III of G.A.T.T. The same prohibition exists in certain agreements concluded by the Community based on article 113, article 3 of the agreements with Spain and Israel in 1970.

(2) For trade in goods, article 10 of the agreements with Spain and Israel in 1970.

(3) P. PESCATORE is of the contrary opinion, Les Novelles, op. cit., n° 2304.

(4) For example, the following measures fall outside the field of commercial policy. The granting of subsidies or tax reductions for the production of certain goods. See P. PESCATORE, "Relations extérieures", R.C.A.D.I., 1961, p. 84.

- production quotas do not as a rule fall within the commercial policy. Where quotas are established autonomously the solution is clear out. But when the quotas are fixed by an international agreement the solution is not clear. There is, of course, an element of commercial policy whenever the contracting parties fix the quotas and then complete the arrangement by introducing an express prohibition on the import or export of every quantity exceeding these quotas;

- customs regulations might be classified under commercial policy. They are governed by the rules of G.A.T.T., in particular article VII on valuation for customs purposes and article X. Council regulation n° 802168 on the definition of the origin of goods is in fact based on articles 111 and 113, but it also had some bearing on the free movement of goods within the Community (1).

Likewise, international agreements on the transit of goods are within the sole competence of the Community because they affect the application of the common custom tariff (2).

As regards food aid, the question is raised, whether it should or should not be included in the commercial policy. In practice, food aid has always been considered as falling within the scope of the commercial policy. Multilateral agreements signed at the end of the Kennedy Round negotiations which was based on article 111, include a "memorandum" of agreements as a preliminary to an arrangement on cereals containing a section devoted to food aid where the E.E.C.'s contribution was fixed at 1,L35.000 metric tons (3). This memorandum was formally embodied in the Food Aid Convention which was concluded by the Council on March 17, 1970 on the basis of article

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(1) O.J.L 148, June 28, 1968.

(2) For example, agreements concluded between the Community and Switzerland and between the Community and Austria on Community transit. O.J.L 294, December 29, 1972.

(3) O.J.L 305, December 19, 1968.

113 (1). This article has, in fact, been used as a legal basis for the numerous agreements between the Community and recipient third countries in implementation of this Convention. Moreover, the Court of Justice has stated in its judgment on January 11, 1973 (2) that food aid falls under both the common agricultural policy and the commercial policy (3).

Finally, one should not conclude from this illustration on the concept of the commercial policy, that it is confined within certain set limits. This concept is one that is susceptible to change. The illustrative character of the list given in article 113 which results from the word "particularly" and above all the widely framed text, enable the Community to adapt itself to new economic trends and to any new procedures which may be adopted in international relations.

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(1) O.J.L 66, March 23, 1970.

(2) Case 13/72, Netherlands v. Commission, judgment of January 11, 1973. Grounds n°s 30 and following.

(3) Certain writers stated that food aid offered in case of catastrophe does not fall within the field of the commercial policy. See A. TEPASS, "La compétence externe de la C.E.E.", Study presented to the Faculty of Law, Brussels, 1974, for obtaining post-graduate diploma.

SECTION IV : THE COMMON COMMERCIAL POLICY AND THE ASSOCIATION (1)

1. The Concept of Association (2)

Both the association system and commercial policy are main instruments of the Community's external policy. Thus, it is natural that the common commercial policy may be influenced by the establishment of an association system with third countries.

Despite the fact that the association presupposes according to the Treaty articles, a special and permanent link with the Community, exceeding a simple commercial agreement (3), article 238 did not precisely define the content and form of association agreements (4).

This article

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(1) It is not the aim of this section to define the association system as such, it only deals with association agreements when they concern the common commercial policy.

(2) For the concept of association according to the international law, see M. PILOTTI, Les unions d'Etats, in RCADI, 1928-4, p. 453 ; R. QUADRI, Diritto internazionale pubblico, Palerme, 1963, p. 396 ; see also S. VAROUXAKIS, La nature juridique de l'association entre la CEE et la Grèce, in RMC, 75, 1964, p. 538 ; L.G. ANANIADES, L'association aux Communautés Européennes, Paris, 1967, p. 11 ; D. VIGNE, L'association des Etats africains et malgache à la CEE, Paris, 1970, p. 12 ; G. LESSORT, Un monde de coopération en Méditerranée : l'association de la Communauté et les pays méditerranéens, Bruxelles, 1970, Institut de Sociologie, p. 25 ; M.A. MORSI, Op. cit., p. 378.

(3) P. REUTER, Aspects de la CEE, in RMC, 1958, 1, p. 10 ; R.J. DUPUY, Le caractère unitaire de la CEE dans ses relations extérieures in AFDI, 1963, p. 806 ; P. PESCATORE, Relations extérieures des Communautés Européennes, Op. cit., p. 146.

(4) Certain authors tried to define the association system. See J. MEGRET, Le pouvoir de la CEE de conclure des accords internationaux, in RMC, 1964, p. 533 ; D. EVRIGENIS, Considérations sur la notion de l'association, in RMC, 1966, p. 413 ; ID., L'association à la CEE est-elle une formule d'avenir ? in RMC, 1967, p. 145 ; L.C. ANANIADES, L'association aux Communautés Européennes, Op. cit., p. 290 ; A. SAECLE, L'association dans le Traité de Rome, in RTDE, 1968, 1, p. 1-18 ; D. VIGNE, Op. cit., p. 12 ; W. GORELL, Europe and developing World, in PEP, 1967, p. 46 ; L'association à la CEE, Bruxelles, PU, 1970, p. 390.

only attributes to the Community the competence of concluding with Third Countries or international organizations, agreements establishing an association characterized by reciprocal rights and obligations.

The scope of this association varies and differs according to its political motives and objectives. In practice, the association has taken different shapes (1) in which political and economic considerations have been taken into account.

2. The Scope of Article 238

Prior to the Council's ruling in 1966 that the Nigerian association agreement exceeded the Community's competence under article 238, two competing interpretations of the scope of this article vied for the Council's acceptance. (2) Under the first,article 238 contains no independant grant of substantive dimensions, but merely incorporates the grants contained in other Treaty-making provisions. Consequently, according to this view, the substantive coverage of article 238 may not exceed those of articles 111 and 113. (3) The supporters of this interpretation argued that article 238 was intended to permit the Community to enter into agreements modeled upon the 1954 British agreements with the ECSC(4) providing for procedures of consultation and exchange of technical information in the Coal and Steel Sectors. (5) Moreover, M. Megret rejected the interpretation of article 238 based on an assumed parallelism of internal and external Community competences He asserts that "it is difficult that powers as important, as fundamental and as general could result from such vague provisions when the remaining external competences of the Community are so narrowly defined and limited".

(1) Such as the association as preliminary step to membership : association agreements of Greece and Turkey, association as a special form of development assistance, first and second Yaoundé conventions and association in the form of commercial and economic cooperation, Morocco and Tunisia association agreements of 1969.

(2) J.J. Costonis "Treaty-Making Power of the European Economic Community" CML Review V , 1967-1968, p. 444.

(3) M.J. Dupuy, Op. Cit. p. 806 - J. Megret Op. Cit. p. 534-535.

(4) Agreement concerning the relations between the United Kingdom and the Coal and Steel Community. London December 21, 1954.

(5) J. Megret Op. Cit. p. 514 - P. Pescatore "Relations Extérieures des Communautés Européennes" Op. Cit. p. 139.

On the other hand, the second interpretation, adopting a theory of parallelism, holds that the Community may contract on the external p lane with respect to any matter falling within its internal competences under the Treaty of Rome (1).

Mr. Costonis stated that the Council's standard is wholly inexplicable in terms of the legislative history of article 238 (2). This history commences in 1956 with the efforts of the Six, to coax Britain into ties with the then-proposed Common Market. Conscious of her objections to full membership in "supranational" organizations ; the Six expressed hope in May 1956 that she would enter into a bilateral association agreement with the EEC establishing a closely integrated free trade area. Two months later, Britain indicated that her interests lay in a far broader association agreement that would create an European free trade area including the EEC Member States and the remaining seven Members of the EEC. The Six reacted positively and gave an undertaking that the EEC Treaty in its final form would include a specific article providing for the bilateral or multilateral association of other countries with it (3). Moreover, at the signing of the EEC and Euratom Treaties, the Member States issued a common declaration as an annex to the EEC Treaty which clearly expresses the hope that the new communities would contribute to their own prosperity and provides for the association of other countries with the prospects of expansion offered by the establishment of these Communities. They also declared their willingness to conclude with these countries agreements, permitting the achievement of these objectives (4).

Finally, the free trade negotiations in the EEC that came on the heels of the signing of the Treaty of Rome, demonstrated the broad coverage and flexibility that the Six believed to be in Article 238.

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(1) R.J. DUPUY, Op. cit., p. 805-7 ; J. MEGRET, Op. Cit., p. 535

(2) J.J. COSTONIS, Op. cit., p. 445 ; for more details, see M. CAMPS, Britain and the European Community, 1955-1963. London, 1964.

(3) This undertaking was given by Mr. P.H. Spaak during a visit to London for diplomatic talks in January 1957. See J . COSTONIS, Op. cit., p. 445. See also M. CAMPS, Op. cit., p. 30-31.

(4) Common declaration concerning cooperation with States which are members of international organizations, made on signing the Treaty of Rome and included as an addition to it. See Christopher SAUNDERS, From Free Trade to Integration in Western Europe, London, PEP, 1975.

This review of events prior to and shortly after the signing of the Treaty of Rome provides clear confirmation that, in original conception at least, article 238 was designed to endow the Community with a competence that clearly outpaced those of articles 111 and 113. Mr. Costonis concluded that the coverage of the latter articles is insufficient for a closely integrated free trade area between Britain and the EEC (1) and is grossly inadequate for the far more ambitious European free trade area of which article 238 was expressely included in the Treaty (2).

3. The Distinction between Commercial Agreements and Association Agreements.

In accepting the theory of supporting the evolutionary character of the concept of association, contents of association agreements could be reduced to the limit of a simple economic cooperation. In this case, is it possible to make a distinction between these two kinds of agreements ? In other words, could the contents of a commercial agreement constitute the commercial substance of an association agreement ?

One can observe from the different procedures of concluding agreements foreseen respectively by articles 111, 113 and 238, that association agreements should necessarily have wider scope than commercial agreements (3). The Treaty authorized the Community to conclude association agreements even during the transitional period, while concluding commercial agreements was accorded to the Community only after the expiration of this period (4).

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(1) After the Treaty was signed, there was continued recognition that the proposed multilateral association would be concluded by the Community under article 238. See M. CAMPS, Op. cit., p. 147 ; L.N. LINDBERG, The Political Dynamics of European Integration, London, 1963, p. 140-141.

(2) J. COSTONIS, Op. cit., p. 447-448.

(3) It can also be observed that the place of article 238 figures immediately after article 237 relating to accession. This may indicate that the object of associations could not be identical to that of commercial agreements.

(4) According to certain writers, article 238 agreements may extend only to tariff matters during the transitional period and tariff and commercial matters thereafter. R.J. DUPUY, Op. cit., p. 806 ; J. MEGRET, Op. cit., p. 334-35.

Moreover, the difference of procedures continues after the end of the transitional period. While qualified majority vote is only required for concluding commercial agreement, unanimity and consultation of the European Parliament are always required for association agreements. This presupposes that the obligations contained in association agreements are more substantial than those of commercial agreements. Surely, these differences would be unnecessary if article 238 merely incorporates the substantive grants of articles 111 and 113. Conversely, the presence of these additional protection in article 238 would seem to be comprehensible only on the hypothesis that its coverage exceeds those of articles 111 and 113.

In this situation, apart from other elements (1) and objectives (2) of the association system, it seems that this system has a commercial objective for promoting exchanges between the parties according to a rythm more rapid than that concerning non-associated countries. This is obvious from the adoption of a priviledged system derogated from the Common Commercial Policy in general. This idea can find its origin and support from the legislative history of article 238, as previously mentioned, concerning the establishment of a European free trade area.(3) However, the commercial content of an association agreement should not be less than that of a commercial agreement.

4. The Evolution of the Concept of Association

In this respect, the evolution of certain concepts can be noticed. The first is political. At the beginning, the word "association" encountered a kind of prejudice. Some saw in it an instrument of colonial or post-colonial policy. Later, the association took a political significance and the Community refused to conclude association agreements with European and non-European countries. On the other hand, certain Third Countries feared at the time, to establish relations with the Community based on article 238.

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(1) Such as the financial aid and the right of establisment.

(2) W. Birkelbach "Rapport sur les aspects politiques et institutionels de l'Adhésion ou de l'Association à la Communauté" Parl. Eur. Doc. Séance 1961-1962 n° 122 point 85.

(3) Baron Snoy d'Opuers "Les Etapes de la Cooperation Européenne et les Négociations relatives à une Zone de Libre Echange" C.P.T. Institut Royal des Relations Internationales Bruxelles 1958. Vol. XII n° 5-6 p. 603 CAE One Kim Op. Cit. p. 93

Now, this concept has changed and both the Community and Third Countries have agreed to conclude agreements based on this article. The new agreements are entitled cooperation agreements instead of association agreements. Other agreements are not even entitled with either of them such as the Lome Convention. (1)

The other evolution concerns the content of association agreements. The agreements concluded previously, on the basis of this article, have limited commercial substance. Now, one can observe that the recent agreements concluded with the Mediterranean countries have more substance than the former ones. It can also be observed that the concept of the commercial policy has developed towards a wider scope. The cooperation agreements concluded with Israel in May 1975, based on article 113, (2) included a commercial context nearly similar to that of the agreements concluded with Egypt, Syria and Jordan, which are based on article 238 of the Treaty. These agreements were signed in January 1977.

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(1) J. Raux et D. Perrot "Les accords Externes de la CEE" Op. Cit. 314

(2) IBID p. 298-299.

CHAPTER II

THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY.

The Treaty of Rome provides for a common commercial policy to be in force from the end of the transitional period, January 1, 1970. The implementation of a Common Commercial Policy was preceded by the coordination of the commercial relations of the Member States with third countries during the transitional period, bringing about the conditions necessary for putting into effect the common commercial policy. The Treaty has also defined certain specific obligations of the Member States with regard to the harmonization of their commercial policies (1). The mere coordination of the policies of the Member States does not, in itself, cover the conclusion of agreements by the Community, as this would go further and constitute collective action.(2) An exception is however, provided for the common external tariff, in which the Community was given jurisdiction to conclude agreements with third countries since the Treaty of Rome came into force. This jurisdiction became fully effective only after the transitional period. On this basis, the Community has entered into a great number of agreements with other contracting parties of GATT (3). Individual tariff agreements have also been concluded with Iran (4) and Israel (5) outside the framework of GATT. The Community has, thus, no power to conclude trade

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(1) W. ERNST, Harmonisation des politiques commerciales et la politique commerciale commune de la CEE, in L'harmonisation dans les Communautés, Bruxelles, Institut de Sociologie, 1968, p. 207.

(2) U. EVERLING, Legal Problems of the Common Commercial Policy, in European Economic Community, CML Review, IV, 1966-1967, p. 141-165.

(3) These compensation agreements were concluded with non-Member countries which were substantially affected by the common external tariff. Furthermore, the Community participated in Dillon and Kennedy Rounds for a lowering of tariff levels and it is actually, participating in Tokyo Round within the framework of GATT. See J.S. REHM, Developments in the Law and Institutions of International Economic Relations, the Kennedy Round of Trade Negotiations, in American Journal of International Law, 62, 1968, p. 405-422.

(4) J.O. p. 2553/1963.

(5) J.O. p. 1517/1964.

agreements during this transitional period.

Agreements on commercial matters outside the tariff field, concluded during this period, have been signed by the Community together with the Member States, and in these cases, the Council and the Governments of Member States acted as one party (1). After the expiry of the transitional period, the Common Commercial Policy is to be based on uniformly established principles. The application of the trade provisions depends first on the scope of the Common Commercial Policy. The Treaty of Rome offers no definition of this policy. Article 111 refers to matters of external trade, and article 113 enumerates, for illustration, some measures which pertain to it. Besides tariffs, article 113 also deals with quantitative restrictions in which it refers to terms of unification of liberalization measures. Tariffs and quantitative restrictions are to be established either unilaterally by the Community, or contractually, by agreements with third countries. Article 113, furthermore, deals with export policy and defensive measures (2). The procedural rule provided by article 113 for the final phase states that the Council concludes Community agreements by qualified majority from the third stage of the transitional period. These agreements are negotiated by the Commission, in which the Treaty has vested a power of negotiation of which it cannot be deprived (3). The Commission thus holds a key position in the preparation and implementation of the Common Commercial Policy as it mostly does under the Treaty,Without its

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(1) J.J. CONSTONIS, The Treaty-making power of the EEC : the perspective of a decade, CML Review, V, 1967-1968, p. 49 ; Actes du IIIe Colloque sur la fusion des Communautés européennes, organisé à Liège, les 25, 26 et 27 octobre 1967 : Les relations extérieures et la Communauté Européenne unifiée, Liège, Université de Liège, 1969 : rapports de MM. EVERLING et GRIMMEISST, relatifs à la politique commerciale de la Communauté européenne.

(2) G. LE TALLEC, La politique commerciale de la CEE, ses conséquences sur l'action de la Communauté et des Etats Membres, in Revue du Marché Commun, 1971, 143, p. 174. J. RAUX, La Cour de Justice des Communautés et les relations extérieures de la CEE, in RGDIP, LXVVI, 1972, pp. 14-17 ; Actes du IIIe Colloque de Liège sur la fusion des Communautés Européennes, in Les Cahiers de droit européen, 1970, p. 731-737, especially communications of M. WAELBROECK, p. 263, and W. ERNST, p. 265.

(3) M. MELCHIOR, La procédure de conclusion des accords externes de la CEE, in Revue Belge de Droit International, I, 1966, p. 161-215 ; J. NEGRET, Le pouvoir de la CEE de conclure des accords internationaux, in Revue du Marché Commun, 1964, p. 538 ; P. PESCATORE, La personalité internationale de la CEE unifiée, Liège, 1969, p. 77-117.

proposals, the Council is unable to act. It can deviate from the Commission's proposals only by unanimity while the Commission is not replaceable as a negotiator. On the other hand, the Commission depends on the decisions of the Council. Without an act of the Council, there can be no Common Commercial Policy.

Now that the transitional period laid down by the Treaty of Rome has come to an end, the Community shall replace the Member States in their international commercial relations. Thus, the Common Commercial Policy is one of the fields in which, under the Treaty of Rome, the Member States have conferred on the Community sovereign rights (1) and surrendered their national sovereignity both outside and within the Community. The question remains: To what extent have the institutions of the Community made use of their powers to establish a Common Commercial Policy, both autonomously and internationally ?

In this context, numerous measures should be mentioned which are not part of the Common Commercial Policy in its narrower sense but are nevertheless relative to it and are of decisive importance for the external policy of the Community. These measures concern the setting up of the Common External Tariff, the agricultural policy and association agreements (2). Since the Treaty of Rome has come into force, the Community has realized its Common Commercial Policy through two kinds of judicial acts ; unilateral autonomous measures and external actions in which third countries were participants under the formula of international agreements. It has put into effect several measures in the field of a common customs tariff without waiting until the end of the transitional period (3). These measures have directly resulted from the provisions of the Treaty. The establishment of a common

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(1) L. CARTOU, Organisations européennes, Paris, Dalloz, 1967, p. 170 ; W. EVERLING, Legal Problems of the Common Commercial Policy, Op. cit., p. 160-164 ; CAE-One- KIM, Developments in the Commercial Policy of the EEC, CML Review, VIII, 1971, p. 149.

(2)

(3) See Regulation 950/68, J.O. 1968, L 172.

customs tariff was a fundamental prerequisite to the Common Commercial Policy. Furthermore, the Community has also taken other measures for the implementation of a common agricultural policy. The established market organizations have done away with tariffs and quantitative restrictions, previously applicable to imports from third countries. They have, instead, introduced variable import levies and export drawbacks (1).

The basic aim of this Chapter is to deal with the important measures taken by the Community both autonomously and internationally, mainly after the transitional period,to implement the Common Commercial Policy in its narrower sense.

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(1) The agricultural policy of the Community, in CML Review, I, 1963, p. 118 ; J. MEGRET, Principe du régime applicable à l'agriculture dans le Marché Commun, Revue du Marché Commun, 1964, p. 267 ; the commercial policy in the field of agriculture is connected with the common organization of the agricultural markets, see e.g. Reg. n° 120/67 for cearls, J.O. p. 2269/1967, Reg. n° 121/67 for pork, J.O. p. 2283/1967, Reg. 631/1967 for rice, J.O. 174/1, 1967, Reg. 805/68 for beef, Ref. 804/68, J.O. L 148/24, 1968. These regulations were gradually completed by regulations for other sectors such as wine, tobaco and fisheries,which established common market organization for these sectors.

SECTION I : INTERNAL MEASURES TAKEN BY THE COMMUNITY IN EXECUTION OF THE COMMON COMMERCIAL POLICY.

As we previously mentioned, after expiration of the transitional period, the Common Commercial Policy for the Community must be based on uniform principles; in particular those measures of defense against certain unfair trade practices, such as dumping and subsidies, liberalization measures, and export policy. In these fields, the Community has taken several actions in order to implement its commercial policy. The following are the main acts currently in force, specifically governing internal aspects of the Common Commercial Policy.

1) Community Protection against Dumping.

The conditions for putting a common policy into effect must be met during the transitional period. In 1962, the Council, on the Commission's proposal adopted an action program for the Common Commercial Policy. Among items covered in this program is the harmonization of defense measures against dumping and the granting of premiums and subsidies by non-Member States of the Community (1). In execution of the action program, the Commission submitted a proposal for a general regulation dealing with the common principles and a Community procedure with respect to defenses against dumping practices (2). No action was taken on this proposal until April 5, 1968 when the Council adopted regulation n° 859/68 (3). This regulation

(1) This program, also includes uniformization of liberalization lists with regard to third countries, uniformization of trade protection, measures, harmonization of systems of aids granted to exports to third countries and the gradual abolition of restrictions on trade within the framework of uniform export policy. See J.O. n° 90, October 5, 1962, p. 2353.

(2) This field is expressly mentioned by article 113 of the Treaty, as Community competence. See W. MUCH and G. LE TALLEC, Negotiation and conclusion of international organization-respective power of the European Economic Community and its Member States. Legal Service of the Commission, Doc. n°, Jur./10/3/1973 - GLHeb. May 8, 1973, p. 4.

(3) J.O. N° L 93, April 19, 1968, p. 1.

was made to reflect the provisions of the anti-dumping Code adopted as part of the agreement reached in the Kennedy Round of tariff negotiations. Thus, the anti-dumping regulation adopted by the Community is consistent with its obligations under the original GATT agreement as well as its implementing agreements (1).

In this regard it should be pointed out that the legal basis for the anti-dumping regulation is articles 111 and 113 of the Treaty of Rome, relating to the Common Commercial Policy. The Treaty has a distinct dumping article (2) and there is also an anti-dumping regulation (3). These provisions, however, apply only to dumping practices within the Common Market and only during the transitional period. After the end of this period, the subjects treated in these provisions will be considered unfair trade practices and will be dealt with under the competition rules.

Scope of Community Regulation.

The Community's anti-dumping regulation applies to all dumping, premium, and subsidy practices on the part of countries that are not members of the Community. It concerns all goods, including farm products covered by the Common Market organizations.

According to this regulation, an anti-dumping duty may be imposed under three conditions :

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(1) According to the provisions of the Treaty of Rome and article 14 of the anti-dumping code established during the Kennedy Round by an international agreement, the Community ought to adopt, before July 1, 1968 a common policy concerning anti-dumping rules. For this purpose the Council adopted regulation n° 459/68. See H.W. de JONG, The significance of dumping in international trade, in JWTL, vol. 2, 1968, p. 162. A. MASTROPASQUA, Le Marché Commun et la défense contre le dumping, Rome, 1965, p. 11.

(2) Article 91 of the Treaty.

(3) Regulation n° 8, March 11, 1960.

- the product being dumped must cause a material injury to an established industry in the Community, or
- the product being dumped must threaten a material injury to an established industry in the Community, or
- the product being dumped must substantially retard the establishment of an industry whose future creation in the Community is being planned (1).

These three conditions are the same as those spelled out in article 6 of GATT.

2) The Establishment of a Common Policy in the Field of Quantitative Restrictions.

Articles 111, paragraph 5 and article 113 paragraph 1 of the Treaty of Rome provide for the possibility of realizing a common policy in the domain of quantitative restrictions. Rules of GATT, in principle, prohibit the application of quantitative restrictions (2). Exception is made for limited cases, e.g., the protection of agriculture, and the improvement of the balance of payments (3). In these cases, rules of GATT require the State in question to submit to a strict procedure, consult with other contracting parties, and present annual reports.

To implement this policy, the Council adopted several regulations concerning the establishment of a common list of liberalized products towards third countries, a common management procedure for quantitative import quotas, and a special procedure for import of certain specific products

(1) The Commission applied, in certain cases defensive measures to certain products imported from third countries. See Bulletin des Communautés Européennes, n° 3, 1976, section 2304, p. 62 ; Id., n° 5, 1976, section 2306, p. 66.
(2) Article VI of GATT.
(3) Articles XI-XIV and XVIII of GATT ; see S. MUHAMMAD, The legal framework of the trade, London, 1958, p. 194. H. CURZON, Multilateral commercial diplomacy. London, 1965, p. 130. Cae-one KIM, La CEE dans les relations commerciales internationales, op. cit., p. 274.

from certain third countries (1). These regulations merely provided for the basis of elements necessary to introduce a common policy.

A) The Common Procedure for Administering Quantitative Quotas.

The Community action program for the Common Commercial Policy, foresaw the application, after the transitional period, of import common rules and the replacement of national quotas with community quotas. The common administration of quantitative quotas requires the establishment of a common liberalization list and the substitution of the Member States by the Community in bilateral and multilateral agreements.

Towards this end, the Council adopted a regulation to establish a Community procedure for the distribution of quantitative quotas among the Member States, both for imports and exports.(2) However, its scope of application is limited just as regulation 2043/68 covering quantitative quotas fixed unilaterally or by agreement of the Community and its distribution among the Member States. It does not completely regulate the management of the quotas alloted to each Member State .

The procedure laid down in regulation n° 1023 is limited to fixing the rules for the allotment of Community quotas, to the issuing of import and export permits by Member States and the administrative cooperation between national and Community authorities (3).

This regulation restricts the role of the Council to fixing the total quota for the Community and to defining the criteria for dividing the total quota among the Member States. Within these limits, it is the task of the Commission together with a quota management committee composed of representatives from the Member States (4) to administer the distribution

(1) Regulations 1023/70, 12025/70, J.O. 1970 L 125, and regulation 109/70 J.O. 1070 L 19. These regulations replaced regulations 2041/68, 2043/68 and 2045/68, J.O. 1969/303, Bull. C.E., n° 1/1969, p. 65.
(2) Regulation n° 1023/70 replacing reg. 2043/68 and applying to all goods except agricultural products which are subject to market organizations.
(3) & 5 of the preamble to regulation n° 1023/70.
(4) Art. 11 of Regulation n° 1023/70.

of the quotas shares among the Member States (1) as well as the increase in the total quota, if necessary, unless the Council has excluded the possibility of increasing at the time of fixing the total quota.

The administration of the quotas thus fixed is carried out at the national level. The Member States issue import or export permits within the limits of their quotas shares. They must, within three weeks of each distribution of a quota, "publish" the products for which and the conditions under which the permits are issued (2). Every month, the Member States must notify the Commission concerning the quantity of import and export permits and the external exchanges for the products in question and all other information necessary to evaluate the use of these quotas.

It should be observed that quotas fixed by the Member States unilaterally or by agreement are not covered by regulation n° 1023/70. Such quotas may still exist for products not covered by the common system for imports from non-Member States (Regulation 1025/70). Before regulation n° 1023 can govern all non liberated lists, the Community must replace the Member States in their commercial agreements by providing the power to adopt such restrictive measures autonomously with regard to these products.

Therefore a quota policy is not conceivable until the work "to Communitize" national agreements and to replace national quotas with Community quotas has been completed (3).

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(1) In accordance with the procedure laid down in Article 11 of this regulation 1023/70.

(2) Art. 4 of the Regulation. Article 6 indicates that a Member States is not entirely free to fix these conditions. It may issue the authorizations either in the order in which they have been requested or after a simultaneous examination of all requests received.

(3) As mentioned in Cae-one KIM, Development in the Commercial Policy of the EEC, Common Market Law Review, VIII, 1971, p. 159.

8) The Common System for Imports from Non-Member States.

This system is based on two basic regulations adopted by the Council in this respect (1).

According to the first regulation, the import of the products listed in the first annex (2) has been liberalized with regard to all countries mentioned in the second annex (3). They are not subject to quantitative restrictions. The second annex includes all countries with the exception of the State-trading countries and Southern Rhodesia.

The second basic regulation (4) relates to the establishment of a common system for import from the State-trading countries. An annex to the regulation shows which products from each of these countries can be freely imported. It is pointed out explicitly that for the products and countries not included in the lists, each Member State remains free to lay down its import regime.

Both regulations reflect differences among the categories used by the Member States or items which have not been liberalized by the Member States.

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(1) Regulations 1025/70 and 109/70, O.J. L 124/6 and J.O. L 19/1, 1970. They replaced regulations 2041/68 and 2045/68.

(2) This regulation applies, however, in a supplementary manner to the agricultural products covered by special community regulation.

(3) On June 16, 1975, the Council decided to include a number of products in the liberalized common list annexed to the Council regulation of June 5, 1974 on common rules for imports which replaced regulation 1025/70, and differs from it in that it lays down that the only criterion for liberalization by the Community is that of origin, and that any national surveillance measures should be integrated with Community regulations. O.J. L 159, June 16, 1974 and O.J. 157, June 19, 1975.

(4) By Council regulation of March 27, 1975 new products were also included in the common list of liberalized products towards State-trading countries, O.J. L 99, April 21, 1975. The Community has sent to the Council a proposal to amend regulations 109/70 and 439/74 on common rules for imports from State-trading countries and from non-member countries. See Bull. EEC, 1/76, point 2302; Tenth General Report 1976, February 1977, section 487, p. 248.

With regard to the non-communist countries, the common level of liberalization is generally high, so that, for all those countries, a uniform liberalization list can be drawn up (1).

With regard to the State-trading countries, on the other hand, the liberalization level is widely divergent from country to country, while there are also different levels among Member States (2). In view of these differences, it is difficult to draw up a uniform liberalization list (3).

- The two basic regulations also provide for the possibility of extending the list of the liberated products by a decision of the Council, acting on a proposal from the Commission (4).

  For keeping control on imports of the products liberalized within the Community framework, the two regulations also contain a procedure for information and consultation and they furnish an opportunity for instituting a procedure of supervision (5).

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(1) For State-trading countries, the number of liberalized tariff positions reached in 1974, was 842 for Bulgaria, Hungary, Poland, Rumania and Czechoslovakia, 642 for USSR and Albania, 639 for China, and 159 for North Corea, North Vietnam and Mongolia. See O.J. N° C 30/74 of March 19, 1974. See also J. and P. PINDER, The European Community's policy towards Eastern Europe, London, 1975, p. 19.

(2) See Cae-one KIM, Developments in the Common Commercial Policy of the European Economic Community, Op. cit., p. 128-167.

(3) See P.J.G. KAPTEYN and P. VERLOREN VAN THEMAAT, Introduction to the law of the European Communities after the accession of the new member States, London, 1973, p. 364.

(4) On June 16, 1975 the Council decided to include a number of products in the liberalized common list. O.J. L 157, June 19, 1975.

(5) On December 19, 1972, the Council made a decision laying down a precise consultation procedure for measures taken by Member States to amend their own import plans. O.J. L 299, December 31, 1972.

Moreover, they include safeguard measures, in case of market disturbances, for the purpose of ensuring the observance of international obligations of the Community itself or Member States, in their individual capacity/

Moreover, individual Member States have been accorded the capacity under certain conditions to take precautionary measures until the Commission or the Council has begun to act.

- Both Community and Member States when inaugurating quantitative restrictions, are bound by their international obligations in this respect, particularly with regard to GATT contracting parties (1).

- In comparison with regulation n° 2045/68, the Community procedure and the powers conferred on the Commission are considerably strengthened by the adoption of Reg. 1025/70, especially in view of the rapid procedure that it introduces as similarly, the scope of the consultation and information has been extended.

- Regulation 1025 does not seem to affect the application of measures laid down in Article 108 of the Treaty of Rome. The provisions of this Article are intended to prevent the disequilibrium of the balance of payments of a Member State from compromising the functioning of the Common Market or the execution of the Common Commercial Policy.

According to Art. 108, if the measures suggested by the Commission to improve the State balance of payments do not prove sufficient, the Council may on a proposal of the Commission grant the Member State mutual

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(1) As previously mentioned, application of quantitative restrictions is prohibited and exception is made for limited cases, protection of agriculture and improvement of balance of payment : articles XI-XIV and XVIII of GATT. Rules of GATT require the State in question to submit to a strict procedure, consult with other contracting parties, and present annual reports.

assistance. This mutual assistance may take several forms, even to effecting the economies of other Member States (1).

Thus, it will therefore be necessary to provide that in accordance with the Treaty of Rome and GATT rules, the adoption of national restrictive measures should be delayed as long as possible.

The Council decision for gradual Standardization of import managements of Member States.

The Council also issued a decision on December 19, 1972 concerning certain transition measures for gradual standardization of import arrangements of Member States towards third countries (2).

This decision succeeded in gaining a hold on the last remnants of autonomous commercial policy activity of the EEC Member States. As from January 1973, should a Member State intend to amend its existing inner State import arrangement towards third countries, it will be compelled in advance, even in the planning stage, to inform the Commission and other Member States. This means that the new procedure always applies when a Member State is planning an autonomous ammendment of its import arrangement towards third countries. The application, in respect to third countries (and not the Member States) is based on the decision of the European Court, clearly founded and containing an important constitutional ruling in its judgement (3).

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(1) M.WAELBROECK, La politique économique, in Les Nouvelles, Droit des Communautés Européennes (Bruxelles), 1966, p. 901.

(2) Council decision of December 19, 1972. O.J. 299, December 31, 1972.

(3) The Court holds that the Common Commercial Policy does not in its conceptual meaning extend to the EEC Member States, since these are no longer foreign countries, but are, rather, inland, in respect of each other, whereby goods exchange among themselves, no longer as imports or exports, but as free domestic commerce, European Court Judgement December 15, 1971 (51-54). See G. SCHMIDT, Completion of the Common Commercial Policy, Aussen Politik, vol. 24, 1973, p. 383-403.

It is important to recall that in 1958 the external trade of the EEC Member States among themselves was changed to domestic commerce from a constitutional point of view. Since 1958, goods exchange among the EEC States themselves departed from application of their particular external commerce laws, to which the European Court recently expressed in its opinion (1).

Finally, the Council's decision provides for exceptions from this procedure in the case of important goods and in urgent cases, such as when an article is not available in the entire EEC (2).

Recently, the Council decided in February 1976 (3) the inclusion of new products in the list annexed to Reg. 109/70 concerning the common export system from State-trading countries, and the addition of new products to the list annexed to the regulation of June 4, 1974 applicable to imports from third countries. This measure concerns products on which quantitative restrictions were abolished in the EEC Member States.

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(1) European Court Judgement dated December 12, 1971, 51-54/71, in Europarecht, 1973, pp. 50-59, with remark by G. SCHMIDT and other references.

(2) See G. SCHMIDT, Op. cit., p. 395 ; see also M. TORRELLI, L'Elaboration des relations extérieures de la CEE in Revue du Marché Commun, 16/1973, p. 328-340.

(3) J.O. L 58, March 5, 1976, Bull. C.E. 2, 1976, Section 2305, p. 51.

C) The Common System for Exports.

In respect to the export regime of the Community, a common regulation has been issued by the Council on December 20, 1969 (1). The basic principle of this regulation is that exports from the Community to third countries are free. An exception is made for the list of products annexed to this regulation (2),to which this principle does not apply and for which Member States may maintain export restrictions until a common regulation has been provided for by a Council decision (3). For regulated agricultural products, the regulation has merely a supplementary effect (4).

The regulation provided for a procedure of consultation, as in the case of regulation 1025/70. It also contains safeguard measures for the purpose of preventing a shortage of essential products,and thus to protect the interests of the Community.

In fact, this regulation constitutes the other branch of the system laid down in regulation 1025/70 applicable to imports. The execution of a common policy for exports presents less difficulty than that for imports since the non liberated products have become almost negligible. Moreover,

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(1) Regulation 2603/69 O.J. 1969 - n° 324/25, December 27, 1969.

(2) This list was shortened by regulation n° 234/71, J.O. 1971 L 28, at the end of 1972, to 52 Tariff Items. They include products such as, crude oil and minerals, certain products of vegetables origin and certain metals such as platine and copper.

3) See R. KOVAR, La mise en place d'une politique commerciale commune et les compétences des États Membres de la CEE en matière de relations internationales et des conclusions traitées, in AFDI, 1970, pp. 783-828.

4) On May 20, 1975, the Council deleted certain products from the list of residual restrictions on exports applied by certain Member States. See O.J. L 131, May 22, 1975.

the main object of a common export policy is to extend total liberalization to third countries for all products except those mentioned in articles 36 and 223 of the Treaty of Rome (1). For establishing a common policy it is essential to make uniform measures favouring exports such as the system of aid and the credit policy for exports (2).

3) Export Credit Policy.

For export credit insurance, guarantees and financing credits, a team of officials has been entrusted with the coordination of the policies of the Member States in this respect. Moreover, a procedure of information and consultation was prescribed by the Council's decision of September 27, 1960 and the Council's decision 65/53 (3). In this field the Council has also laid down a number of directives (4), in conformity with a working program,(5) previously provided by the Council concerning the adaptation of a

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(1) This objective was stated in the action program for a common commercial policy. See Le programme d'action en matière de politique commerciale commune, J.O. p. 2353-2357/1962 ; see also Agence Europe of July 29, 1969, for the Commission proposal on this subject.

(2) In fact, the work of the Community in this sphere has scarcely progressed. With regard to aid for exports, Art. XVI of GATT lays down the requirements that must be fulfilled by the Member States when granting subsidies for exports. Art. 112 of the Treaty of Rome, also provides that the Member States must harmonize their system of aid for exports during the transitional period. On July 28, 1969 the Council adopted a directive based on articles 112 and 92 of the Treaty, relating to the grant of aid to the ship building industry, with a view to correcting the competition distortion in the international market. O.J. 1464, vol. 206/25.

(3) O.J. p. 1338/60 and 255/65. In May 1962, the Council had already made a decision which, in accordance with the agreement concluded within the framework of the Berne Convention of 1933, provides for consultations among the Member States if an export credit exceeds the period of five years. O.J. p. 1561/1962. See Cae-one KIM, Developments in the commercial policy of the EEC, Op. cit., p. 159, FN 56.

(4) O.J. 1970, L 84/59 and O.J. 1971, L 36/14, Fifth General Report, section 500 and Sixth General Report, section 473.

(5) Le programme d'action en matière de politique commerciale, J.O. 1962, 2353.

common credit insurance policy for medium and long term operations (1).

These directives have not yet been applied (2). The Commission's proposals in this respect, especially for the establishment of a consultation procedure in the domain of credit insurance and credit finance, are not yet examined by the Council. However, the Commission cooperates with the Member States on the basis of a gentleman's agreement in reaching a minimum interest rate and maximum duration of credit for exports (3). In 1975, progress was made concerning the Community's power over export credit. Talks have been held in the OECD and the Member States have been consulted on common rules to govern the financing of local costs (4). Following Council's discussions on the Community's powers in this area, the Commission obtained the Court of Justice's opinion under article 228 of the EEC Treaty.

A- The Court Opinion on Export Credit.

The Court in its opinion of November 11, 1975 stated that export credit, including that covering local costs, was an area of the Common Commercial Policy so that the Community had the same powers, there, as in other areas of the Common Commercial Policy (5). In view of the opinion expressed by the Court of Justice, the Commission has sent the Council a proposal authorizing the Commission to enter into international negotiations. These negotiations aim at concluding an agreement, with the view of fixing an an-

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(1) See A. PANY and G. HARDY, EEC Law, London, 1973, p. 446.

(2) E.A. KLEPSCH, Rapport du Parlement Européen sur les relations de la CEE et de l'Europe de l'Est, P.E. n° 425/74, January 9, 1975. See Problèmes politiques et sociaux (Paris), n° 254, March 1975, p. 48.

(3) Communiqué de presse du Conseil 1616/F/74 (Presse 68) du 11 Sept. 1974.

(4) Many export transactions involve, apart from the supply of materials, the provisions of services which must be carried in the buyer's country (e.g. civil engineering, purchase of supplies, wages paid to local staff). The provision of these goods and services is normally described as local costs. See Ninth General Report of the European Communities, February 1976, p. 279, FN 1.

(5) C.J. C 268, November 22, 1975. see J. ROUX, L'avis de la Cour de Justice des Communautés Européennes au titre de l'article 228, paragraphe 1, deuxième alinéa du Traité de la CEE (11 novembre 1975), in RTDE, 3/1975, p. 482-495.

nual interest rate and a maximum duration for export credit (1).

But these measures result from an international agreement, and therefore, they are not procedures engaging the EEC Member States in accordance with article 113 of the Treaty of Rome concerning the Common Commercial Policy (2).

B - Creation of an European Bank for Export.

The Commission presented to the Council, on February 17, 1976, a proposal of regulation concerning the establishment of a European Bank for export. This proposal was made following a communication adressed to the Council by the Commission in July 1975, in which it examined the possibility of creating this Bank, its objectives, and the methods to be adopted. The basic aim of this Bank is to facilitate the export of goods and services of interesting enterprises in the Member States. According to the Commission proposal, the Bank will start with the initial capital of 100 million units of account supplied by the Community Budget. Moreover, the operations of the Bank will be subject to control of the Council and the European Parliament (3).

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(1) Following the Court opinion, the Commission decided to resort to article 169 of the Treaty against four Member countries (Germany, Italy, France, U.K.) participating individually in international negotiations relating to export credits. BULL.C.E. 7/8, 1976, section 2313, p. 70.

(2) The opinion of the Court contains an important interpretation of the extent of the powers of the Community in the field of commercial policy. In the first place, the Court sanctions the inclusion of the entire subject-matter of export credit within the field of the Common Commercial Policy. Secondly, the Court expressly confirms the right of the Community to conclude agreements in this field with third countries, even where it has not previously been endowed in the same field with autonomous internal rules. Thus, the Court has implicitly ruled out the application by analogy, in the field of commercial policy, of its decision in the case of ERTA, 22/70. See Jean RAUX, La Cour de Justice des Communautés et les relations extérieures de la CEE, in Revue Générale de Droit International Public, LXXVI, 1972, p. 66. See Ninth General Report, February 1976, section 516, p. 279. Close contacts established since 1974, between the Commission, the United States, and Japan with a view to concluding a gentleman's agreement on the minimum interest rates, maximum duration and other aspects of export credits, see Ninth General Report, Section 422, p. 236.

(3) See Bull. C.E. n° 2, 1976, section 2308, p. 52.

SECTION II : THE IMPLEMENTATION OF THE COMMON COMMERCIAL POLICY IN INTERNATIONAL COMMERCIAL RELATIONS.

In order to apply the principles of the Common Policy, the Council in the first years after the entry into force of the EEC Treaty took a number of measures which were intended to prevent the establishment of the Common Commercial Policy from being delayed or obstructed by bilateral agreements of Member States with third countries.

I. EEC Clause

On July 20, 1960, the Council issued a decision deciding that Member States would seek to incorporate,in bilateral treaties, an EEC clause providing for negotiations on the modification of such an agreement if the development of the Common Commercial Policy should require it (1).

This EEC clause aims at allowing Member States to harmonize their engagements resulting from the bilateral agreements with those relating to the establishment of a Common Commercial Policy. This clause may be refused by third countries (2) or these countries may ask for reciprocity by inserting a similar clause (3).

The reciprocal clause may be required, especially in trade relations with countries which plan for regional economic integration.

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(1) Fourth General Report EEC 1961 Section 192, the Commission, authorized by the Council (Directive of 27.6.1968), started the negotiations with Switzerland to adapt three bilateral commercial agreements concluded with Germany, France and Italy to be Community Agreements.

(2) The USSR refused the insertion of the EEC clause in its trade agreements with Italy - Doc. EEC R/156/61 (COMER) 34. See Cae-one Kim, La CEE dans les relations commerciales, Bruxelles, 1969, p. 127. In a later stage the USSR and Eastern countries accepted the annexation of an EEC clause to trade agreements, though without recognizing its juridical status. See J. and P. PINDER, The European Community's Policy towards Eastern Europe, Op. cit., p. 17.

(3) EFTA countries which accepted the EEC clause asked for a similar clause, Doc. EEC 1/6459/61 F.

This regional integration may require that these countries should be in a position to adapt themselves to the obligations resulting from bilateral agreements.

In practice, the Community and the Member States accept, in general, the principle of inserting a similar clause to that of the EEC since this counter clause does not represent any obstacle for realising the Common Commercial Policy (1).

2. The Standardization of the Commercial Agreements concluded by the Member States.

One year after the first decision, the Council by other decisionson October 9, 1961 (2) laid down procedures expressing that the duration of trade agreements was not to extend beyond the transitional period. Furthermore, a procedure for prior consultations concerning negotiations on trade agreements with third countries was provided. These consultations are of considerable importance, even though Member States are not legally bound by the opinions voiced in the course of such consultations (3).

In accordance with the mandate contained in this decision, the Commission carried out in 1969 (4) an investigation which proved that there were about 128 treaties of friendship, trade, and shipping, and 196 trade agreements in the narrower sense, between Member States and Third Countries.

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(1) On the conclusion of the trade agreement with the Philippines, the Benelux countries accepted a similar procedure if the economic integration between the Philippines and other countries required it. BEB/CP (61), 84, Cae-one Kim, Op. cit., p. 128 FN.I.

(2) O.J. p. 1273/61, amended by Council decision 65/572/EEC J.O. 3275/65.

(3) See W. EVERLING, Legal Problems of the Common Commercial Policy in the EEC, in CMLR, IV, 1966-67, p. 156. See J. SCHNEIDER, La mise en oeuvre de la politique commerciale commune de la CEE, Op. cit., p. 21.

(4) Doc. Sec (69) 1175, March 28, 1969.

In addition, there were also many agreements relating to economic, industrial, scientific and technical cooperation which may also be relevant on certain points to the Commercial Policy of the Community. In this respect, it would appear necessary to replace these agreements by Community agreements only where the provisions in these agreements directly effect the implementation of the Commercial Policy of the Community (1).

The 196 trade agreements and particularly the agreements with State-Trading States and Japan, are of primary importance, since they form the basis of trade between Member States and these countries. The difficulty involved with the countries of Eastern Europe and the Soviet Union, however is that they refuse to accord the Community legal recognition,as a negotiating partner , and wish to negotiate only with individual Member States (2).

As long as these countries are not prepared to conclude such agreements, the Community may regulate trade with them by means of autonomous measures (3).

3. The Common Commercial Policy after the Transitional Period.

Before the end of the transitional period, the Council adopted on December 16, 1969 (4) a decision n° 69/494 as a complement to the decision of

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(1) See P.J.G. KAPTEYN and P. VERLOREN van THEMAAT, Introduction to the law of the European Community, Op. cit., p. 367.

(2) Recently, the Soviet leaders expressed greater flexibility towards the EEC and they have publicly recognized that the Community is a reality. They have also accepted that members of the Staff of the Commission should speak for the Community on economic matters at the European Conference on Security and Cooperation, provided that they are listed among the delegation of the member government presiding at the Council of Ministers. See J. and P. PINDER, Op. cit., p. 28.

(3) For example the establishment of common liberalization lists and the introduction of Community quotas. See W. EVERLING, Op. cit., 151.

(4) O.J. 1969 L 326/41. See G. SCHMIDT, Completion of the Common Commercial Policy, in Aussenpolitik Hamburg, XXIV, 1973, p. 393-405.

October 9, 1961, concerning the progressive unification of the agreements in the matter of the commercial relations between Member States and third countries and the negotiations of Community agreements.

This decision provides :

First, for a Community procedure of prior information and consultation regarding the extension after the end of the transitional period of any bilateral trade agreements between Member States and third countries. These consultations are to take place between the Member States and the Commission and its main object is to determine whether the context of the agreements forms part of the Common Commercial Policy within the meaning of Article 113 of the Treaty.

If these Commercial Agreements do not obstruct the application of the Common Commercial Policy, the Council, on the proposal of the Commission, may authorize the Member States, in derogation from the Council decision of October 9, 1961, relating to the standardization of the duration of national commercial agreements, to prolong them or to continue them for a period of not more than one year. However, a prolongation of more than one year may be authorized if the agreement contains a Community reserve clause or an annual denunciation clause (1).

On the other hand, when there are disparties among the commercial policies of the Member States, the Council may request the Commission to initiate and conduct negotiations (2) with the country concerned.

Second, in regard to the procedure for the negotiation of agreements with non-Member States, the decision provides for two systems :

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(1) Art. 3 of the Council's decision 1969.

(2) Art. 4 of the Council's decision 1969.; see J.-P. PIETRI, La valeur juridique des accords liant la Communauté Economique Européenne, in RTDE, 1/1976, p. 76.

a) Community negotiations, are conducted in accordance with the procedure laid down in Article 113 (1) of the Treaty.
b) National negotiations. If the Community negotiation does not seem possible or its conditions have not yet been fulfilled, as is the case with the refusal of the Soviet Union and the countries of Eastern Europe to negotiate with the EEC as such, Article 9 and the following articles of the decision prescribe recourse to bilateral negotiations between the Member States and the third countries (2).

This exception of the general rule of Community negotiations has been provided for a limited period until the end of 1972. According to these articles, a Member State may, after prior compulsory consultation (3), conduct bilateral negotiations for special reasons such as negotiations are necessary to prevent a break in the trade relations laid down in the agreement, as long as no Community arrangements have been made.

The result of these negotiations must be notified to the Commission and the other Member States. If they raise no objections within five working days, the agreement can only be concluded if the Council, deciding on a proposal of the Commission with a qualified majority, authorizes the Member States to do so (4).

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(1) Article 8 of the decision of December 16, 1969. In establishing the Community, the Member States have vested in it certain sovereign rights, some of which are far-reaching and important, as in the field of trade policy, and at the same time they have renounced the exercise of these rights. See W. EVERLING, Op. cit., p. 160 ; W. FELD, The Compe tences of the European Communities for the Conduct of External Relations, in Texas Law Review, n° 891, 1965 ; J.J. COSTONIS, The treaty-making Power of the European Economic Community, the perspective of a decade, in CMLR, V, 1967-1968, p. 429.

(2) See H. de FIUMEL, Aspects juridiques de la politique commerciale commune de la CEE à l'égard des pays socialistes, in Cahiers de Droit Européen, Bruxelles, 1974, 3-4, p. 288-302 ; G. SCHMIDT, Op. cit., p. 401.

(3) Articles 10 and 11 and following of the Council's decision. See R. KOVAR, La mise en place d'une politique commerciale commune et la compétence des Etats de la CEE en matière des relations internationales, in AFDI, 1970, p. 783-828.

(4) Article 13 of the Council's decision.

Under this exceptional arrangement, a series of agreements with State Trading Countries has already been concluded in a new formula, "the so called, "skeleton agreement" (1). Such an agreement lays down a quantitative objective for the development of trade between the two partners over a number of years. This objective is incorporated, every year, into concrete terms in protocols in which quotas are laid down. The Council has authorized Member States to conclude such skeleton agreements provided that their duration does not extend beyond December 31, 1974. A clear example of this arrangement is the authorization which the Council gave to France (2) to conclude a new agreement for the period 1970-1971 with the Soviet Union (3).

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(1) As mentioned by KAPTEYN and VERLOREN van THEMAAT, Op. cit., 1973, p. 368.

(2) Council decision 69/205, J.O. 1969 N.L. 206/33 this decision was issued before decision 69/494, in derogation from the rule of 1961 on the duration of trade agreements.

(3) Such authorization applies only to the commercial part of such agreements and not the cooperation elements which remain in the competence of the Member States. See Politique commerciale négociée et autonome à l'égard des pays à commerce d'Etat, in SEC (72) 4500 Final, December 20, 1972.

SECTION III : THE PRESENT SITUATION OF RELATIONS BETWEEN THE EEC AND EASTERN EUROPEAN COUNTRIES.

The Council's decision of December 16, 1969, has created a difficult situation for Eastern European countries (1). In any case, from January 1, 1975, the USSR and other Eastern European States are facing a situation in which they are obliged either to arrange their commercial relations with the EEC Member States by negotiating with the Community as such or having trade with the EEC Member States subjected to autonomous Community measures. The derogation provided by the decision of the Council of December 16, 1969, expired at the end of the year, 1974, and the Council did not prolong the validity of the agreements previously concluded between the EEC Member States and the Socialist countries.

1. Problems resulted from the Council's decision.

In this respect, two problems arise :

The first related to the renewal of the annual implementary protocol of the year 1974. Some writers, such as Prof. H. de FIUMEL (2) consider that the negotiation for the renewal of the annual protocol, is not the conclusion of a new agreement but only an introduction of modification to an agreement already existing, and the protocol is an integrated part of this agreement.

Consequently, the renewal of the protocol of 1974 goes beyond the derogation provided by the Council's decision of 1969 and the EEC Member States maintain the competence of renewal of the protocol. He added another argument in favour of this opinion based on the decision of the Court of Justice, March 31, 1971, in the ERTA case (3) in which the Court decided that individual EEC Member States in their own capacity, retained compe-

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(1) Ch. ZORGBIBE, L'Europe de l'Est face au Marché Commun, Paris, 1970, p. 30

(2) H. de FIUMEL, Op. cit., p. 288-302, especially 291-292.

(3) See C. FLAESH, Les accords commerciaux entre les Etats membres de la CEE et les pays à commerce d'Etat à partir du 1er janvier 1970, Op. cit., p. 36-37.

tence to negotiate and modify or conclude international agreements, if these negotiations were started before this competence was transfered to the Community (1). The Court rationale was based on the feeling that a change in negotiating parties would result in negative influences on the results of these negotiations. The individual Member States, according to this opinion, are also competent, in their own capacity, for annual renewal of the agreements, since these are just the adoption of the original texts (2). However, this problem no longer exists, since Member States were allowed by the Council to renew the implementary protocol until the end of 1974 (3).

The second relates to the legal situation of the commercial relations between the two parties after the end of the year 1974. As from January 1, 1975, the EEC Member States are no longer competent to negotiate their commercial relations with third countries.

Prof. de FIUMEL inferred that there is the possibility of a solution to this problem within the framework of the GATT. Since the EEC Member States and many of the socialist countries are members of the GATT (4), this offers a sufficient frame to regulate the mutual commercial exchanges between the new parties; but this solution, as de FIUMEL indicates, will meet serious defects in the absence of a Treaty (5). He added that, in

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(1) The texts of the Court's decision in Revue trimestrielle de Droit Européen, 1971, 3-4, pp. 770-784 and their commentary by J.V. LOUIS in Cahiers de Droit Européen, 1971, 4, p. 479-490.

(2) Considerations 83, 84 and 86 of the Court's decision.

(3) Council decision n° 74/34/CEE, December 12, 1973. J.O. L 30, February 4, 1974. See Rapport du Parlement européen sur les relations de la CEE avec les pays à commerce d'Etat de l'Europe de l'Est et le COMECON, Luxembourg, Parlement Européen, n° 425/74, Sept. 1, 1975.

(4) Among Eastern European countries, only Czechoslovakia, Poland, Hungary and Rumania are contracting parties to GATT.

(5). The participation of the socialist States in GATT does not guarantee for them all the advantages of other States, noting that although GATT rules prohibit quantitative restrictions, a series of exceptions have been provided. See H. de FIUMEL, Op. cit., p. 294.

principle, only an agreement with the EEC can permit socialist countries to benefit from certain facilities in the tariff domain and compensation levies area and other items of particular interest to these countries. For these reasons, he thinks that it is suitable for the socialist countries to establish with the EEC, commercial relations by signing agreements.

2. The Necessity of the Diplomatic Recognition of the EEC.

For establishing these contractual relations, are the socialist States obliged to make prior recognition of the EEC as such on the diplomatic level, or are these relations with the EEC by themselves considered as an implicit recognition of the Community ?

Certain opinions in the West confirm the necessity of the diplomatic recognition of the EEC by the socialist countries (1) in order to establish contractual commercial relations. But, Prof. de FIUMEL opposes this opinion, arguing that neither international Law nor international practice knows the recognition by States of international organisations, while at the same time, recognition of States and Governments is both well known and practiced (2). He added that M. Sorensen states that no third State expressly recognized the ECSC while, at the same time, a number of countries have accredited their representatives to the ECSC (3).

Moreover, third countries which are not members of international organisations could always have agreements with these organisations, such as is the case with the EEC. According to him, signing a commercial agreement with the EEC, as such, does not imply a diplomatic recognition.

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(1) C. FLAESH, Op. cit., p. 10, 11, 37. Also H. BRAKER in Europa Archiv Folge 19/1973, p. 686 and Cae-one Kim, Op. cit., p. 296-310. J. REY, Les Communautés Européennes et les relations Est-Ouest, in Colloque des 31 mars et 1er avril 1966, Bruxelles, Institut de Sociologie, p. 20.

(2) J. RAUX, Les relations extérieures des Communautés Economiques Européennes, Paris, 1966, p. 38.

(3) M. SØRENSEN, Principes de droit international public, RCADI, 1960, p. 138-139.

He added that despite the fact that the EEC is given vaste competence, it is considered an international organization (inter-State) with the task of realising economic objectives. It is neither a State or a supra-State organization (1).

Therefore, the conclusion of an agreement between the socialist countries and the EEC does not mean a diplomatic recognition of the latter.

3. The Conventional Relations between the EEC and Comecon.

Another solution could be envisaged, that to establish conventional relations between the COMECON (2) and the EEC (3). Certainly, the negotiations with the EEC through the COMECON will offer a better position to the socialist countries than to negotiate as individual states with this strong economic constellation (4). In this framework, certain problems of a general character which interest the socialist States could find a solution, for example, the abolishment of the existing quantitative restrictions (5).

But this solution has been met with doubts by certain authors (6) who ar-

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(1) J. RAUX, Les relations extérieures de la CEE, Op. cit., p. 223.

(2) The constitutional members of the Comecon are the USSR, GDR, Hungaria, Bulgaria, Poland, Rumania and Czechoslovakia. Cuba and Outer Mongolia recently joined this organization. See K.S. KAROL, Comecon, l'appel de la jungle, in Le Nouvel Observateur, 24-30 March 1975 ; . FADDEJ, Le Caem, Genève, Roussou, 1964.

(3) H. de FIUMEL, Op. cit., p. 296.

(4) This tendency could be observed in the particular discourse of Mr. Brejnev in the XVth Congress of the Professional Trade Union in Moscow, March 20, 1972.

(5)The first official contact towards this end has been realized on August 27, 1973 in the conversations occuring between the Secretary General of the COMECON, Mr. Fadiev, and Norgaard, the Danish Foreign Minister and President in exercise of the Council of the EEC in that time. This disire was also confirmed by the Secretary General of the Polish Communist Party, Mr. Edward Gierek, during his visit to Belgium in a discourse while meeting with the representatives of the Belgian enterprise federations on Sept. 21, 1973.

(6) H . BRAKER, Op. cit., p. 686-687.

gued that the COMECON, in its actual status, has no competence in the domain of the commercial policy, and moreover, has not the appropriate organ to negotiate on the international level (1). Others, like Prof. de Fiumel, reject this opinion on the basis that it does not correspond with the realities. First, because the charter of the COMECON provides expressely the "ius contrahendi", this means as an organization possessing a competence particularly toward other international organizations (2). The COMECON has already concluded agreements with different international specialized organizations in socialist countries and this confirms, undoubtedly, that the COMECON is a subject of international law (3). Second, the external competence should not be considered only in light of the status of the COMECON, but also, in the context of the complex program of economic integration of the socialist countries which was adopted in the XXVth Session, in 1971 which developed the economic relations between the socialist countries. The program obliged the member States of the COMECON to coordinate their foreign economic relations in the interest of normalisation of the international commercial and economic relations, especially to eliminate the discrimination in this domain.

The Member States are also bound to take all necessary measures for the realization of this program. Consequently, nothing fundamental could hinder the COMECON to be competent in matters of commercial policy with the EEC (4).

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(1) Article 11 of the COMECON institution.

(2) During a debate in the European Parliament on September 19, 1973, Mr. Norgaard, President in exercise of the Council in replying to an oral question from the Deputy Cousté, admitted the competence of the COMECON to negotiate with the EEC. See H. de FIUMEL, Op. cit., p. 299.

(3) The COMECON also concluded agreements with Finland and Yugoslavia. See M. DOBROCZYNSKI, L'intégration économique des blocs et la coopération européenne, in Europa-Archiv, August 10, 1974, p. 519-528.

(4) E. USTOR, Council for Mutual Economic Assistance, lecture delivered at the Ecole Supérieure du Commerce Extérieur, Budapest, 1971, mimeographed. J. CAILLOT, Le CAEM, aspects juridiques et formes de coopération économique entre les pays socialistes, Paris, 1971. . ANDRZEJ, Aspects juridiques de l'intégration économique socialiste, in Colloque 1971, Academy of International Law, The Hague. Leyden, 1972. S. SUCH, Theory and practice of CMEA Cooperation, Budapest 1972. M. LEONARD, L'intégration au sein du CAEM, Louvain, Centre d'Etudes Européennes, 1976 ; C. SERANE and F. LEMOINE, L'intégration économique de l'Est - le CAEM, Documentation française, 4268-4270, 8 mars 1976.

On the other hand, the problem of commercial exchanges in the narrow sense of this term, and those questions relating to this problem, do not exhaust the whole problem of mutual commercial relations between the socialist countries and the particular members of the EEC and the EEC as such. In the present conditions, the commercial agreements, in the proper meaning of the term, incorporate little by little certain new sectors, such as industrial, scientific and technical cooperation which continually grow in importance. Socialist countries consider that this kind of relationship will offer the best perpectives of new relations with the EEC and correspond better to their potential economics (1). On the other side, it is observed that the Member States of the EEC, particularly France and Germany react favourably to the aspirations of the socialist countries in this respect (2).

4. The Position of the European Commission.

The attitude of the EEC Commission in this matter is to always call for an immediate and complete application of a Common Commercial Policy with wide interpretation of the conception of this Policy. The Commission emphasizes that the essence of these agreements relates to the Common Commercial Policy within the meaning of Article 113 of the Treaty. Accordingly, a community procedure is required to apply gradually to these agreements (3).

In the European Parliament, during the debate on the cooperation agreement between France and Poland, some deputies raised the question of the conformity of these agreements with the principles of the Common Commercial

(1) C. Flaesh emphasizes that industrial cooperation offers a more efficient solution than the traditional commercial exchanges to the fundamental problems of the relations between the two different economic systems. C. Flaesh, Op. cit., p. 47 and Ch. ZORGBIBE, Op. cit., p. 33.

(2) These two EEC Member States want a certain liberty of action to establish their economic relations with socialist countries because their markets offer large possibilities for the extension of commercial exchanges. This attitude is interpreted as another reason hindering the implementation of a Common Commercial Policy towards East European States. See Ch. ZORGBIBE, Op. cit., p. 30. See also M. TATU, Les relations entre l'Est et l'Ouest in L'Europe avec un grand E, Paris, 1973, pp. 224-241.

(3) The Commission has prepared a proposal aimed to submit these accords to a procedure of consultation but it met difficulties in the Council. Finally, the Council adopted a decision on July 22, 1974 concerning the application of procedure of consultation for cooperation agreements between Member States and third countries. See Cl. DUMESNIL, Les relations entre la CEE et les pays de l'Est in Revue du Marché Commun, n° 182, 1975, p. 57.

Policy (1) and many of them pointed out the links between these agreements and the Commercial Policy while they stressed the necessity of extending the Community competence to these agreements (2). Recently, another problem has been raised in this respect. It is of great importance because it indicates, after the end of the period of the derogation provided by the Council's decision of 1969, the actual position of the Community with regard to the commercial relations with Eastern European States. It shows, on the other hand, the attempt of some Member States of the EEC, which have a particular interest with the socialist countries, (3) the need to escape from the rules of the Common Commercial Policy.

The problem was invoked on the occasion of an exchange of letters annexed to the draft agreement of France and Poland which contained an allusion to the commercial relations between the two parties. In this letter, France admitted that GATT principles will continue to apply in its relations with Poland. The EEC Commission reacted immediately and considered that this matter will establish a dangerous precedent, as it derogates from the exclusive competence of the Community in commercial matters. After several contacts on a very high level, a compromise was achieved between the nine Member States and the Commission. They agreed to add an explanatory declaration to the accord recalling the exclusive competence of the EEC in commercial matters (4).

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(1) Oral question posed by Deputy Glinne.

(2) Deputies Kriedemann, Bass and de la Malène. See H. de FIUMEL, Op. cit., p. 301-302.

(3) This behaviour of certain Member States supports the opinion which states that the refusal of the socialist states to recognize the EEC is not only the reason for hindering the establishment of a Common Commercial Policy towards these countries but there is also the attitude of certain EEC Member States, such as France and Germany, to have particular interests in the markets of the Eastern European States. See Ch. ZORGBIBE, Op. cit., p. 30 and H. de FIUMEL, Op. cit., p. 292.

(4) See Agence Europe n° 1718, 28.3.1975, p. 4.

This formula is not, as indicated, a "precedent" in the legal sense but exists to inspire other EEC Member States which may be found in an eventual similar situation.

The Commission stressed the importance of this question in view of the continued insistance of Eastern European States to include such commercial provisions in their cooperation agreements with the EEC Member States rejecting, by this act, the Community competence in this domain (1).

5. The Development of the Community's Policy Towards Eastern Europe.

When the Treaty of Rome was negotiated, and for the first years after the establishment of the EEC, the Member States' policies reflected the defensive attitudes engendered by the cold war. The Community's policy towards the East developed in phase with those of the Member States; negative and defensive until the late sixties, becoming increasingly positive and open, thereafter. The Treaty of Rome contained little to encourage an active policy towards the state-trading countries in the early years. Since the establishment of the EEC, it has exercised a special policy towards these countries (2). Apart from the general rules of the commercial policy, the Community applied, as previously mentioned, special measures, either for imports from these States or for exports to them. Imports are subject to quantitative restrictions or total prohibition, based on the argument that the quantity of production and the system of prices (3) in these countries offer their exports to the Community market better conditions and a more advantageous position than those originating from EEC Member States,

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(1) There still exist tendencies in the EEC Member States aimed at extending, under the cover of cooperation, bilateral exchanges between the Member States and Eastern European countries. See E.A. KLEPSCH, Rapport du Parlement Européen sur les relations de la CEE avec les pays à commerce d'Etat de l'Europe de l'Est et le Comecon. Luxembourg, Parlement Européen , n° 425/74, January 9, 1975 ; see Problèmes politiques et sociaux, n° 254, March 21, 1975, p. 46.

(2) The EEC also adopted a similar policy toward the countries with low cost prices, such as Japan, Hong-Kong and Formosa. See Cae-one Kim, Op. cit., p. 296 ; 7e Rapport Général de la CEE, p. 294.

(3) According to this system, prices are fixed for five-year period . The price regime has now been made more flexible, with annual adjustments based on the rolling average of the world market prices over the preceding five years. See J. and P. PINDER, Op. cit., p. 38, and K.S. KAROL, Op. cit., p. 36-39.

preventing the realization of balanced competition in the Community market : with regard to exports to the socialist countries from the EEC, certain products of strategic importance are subject to restrictions. NATO is the authority empowered to issue a decision in this respect. Exports have also met another obstacle because of the absence of a credit policy for the socialist countries (1). On the part of the Eastern European countries, the EEC was severely criticized at the beginning of its creation, by the USSR and other Eastern European countries. Moreover, they refused to accord the Community legal recognition and to accept it as a negotiating partner.

A) The development in the EEC Member States 'Policy towards Eastern European countries.

By 1966, France, followed by the other Member States, continued to liberalize its credit policies towards Eastern Europe. When export credits came before the Council in 1966, the French asserted their intention to pursue their own liberalization unilaterally, claiming that export credits were an instrument of foreign policy and foreign policy was a matter for the Member States. The role of the Community continued to be confined to consultation, until a measure of coordination began to be implemented following Council decisions in 1970, 1971 and 1973. France also became, in 1966, the first member country to scrap a large number of its imports quotas followed by the other Member States. But the Community also made

(1) The external trade of the enlarged Community with the six original Member States of the COMECON (USSR, Poland, Hungary, Rumania, Czechoslovakia and Bulgaria) represented in 1975 about 6.8 % (7,947 million US dollars) of its total imports and 9.7 % (11,039 million US dollars) of its total exports. Commission Document VIII/672/76, La Communauté Européenne et l'Europe de l'Est, note de la Commission, DGX, n° 50/73 and Document 347/X/75 (General Directorate of Information). J.P. de GARA, Trade Relations between the Common Market and Eastern Block, Bruges, 1964. Les Communautés Européennes et les relations Est-Ouest, Colloque des 31 mars et 1er avril 1966, Bruxelles, Institut de Sociologie. Les problèmes politiques et sociaux, n° 254, March 1975, p. 4.

common decisions to establish a common liberalization list. The list contains all the items that have been liberalized in each Member State and it has been agreed that these items will remain liberalized unless the Community, acting in common, decides that quotas may again be imposed (1).

8) The Improvement of the Political Climate.

Since the seventies, and after the conclusion of peace agreements with Eastern European countries, the political climate has improved between the parties. Following this situation, an open attitude towards East-West trade was established among the Member States, and therefore reflected in the Community's behaviour. This theme was taken further in the communiqué issued at the end of the first Summit Conference of the Nine in Paris in October, 1972, when the Member States affirmed their determination to pursue their policy of detente and peace with the countries of Eastern Europe. The communique also explained that the decision to follow a common commercial policy towards the countries of Eastern Europe effective from January 1, 1973, was intended to promote detente in Europe. On the part of Eastern European countries, similar developments have taken place. On the occasion of the 50th anniversary of the creation of the Soviet Union, Mr. Brejnev declared that it was possible to find common elements of certain types of relations between the Common Market and the COMECON. Mr. Kossyguine also declared during the visit of Mr. Thorn to Moscow, that they recognize the EEC as a reality. Moreover, during the 27th Session of the COMECON, its Member States decided to start negotiations with the Community (2).

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(1) L. KAWAN, Les rapports entre les communautés européennes et les pays de l'Est in L'Europe Centrale et Orientale. Bruxelles, Institut de Sociologie, 1969, pp. 133-139. Rapport de E.A. KLEPSCH sur les relations de la Communauté avec les pays à commerce d'Etat de l'Europe de l'Est et le Comecon, Doc. de séance n° 425/74 of January 9, 1975 and n° 186/75, of February 21, 1975.

(2) A. FONTAINE and J.-P. QUENTIN, Les grandes étapes du rapprochement CEE-CAEM depuis 1962 in La Documentation Française, 1975, n° 254, p. 19. Les relations Communauté-Comecon, Débats du Parlement Européen, n° 173, March 1974.

Contacts between the Community and Comecon as such were taken a step further by the arrangement of meetings between officials of the Commission and the Comecon Secretariat which took place in Moscow and Brussels in 1975 and 1976. The socialist countries' concern is that negotiations should lead to the establishment of a general framework agreement (accord de cadre) including all basic principles which could constitute the basis of bilateral negotiations. The Commission's view, in contrast, is to limit these negotiations to the exchange of information and administrative cooperation. However, useful progress was made at these preliminary talks and the two delegations agreed to continue the work.

On the other hand, following the Council decision, which confirmed that all bilateral agreements of Member States would expire at the end of 1974, the Community expressed its readiness towards the end of 1974, to negotiate trade agreements with Eastern European countries. The Commission sent to them a draft outline trade agreement. The reaction of these countries has been until now, negative.

The Community has also offered to hold negotiations on textiles with Hungary, Poland and Rumania (1) under article 4 of the Multifibre agreement within the framework of GATT (2). Only Rumania replied positively and initialed an agreement with the Community in 1976 (3).

In conclusion : until now, there has not been a common commercial policy towards Eastern Europe. Negotiations between the Community and these countries have been delayed by the deferment of any obligation to implement the common commercial policy before the end of the Community's transitional period and by the refusal of the Soviet Union and its allies to accept the Community as a negotiating partner (4).

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(1) Nineth General Report, February 1976, Section 391, p. 222.

(2) These three countries and Czechoslovakia are the only GATT members among Eastern European countries.

(3) Rumania also benefited from the general system of preferences applied by the Community to industrial products imported from developing countries. M. TATU, Op. cit., p. 224-226 and 238-241 ; J. TILING, Comment vendre dans les pays de l'Est in Droit et Affaires, n° 258, February 1, 1974.

(4) See Cl. DUMESNIL, Op. cit., p. 57-61. J. and P. PINDER, Op. cit., p. 43.

As we have seen, however, a new era of negotiations may have begun. The legal recognition of the Community by Eastern European countries does not now seem indispensable. Regular contacts and exchange of letters on various subjects have already taken place between the Commission and officials of these countries. Moreover, the Soviet leaders publically recognized that the Community is a reality. They have accepted with certain conditions that members of the Staff of the Commission should speak for the Community on economic matters at the European Conference for security and cooperation. Furthermore, COMECON, considered to lack competence in external relations, has both tried to improve its internal organs, and signed agreements with certain third countries, proving that COMECON can be effective in negotiating a general framework agreement concerning the basic principles of trade between the parties.

Thus, it is obvious that the problem between the parties is more political than legal.

Finally, if Eastern European countries refuse to conduct trade negotiations with the Community, then its commercial policy towards them will have to operate unilaterally or, for Eastern European countries that are contracting parties, through the GATT (1).

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(1) Concerning the relations with China, the situation is now changed. The Chinese regard the Community as an important factor for strengthening the independence of West Europe from the super powers. Since 1971, the relations between EEC Member States and China have improved and the period 1972-1975 witnessed several contacts and visits, that have taken place in Peking, Brussels and the national capitals of the Member States. Moreover, the relations were normalized when China decided to establish diplomatic relations with the Community on September 16, 1975. Before the end of 1974, the year after which the Member States should be replaced by the Community in their international commercial relations, the Community transmitted to China as to other state-trading countries, an outline agreement in November 1974. The Chinese officials announced that they would examine this proposal in a positive light. Thus, until an agreement is concluded, the Community shall apply autonomous measures to China's products in order to assure the continuity of exchanges. In this regard the Council adopted on March 27, 1975, an autonomous import system regarding China and other state-trading countries. At the same time, liberalization of exchanges continued to progress. Out of a total of 1098 tariff positions, the Community liberalized list included 857 positions in 1975/1976. Bull. Ec. 11-1974, point 1301, 5-1975, points 1201 to 1205. Commission Document (General Directorate of Information) n° 456/X/1975 ; Ninth General Report, February 1976, Section 507, p. 273.

SECTION IV : THE PARTICULAR POSITION OF THE GERMAN DEMOCRATIC REPUBLIC AND THE COMMON COMMERCIAL POLICY.

The internal trade relations between the Federal Republic of Germany and the GDR produced certain ambiguities, regarding the Community, before the conclusion of the fundamental treaty between the two Germanies. The status of the DDR had a two-fold character before the conclusion of the basic treaty.

The GDR is not a third country when it is trading with the Federal Republic, while it must be considered as a third party when it trades with the other EEC Member States (1).

1. Relations between the two Germanies before the conclusion of the basic treaty.

Internal German trade has existed since 1946 within the framework of relations between two occupied zones. In 1951, an agreement was concluded between the two Germanies in Berlin, for the implementation of trade between them. This agreement was modified several times in 1960, 1968 and 1970. The Federal Republic considered that this agreement was not governed by the international Law but was subject to a particular interzonal law.

2. Relations between the two Germanies within the EEC Treaty.

The Common Commercial Policy towards the German Democratic Republic is regulated by a protocol annexed to the Treaty of Rome. According to the

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(1) See J.-P. JACQUES, Le traité CEE et les relations économiques entre les deux Allemagne in Annu aire de l'URSS et des pays socialistes européens 1972-1973, p. 598.

provisions of this protocol, the Federal Republic has reserved the right to consider trade between German territorities as subject to the basic law of the Federal Republic of Germany.

The Treaty of Rome did not require any modification of the existing system for trade between the two Germanies. Consequently, the EEC Treaty did not apply to German internal trade. Moreover, the protocol prevents the Community from establishing an autonomous as well as conventional common policy with regard to the German Democratic Republic. But it expressly leaves each Member State free to take autonomous protective measures at its frontiers with other Member States in order to prevent economic difficulties that might result from the lack of a uniform policy concerning trade with this country. The GDR took advantage of this particular position by enjoying tariff exemptions with the Community. Moreover, it could sell its agricultural products at EEC prices which are normally superior to those of the international market. Furthermore, the Federal Republic carefully avoided submitting the GDR products to fiscal measures (2) applied following the development of the Common Market.

3. The GDR, a third country regarding other EEC Member States.

The relations between the GDR and other EEC Member States are, in principle, subject to the system of exchanges applying to trade with third

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1) The Federal Republic granted credits without interest under the form "swings", reached about 350 million units of account in 1969. This number was given by the Commission, replying to a written question 468/70 of Mr. Vredeling. O.J. n° C 30, p. 8.

(2) These concessions were estimated at 500 million DM in 1969. See written question of Mr Vredeling n° 474/69, O.J. n° C 133, November 5, 1974. See also . LEUR et . SCHUTZE, Les relations économiques de la République Fédérale avec les pays de l'Est, in Politique Etrangère, 1970, p. 439-470.

countries. But the inter-German situation produced certain anomalies. In principle, the EEC Member States should apply the common tariff and the rules of the agricultural policy to the GDR products. But, in practice, the GDR products enter freely into the Community territorities, gaining access through the Federal Republic. The latter refused to have the Community and its Member States, consider the GDR as a third country. It also tried to avoid the implicit recognition by the Community of the GDR as a State. Obviously, the GDR appears as a third party with special stature on the Community level (1).

4. After the conclusion of the basic treaty.

The situation between the Federal Republic and the GDR has evolved, even before the conclusion of the fundamental treaty, following the conclusion of treaties with the USSR and Poland. These agreements include the recognition of the existence of frontiers with the GDR and the possibility of considering German internal trade as international. Article 6 of the basic treaty limits the sovereignity of each of the two Germanies to its territory (2). The spirit of the treaty affects the existing status quo and may produce other effects on the protocol governing the GDR relations with the EEC.

5. The maintaince of the statu-quo

Article 9 of the basic treaty states that this treaty does not affect international treaties and agreements, bilateral or multilateral, previously concluded by the two parties. Moreover, article 7 of this treaty stipu-

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(1) See R. KOVAR, La mise en place de la politique commerciale commune et les compétences des Etats membres de la CEE en matière de relations internationales, in Annuaire français de droit international, 1970, p. 783-828.

(2) See J.-P. JACQUES, Op. cit., in Problèmes politiques et sociaux, n° 254, March 21, 1975, pp. 39-43.

lates that commercial exchanges between the two parties will be developed on the basis of the existing agreements. This means that the two Germanies decided to maintain the existing status quo and continue their trade on the basis of the protocol annexed to the EEC treaty and the treaty of Berlin of 1951 (1). This particular position which is subject to special rules, in derogation to the Treaty of Rome, was not opposed by the other EEC Member States. No Member State expressed the desire to put an end to this protocol. The political realities persuaded the Member States to adopt a moderate position. But there is no legal obstacle that prevents the Member States from using their rights regarding the GDR as a third party (2). They can take appropriate means of control of exchanges and apply safeguard measures. The gradual incorporation of the GDR in the Common Commercial Policy which is based on the collective external commercial law, now seemsindispensable (3). This means that the Community may be permitted to apply Community rules, customs tariffs, levies, restitutions, and a common import and export system. Moreover, the Council decision of December 16, 1969

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(1) M. LAMPS, L'idéologie impose des limites à l'intensification des rapports économiques, in Le Monde Diplomatique, May 1973, p. 5.

(2) The basic treaty between the Federal Republic and the GDR has now fundamentally changed the position. In a document on this subject, disclosed to the Council, the Commission takes the view that the GDR is, as far as the EEC and its Member-States are concerned with the exception of the Federal Republic, a third country like anyother. The exception granted solely to the Federal Republic under the protocol, does not give the other Member States any legal basis for practicing towards the GDR particular commercial policies contrary to article 113 of the EEC Treaty. See G. SCHMIDT, Op. cit., p. 402.

(3) See L.S. KOVAR, La mise en oeuvre de la politique commerciale commune : passage de la période de transition à la période définitive, in Revue trimestrielle de droit européen, 1971, p. 107-158 ; Cl. DUMESNIL, Op. cit., p. 57-61.

SECTION V : THE COMMON COMMERCIAL POLICY AND COOPERATION AGREEMENTS.

1) The Community's Competence in this Field.

A political and legal problem arises in this respect. The question is whether Member States are permitted to conclude cooperation agreements with third countries, particularly with East Europe States after December 31, 1972. On one hand, the EEC Member States insist on their powers to do this and were headed by France in signing cooperation agreements with Eastern European countries (1). On the other hand, there is an opinion stating that Member States are no longer entitled to conclude cooperation agreements (2). This opinion points out that Article 113 according to its wording and meaning encompass also dynamic new developments of living economics and thus also includes cooperation (3). The

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(1) Article 113 applies only to action within the field of trade. Thus, this limited applicability of article 113 makes the Community unable to conclude treaties with third countries on matters such as industrial, and technical cooperation. To supplement this deficiency, Member States have to act in their own authority as they did in the case of association agreements. See W. EVERLING, Op. cit., p. 150 ; P. PESCATORE, Les relations extérieures des Communautés Européennes, Recueil des Cours, vol. 95, 1961, II, p. 96 ; R.J. DUPUY, Du caractère unitaire de la CEE dans ses relations extérieures, in Annuaire français de droit international, vol. 9, 1963, p. 779 ; N. CATALANO, Manuel de droit des Communautés Européennes, 1962, p. 130 ; J. MEGRET, Le pouvoir de la CEE de conclure des accords internationaux, in Revue du Marché Commun, 1964, p. 531 ; G. LE TALLEC, La politique commerciale de la CEE, ses conséquences sur les actions de la Communauté et des Etats Membres, in Revue du Marché Commun, 1974, n° 143, p. 174.

(2) Certain writers state that only a dynamic interpretation to article 113 permits the conclusion, by the Community, of trade agreement, including industrial cooperation, with third Countries. See J. RAUX, La Cour de Justice des Communautés et les relations extérieures de la CEE, Op. cit., p. 67.

(3) See R. DAHRENDORF, Möglichkeiten und Grenzen einer Aussenpolitik der Europäischen Gemeischaften, in Europa-Archiv, 26, 1971, 117-130 ,, Vlad CONSTANTINESCO et D. SIMON, Quelques problèmes des relations extérieures des Communautés Européennes, in RTDE, 3/1975, pp. 463-465.

authors of this opinion further based their arguments on the fact that the new trade agreements with Yugoslavia signed in June 1973, included arrangements covering the promotion of cooperation (1).

Certain writers state that the question is now of no practical value since actual cooperation is practiced by private business on the basis of private agreements which are not affected at all by Article 113 of the EEC (2). It does not deal with the export and import of goods which are regulated by tariff and external commercial law. This relates to the opinion which says that cooperation is understood as inter-company agreements going beyond the scope of direct sales and purchases of goods and services (3).

The cooperation agreement covers a complex of connected and mutually dependent operations such as research and development in the transfer of technology, distribution and marketing, arranged over a period of several years (4).

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(1) See G. SCHMIDT, Op. cit., p. 403 ; J. RAUX et C. FLAESH-MOUGIN, Les accords externes de la CEE (1 janvier 1973-31 décembre 1974), in Revue trimestrielle de droit européen, 1975, 2, p. 268-271.

(2) Action by private economic operators does not usually fall within the compass of commercial policy. See W. MUCH and G. LE TALLEC, Negotiation and conclusion of international organization, Op. cit., 1973, p. 3. G. SCHMIDT, Op. cit., p. 404.

(3) M. SCHMIDT, Ost-West Kooperation durch Ko-Produktion, in Aussenpolitik, 1973, n° 2, p. 137-146.

(4) Generally, cooperation agreements foresee the essential provisions for establishing a framework for cooperation accords between enterprises of the EEC Member States and enterprises of third countries. They include, in principle, provisions for : granting licences, supply of complete production installation, specialization in certain sectors of production, joint venture operations, and participation in financing. These operations may have certain influences on the Common Commercial Policy, such as transfer of goods and services, may produce specific/commercial character. See Rapport E. JOHN, Doc. PE 359/73, p. 10.

In fact, it is difficult in practice, to draw a line between the domain of cooperation and that of Article 113 as each is linked with the other, cooperation may deal with matters connected directly or indirectly with those which fall under Article 113.

2) The Adoption of a prior Consultation Procedure for Cooperation Agreements.

The recent years were marked by the increasing conclusion of cooperation agreements (1), especially between the EEC Member States and Eastern European countries (2). There are also tendences in the Member States, to try to extend commercial matters in these agreements. Therefore, in order to prevent the foundation of the commercial policy from being undermined, the Council on a Commission proposal, adopted a decision on July 22, 1974 (3), concerning the application of prior consultation procedures for cooperation agreements between EEC Member States and third countries (4). This measure constitutes a first step in avoiding the maneuvering of Member States in this regard. Despite this important procedure, the Community is still in an embryonic phase (5). The Community needs to strengthen the process of coordination between the Member States in order to achieve its goals in this respect (6).

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(1) It should be noted that the field of economic and potential cooperation still comes under the jurisdiction of the Member States. But,in view of the growing importance of this new field, it appeared essential to move towards a certain Community control.

(2) See Le rôle de la Communauté dans le commerce et la coopération industrielle avec les pays de l'Est, in Europolitique, n° 7, December 12, 1972, p. 45-47.

(3) O.J. n° L 208 of July 4, 1974.

(4) The Commission concluded that these agreements largely contribute to the division of international labour and to the intensification of commercial exchanges. They would have favourable repercussions on efforts of detente. The Commission feels that they must serve as the basis for efforts aiming to shape commercial policy. Prior exchanges of information, may result in a consultation with the main objectives of ensuring that the measures envisaged are consistent with the obligation of the Common Commercial Policy. See Problèmes politiques et sociaux, Paris, n° 254, March 21, 1975, p.
See also MERCATOR, Les accords de coopération et la politique commerciale de la CEE envers les pays de l'Est in Revue des Sciences Economiques, Liège, Mars 1973.

(5) See Rapport E. JAHN, Doc. 359/73, p. 17.

(6) There is a tendency in the Community to gradually include other matters than trade, such as industrial, scientific and technical cooperation in the actual traditional commercial agreements. See C. FLAESH, Op. cit., p. 47.

CHAPTER III

NEGOTIATION AND CONCLUSION OF COMMUNITY AGREEMENTS

- Respective powers of the Community institutions.

The Treaty of Rome assigned specific roles to the E.E.C. institutions, the Council, Commission, parliament and the Court of Justice. These roles reflect the careful effort of the authors of the Treaty to accommodate significant and potentially conflicting interests that arise at various levels within the Community. The Council (1), which is composed of ministers of the member governments,is the guardian of national interests in Community deliberations. Consistent with its initial task of coordinating the general economic policies of the member States, it exercises the final power of decision in the Community law-making process and generally acts by unanimous or qualified majority vote on important measures. The Council is assisted by a Committee of permanent représentatives and numer ous working parties. These groups are composed of national officials.

The Commission task (2), on the other hand, is to further the general interest of the Community with complete independence. Its major responsibilites include initiating proposals for adoption by the Council, ensuring the application of the Treaty of Rome, and exercising the limited powers of decision assigned to it under the treaty or delegated to it by the Council. All Commission decisions are taken by majority vote.

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(1) See P.H.J.M. HOUBEN, Les conseils de Ministres des Communautés Européennes, Leyden, 1964.

(2) D. COOMBES, Politics and Bureaucracy in the European Community; A Portrait of the Commission of the E.E.C., London, 1970; K. NEUNREITHER, Transformation of a Political Role, Reconsidering the Case of the Commission of the European Communities, J.C.M.S., 1972, pp. 233 - 249; E. NOEL, Les rouages de l'Europe, Comment fonctionnent les institutions de la Communauté Européenne, Bruxelles, Labor, 1976, p. 13-20.

The European parliament (1) seeks to bring European public opinion to bear upon the Community law-making process. The parliament has strongly supported the expansion of the Community's powers. But it has been given only an advisory or consultative competence with respect to enumerated matters under the Treaty of Rome.

The Community Court has been charged with ensuring the observance of law and justice in the interpretation and application of the Treaty. It arbitrates disputes involving the division of powers both between the Community and the member States and among the Community organs themselves by testing the compatibility of community or member States measures with the Treaty of Rome (2).

The Treaty also allocated specific treaty-making functions to these institutions under article 228 (3). The Commission is designed as the Community organ that negotiates E.E.C. agreements with parties. Tariff and commercial agreements are negotiated according to articles 111 and 113, and associated agreements are to be negotiated according to article 238. The Treaty confers the power to conclude these agreements upon the Council. The concluded agreements shall be binding on the institutions of the Community and on member States. The European parliament must be consulted by the Council before the Council concludes association agreements.

Finally, the Court's role as arbiter of the Community's competences clearly appears in article 228 para 1 which empowers the Council, the Commission or a member State to seek preliminary opinion of the Court on the compatibility of the contemplated agreement with the provisions of the Treaty. If the Court

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(1) M. FORZYTH, The Parliament of the European Communities, London, P.E.P., n° 478, vol. XXX, 1964. E. NOEL, Les rouages de l'Europe, Op. cit., p. 55.

(2) D.G. VALENTINE, The Court of Justice of the European Communities, London, 1965; E.H. WALL, The Court of Justice of the European Communities, Jurisdiction and Procedure, London, 1966. E. NOEL, Op. cit., p. 75.

(3) Article 228 establishes the general procedures for the exercise of the powers found in such provisions as articles 111 and 113. See TESTA, "La conclusion des accords et associations", Cahiers de droit européen, 1966, pp. 492 - 496; J. MEGRET, Conclusion, formes et effets des accords internationaux passés par la C.E.E., R.M.C., 1966, p. 19.

rule is negative, the Treaty must be amended in accordance with article 236 before the agreement takes effect (1).

The aim of this chapter is to explain the different roles of the Community institutions and the member States in the negotiation and conclusion of Community agreements.

(1) See John J. COSTONIS, The Treaty-Making Power of the European Economic Community, op. cit., p. 423.

SECTION I : NEGOTIATIONS OF THE COMMUNITY AGREEMENTS.

A) Tariff and Trade negotiations.

The Treaty of Rome has foreseen in articles 111 and 113 that tariff and trade negotiations are to be conducted on behalf of the Community by the Commission (1). This role was generally respected by the Council and the Member States. It allowed the Commission to pursue bilateral and multilateral negotiations.

These negotiations should be decided by the Council who authorizes the Commission to negotiate with the concerned third country.

1- Initiation of negotiations.

In practice, third countries introduce the matter to the Community by a "Note Verbal" explaining the essentials of their "Desiderata". Then the Council will study the problem and if the first reactions are positive (2), the Commission will start studying the file.

2- Exploratory Conversations.

Before passing to the real negotiations, the Council invites the Commission to begin a complete study of both the file, and possible future relations between the Community and the applicant country. This study would focus on the applicant country's economic and social structure, and analyse the specific problems of its external trade (3).

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(1) Article 111 is designed for tariff negotiation during the transitional period. Article 113 is for both tariff and trade negotiations.

(2) It means a political decision has to be taken by the Council.

(3) See Stanley HENIG, External Relations of the European Community, London, 1971, p. 21.

This study is generally carried out through several contacts between the Commission and the third country, and sometimes the country concerned is expressely invited by the Council to present an exposition of its problems in the exploratory negotiations.

3- Definition of the Community position and the mandate.

After the exploratory conversation, the Commission presents its report to the Council, who decides on the beginning of negotiations, and defines the mandate addressed to the Commission. This mandate consists of internal negotiations in the Community where the economic and political interests of every Member State (1) with the concerned country are different.

Every Member State tries to introduce through the terms of the mandate, certain restrictions or interpretations which leave for the Commission either a narrow or large degree of maneuvering.

This mandate decided by the Council should be strictly observed by the Commission but if it becomes too rigid for continuing the negotiations, the Commission should refer back to the Council for modification or a new mandate.

4- Organs involved in the negotiations.

a) The Commission.

Negotiations with third countries are the exclusive task of the Commission (2). It is responsible for dealing directly with the interested third countries. Thus, it maintains direct contacts with the representitives of

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(1) See Helen WALACE, National Government and the European Communities, London, 1973, p. 17.

(2) The Commission in conducting negotiations with third countries, ensures the unity of these negotiations resulting in the Community appearing to speak in one voice. See J. REY, "Le rôle de la Commission dans les négociations", Colloque sur la Commission des Communautés Européennes, Institut d'Etudes Européennes, Bruxelles, novembre 1972. E. NOEL, Les rouages de l'Europe, Op. cit., p. 21-34.

these countries and receive their initial reactions for trade talks. Moreover, the Commission represents the Community in both exploratory discussions and the formal negotiations (1).

The Commission's principal functions within the Community are to provide the Council with regular reports on the progress of the negotiations, technical studies on problems that arise during them and recommendations for the content of the Community negotiating position. The Commission reports, which are drawn up after the close of the exploratory discussions, and after major rounds of negotiations, review the issues discussed during these phases and analyse them in terms of their consequences for the Community and third country. These reports also provide suggestions for the content of the Commission's negotiating mandate. The Commission may also invite the comments and assistance of the national administrations. It may also seek to resolve deadlocks that have developed among the Member States on a given problem through compromise proposals or other initiatives.

Limitation on the Commission's powers.

As a negotiator, the Commission's powers are legally delineated and limited by the texts of the Treaty (2). Since, any negotiations in which the Community may be involved, politically, must be secured by the Councils' acceptance of these agreements. This has lead, in practice, to the Council issuing in advance a negotiating mandate to the Commission.

This mandate of negotiation is not in fact a transfer of Council powers to the Commission but is an authorization of general character attributed directly by the Treaty. From time to time, criticism from the parliament and other sources has been directed to the concern that this procedure is

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(1) The Commission plays an influencial rule in the pre-negotiation stages of an agreement. The information and recommendations contained in its report following the exploratory talks provide invaluable guidance to the Council in subsequently shaping the Commission's negotiating mandates and the Member States in the clarification of their respective national positions. See J. COSTONIS, op. cit., p. 435.

(2) See Stanley HENIG, External Relations of the European Community, op. cit., p. 21.

a derogation from the text of the Treaty (1). However, it is difficult for the Commission to determine by itself that commercial policy which would be acceptable to Member States. It was observed that mandates have become more and more precise in recent negotiations leaving decreasing room for the Commission to manoeuvre within the terms of given mandates. As a consequence, negotiations have become exceedingly difficult. The Council takes anywhere from six months to one year to formulate a mandate on the basis of the Commission report (2).

B) The Council.

Despite the important contribution of the Commission to the Community negotiating process, the responsibility for the authoritative direction of the negotiations rests with the Council, and derivatively, the Member States. This control is achieved by prior authorizations and negotiating mandates. The Commission must be authorized by the Council before opening exploratory discussions and formal negotiations as well as prior to closing the negotiations. Moreover, the Council furnishes the Commission with formal negotiating mandates that frame the policies and specify the subject matter in accordance with which the Commission must conduct the negotiations. The Council usually uses supplementary mandates to broaden the Commission's original negotiating authority by including matters that have arisen in the negotiations or to improve the Community offer in certain matters that were specified in the initial mandate. The Council is also the central forum for the coordination of internal Community activity and individual national positions. Through the national observers, the Council and the Member States are able to oversee the Commission's behaviour in every negotiating session and insure that its application of the mandates to concrete issues comports with their wishes. The subordinate organs of the Council, the Committee of permanent representitives, the working parties and the national observer teams, also play important roles in the negotiation process (3).

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(1) See Stanley HENIG, External Relations of the European Community, op. cit., London, 1971, p. 21.

(2) The Council has taken more than one year to issue a mandate for the Commission to renegotiate with the five Mediterranean countries on the basis of the global policy.

(3) See P.H.J.M. HOUBEN, op. cit., pp. 105 - 106.

C) Role of the Special Committee.

Articles 111 and 113 of the Treaty of Rome authorize the Council to designate a "Special Committee" to assist the Commission in the negotiation of tariff and commercial agreements.

The Treaty of Rome did not precisely define the role of the Special Committee in the negotiations with third parties, but this Committee is generally considered to be an organ of the Council (1). Its composition is not mentioned in the Treaty. Article 153 leaves to the Council the determination of the rules governing this Committee as well as other Committees provided for in the Treaty.

The task of the Special Committee is to forestall the difficulties which may arise in negotiations. It must discuss, with the Commission, the commercial interests of every Member State and expose the national point of view in this respect. In practice, the Commission takes into consideration the different national points of view formulated by every delegate of the Special Committee in order to take a Community position in negotiations with a third country.

Generally, the role of the Special Committee is to facilitate the task of the Commission by providing it with opinions which are not binding on the Commission. But, since this Committee represents the national interests of the Member States, the Commission takes into consideration these view points in order to avoid probable disagreement in the Council during the conclusion of negotiations (2).

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(1) This cooperation between the Commission and this organ is considered as a realistic solution because it often avoids any opposition between the national governments and the Community Institutions. See J. MEGRET, Conclusions, formes et effets des accords, op. cit., p. 21. See also M. MELCHIOR, "La procédure de conclusion des accords externes de la C.E.E.", R.B.D.I., 1966/1, pp. 213 - 214.

(2) The Special Committee meets generally on the level of Directors General of the National Ministries of the Member States or their adjoints. See Bernard BOT, "Negotiation Community Agreements Procedure and Practice", CML Rev., 1970, pp. 286 - 310. See also CAE-one Kim, "La C.E.E. dans ses relations commerciales internationales", op. cit., p. 99, note 2, 4ème rapport général, point 197.

D) Role of the Committee of the Permanent Representatives (1) - (COREPER).

The increasing amount of work for the Council has led this organ to delegate much of the detailed work to the Committee of the permanent representatives and sometimes to ad hoc groups (2). Normally, the role of the Committee of permanent representatives does not appear in the negotiations, since its task is to prepare the work for the Council and to carry out its entrusted tasks.

Its also serves as liaison between the national administration of Member States and coordinator of national attitudes and view points.

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(1) This Committee is known by the term "COREPER".

(2) Unlike the Treaty of Paris, the Treaty of Rome expressely provides that the Council could establish a Committee composed of the representatives of the Member States to help the Council, who will determine the Committee's tasks and powers. From the text, it seems that the negotiations of the Treaty of Rome left no doubt that the Member States would have to maintain permanent representatives in the place where the institutions were set up. The size and the level of these delegations were not all defined and remained a matter for national decision. At the end of the meeting of the Council of Foreign Ministers which was held in Paris on January 8 - 9, 1958, for the establishment of the Community institutions, the Ministers of Foreign Affairs of the Community recognized the advisibility of appointing permanent representatives of the Committees as soon as possible. Later on, the Committee was set up according to article 16 of the Council rules of procedures. This decision of setting up the Committee is a purely national one and is not a Council act in persuit to article 151 of the Treaty of Rome (this article was repealed by article 7 of the Merger Treaty). See Emile NOEL, "Committee of Permanent Representatives", Journal of Common Market Studies, 1966/1967, vol. V, n° 3, pp. 291 - 251. See also A. SPINELLI, The European Adventure, London, 1972, pp. 29 - 41 and 170 - 179. See also HOUBEN, Les conseils des ministres des Communautés européennes, op. cit., pp. 105 - 106 and 138 - 159.

Virtually every decision of the Council in the treaty-making area either ratifies or otherwise depends heavily upon the prior actions of this Committee and other subordinate organs. In the Community negotiating system, the Council refers all Commission studies and reports to the COREPER with a mandate to prepare Council decisions on the matters with which they deal. The COREPER, in turn, refers these questions to one of its numerous permanent or ad hoc working parties (1) for specialized review. These working parties are composed of Commission representatives and national experts. In addition to performing technical studies for the COREPER, the working parties provide a forum for intergovernmental coordination and for a dialogue between the Member States and the Commission. They act under instructions from their governments, and seek to eliminate conflicts in these position, participating in the Community treaty-making process. The working parties inform the Commission of the individual and joint positions of their governments and, in turn, hear an explanation and defense of the Commission's view points on the matter under discussion. Upon receipt of the working party report, the COREPER might follow one of these actions : send the question back to the working party for further technical study; seek to resolve it at the COREPER level; or send the question to the Council for resolution. In the last case, the question is included in a report that summerizes the positions of the national delegations and the Commission, details the existing conflicts and suggests alternative compromise solutions (2).

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(1) Permanent working parties were established by the COREPER pursuant to its authority under provisional Council Rule 16 - 3"to set up working parties and give them certain tasks in preparing and studying matters of its choice". See E. NOEL, op. cit., pp. 232 - 235. See also J. COSTONIS, op. cit., p. 433.

(2) The Council of Ministers cannot delegate any of its powers to this Committee but in practice, the COREPER comes very close to making decisions independently : the items on which it agrees are placed on a list which the Council accepts without any discussions. See H.G. SCHERMERS, International Institutional Law, volume I, p. 160.

Finally, the existence of COREPER in the Council structure, below Ministerial level, has helped sometimes to avoid even longer delays in the formulation of a mandate. The Committee proved, in many cases, to be of a great help in the negotiation process through coordinating the attitudes of the Member States and by providing the Commission with assistance and technical advice. The Committee has become, practically speaking, the lower chamber of the Member States of the Community, since its task is to bring into focus the national needs involved in any decision.

E) The role of the Member States as a limitation on the Commissions' powers.

Generally, negotiations with third countries are subject to national pressures from the Member States (1). The concessions which constitute the subject of the negotiations and decisions of making the agreements with third countries have to be reached by the process of compromise between the Member States (2). For example, the first agreement with Israel was virtually bartered with the Lebanon agreement, and the conclusion of the second agreement was accepted by the French Government against opening the negotiations with Egypt and Lebanon. In return, the Netherlands and Germany have always pressed for generous terms for Israel. In multilateral negotiations, the policy in the "Kennedy Round" was for a large part determined by barter between Germany and France on the establishment of the agricultural policy.

On the other hand, France has always supported the initiatives taken by the Mediterranean countries, in particular, the Maghreb States. The French

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(1) H. WALLACE, National Governments and the European Communities, Op. cit., p. 17.

(2) See Stanley HENIG, op. cit., p. 18. See also R.-J. DUPUY, Le rôle respectif des Etats membres et des organes communautaires dans les relations extérieures de la C.E.E., in Institutions communautaires et Institutions nationales dans le développement des Communautés, Institut d'Etudes Européennes et Institut de Sociologie, Bruxelles, 1968, p. 232.

political interests in this region exceed the economic factors (1).
The importance of the region and the imperatives of energy and security pursuaded France to develop a positive Mediterranean policy.
The other Members of the E.E.C. often attempt to slow the negotiations down with these countries. The Netherlands, Belgium and Italy were opposed for a long time to the Spanish demands. Italy wanted to block the negotiations with the Maghreb countries, because of the competition of Maghreb exports with its products. Generally, it was observed that the importance of the bilateral relations between a third country and one or more of the Member States have a great influence on the outcome of the negotiations.

Moreover, France has always tried to limit the liberty of action of the Community institutions (2) and it was this Member State which insisted upon the constitution of mixed delegations composed of representatives from the Commission and the Member States.
It also excluded the Commission from negotiating, when its competence is uncertain according to the Treaty, such as the negotiations of the Yaounde Conventions and the negotiations of accession for the United Kingdom (3).

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(1) The region represents the second commercial partner to France. See Maurice TORRELLI, "L'élaboration des relations extérieures de la C.E.E.", Revue du Marché Commun, n° 167, 1973, pp. 328 - 334.

(2) Particularly during the De Gaulle administration. See Edmond JOUVE, Le Général De Gaulle et la construction de l'Europe, 1940 - 1966, L.G.D.J., Paris, 1967, pp. 42 - 110.

(3) See Maurice TORRELLI, op. cit., pp. 332 - 337.

5- The Cooperation between the Community organs and the Member States.

Despite the specific role designed for every organ in the negotiations, internationally, the Community organs and the Member States are a single unit and must deal as such with third countries when the Community agreements are negotiated. Internally, as we have seen, the Community is not one entity. Thus,the conflicting internal interest must somehow be harmonized.

Frequently organized contacts between the Commission and the Council (or the Committee of Permanent Representatives or the Special Committee) had helped the Commission to some extent to negotiate without referring back to the Council, avoiding longer delays in the negotiations.

On the other hand, it was observed that despite the power conferred on the Commission to negotiate with third countries, the role of the Commission varies according to the nature of these negotiations (1). This role is more restricted in non tariff matters than in the tariff field, because in the first case,there are certain matters still falling within the jurisdiction of the Member States.

However, the Commission always acts in tariff matters as the sole negotiator of the Community towards third countries.

This procedure has given more influence to the Community since the Commission is the Community's most acceptable organ in transforming the national interests of the Member States to Community interests and more able to defend these interests with third countries.(2).

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(1) See J. REY, op. cit., p. 1. See also J.D.B. MITCHELL, "The Powers of the Commission", Colloque sur la Commission des Communautés Européennes, Institut d'Etudes Européennes, Bruxelles, novembre 1972.

(2) E. NOEL, Les rouages de l'Europe, Comment fonctionnent les institutions de la Communauté Européenne, 1976, Op. cit., p. 35-47.

6- Tariff negotiations difficulties.

Two difficulties have been raised in the Community tariff negotiations. The first one comes from the restrictive character of the directives for the negotiations issued by the Council to the Commission. This restrictive character did not leave room for the Commission to manoeuver and it was obliged to refer frequently to the Council for new directives. As a consequence, negotiations have become exceedingly difficult (1).

For example, criticism has been raised concerning the "Dillon Round" because of the very limited field of action given to the Commission (2). During these negotiations the Commission was just an executer of the Council's strict and precise instructions.

At that time, the Common Market was only beginning and the Community's position was weak (3).

This may explain why the Council did not give enough powers to the Commission during the "Dillon Round". But during the "Kennedy Round", however, the Council mandate was less restrictive, especially during the last stage of the negotiations when the Council issued a clearly detailed mandate to the Commission for certain products which concerned the vital interests of the Member States. For the other products, the Council left the Commission entirely free to consider the Community offers according

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(1) Les Novelles, Droit des Communautés Européennes sous la direction de W.J. Ganshof Van Der Meersch, Bruxelles, paragraphes 584 - 589, 2326. (1969). See also J. REY, op. cit., p. 2.

(2) See "Rapport du Parlement européen sur les relations de la C.E.E. avec le G.A.T.T.", P.E. Doc., n° 33, séance 1962 - 1963.

(3) The second stage of the Customs Union started only in January 1962 - Decision of the Council on January 14, 1962.

to the evolution of the negotiations (1). The Commission conducted these negotiations and acted freely within the framework of the directives (2). Results of these negotiations were submitted to the Council for approval.

A more complicated difficulty results from the procedure of voting in the Council (3). Although the texts of the Treaty stipulate that the Council decides on tariff and commercial matters at the third stage by qualified majority vote, the Council, in practice, turnsto unanimity in these matters.

However, these difficulties did not preclude the Community from successfull negotiations, not only on the multilateral level such as the "Kennedy Round" but also on the bilateral level.

The Commission's role in this field is expected to be enlarged according to the evolution and the development of the Common Commercial Policy.

B) Negotiation of Association Agreements.

Association with the Community is laid down by article 238 of the E.E.C. Treaty which stipulates that the Community may conclude with third States, a union of States or an international organization agreement establishing an association.

In the application of article 238, the following types of associations are to be distinguished :

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(1) For example, offers concerning products such as aluminium chemical products were carefully prepared by the Committee of Permanent Representatives, while materials such as cereals, were left for the action of the Commission. See C.F.H. KRIEDMANN, "Rapport sur l'état d'avancement du Kennedy Round", P.E. Doc. n° 90, 1966/1967.

(2) This is not a directive withen the meaning of article 109 of the Treaty of Rome, but it is a guideline for the Commission to follow in the negotiations.

(3) Article 114. See J. REY, op. cit., p. 2. See also Roger BROAD and R.J. JARRETT, "Community Europe today", p. 231.

- Association as a special form of development assistance.
  This type of association has grown historically from the association with the overseas territories dependent on Member States, with which the existing links were continued even after the independence of these territories and materialized in the first and second Yaounde Conventions (1).

- Association as a preliminary step to Membership.
  This type of association is similar to a large extent to the first one in that it includes financial, technical and commercial cooperation. This kind of association aims of developing the economy of the associated country so that it can be admitted as a full member of the Community.

  European countries are the only countries qualified for an association of this kind. Such an association has been brought about with two States, Greece and Turkey.

- Association in the form of commercial and economic cooperation with third countries.
  This type of association was applied to Morocco and Tunisia in 1969 and to Malta and Cyprus in 1970 and 1972 respectively. It is similar in its contents to a preferential agreement.

The procedures which were followed at the conclusion of these types of associations are based on articles 238 and 228. According to these articles, the Commission conducts negotiations and the Council concludes the association agreements, acting unanimously after consulting the European Parliament, where such agreements call for amendments to the Treaty, the amendments must first be accepted in accordance with the procedure laid down in article 236.

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(1) See P.N.C. OKIGBO, Africa and the Common Market, 1967, pp. 26 - 28.
The Community was not the negotiator in Yaounde Convention.
Werner FIELD, The Common Market and the World, 1967, pp. 114 - 130.

In practice, during the application of these provisions, a development took place which tended to give a narrow interpretation to the freedom of negotiation of the Commission as well as to the power of the Community itself to conclude agreements. Although the Treaty does not require a mandate before starting negotiations, unlike the procedure for tariff and trade agreements, the Commission conducted the negotiations on association agreements on the basis of a mandate from the Council and in collaboration with an inter-governmental committee specially appointed for this purpose. Moreover, the Member States appointed official observers to the negotiations (1). The two Yaounde Conventions were even negotiated with the associated African States by a delegation in which both the Member States and the Commission were represented.

In the Lome Convention, negotiations were conducted by the Commission assisted by the Committee of national observers. But at the last stage of negotiations, Member States themselves directly participated in these negotiations to forestall certain problems concerning the financial part of this Convention. In the recent agreements concluded with Maghreb countries in 1976, and with Egypt, Syria and Jordan, the Commission conducted the negotiations, assisted by the Committee of the national observers. The Member States did not directly intervene in these negotiations as they have done in the Lome Convention (2).

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(1) National observers are not called for in either art. 228 or 238. Unlike articles 111 and 113 which authorize the Council to designate a "special Committee" to assist the Commission in the negotiations of tariff and commercial agreements. The Council nonetheless named a "special Committee" to assist the Commission in the negotiations of the Greek agreement, the Community's first agreement under article 238. In this agreement, the Commission exceeded in the last stages of negotiations its mandate with regard to arrangement for certain products. Certain Member States were dismayed to find a number of provisions in the agreement that were unacceptable. Shortly thereafter, the Council decided that, henceforth, there would be observers from Member States in such negotiations.

(2) In some association agreements such as those concluded with Tunisia and Morocco in 1969, Malta and Cyprus in 1970 and 1972, the procedure which was followed in negotiating and concluding these agreements is similar, to a large extent, to that followed in tariff and trade agreements. They were not concluded in accordance, with the so called mixed procedure.

These agreements are concluded not only by the Council on behalf of the Community, but Member States themselves are also contracting parties (1). Consequently, these agreements are subject to a ratification procedure in the Member States (2). Such a mixed procedure would seem to be imperative when certain matters which are regulated in the association do not fall within the jurisdiction in which the Community is empowered to bind itself towards third countries.

Scope of article 238.

There is a difference of opinion regarding the scope of the Community's power under article 238 to conclude association agreements independently without participation of Member States as contracting parties. It is possible to contend that the Community may bind itself on its own account in association agreements with respect to all those matters which also come within its competence in the international sphere. In this view, the Community is not competent to enter into engagements for financial assistance, but it can regulate matters such as the right of establishment or the free movement of workers in an association agreement.

In practice, the Council used to take the much narrower view that the Community's competence to conclude agreements under article 238, independently of the Member States, does not extend beyond the external power allotted under other Treaty provisions, i.e. with regard to commercial policies (art. 111, 113 and 114), and even this seems to have been interpreted very narrowly by

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(1) This kind of agreement actually has a dual capacity. At the same time, it is both a treaty between a group of States and one or more other States and an agreement between an international organization and one or more non Member States. The E.E.C. makes dual agreements whenever it is uncertain whether all provisions of the agreement fall within its competence. See SCHERMERS, op. cit., vol. II, p. 417.

(2) The signature of the Member States on these agreements does not mean a denial of the legal personality of the European Communities as mentioned by H. SCHERMERS, op. cit., vol. II, p. 417.

the Council, as shown for instance by the association agreement with Nigeria, which contained for the E.E.C., no actual obligations other than those in the commercial field. The fact that the mixed procedure was not applied at the conclusion of certain association agreements (1), however, testifies to a wider point of view in this respect (2).

(1) Such as the association agreements concluded with Morroco and Tunisia in 1969, with Malta in 1970 and with Cyprus in 1972.

(2) As mentioned by P.J.G. KAPTEYN and P. VERLOREN VAN THEMAAT, op. cit., p. 353. See also John J. COSTONIS, Treaty Making Power of the E.E.C., op. cit., pp. 443 - 448.

C) Negotiation of an agreement within the framework of an international organization. The scope of Community action.

Despite the creation of the European Economic Community, the legal situation of the Member States regarding the international organizations has not been changed, as they continue to exercise their rights as full members of these organizations (1). But the functioning of the Common Market made it necessary for the Member States to coordinate their actions within the framework of the international organizations.

Article 116 of the Treaty provides for the coordination of action in international organizations of an economic character.

During the transitional period, Member States merely consult each other in order to take concerted action and to adopt uniform attitudes, as far as possible. As the transitional period ended, the Member States were required in respect to all matters of particular interest to the Common Market to proceed only by common action (2). To this end, the Commission is empowered to submit proposals to the Council, which is to act by a qualified majority. Concerning the scope and the implementation of such action, article 116 would appear to be of general application and not to be restricted to the scope of the common commercial policy. This common action is required, "in respect of all matters of particular interest to the Common Market" (3).

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(1) G. WOHLFARTH, Fondement juridique des relations entre les Communautés européennes et les Etats tiers, Bruxelles, 1964, pp. 22 - 23.

(2) Article 238 also authorizes the Community to conclude association agreements with international organizations as well as with third countries. See M. TORRELLI, "L'élaboration des relations extérieures de la C.E.E.", Revue du Marché Commun, n° 67, 1973, pp. 328 - 340, especially pp. 331 - 332.

(3) Refering to article 116, the Court of Justice, in its judgement on ERTA Case, put an end to the controversy over the scope of article 116. The Court's ruling confirms that, not withstanding the inclusion of this provision in the chapter on commercial policy, its operation is not limited to tariff and trade matters. See J.A. WINTER, "Annotation on case 22/70, ERTA", C.M.L. Review, vol. VIII, 1971, p. 555; G. LE TALLEC, "Quelques aspects des rapports entre la C.E.E. et les organisations internationales", R.M.C., 1972, pp. 630 - 639.

i. Procedure of negotiation.

The rules set out relating to the exclusive jurisdiction enjoyed by the Community to negotiate and conclude international agreements in a Community field also apply when the agreement is being prepared within the framework of an international organization.

This has not, in practice, given rise to any insuperable legal obstacle; none, at least which derives from the rules governing international organizations. It is enough if the Community has negotiating status, without necessarily being a full member of the international organization arranging the negotiating conference.

The Community has actually been accorded this status which is superior to the status of observer, in various conferences on primary products organized within the framework of the UNCTAD, despite opposition by some - member countries. These countries invoked the Charter of the United Nations on the ground provided therein that national sovereignty cannot be surrendered, especially in favour of organizations themselves subject to international law (1).

The constitution of the organization for economic cooperation and development provides for the participation of the Commission of the European Communities in the work of the organization without the right to vote (2).

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(1) Conferences on sugar in 1968, U.N. Document TD/Sugar 7/EX/SR.11 to 27, p. 68, on tin 1970/U.N. Document TD/Tin. 4/71, p. 30, and on wheat 1971, U.N. Document TD/wheat. 5/inf 1, p. 29. The participation of the E.E.C. in the sugar agreement was considered of the greatest importance. The objections of the Eastern European countries to this participation were overruled. See H.G. SCHERMERS, International Institutional Law, vol. II, p. 703 and pp. 744 - 745. Despite these objections, it was finally adopted that the Community could be a contracting party to the agreements made at the conclusion of the negotiations.

(2) See H.G. SCHERMERS, op. cit., vol. I, p. 32. Moreover, the Community has been accepted as a new contracting party to the gentleman's agreement on powdered milk which has been in existence for several years.

ii. Negotiations within the framework of the G.A.T.T.

Within G.A.T.T. the Community's capacity as negotiator is fully recognized (1). Moreover, the Community plays an important role in certain domains covered by G.A.T.T., such as tariff and commercial negotiations. The Community also participated actively in Dillon and Kennedy Rounds tariff negotiations. The Commission conducted the negotiations as the sole negotiator of the Community within the framework of the mandate addressed to it by the Council. This procedure is similar to that used on the bilateral level. Results of these negotiations were submitted to the Council for approval.

In these negotiations, the Commission was also assisted by the Committee of article III which was appointed by the Council of ministers of the Community (2).

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(1) The relations between the Community and G.A.T.T. are of special nature. In practice, the E.E.C. operates in G.A.T.T. as a separate unit. The E.E.C. Commission plays an active role on behalf of the Member States. See H.G. SCHERMERS, op. cit., vol. I, p. 32; vol. II, p. 744. On the conditions of the E.E.C. participation in G.A.T.T., see Grillo PASQUARELLI, La participation de la C.E.E. aux accords multilatéraux, Centre européen universitaire, Nancy, 1972, p. 195.

(2) See W. FELD, "The European Common Market and the World", op. cit., 1967, p. 105.

SECTION II : CONCLUSION OF AGREEMENTS.

A) Agreements within the Competence of the Community.

1- Closure of Negotiations.

Usually, the initialing of a draft agreement terminates the negotiations (1). The Community frequently adopted this procedure although the legal effects of this procedure are an issue in dispute. This procedure enables only the Commission to authenticate the results of the negotiations since the task of negotiation and conclusion of an agreement is shared by the Concil and the Commission (2). But the Treaty did not precisely set how the Council was to exercise its functions and the practice is marked by increasing disequilibrium in favour of the Council (3).

According to experience usually the negotiator is the one who initials the draft agreement (4). But, in this respect, certain writers, such. as Mr. Dupuy, emphasize the different legal value of initialing according to the form of the agreement whether this form is of a simple or solemn character (5). In the first case,the procedure or initialing replaces the signature in normal agreements ; therefore, an authorization is required from the Council.

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(1) Practice in international law did not establish any distinction between the signature and initialing. See Annuaire de la Commission du Droit International, 1959 - Doc. A/CN. 4/121 - p. 185, Rapport de G.G. FITZ-MAURICE, in ACDI, 1959, vol. II, Doc. A/CN 4/110, article 21.

(2) J. MEGRET, Conclusions, formes et effets des accords internationaux passés par la CEE, Op. cit., p. 9. J. DUPUY, Du caractère unitaire de la CEE dans ses relations extérieures, Op. cit., p. 795. J. RAUX et C. FLAESH, Les accords externes de la CEE, Op. cit., p. 243.

(3) See H. WALACE, National Governments and the European Communities, Op. cit., p. 17.

(4) Usually, the representative of the Commission initials all tariff and commercial agreements which are negotiated by the Commission, but the agreements concluded within the context of the "Kennedy Round" were signed without prior initials. See Cee-One KIM, La CEE dans les relations commerciales internationales, Op. cit., p. 105.

(5) J. DUPUY, Op. cit., p. 795; see also J.-P. PIETRI, La valeur juridique des accords liant la CEE, in RTDE, 2/1975, p. 194-199.

This distinction between the two forms of agreements is difficult to justify since the Council has the power to refuse the whole text of the agreement at the moment of the conclusion (1).

In practice, the mandate given to the Commission by the Council determines the conditions which the Commission has to fulfil before ending the negotiations and initialing the draft agreements. Consequently, the procedure of initialing does not need particular authorization from the Council(2).

2- The signature and the conclusion of the Agreements.

The procedure of concluding tariff and trade agreements is defined in article 114 of the Treaty which stipulates that "the agreements referred to in art. 111 § 4 and in article 113 are to be concluded by the Council on behalf of the Community" (3).

But the term of conclusion invokes certain ambiguities. Does it encompass also the signature or does it mean simply the definitive engagement of the Community ? (4). And in this respect, what is the competent organ for signing the agreement ?

Writers differ in their opinions on this subject (5). Both Mr. de Soto and Mr. Pescatore invoked the practice of international law assuring that the aim of signature or initialing is to authenticate the texts of the

(1) CAE-One KIM, Op. cit., p. 106.

(2) ID., Op. cit., p. 106.

(3) Article 228 which established the general procedure for all Community agreements is considered as a complementary article to article 114.

(4) R.J. DUPUY, Le droit des relations entre les organisations internationales, R.C.A.D.I., 1960, tome 100, p. 491. P. REUTER, Traité de droit international public, Paris, 1963, p. 58. J. RAUX, Les relations externes de la CEE, Op. cit., p. 74.

(5) P. PESCATORE, Relations extérieures des Communautés Européennes, Op. cit., p. 115. J. DE SOTO, Les relations internales des Communautés Européennes, Paris, Institut des Hautes Etudes Internationales (cours 1964-65), p. 59, see also articles 10-12 of Vienna Convention on the law of Treaties.

agreements. Consequently, according to them,the Commission has the right to sign without special authorization from the Council (1).

Other writers consider the signature as a part of the concluding stage and accordingto them, the Council is the Community organ which should sign the draft agreements (2).

In practice, the Council takes a decision authorizing its President to designate the plenipoteniaries who will sign the agreement and obligate the Community (3). This task is usually conferred on one representative of the Commission and one member of the Council (4)

The concluded agreements are binding on the institutions of the Community as well as the Member States (5). As Member States have transferred powers to the Community,in this field,they must be bound by the agreements which the Community concludes within the scope of these powers (6).

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(1) P. PESCATORE, Op. cit., p. 115.

(2) D. WOHLFORTH, U. EVERLING, H.J. GLASNER, R. SPRUNG, Die Europäische Wirtschaftsgemeinschaft, Kommentar zum Vertrag, Berlin-Frankfurt, 1960, art. 113, notes 1-2.

(3) The preferential agreement" between the EEC and Egypt was signed on December 18, 1972 by the President of the Council and the President of the Commission.

(4) In pri ciple, association agreements and agreements of article 113 are signed by the President of the Council and the President or member of the Commission. In certain cases, Community agreements were signed by the President of the Committee of the permanent representatives and the competent director general in the Commission, such as the agreements concluded with Brasil and Finland. See J. RAUX et C. FLAESH-MOUGIN, Les accords externes de la CEE, 1975, op. cit., p. 244.

(5) Article 228, paragraph 2 of the Treaty of Rome.

(6) See H.G. SCHERMERS, Op. cit., vol. II, p. 714.

3- The Community Act for the Conclusion of an Agreement.

The Treaty provisions relative to the procedure and conclusion of Community agreements are not precisely defined. Article 228 of the EEC Treaty, only indicates that the EEC agreements are concluded by the Council but this article remains silent concerning the form in which the Council acts in the conclusion of an agreement. Article 189 also recognizes those legal forms of binding acts by the Community organs; "regulations", "decisions", and "directives". Regulations have general application and are directly applicable in each Member State, while decisions are directed to and binding on specific adressees. Directives are binding and indirectly applicable to the addressed State.

In this respect, it is convenient to distinguish between the term "conclusion", in its proper meaning, and the will of the Community to approve the conclusion of an agreement which takes the form of deliberations in the Council (1). These deliberations are of a legal nature in approving the text of the agreement and authorizing the President of the Council to conclude the agreement in the name of the Community. The question arises whether the deliberation of the Council is sufficient to introduce the provisions of an agreement into Community Law.

M. MEGRET replies negatively (2), while M. PESCATORE Stresses that the question of internal effect on international engagements of the Community should be envisaged within the coherent spirit of the agreement (3). The European Court of Justice in its judgement on cases 21 to 24/72 did not exclude the possibility for an international agreement binding the Community with direct effects (4).

This means, indirectly, that no special Community act transforming the

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(1) M. MELCHIOR, La procédure de conclusion des accords externes de la CEE, in Revue Belge de Droit International, 1965, p. 187-208.

(2) F. MEGRET, Conclusion, formes et effets des accords passés par la CEE, in Revue du Marché Commun, 1965, p. 25.

(3) P. PESCATORE, L'ordre juridique des Communautés, Liège, Presses Universitaires, 1973, p. 151.

(4) Judgement of December 12, 1972, Rec. Vol. XVIII, p. 1219; see H.G. SCHERMERS, Community Law and International Law, in CML Review, vol. 12, 1/1975, 77-98.

agreement into Community Law is necessary (1).

In practice, by the same act, the Council approves the agreement and authorizes its conclusion. The texts of the agreement are reproduced in an annex. All are to be published in the Official Journal of the Communities (2). The deliberations of the Council take the form of a regulation or a decision (3). The Council used both forms in the conclusion of Community agreements.

a.- The Conclusion of Community Agreements by the Form of a Decision.

In practice, the Community used the form of a decision in the conclusion of four categories of agreements (4) :

1) agreements of food aid (5)
2) multilateral agreements negotiated within the GATT (6)
3) bilateral agreements concerning specified product (7)
4) renewal or adaptation of certain agreements, previously concluded in the form of a decision (8).

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(1) S. RIESENFELD, The doctrine of self executing treaties and Community Law, in American Journal of Internal Law, 67 (1973) 3, p. 505.

(2) R. KOVAR, Les accords liant les Communautés Européennes et l'ordre juridique communautaire, in Revue du Marché Commun, 176, 1974, p. 351-352.

(3) The language used, being resolution (Beschluss) in German and (decision) in French.

(4) The form of a decision was also applied with respect to the agreement on the accession of the new adherants on January 22, 1972, because that form is prescribed by the German and Dutsch versions of article 237 of the EEC Treaty. Council Decision, January 22, 1972. J.O. L 73, 1972.

(5) For example, the Council decision, March 21, 1974, concluding an agreement between the EEC and Syria, J.O. May 6, 1974, n° L 123, p. 1.

(6) Such as the conclusion of the Kennedy Round agreement, Council decision November 21, 1967, J.O. L 305/1967, the international wheat agreement, Council decisions March 17, 1970, J.O. 66/1970, J.O. August 9, 1974 L 219, p. 25 and the Council decision of March 21, 1974 concluding arrangements concerning the internal trade of textiles, J.O. April 30, 1974, L 118, p. 1.

(7) Such as the Council decision concluding an agreement between the EEC and India concerning trade of jute products. J.O. March 27, 1974, L 82/10.

(8) For example, the Council decision in the form of exchange of letters concerning the renewal of Lebanon's agreement for trade and cooperation, J.O. July 16, 1974, L 195.

). - The Conclusion of Community agreement by the Form of a Regulation.

The form of regulation is actually generalized for the conclusion of all bilateral association and commercial agreements with third countries. The regulation, by its characteristics, allows the introduction of the provisions of the agreement annexed to the regulation, in the Community juridical order, at the same conditions and with the same effects as those of a regulation within the meaning of article 189 of the Treaty. Every regulation includes that final clause : "This regulation shall be binding in its entirety and directly applicable in all Member States".

In conformity to article 190 para 1 of the Treaty, the regulation is published in the Official Journal of the European Community. It may also fix the date of entry into force of the agreement after giving notification that the procedures necessary for the entry into force of the agreement have been completed (1). The Council used the form of regulation in the conclusion of association agreements with Morocco and Tunisia 1969, and Malta 1970. This form was also used for the conclusion of trade agreements with Yugoslavia (2), preferential agreements with Israël (3) and Egypt (4).

4) Role of the European Parliament

. Consultation on Association Agreements.

Theoretically, according to article 238 of the Treaty, the Parliament has the right to be consulted before the conclusion of any association agreements. In practice, such agreements have always been signed before the

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(1) See J. RAUX et C. FLAESH-MOUGIN, Les accords externes de la CEE, 1975, Op. cit., p. 247.

(2) Reg. n° 460/70, March 6, 1970, J.O. n° L 58/1970

(3) Reg. n° 1526/70, July 20, 1070, J.O. n° 183/1970

(4) Reg. n° 2409/73, July 24, 1973, J.O. n° L 250/1973.

submission to the Parliament (1). There is disagreement between the Council and the European Parliament on the time when consultation, on the association agreement to be concluded, must take place. The Council takes the view that this must take place after the signature of the agreement, on the grounds that the signature merely serves to close the negotiations and authenticate the text of the proposed agreement. Conclusion proper, requires a subsequent decision of the Council ratifying the signed agreement and the exchange of instruments of ratification with third States. Additional support for the Council's position has been sought in further argument. Since, national parliaments do not pass on treaties negotiated by their executives until after signature, it would be inappropriate to permit the European Parliament to do so, particularly in view of the intention of the Treaty of Rome to limit that body to an essentially advisory role in the Community affairs (2).

The Parliament, on the other hand, holds that it must be consulted, after termination of the negotiations, but prior to the signature. The Parliament accused the Council of a "violation of the Treaty" and threatened to submit the issue to the Community Court and even to refuse to participate in the consultation procedure, in order to prevent association agreements from coming into effect (3). Rejecting the Council's arguments, the Parliament and its supporters have insisted that an association agreement is concluded by signature for purposes of article 238. They maintain therefore, that the Council must consult with the Parliament after the close of nego-

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(1) In both cases, it appears improbable that the negotiations should be reopened on account of the opinion of the Parliament. See I. KAPTEYN and P. VERLOREN VAN THEMAAT, Op. cit., p. 353, H.G. SCHERMERS, Op. cit., vol. I, pp. 222-241.

(2) J. MEGRET, Conclusion, formes et effets des accords internationaux passés par la CEE, Op. cit., p. 23, P.H.J.M. HOUBEN, Les conseils des ministres dee Communautés Européennes, 1964, p. 74.

(3) J. DUPUY, Op. cit., p. 796-804.

tiations but before signature (1). They have stressed that holding the consultation procedure after the signature reduces that procedure to a mere formality, because the Community could hardly be expected to modify an agreement after having signed it, even if it is not then bound internationally (2). Moreover, they reject the Council's analogy between national and Community procedures as an improper basis for juridical analysis. They point to the Council's practice of consulting the Parliament prior to its adoption of internal Community acts as an appropriate model for its consultation on treaty making matters.(3) Furthermore, they state the absence of any reference to ratification in article 228 and 238 in questioning the need for a post-signature Council decision which in their view merely repeats its earlier decision approving the negotiated text.

To conclude, it appears from the Council's argument that its desire is to exclude the Parliament from even a minor role in the Community treaty-making process, depending on the fact that the Treaty of Rome did not precisely foresee how the Parliament could participate in the Treaty-making process in a concrete and effective manner, since it possesses a mere advisory competence with respect to association agreements (4). A political consideration can also be added that the Council, by adopting this position intends to prevent a probable modification to the text of the agreement in accordance with Parliamentary suggestions, which may produce serious difficulties with third countries.

On the other hand, one cannot dismiss the Parliament's arguments, but in view of its limited powers foreseen by the Treaty, an amendment to article

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(1) For the Parliament's position, see Battiste Report (Report E.P. DOC. n° 61, September 18, 1961), Dehouse Report (Report E.P. DOC. 94, November 25, 1963), and Moro Report (Report E.P.DOC 134, November 28, 1966).

(2) J. DUPUY, Op. cit., p. 799-800.

(3) P.H.J.M. HOUBEN, Op. cit., p. 72-73.

(4) L.N. LINDBERG, The political dynamic of European Economic Integration, London, 1963, p. 86-89 ; J. COSTONIS, The Treaty-making power of the European Economic Community, Op. cit., p. 438-443.

238 endowing the Parliament with a veto power over association agreements, seems necessary (1).

However, in response to protests that the adopted procedure makes consultations meaningless, the Council has been willing to make available details of the proposed agreements to the appropriate Committee in the European Parliament, before negotiations have been completed.(2) But this measure is hardly considered as a consultation procedure in accordance with article 238 of the Treaty, and thus has not calmed parliamentary critics to the Council.

b. Procedure of Information on tariff and trade agreements.

Articles 111 and 113 of the Treaty do not even provide for parliamentary consultation, but proposals have been made for filling this gap (3). In practice, the Council used to inform the appropriate Committee during the negotiations and the European Parliament after the signature of tariff and trade agreement.

Finally, it is necessary to mention that important developments concerning the European Parliament took place in the recent years. The heads of Government of the Nine Member States decided in their conference held in Rome December 1-2, 1975, that direct universal suffrage for the election of Members of the European Parliament should take place during the year

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(1) In Vedel Report (report made by an ad hop group for examining the increasing competence of the European Parliament) it was suggested to strengthen the powers of the Parliament by charging it with the ratification of international agreements. See Vedel Report (B.C. Supplement, 4/72, p. 37-65).

(2) This formula which is known by "Luns formula" was suggested by Mr. Luns, the Duch Foreign Minister, in order to calm the Parliamentary critics. But this procedure has not in practice, modified the Parliament position since the disappointment of the Parliament has no legal sanction whenever the consultation take place. J. RAUX et C. FLAESH, Op. cit., p. 244.

(3) The Council issued on October 15, 1973, a decision to enlarge the participation of the Parliament in the domain of the conclusion of commercial agreements and also the procedure of consultation. See Bull. C.E. 10/1973, point 2430. See Seventh General Report, p. 41-42 ;

See Bull. C.E., August 7, 1973, section 2403 ; Bull. C.E. December 10, 1973, section 2430 ; see also J.RAUX et C. FLAESH, Les accords externes de la CEE, Op. cit., p. 245.

1978 (1). The European Parliament was invited to present its proposals in this respect. In order to implement the European Council's conclusions, the Council of Ministers approved and signed the texts concerning the election of members of the European Parliament by direct universal suffrage. The Council also adopted certain rules fixing the forms of the election and recommended to the Member States to adopt them according to their respective constitutions (2).

Thus, following this development, other procedures for strengthening the powers of the Parliament on budget and control, are expected to take place in order to fill the gap in this regard (3).

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(1) In the declaration of the Summit of Paris, 1972, the heads of the Governments of the Member States stressed the necessity of strenghtening the powers of the European Parliament. See Sixth General Report, 1972, p. 16 ; A. SPINELLI, Op. cit., 1972, p. 173.

(2) The number of members of the European Parliament in 1976 will be 410 members instead of the actual 198 members. Bull. C.E. n° 9, 1976, sections 2501-2503. See The European Communities own resources and the budgetary powers of the European Parliament, Selected Document E.P. 1972 ; L'intégration européenne et l'avenir des parlements en Europe, Symposium organisé à Luxembourg les 2-3 mai 1974. See also J.P. JACQUE, Parlement européen, 1er janvier 1974-31 mai 1975, in RTDE 1/1976, p. 77-95.

(3) E. NOEL, Les rouages de l'Europe, Comment fonctionnent les institutions de la Communauté Européenne, 1976, Op. cit., p. 61.

B) Procedure of the conclusion of agreements exceeded the boundaries of the Community's treaty-making powers.

1- The mixed procedure.

The mixed procedure is used to conclude agreements containing provisions which exceed the Community's treaty-making competence. The participation of the member States is held to be necessary for these provisions since the latter fall within the residual treaty-making competence of the States. This procedure calls for the participation of both the Member States and the Community in the signature (1) and ratification of the agreement (2). The question of applying this mixed procedure, was raised prior to the conclusion of the Greek association agreement, the first agreement held to exceed the Community's treaty-making powers under any provision. The Council and its supporters insist that the mixed procedure constitutes a special version (3) of the treaty-sanctioned procedure set forth in articles 228 and 236, which entails a preliminary opinion of the Community Court on the issue of compatibility and, if necessary, the amendement of the treaty itself to permit the accord to take effect. The supporters of the Council's position concede that articles 228 and 238 require the amendment of the Treaty of Rome as a precondition to the effectiveness of an agreement

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(1) Representatives of the respective executives of the member States sign the agreement which is then adopted pursuant to their internal constitutional rules, a process that generally requires the approval of their parliaments. Representatives of the Council and the Commission usually sign for the Community, and the agreement is then ratified by a post-signature decision of the Council.

(2) The member States have participated in the conclusion of Greek, Turkish, Yaoundé, Nigeria, Lome, and Maghreb agreements (1976), Egypt, Syria and Jordan agreements in January 1977 under article 238.

(3) See R.-J. DUPUY, Du caractère unitaire de la C.E.E. dans ses relations extérieures , op. cit., p. 808; P. PESCATORE, Relations extérieures des Communautés européennes , op. cit., p. 104; J. MEGRET, Conclusions, formes et effets des accords internationaux passés par la C.E.E., op. cit., p. 535; J. COSTONIS, op. cit., p. 449.

containing provisions that exceed the Community's competence. Moreover, they recognize that under the general amendment procedures of article 236, proposed changes to the Treaty of Rome must be adopted by the Member States in accordance with their respective constitutional rules. But by employing the mixed procedure for the adoption of tainted Community agreements, it is argued that the requirements of articles 228 and 238 and of article 236 are met because the Treaty of Rome is amended as dictated by the former two articles and under procedures that do not differ significantly from those set forth in the three provisions.

Certain writers state that it cannot be claimed that the mixed procedure differs only marginally from the amendment procedures set forth in articles 228, 236 and 238.(1) On the contrary, the former deviates fundamentally from the latter by substituting the Council for the Community Court as the arbiter of the Community's treaty-making competences and by evading the framers intent that the treaty-making powers of the Community should be expanded if experience demonstrates that they are not sufficiently comprehensive to meet the Community's international needs (2). Moreover the Council's failure to distinguish the tainted from the permissible provisions of these agreements, allows the national parliaments to veto (3) Community agreements even if the provisions they find objectionable fall within the Community's competence. Yet the basic assumption that purportedly underlines the mixed procedure is that the intervention of the member States is required only for those provisions of the mixed agreement exceeding the Community's competence under the Treaty.

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(1) See J. COSTONIS, op. cit., p. 450.

(2) The member States have already elected to employ such agreements rather than resort to the amendment procedures of the E.E.C. and E.C.S.E. treaties to deal with such problems as the return of the Saar to West Germany. See M. WAELBROECK, "Peut-on parler d'un droit constitutionnel européen?", Travaux et conférences de la Faculté de Droit de l'Université de Bruxelles, 1964, p. 75; J. COSTONIS, op. cit., p. 450.

(3) G.TESTA,"La conclusion des accords d'association", Cahiers de droit européen, 1966, p. 492.

Experience demonstrates the inadequacy of the Community's powers as originally set forth. The mixed procedure invoked the residual powers of the member States to fill the gap between the Community's existing powers and its expanding international needs. This procedure is against the healthy evolution of the Community's treaty-making powers which should be expanded to meet the Community's international obligations.

The adoption of interim agreement for trade provisions.

The mixed procedure was also used for the Lome Convention, Maghreb agreements of 1976, and recently for Egypt, Syria and Jordan's agreements concluded in January 1977. One can observe a certain development regarding this procedure. In the Greek agreement, the Council rejected a proposal for dividing the agreement into two accords, to be concluded by the Community and the member States, respectively. The Council did not wish at the time, to be involved in distinguishing between the provisions of the agreement that exceeded the Community competences and those that did not (1). In the recent cases of Lome Convention, Algeria, Morocco and Tunisia's agreements (2), the Council accepted to adopt the trade provisions of these agreements in the form of interim agreements in order to immediately implement the trade sector in the original agreements (3).

The interim agreements required only a Community act, a decision or a regulation of the Council. For the other provisions of the agreements, they require the

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(1) See R.-J. DUPUY, Du caractère unitaire de la C.E.E. dans ses relations extérieures, op. cit., p. 807; J. COSTONIS, The treaty-making power of the European Economic Community, op. cit., p. 453, note 104.

(2) For this purpose, the Council adopted three regulations for the conclusion of interim agreements with Algeria, Morocco and Tunisia. See :
Reg. E.E.C. n° 1281/76, May 28, 1976 }
Reg. E.E.C. n° 1288/76, May 28, 1976 } Journal official n° L. 141, May, 28, 1976.
Reg. E.C. n° 1289/76, May 28, 1976 }

(3) This procedure is expected to be also applied to Egypt, Syria and Jordan's agreements.

intervention of the member States, since they deal with matters that exceed the Community's competence under the Treaty of Rome or by the application of ERTA law (1).

The adoption of interim agreements for trade provisions does not mean that the Council, by this act, distinguishes between the provisions of the agreement that fall within the competence of the Community and those that exceed this competence (2). This procédure was made only for the practical necessity of maintaining the continuity of trade preferences already given in previous agreements. Thus, when the national parliaments complete the ratification of these agreements, the Council is then required to ratify them by a post-signature decision.

Moreover, it has been said that the European Commission considers that these agreements with Maghreb and Machrek Arab countries, concluded under a mixed procedure, require community action only, without the intervention of the Member States themselves. The domains covered by these agreements are, in the Commission's opinion, within the Community's competence, including even financial cooperation since the total of both loans and grants was incorporated in the Community budget. The Commission did not insist on this opinion for political reasons.

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(1) Case 22/70 Commission v. Council, Judgment of March 31, 1971. From the judgment of the Court of Justice, known as the ERTA judgment, it ensures that, besides cases involving commercial policy and association where express provision is made giving the Community exclusive international competence, the Community is alone entitled to negotiate and conclude international agreements on all matters in respect of which the Community has adopted, in whatever form, measures introducing common rules. The Court added that "Member States may no longer contract with non-member countries any obligations affecting those rules whether they act either individually or collectively". See W. MUCH and G. le TALLEC, Negotiation and conclusion of international agreements. Respective powers of the E.E.C. and its member States, op. cit., p. 12.

(2) G. TESTA, L'intervention des Etats membres dans la procédure de conclusion des accords d'association de la C.E.E., op. cit., pp. 502 - 509. See also Jean-Paul PIETRI, "La valeur juridique des accords liant la Communauté économique européenne", R.T.D.E., n° 1, janvier - mars 1976, pp. 72 - 75.

SECTION III

Legal force of Community agreements within the Community law

International agreements bind the Community (1)

According to article 223 § 2 of the EEC Treaty, the agreements concluded within the conditions provided by the first § of this article bind the institutions of the Community as well as the Member States (2) This formulation implies the compatibility of the Community agreements with the provisions of the EEC Treaty(3). But it should be observed that article 228 deals with subsequent agreements and not those antedated by the EEC Treaty since, in the first case, the Community possesses an external competence conferred upon it by an explicit or implicit power.

The conclusion of tariff, trade and association agreements is explicitely reserved for the Community under articles III, 113 and 238 of the Treaty. Moreover, the Court of Justice recognized the implicit competence of the Community in its judgment of the ERTA case in which the parties invoked the eventuality to resort to article 235 for the foundation of a new Community competence in the external field.

A) Agreements concluded by the Community (4)

I. Agreements concluded within the explicit competence of the Community

Normally, an international agreement creates judicial links between the contracting parties. The Community did not escape this principle since article 228 stipulates in its § 2 that this kind of agreements binds the Community institutions, All of these organs are bound in every case which the Community is engaged in. This results in the concluded agreements constituting a part of the Community legal order (5) which the institutions must respect.

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(1) P. Reuter "Le droit international comme source du droit communautaire dans le droit des Communautés Européennes Bruxelles, les nouvelles 1969 p. 439
Pescatore "L'ordre juridique des Communautés Européennes" Presses Universitaires de Liège 1973 p. 146

(2) P. Pescatore "Le droit des Communautés Européennes" Les nouvelles Bruxelles 1969 p. 118, 356 & 359.

(3) J. Megret "Conclusion, formes et effets des accords internationaux"OP.CIT p.19-25

(4) Jean-Paul Pietri "La valeur juridique des accords liant la Communauté Economique Européenne" RTDE n° 1, 1976 p. 52-75, Vlad Constantinesco et Denys Simon "Quelques problèmes des relations extérieures des Communautés Européennes" RTDE n° 3 1975 p. 132-169.

(5) The EEC Treaty has created its own legal system which, on the entry into force of the Treaty, became an integral part of the legal systems of the Member States in which their courts are bound to apply. See Costa V. Enel case n° 6/64 July 15, 1964.H.G.Schermers "Community law and international law" CML Review N° 61, 1975 p. 84

But it can be observed that Article 223 has a larger scope when it precisely binds the Member States with the Community agreements. This article is of extreme importance because it undoubtedly establishes that agreements concluded by the Community not only create the applicable right within its proper institutions, but that these agreements engage, at the same time, the States as members of the Community. This means that the Community agreements are distinguishable from agreements concluded by other international organizations whose effects only in the exception extend beyond the functioning of the organisation that concluded the agreements. (1) Thus, it is important to indicate that the Community should take the necessary measures for imposing on the Member States, the consequences resulting from the agreements concluded by the Community as such. The general aim of this conception is to confirm the contractual capacity of the Community which could not be affirmed unless the Member States are also bound by the Community agreements. This condition is essential in order to give the Community's agreements complete significance and assure third countries a legal security.

. Agreements concluded within the implicit competence

Until recently, it was admitted that the Community could exercice its contractual capacity, only in the domain in which it received explicit competence. The existence of implicit competence was recently recognized by the Court judgement in the ERTA case. (2) The Court stated that in the absence of specific provisions concerning the conclusion of international agreements in other matters than those covered by Article 111, 113 and 233, it is convenient to refer to the general system of the Community law relating to relations with Third States. The Court also referred to Article 210 which establishes the legal personality of the Community and its ability to contract with Third Countries. But the affirmation of the legal personality of the Community is not sufficient to determine the material contents of the agreements, since the legal personality only grants a general capacity of contracting within the limit imposed on the Community by the Treaty of Rome.

Under the ERTA case, there are fields where the Treaty making powers of the Member States have been taken over by the Community. The Court of Justice decided : "In particular, each time the Community with a view to implementing a common policy envisaged by the Treaty, lays down common rules, whatever form these may take, the Member States no longer have the right, acting individually or even collectively, to contract obligations towards non-Member States affecting these rules, to the extent that such common rules come into being, the Community alone is in a position to assume and carry out contractual obligations towards non-Member States affecting the whole sphere of application of the Community legal system". (3)

(1) Jean-Paul Pietri, Op. Cit.p.55 V.Constantinesco et Denys Simon,Op.Cit.p.140,J. Megret"Le Pouvoir de la CEE de conclure des accords internationaux" Op.Cit.p.529 P. Pescatore Op.Cit. RCADI, 1961, p.104

(2) Kovar P. "L'Affaire de AETR devant la Cour de Justice et la compétence de la CEE à la lumière de l'arrêt de la Cour de Justice" Mémoire du CEU Nancy 1971.

(3) ERTA case n° 22/70 (Commission V Council) March 31, 1971, Rec. 263-296

For applying ERTA law, it is sufficient that the conditions defined by the Court are fulfilled.(1) In practice, the Community did not yet put into application the principles of ERTA law except for a few areas. (2)

B. Agreements concluded by the Member States before the entry into force of the Treaty of Rome

Agreements concluded before the Treaty of Rome bind the Community.

The Community is bound by agreements that were concluded by Member States before the entry into force of the Treaty. Article 234 deals with this problem and the Court of Justice has given a new dimension to this field. (3)

The first § of article 234 affirmes, the respect of the rights and obligations resulting from agreements antedated to the EEC Treaty. This means that obligations taken by the Member States remain valid and must be respected even if they are incompatible with the provisions of the EEC Treaty. But leaving this principle without limit, would endanger the construction and development of the Common Market. This is why the respect of the antedated agreements does not exclude the obligations of the Member States to adapt these agreements in a way that keeps them compatible with the Treaty. (4) Article 234 § 2 requires the Member States or States concerned to take appropriate measures to eliminate the contested incompatibility and obligates the other Member States to offer their assistance to reach this end. This obligation urges the Member States to open negotiations with third countries in order to revise or modify the agreement for its compatibility. An interpretation given to article 234 persuaded certain writers, to say under the pretext that all appropriate means "must be used", that this does not exclude the possibility of denouncing provisions of the agreement. (5) This opinion is extremely excessive, as it is incompatible with the principle of respecting antedated agreements and threatens the security of the international legal order.

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(1) The Courts view on the powers of the Community in external relations, first set out in the judgment on the ERTA case, were confirmed and clarified in a judgment given on July 14, 1976, in joined cases 3,4 and 6/76. These cases; in criminal proceedings against Dutch fishermen, concerned catch quotas set by the Netherlands under committments assumed in connection with the North-East Atlantic Fisheries Convention. In their request for preliminary rulings, the Dutch Counrts asked, among other things, whether the Community had exclusive power to enter into such committments. See CJEC July 14, 1976 (Officier van Justitie V. Cornelis Kramer) 1976 ECR 1279. See also Tenth General Report 1976, Feb. 1977, Section 573 p. 292

(2) Jean-Paul Pietri Op.Cit. p.53

(3) Jean-Paul Pietri Op.Cit. p.54, V. Constantinesco et D. Simon Op.Cit. p. 443

(4) P. Reuter"Droit des Communautés Européennes"Les nouvelles 1964, p.90

(5) Jean-Paul Pietri Op.Cit. p.66

In fact, the question of the compatibility is of secondary priority. The antedated agreements should not be affected by the Treaty. This means that their validity is not contested. But the respect for these agreements is not absolute since the objectives of the Common Market must be maintained and the Member States must seek the appropriate means to adapt these agreements to the Treaty provisions.

The Court of Justice, in a previous decision in the case 10/61 has defined the meaning of article 234 on one side by refusing to admit that Member States could release themselves from their Community obligations by invoking rights resulting from treaties antedated by the EEC Treaty.

The problem envisaged by the cases 21 to 24/72 (1) is different as it concerns the determination whether the Community itself is bound by the provisions of GATT.(2)

From points of view expressed by the Commission in these cases it appears that there is decreasing importance given to article 234. The accent was put on the behaviour of the Community within the GATT. The participation of the EEC in the different negotiations within the framework of GATT proved, in fact, that the Community is a member of this organization and has been accepted as such by the other contracting parties. Therefore, the Community is bound by GATT provisions as well as by the agreement concluded according to article 228.

The conclusion of the Attorney General was near to this conception, adding that it is not appropriate to consider GATT as incompatible with the Treaty of Rome since the Member States have undertaken to bring about the creation of the EEC within the framework of GATT. The attorney General concluded that despite the fact that the EEC is not a party to GATT in the formal sense of the term, its legal position is similar to its position regarding its agreements concluded according to article 228.

1. The Court's Judgement

In response to the question raised by the Appelate Tribunal, the Court of Justice held that a Community act can be invalid by the fact that it is in conflict with a rule of international law and that it had jurisdiction under article 177 of the Treaty of Rome to render a judgement to that effect. In the case of an international Treaty, however, the invalidity of a Community act because of a conflict with a treaty provision could be adjudicated by the Court in a proceeding initiated by a Community subject, only if the Treaty was binding on the Community and if the conflicting Treaty provision

(1) Cases 21-24/72 December 12, 1972. Rec. Vol. XVIII p. 1219-1241
(2) The third international fruit C° case was the first case involving an obligation under international law. In that case it was submitted that some EEC regulations were void as they conflicted with art. XI of GATT which forbids quantitative restrictions on imports. The Court held that it is obliged to determine whether the validity of the Community acts can be impaired by the fact that they are in conflict with a rule of international law.

was self executing. (1) The Court held that Article XI of GATT, was invoked as the basis of the purported conflict lacked a self executing character.

2. The Community itself is a partner to the GATT

The reasoning of the Court began by accertaining that the Member States, in concluding the Treaty of Rome had not wanted to escape the obligations of GATT. The Court called attention to the fact that, on the contrary, the Member States had the intention of binding the EEC by the provisions of GATT. It appears for the Court that, in exercicing its proper competences, the Community has confirmed its obligations. The Member States were neither able to nor wanting to break away from their obligations. (2) Their will to respect their obligations results from the provisions of the EEC Treaty rather than from the declarations made by the Member States during the representation of the Treaty of Rome to the contracting parties of GATT. This will was particularly expressed by Article 110 of the EEC Treaty in virtue of the fact that the Community adhered to the objectives followed by GATT and Article 234 § 1 (3) of the EEC. Moreover, in conferring upon the Community its inherent competence in the Tariff and Commercial Policy, the Member States have indicated their desire to be bound by the contracting obligations pursuant to GATT. (4)

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(1) In his Comment on this case, Prof. H.G. Schermers stated that he would have preferred the Court to apply all rules of international law binding upon the Communities and not merely the self executing rules. It could prevent the Community from applying particular rules which other parties to the Treaty do not apply, by denying binding effect to those rules. In both the Third International Fruit Company case and the Schulter case, the Court reaches its conclusion that Articles of GATT cannot be invoked in Court by a reasoning which actually says that the provisions are not completely binding. See H.G. Schermers "Community law and International law" Op.Cit. p. 81. See also a Commentary on this case by P.J.G. Kapteyn in SEW 1973 p. 491-498 particularly p. 496.

(2) Considerations n° 11 to 13 of the Judgement 21-24/72.

(3) R. Kovar "Les accords liant les Communautés Européennes et l'ordre Juridique Communautaire" RMC 1974, p. 350.

(4) Considerations n° 14-16 of the Judgement 21-24/72. The Court considered that the obligations of GATT have generally shifted to the Community so that the Community is bound by the GATT Treaty. See H.G. Schermers Op. Cit. p.87.

The Court referred to the behaviour of the EEC in GATT and to its competence derived from the treaty relationship between the Member States and the Community. These relations have been materialized in concrete forms within the GATT and recognized by other contracting parties to the General Agreement. (1)

In concluding, the Court estimated that, in all procedures regarding the EEC Treaty, the Community assumed competences previously exercised by the Member States in the domain of the application of GATT. Thus, the provisions of GATT are of binding effect on the Community. (2)

The arguments developed by the Court were the subject of comments from legal writers.

First, the Court gave a narrow interpretation to Article 234 of the EEC. This provision intervenes only in the first stage of its reasoning by establishing that the individual Member States do not have the intention to escape their obligations in relation to GATT. This intention is not sufficient to obligate the Community, as a whole. (3)

Despite the importance of the first analysis, the references to the behaviour of the Community institutions does not constitute the determining element in obligating the Community to respect the treaties concluded by its Member States prior to its creation. For Mr. J. Rideau "The Community is bound by GATT because of the antedated obligations which bear on its Member States". Rather, its behaviour corresponds to the execution of its obligations.(4) The analysis of Mr. Rideau indicates that the Community assumes competences previously exercised by Member States in the domain covered by GATT.

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(1) Consideration n° 16 of the Judgement in which the Court attached particular importance to the behaviour of the EEC and the agreements concluded within the framework of GATT and according to Art. 114 of the EEC Treaty. See Grillo Pasquarelli "La participation de la CEE aux Accords Multilatéraux dans les relations Internationales" Centre Européen Universitaire Nancy 1972 p. 195.

(2) Considérations n° 18 of the Judgement. See R. Kovar "Les accords liant les Communautés " Op. Cit. p. 350

(3) According to Art. 234, agreements concluded with third states before the entry into force of the EEC shall not be affected by the Treaty. Some authors in their Comments on the case, stated that on this article the Court could have based its conclusion that the regulations may not violate binding obligations under GATT. See H.G. Schermers Op. Cit. p. 37. See also "Commentaires"de J. Rideau dans les Cahiers du Droit Européen,n° 4

(4) J. Rideau "Commentaires" Op. Cit. p. 473

The transfer of competence produced the obligation for the Community to assume the obligations previously prescribed by the Member States. This is explained in other terms by Prof. Pescatore (1) that in the substitution or the succession in the sense of international law, in assuming, according to the Treaty, certain competences and certain powers previously exercised by the Member States, the Community should assume also the international obligations which regulate the exercice of these competences and powers.

The Court also emphasized the transfer of competence in the area of commercial policy realized in different ways within GATT and recognized by other contracting partners. The reference to this recognition could mean that without being formally a party of GATT, the EEC could maintain a similar status, with certain restrictions, resulting particularly from the fact that the Community does not participate, as such in certain authorities of GATT. (2)

Moreover, the Court was satisfied to state that the provisions of GATT have the effect obligating the EEC without expressing that this position is identical to that envisaged by article 228 of the Treaty of Rome. (3)

In fact, a case of an agreement concluded by the Community, according to Article 228, is different from the present case, as the Community, in the first case, is engaged as a contracting party, while, in the second case, the Community is bound only because of the transfer of competence resulting from the Treaty of Rome. (4)

3. The special Status of Self Executing Treaties

The Court has accorded a special legal status to self executing Treaties and decided that Community acts which are inconsistent therewith are deprived of validity. (5) But who decides whether a rule of international law is capable of creating rights of which interested parties may avail themselves in Court ? Some authors stated that as these articles of GATT regulate matters which fall under the competence of the Communities, it would have been unacceptable to leave the question of their application to the individual Member States, which so far had come to divergent solutions. (6)

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(1) P. Pescatore "L'Ordre Juridique des Communautés" Op.Cit.p.147 H.G.Schermers Op;Cit. p. 37

(2) V.E. Grillo Pasquarelli Op. Cit. p. 144-146

(3) V.E. Grillo Pasquarelli Op. Cit. p. 144-146

(4) R.Kovar "Les accords liant les Communautés Européennes et l'Ordre Juridique Communautaire " Op.Cit. p. 351

(5) Stephan A.Riesenfeld "The Doctrine of Self Executing and Law" AJIL Vol.67 n° 3, p.

In EATA case, the Court of Justice decided "in particular each time the Community , with a view to implementing a common policy envisaged by the Treaty, lays down common rules, whatever form these may take, the Member States no longer have the right, acting individually or even collectively, to contract obligations towards non Member States affecting these rules. To the extent that such common rules come into being, the Community alone is in a position to assume and carry out contractual obligations towards non Member States affecting the whole sphere of application of the Community legal system". (1)

Since there are common rules in the field of GATT, the Member States, including their national courts are no longer competent to decide for themselves. (2)

The Self Executing Treaties and Community Law

The holding of the Court is also interesting and important in other respects. It recognizes that a Treaty which is assumed or concluded by the EEC, or one of the other Communities may be directly applicable as Community law, if and to the extent that the Treaty complies with the text determining itself executing character. The judgement of the Court did not require a special Community act transforming the Treaty into Community law (3) Article 228 of the Treaty of Rome did not indicate the form in which the Council acts in the conclusion of a Treaty. Article 189 recognizes three forms of binding acts by the Community organs designated as regulation, decision and directives. Thus, the conclusion of an agreement must be in one of these forms.

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(1) ERTA case n° 22/70 (Commission V. Council) March 31, 1971 Rec. 1971, p. 263-296 Schermers Op. Cit. p. 39 , J.A. Winter "Annotation on Case 22/70" Re ERTA EML Review Vol. VIII, 1971, p. 550-555.

(3) H.G. Schermers Op. Cit. p. 39.

(4) R. Kovar "L'Applicabilité Directe du Droit Communautaire" JDI 1973 p. 230, G.A. Reisenfeld Op. Cit. p. 507, Jean Pietri "La Valeur Juridique des Accords Liant la CEE" RTDE n° 2, 1976, p. 1 4-214, V. Constantinesco et D. Simon Op. Cit. p. 455.

SECTION IV.

COMMUNITY AGREEMENTS.

A) Bilateral agreements.

Since the Treaty of Rome came into force, the Community has concluded under the Treaty articles, several bilateral agreements with third countries. It concluded tariff and trade agreements on the basis of articles 111 and 113, and association agreements based on article 238. The agreements of the first decade, such as the agreements with Iran and Israel, were non-preferential and have limited contents. After the expiration of the transitional period, and particularly after the enlargement, the Community succeeded to arrange its relations with EFTA countries, non-candidates for membership, through the conclusion of agreements establishing free trade areas with these countries (1). The Community also established a more positive policy towards the Mediterranean countries based on its global approach. The new agreements based on this policy include activities other than trade, which was the general character of the previous agreements. Moreover, the Community concluded several trade cooperation agreements with the Asians and Latin American countries (2). These agreements were supplemented by the improvement of the generalized system of preferences applied by the Community.

In Africa, the Community adopted a more progressive policy toward the African countries. Conclusion of the Lome Convention on February 28, 1975, with 46 African, Caribbean and Pacific countries, marked an important event

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(1) Such as Austria, Sweden and Switzerland (O.J., December 31, 1972, n° L 300), Norway (O.J. June 27, 1973, n° L 171), Iceland and Portugal (O.J. December 31, 1972, n° L 301).

(2) Such as Uruguay (O.J. December 4, 1973, n° L 333/2) and Brasil (O.J. April 11, 1974, n° L 102/24). See J. RAUX et C. FLAESCH-MOUGIN, Les accords externes de la C.E.E., op. cit.; J. RAUX et D. PERROT, "Les accords externes de la C.E.E. ler janvier - 31 décembre 1975", R.T.D.E. n° 2, avril - juin 1976, pp. 295 - 373.

in the relations between developed and developing countries. This large Convention which replaced the Yaounde and Arusha agreements, creates a huge preferential trade area in which the Community relinquished the right of reciprocity. It guarantees free and assured access to E.E.C. markets for all A.C.P. products including processed and semi-processed agricultural products. The Community also agreed to examine requests for granting special arrangements for other agricultural products. The signing of three other protocols for sugar, rum and bananas are of important significance for the future evolution of world trade. The Convention provides for economic, technical, and financial cooperation. The volume of the latter amounts to about 4 billion dollars allocated for a period of four years. Also included under the category of aid is the stabilization of revenue from exports of the A.C.P. countries. Institutionally, the Convention provides for the establishment of the Council of ministers E.E.C./A.C.P. which is the central organ of the Convention's institutions. It is composed of members of the Council of ministers of the Community, members of the Commission, and members of the A.C.P. governments (1). This organ has a wide area of decision-making, and its competence exceeds the normal administration of the Convention. It is empowered to exchange views on matters not even covered by the Convention but which have direct or indirect effects on domains foreseen by the Convention. This Council is also assisted by the Committee of ambassadors (2), which is responsible for the execution of the mandates addressed to it by the Council. The Committee also supervises the works of other organs or groups established for the administration of the Convention. The Convention also provides for the establishment of a consultative Assembly which is composed equally of members from the European Parliament and from representatives designated by the A.C.P. governments. The Assembly's task is to examine the reports presented by the Council on the activities of the Convention. On the basis

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(1) See article 70 of the Lome Convention.

(2) This Committee is composed, on the one hand, of one representative of each Member State and one representative of the Commission and, on the other, of one representative of each A.C.P. State. See article 76 of the Convention; Eberhard Rhein, "The Lome'Agreement : political and juridical aspects of the Community policy towards L.D.C.'S.", C.M.L. Rev., vol. 12, n° 3, August 1975, pp. 385 - 397; La Convention C.E.E. A.C.P. de Lome : Dispositions essentielles, Marchés tropicaux et méditerranéens, March 7, 1975, p. 697.

of these reports it can adopt resolutions concerning the examined matters. Finally, the Lome Convention has already had positive effects on the attitudes and the policies of the E.E.C. and the United States in the current international trading negotiations[1]. A list of the Community bilateral agreements is included in annex I.

B) Multilateral agreements.

On the universal level, the Community was a partner in the Dillion and Kennedy Rounds negotiations and demonstrated a considerable degree of unity towards the United States during these negotiations. It is also an eminent partner in the Tokyo multilateral negotiations witnin the frame-work of G.A.T.T.

The E.E.C. was also the first economic block to implement (2), in 1971, the generalized system of preferences recommended by UNCTAD, favoring the developing countries industrial products. This system has now become an important element of the common commercial policy of the Community (3).

1- The Dillion Round Tariff Agreement.

In the early sixties, Mr Douglas Dillion, then acting Secretary of State, proposed to convene a multilateral tariff conference under the auspices of G.A.T.T. in order to reduce customs duties by 20 percent. The purpose

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(1) The Lome Convention responds to a certain extent to aspirations of the developing countries to establish a new international economic order, which was internationally recognized during the extraordinary sixth session of the General Assembly of the United Nations, April 9 - May 2, 1974. See J. RAUX et D. PERROT, "Les accords externes de la C.E.E.", op. cit., pp. 350 - 373.

(2) Followed by Japan, Norway, Finland, Sweden, New-Zealand, Switzerland, Austria, Canada and the United States which applied this system only from January 1, 1976.

(3) This system is renewable annually for ten years. See P. COFFEY, The external economic relations of the E.E.C., op. cit., p. 35.

of the proposal was to take full advantage of the reciprocal trade agreements extension act of 1958, which allowed the United States to make maximum reductions of 20 per cent on individual commodities (1).

The Dillion proposals were accepted by the E.E.C. countries and other G.A.T.T. members and the so-called Dillion Round of tariff negotiations was opened in Geneva on May 27, 1961. In 1959, the Community had already made a unilateral tariff reduction of 10 per cent, when the Council of ministers decided that the internal 10 per cent tariff reduction on industrial goods provided by the E.E.C. Treaty for internal Common Market trade should be extended to G.A.T.T. members and other third countries to which the most favored nation clause was applicable. At the same time, quotas for the Common Market imports from these countries were enlarged.

Anticipating the results of the Dillion Round negotiations, the Council of ministers of the Community also decided in May 1960 to reduce by 20 per cent the base line of the hypothetical common external tariff toward which the national tariffs were to be adjusted during the transitional period. This reduction was to be provisional and dependent upon reciprocal treatment by non-Member States, especially those who were to be engaged in the Dillion Round.

The results of the Dillion Round negotiations, concluded in March 1962, were generally modest. The agreement signed between the United States and the E.E.C. contained concessions on only 575 tariff listings of the American tariff and 560 items of the common external tariff. Moreover, agricultural commodities, as well as chemicals, steel and coal products, were largely excluded.

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(1) See Werner FELD, The European Common Market and the World, op. cit., p. 90; R. WILSON, "La négociation Kennedy, quelques points à interrogation ", in R.M.C., n° 93, 1966, p. 633.

2- The Kennedy Round Tariff Agreement.

The Kennedy Round negotiations were initiated at the request of the late President Kennedy and reflected the recommendation of the G.A.T.T. ministerial meeting in 1961. These negotiations aimed at broadening reduction of tariffs and other kinds of restraints upon the flow of international trade. Conducted under the auspices of G.A.T.T., the countries mainly affected by the negotiations were the United States, Canada, Japan, the E.E.C. and E.F.T.A. countries (1).

By the adoption of the trade expansion act, the President of the United States was authorized for a period of five years, to reduce tariffs as much as 50 percent on the rates existing in July 1, 1962. The objectives of this act were to expand American exports and imports, persuade the Common Market to pursue liberal trade policies, take preventive measures against the harmful effect of the E.E.C. commercial policy, and reinforce the Atlantic Community by means of increased commercial exchanges.

The E.E.C. Member States and institutions called for a positive approach to the proposed Kennedy Round. France expressed a number of reservations; the most important of which dealt with the disparities between the U.S. tariff and the common external tariff and the inclusion of agricultural policy in the negotiations.

a) Problems of the negotiations.

In addition to the problems of tariff disparities and agricultural negotiating concepts, the elimination of non-tariff barriers to trade was also a matter of serious concern to all parties. These barriers stem from a variety of national laws, procedure, and regulations which tend to impair or nullify the reduction of duties for imports (2). One of the matters of paramount

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(1) There were 55 countries participated in these negotiations. W. FELD, op. cit., p. 94.

(2) "Kennedy Round in slow motion", Common Market, 6, n° 8, August, 1966, pp. 156 - 159.

concern for the E.E.C. was the so-called American selling price which relates to the calculation of duties for certain imports into the United States. Another issue concerning the E.E.C. negotiators was the application of the American anti-dumping laws.

The American apprehension about non-tariff barriers was the internal tax structure of some countries. The American automobile industry has complained about alleged inequities of various European road taxes. Other American complaints were directed against special taxes on grains, liquor, high gasoline taxes, restrictive quotas for coal imports, and State monopolies on certain commodities such as tobacco and others in France and Italy (1).

b) Bargaining and results.

Although the Kennedy Round negotiations officially opened in Geneva on May 4, 1964, it was not until November 16 of that year that there were lists of industrial products to be completely or partially exempted from trade. The E.E.C. list was agreed upon after lenghty bargaining in the Council of ministers. Germany and the Netherlands wanted to keep the list short, but France and Italy wished to broaden the list. The final exceptions were more extensive than the compromise originally proposed by the Commission. The E.E.C. list exempted about 18 percent of dutiable imports and the size of the United States list was approximately the same if the petroleum exception is taken into account.

Bilateral talks were held to define the problem existing between individual countries and trading blocks before hard bargaining developed in March 1967. The delay was partly due to the Common Market crisis that broke out in the summer of 1965 until January 1966, and to the subsequent preoccupation of the Member States with broad implementation of the common agricultural policy. On the other hand, the United States representatives insisted on setting a deadline for the negotiations. This was necessary in order to submit the final document to the President of the United States for signature prior to the expiration date of the trade expansion Act, June 30, 1967. On May 16,

(1) R. WILSON, "Bilan des négociations tarifaires de la C.E.E.", in R.M.C., n° 114, 1968, p. 793.

1967, final agreement on the Kennedy Round was announced. The chief negotiators for the United States and the E.E.C., expressed their extreme satisfaction with the final package bargained out, and stressed its importance for greater world trade.

The results of the Kennedy Round were positive, although falling short of the 50 percent overall cut that was sought (1). Tariffs on 6,300 items were reduced by an average of 35 percent over a period of five years. Eighty countries stood to benefit from these reductions as the consequence of the most favored nation rule. The bulk of the tariff cuts were made in the industrial sector, where many items including autos, machinery, and cameras, benefited from a 50 percent cut and the average reductions amounted to 35 - 40 percent. Other concessions in the common external tariff, ranging up to 25 per cent were also made in some of the farm products not subject to the common agricultural policy, including tobacco, canned fruits and vegetables, fruit juices, tallow, hops, nuts and raisins (2).

Finally, some headway was made on non-tariff barriers. In particular, an anti-dumping code for international trade was adopted which provides for the concrete application of the principles already incorporated in article VI of G.A.T.T. On the other hand, the Community had not succeeded in persuading the Congress to abolish the American selling price system.

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(1) See John REHM, "Developments in the law and institutions of international economic relations, the Kennedy Round of trade negotiations", American Journal of International Law, vol. 62, 1968, pp. 403 - 422. See also Peter COFFEY, The External Economic Relations of the E.E.C., London, 1976, p. 23.

(2) In the agricultural sector, the Community completed its offer on cereals by suggesting a self-sufficiency scheme for cereals. The Americans rejected this offer and presented a new plan which completely ignored internal agricultural policy, stocks levels or suggestions about self-sufficiency. The Community rejected the American proposals and dropped any idea about a general agreement for cereals. The final negotiations for a system of international grain prices and for the organization of an international food aid program took place outside of these negotiations. See W. FELD, op. cit., p. 103.

On the whole, the results of the Kennedy Round, compared with the Dillion Round results proved to be a striking improvement. Moreover, the E.E.C. demonstrated its unity and affirmed its own distinct personality and succeeded in negotiating with the United States as an equal.

3- Generalized system of preferences.

- General preferences and the E.E.C.

The development of preferential relations with African and Mediterranean countries, has had a considerable impact on the application of G.A.T.T. rules and has caused pressures from the excluded countries for a halt to be made. Proliferation of bilateral agreements, together with general tariff reductions have gradually limited the room for manoeuvres when other countries have sought closer trading relations (1). To calm the fears of the developing countries, the Community has emerged as an active partner of the UNCTAD scheme for generalized preferences that are granted to developing countries as a derogation from G.A.T.T. (2).

This system is based on non-discrimination and non-reciprocity for the benefit of industrial, semi-finished and some transformed agricultural products of all developing countries (3).

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(1) See J. KAPTEN and VERLOREN VAN THEMAAT, op. cit., p. 351.

(2) The Community's major problem has been to compose a substantial offer without prejudicing the rights of existing associates and other partners, especially the African associates who had no desire to see their privileges reduced.

(3) The Community has not limited the application of the general conferences to the group of 77 which increased to 104 countries, but also applied to other countries such as Romania and Yugoslavia.

The Community was the first to put its offer into effect and the Council of ministers of the Community introduced such a system through a number of regulations in 1971 (1).

In these regulations, the import of manufactured goods from every developing country is exempted up to a given ceiling from import duties under the common external tariff, partly by way of Community quota, and partly by way of a generalized preferential treatment.

For certain products, which are called "sensitive products" such as textile products, food wear and processed foods, separate arrangements have been made, which offer less advantage to the developing countries than the general arrangement.

This system was criticised by less developed countries on the ground that it is subject to a quota and ceilings system and excluded important products for these countries. Moreover, lack of information about this system did not enable most the developing countries to make use of this system. In 1974, 10 countries accounted for 72 % of the actual use made of the generalized preferences (2).

In view of these critics, the Commission has proposed more generous terms, and reducing the number of sensitive products. It proposed a 42 percent increase in the volume of imports to receive preferential treatment under a generalized system of preferences for the developing countries sales to the Community. According to the Commission's proposal, 8.000 million dollars worth of goods should receive preferential treatment in 1977 against 5.500 millions dollars in 1976 (3). Moreover, a guide to the generalized preferences

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(1) Regulations 2794 - 2800/71, J.O. NOS L. 287 - 289/II, 1971. See P. COFFEY, op. cit., p. 35.

(2) They were : Yugoslavie, Hong-Kong, Brazil, India, South Corea, Singapore, Pakistan, Mexico, Romania and Iran. See Commission document (information directorate-generale) n° 127/76 (X/402/76).

(3) See European Community, n° 6, 1976, p. 5.

is being drawn up and a documentation and information centre on the community generalized system is to be set up (1).

C) Current international negotiations.

- The Tokyo Round negotiations.

In February 1972, the United States, the E.E.C. and Japan made a mutual commitment to open a new round of multilateral trade negotiations within the framework of G.A.T.T. At the ministerial meetings, held in Tokyo in 1973, it was agreed in a declaration issued on the occasion, that the main aims of the negotiations should be :

a) The expansion and ever greater liberalization of world trade, progressive dismantling of obstacles to trade and improvement in the standard of living and welfare of the people of the world.

b) Securing additional benefits for the international trade of developing countries so as to increase their foreign exchanges earnings, diversify their exports, improve conditions of access in foreign markets for their products and attain stable and fair prices for their primary products (2).

The declaration also stated that the negotiations would be conducted on the basis of the principles of mutual advantage, mutual commitment and overall reciprocity, while observing the most favored nation clause. Another point was that developed countries should not expect reciprocity for their commitments in the negotiations to reduce tariff and other barriers to the

(1) The improvement of the generalized system is one of the items discussed at Tokyo Round. See Commission document n° 112/75 (625/X/75) and document 127/76, op. cit., p. 8.

(2) Aide-mémoire sur les négociations commerciales multilatérales du G.A.T.T. Groupe du porte-parole, octobre 1973.

trade of developing countries. Maintaining and improving the generalized system of preferences was also recognized as well as the application of differential measures to developing countries in ways which would provide special and more favorable treatment for them where this was feasable and appropriate.

a- The subjects of negotiations.

A trade negotiations Committee was established which was to be responsible for the overall conduct of the negotiations and which covered, initially, six broad headings; tariffs, non-tariff measures, sectoral approach, improvement of the multilateral safeguard system, agriculture and tropical products (1).

The pre-negotiations stage was prolonged more than had been envisaged at the time of the Tokyo declaration. One of the reasons was the lengthy delay entailed in the passage of the United States trade Bill through the Congress. The bill set out the negotiating powers of the U.S. delegation. The E.E.C. itself was busy in working out a more detailed position on a number of important issues.

b- Community approach.

Prior to the opening of the negotiations, proper, which took place on February 1975, the Commission sent a document to the Council containing suggestions regarding the strategy which should be adopted by the Community at Geneva. The main points set down in this document were :

1) Tariff reductions on an average of between 25 and 50 percent of existing tariff levels were proposed. Very high tariffs should be cut by at least 50 percent. Most of the countries taking part in the negotiations should not practice tariffs higher than 20 percent.

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(1) Tokyo Round, Communautés européennes, n° 1, juillet 1975, Genève.

2) Import barriers should be examined and cooperation should be encouraged between suppliers and customers.

3) International agreements should be made regarding some essential raw materials in order to stabilize the market of these products.

4) International agreements were proposed for a number of products which include wheat, maize, sugar, milk powder, and butter.

In this regard, the Commission suggested three types of agreements :

- Price agreements for diary products, with minimum and maximum price levels.
- Storage agreements for cereals, managed by the main world producers.
- In the case of sugar and rice, a similar policy as for products mentioned in the above paragraph was proposed, with the difference being that the management would be within the responsibility of the appropriate national organizations.

The Commission considered that for agricultural products which were not subject to international agreement, a code of conduct should be negotiated between importers and exporters.

These proposals show that, as in the field of energy, there exists a fundamental difference between the E.E.C. and the American approaches to commodity agreements for agricultural products and raw materials, where as the Americans desire only to make agreements among consumers or producers, the E.E.C. has been keen to bring together both consumers and producers (1). Negotiations in these fields are still beingundertaken.

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(1) See "Aide-mémoire on the G.A.T.T. multilateral trade negotiations 112/75", Commission of the European Communities, information directorate generale, P. COFFEY, op. cit., p. 83.

PART II

PART II

THE EXTERNAL RELATIONS BETWEEN THE EEC AND THE MEDITERRANEAN STATES

In the first part of this thesis we dealt with the legal structure of the Common Commercial Policy as defined in the Treaty of Rome, and the implementation of this policy in the international commercial relations.

In this second part, we shall deal with the Community's Policy towards the States of the Mediterranean basin, an area which represents for political and economic factors, special importance for the Community.

The authors of the Treaty of Rome and the Governments of the Member States of the Community did not foresee at the time of establishing the Treaty, the development of relationship with the Mediterranean region, because their concern was the internal integration. The events developed and the analysis of the Mediterranean fact clearly reveals in the area the strength of ties which lead towards an intensive cooperation between the Mediterranean States and the Community. The relationship between the Community and the Mediterranean States results from the interaction of considerable interests concerning all fields of international relations from commercial interests, to those of security and even civilization itself.

The evolution of the Community's relationship with the Mediterranean States shows, over a decade the EEC policy developed towards the Mediterranean states, especially the developing ones. The first generation agreements were limited to trade sector. Today, the Community is prepared on the principles of its Mediterranean global approach to sign preferential agreements with a larger scope including trade and other sectors of cooperation.

This development in the Community's policy, represents an effort from the Community to establish in the future, more close relations with the Mediterranean countries.

In the first chapter of this part, we analyse the various factors of interdependance between the Community and the Mediterranean region :

- the pragmatic phase of the Mediterranean policy.
- treaty articles relative to the Mediterranean policy.
- the real negotiatings procedure in the Mediterranean agreements.
- the Community Mediterranean global approach.
- limits and constraints of the Mediterranean policy.

The second Chapter is devoted to analyse the numerous agreements concluded between the Community and the Northern Mediterranean States. They are the agreements concluded with :

Greece, Turkey, Malta, Cyprus, Spain, and Yugoslavia.

The third Chapter is designed for analysing the agreements concluded with the Southern Mediterranean countries.
They are the agreements concluded with :

Israel, Algeria, Morocco, Tunisia, Libanon, Jordan and Syria.

THE RELATIONS BETWEEN THE COMMUNITY AND THE MEDITERRANEAN COUNTRIES

Chapter I : THE IMPORTANCE OF THE MEDITERRANEAN TO THE COMMUNITY

INTRODUCTION

Since ancient time and the fall of the Roman Empire, the Mediterranean has no longer been considered an economic or political entity. Only geographers and agronomists admit that it has a certain unity.(1) None of the international publications that issue information on the world economy treat the Mediterranean as a whole. It is cut between Southern Europe, Northern Africa and the Middle East. There are no available statistical compilations concerning the Mediterranean as unified whole, nevertheless the concept of a unified Mediterranean has enjoyed a recent revival. Few years ago, the Mediterranean, as such, did not exist. But since 1971 (2) the Mediterranean policy has become one of the subjects for internal discussions, most often on the agenda of the E.E.C. Council of Ministers (3).
The enlargement of the Community necessitated the adaptation of agreements which were signed with most of the countries bordering the Mediterranean concerning new conditions resulting from this enlargement. This enlargement produced the promise by the Community to the Mahgreb countries, Spain and Israel to respect certain due dates.

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(1) During the Roman Empire, the Mediterranean sea was considered a political unit referred to by the wellknown latin expression "Mare Nostrum" ; see P. AUPHAN, Histoire de la Méditerranée, Paris, Table Ronde, 1962.

(2) Parlement Européen - Documents de séance n° 246, 1/2/71 and 9/2/1971. See Agence Europe, Justifications de la politique de la C.E.E. dans le bassin méditerranéen, n° 572, 27 avril 1970. See also Mémorandum de la Commission sur une politique communautaire de coopération et développement, Document de synthèse. Document de la Commission Dec. (71) 2700 Final, Bruxelles, 27 juillet 1971.

(3) See Un Colloque organisé par O.C.I.PE. (Office catholique d'information sur les problèmes européens). Communauté européenne et Bassin méditerranéen, Bruxelles, 29-30 novembre et Ier décembre 1972.

The history of the working relationship between the Community and the Mediterranean countries demonstrated that the Community felt the importance of having a coherent Mediterranean policy before the concept of a formalized doctrine came into existence. This relationship was translated only in an essentially commercial language (1) which constitued the only means of expression of a common will, the motivations of which were frequently divergent (2).

Generally, the concessions which constitute the subject of the negotiations and decisions of making the agreements with third countries have to be reached by the process of compromise between the Member States of the Community. Moreover, the importance of the bilateral relations between a third country and one or more of the Member States have in fact, a great influence on the outcome of Community agreements. In fact, the need for a Common Mediterranean Policy was imposed upon the Community before a formulized doctrine had been established; the Community therefore undertook to make decisions in a foreign field without a foreign policy.

The analysis of the Mediterranean relationship with the Community clearly reveals the strength of the ties which led towards an intensive cooperation between the countries bordering the Mediterranean and the European Community (3).

This relationship between the Mediteranean countries and the Community results in the interaction of considerable interests concerning all the fields of international relations, from commercial interest (4) to those of security and even civilization., itself.

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(1) By using the existing institutional instrument i.e. the provisions of the commercial policy, see Telex Méditerranée, n° 2, 20 March 1972.

(2) See Communauté et les pays méditerranéens, Bruxelles, Institut de Sociologie, 1970.

(3) See L. ADAMOVITCH, Regional Cooperation and Integration in the Mediterranean, in Problèmes de l'Europe, n° 49, Paris-Rome 1970, p. 47.

(4) See R. ALIBONI, The EEC Trade Policy in the Mediterranean, in Les problèmes de l'Europe, n° 39, Paris-Rome, 1970.

For the E.E.C, the unified geographical aspect of the Mediterranean is vital for the Community considerations of strategy, security and energy supply (1). The recent oil crisis increased the urgency of concluding global agreements with the Mediterranean coutries. The Mediterranean region moreover represents a market nearly three times more important than the whole of Latin America (2).
From the Mediterranean viewpoint, the E.E.C. represents an important partner in all sectors of development and constitutes a reassuring alternative to the influences of super power countries.
Finally, the historical interaction of human relations and traditional cultural contacts between the European and Mediterranean peoples will be naturally reinforced by easing the movement of people through tourism and worker emigration (3).

Section 1 : Factors of interdependence between the Community and the Mediterranean.

The enlarged Community today constitutes the most important commercial power of the world (4). Its specific weight in the world today entail a number of responsibilities including active participation in the development of underdeveloped countries.
Its geographical situation, its trade relations, as well its historical and cultural links with the Mediterranean basin may result in a Community overall regional approach and effective Meditarranean policy. On the other hand the Mediterranean coutries also have their,

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(1) See Engagement méditerranéen de la C.E.E., in Revue du Marché Commun, Paris, 1970, n°131, p. 133.

(2) See Le Commerce extérieur de la C.E.E. - Document of the Commission n°1/200/73 F. See table I.appendix I.

(3) See F. ALLESSANDRI, L'Europe dans le monde - La mer Méditerranée, Bruxelles, Agnor, 1968, n°5,

(4) The Community of the Six (extra Community and intra Community) represented nearly a third of the world trade in 1971. 30.2 % of imports and 32.39 % of exports. The enlarged Community accounted for about 40 % of the total world trade. For EFTA, the 1971 figure was 15,6 %; for the United States was about 14 %. See Document of the Commission n° 1/200/73. See also Table 3 appendix I.

affinities and traditional links which require specifically positive answers (1).

An interesting series of factors with specific interdependence resulted in the elaboration of a Mediterranean policy. These factors are indeed unique in certain fields, and particularly relevant in others (2). They deserve to be mentioned, although we will not go into the details of these historical links between different civilisations in which the Mediterranean is more like a bridge that connects than like a sea that separates.

These elements of interdependence are various and numerous, including political, strategic, economic and even ecological factors :

1. The political and strategic factor.

An enlarged Community progressing towards an economic and political integration, requires stability and security in its surroundings (3). Therefore, the Mediterranean basin represents an evident strategic security interest for the Community and its associates (4). France, Italy, Greece and Turkey are the Mediterranean Members of NATO and the United Kingdom has military bases in Cyprus and Malta. Although Europe also possesses the way of access to the Bosphore and Gibraltar, the situation in the Mediterranean has become increasingly sensitive

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(1) See M.F. MELLAH, Le Maroc dans la politique méditerranéenne de la Communauté Economique Européenne, Extrait du Bulletin Economique et Social de Maroc, n° 126 janvier 1973, p. 83.

(2) These conditions do not exist for e. with the countries of Latin America, in which some of them have established official relations with the Community only since 1971 after the Council decision of 14 December 1970, although they are linked with the Community by numerous economic and cultural relations.

(3) See Engagement méditerranéen de la C.E.E., in Revue du Marché Commun, Paris, n° 131, 1970, p. 133.

(4) See G. CAMPBELL, Forces militaires et Conflits politiques en Méditerranée, in Cahiers atlantiques, 1970, p. 7.

as a consequence of the Israeli-Arab conflict and the presence of foreign fleets in this region (1).

This situation has become serious when war broke out in October 1973 between Israel and two Arab countries and thereby threatened the security of the Mediterranean region and consequently created a disturbing situationin Europe. This situation revealed the links between the security of the Mediterranean basin and that of Europe and the need of assuring stability and security in the Mediterranean area (2).
However, with the enlargement of the Community, even Nordic countries have become countries bordering the Mediterranean (3). This new large continental entity could be an element of balance based on the common interests of the countries bordering the Mediterranean.

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(1) See M. SALMON, Méditerranée rouge - Un nouvel empire soviétique, Paris, 1970, p. 223. J. JUNG, La sécurité de l'Europe et la Méditerranée, in Le Monde Moderne, Supplément 1974 ; L. LEGENDRE, Méditerranée et problèmes de défense, in Revue de la Défense Nationale, Paris, octobre 1972 ; Conflicts and tensions in the Mediterranean, London, Institute for Strategic Studies, 1968 ; Institut atlantique, Forces militaires et conflits politiques en Méditerranée, Paris 1970. V. BORBATI, La questione Mediterranea, in Nord et Sud (Naples), avril 1972 ; A. MIQUEL, Les Arabes après la guerre d'Octobre, in Esprit, février 1974 ; J. MENANCOURT, La Méditerranée en crise, Revue de la Défense Nationale, mars 1975 ; J.W. LEWIS, The strategic balance in the Mediterranean, American Enterprise, Institute for Public Policy Research, Washington 1976.

(2) A few years ago, the Community felt the importance of participating in finding a solution for this problem. This fact was revealed by Mr. Schumann, the French Foreign Minister after a meeting of the Council of Ministers for the political cooperation on 14 May 1971. See Le Monde, Paris, 17 May 1971, p. 4, in view of the development of the events in the region, the Nine Member States of the Community issued their famous political declaration on 6 November 1973. Since then, the problem has been discussed several times in the political Committee of the Nine (Committee Davignon) and in the meetings of the Community in establishing formula for assuring peace in the region. See the Official Communique issued by the Nine after the meeting of the Council in Venise, 11 September 1975.

(3) Declaration of Mr. Scheel the former German Foreign Minister in September 1970, in the European Parliament.

In this respect, the absence of the Community in this part of the world, the differences between the Member States in regard to certain Mediterranean events, the fact that no Member State has a Mediterranean policy (1) may create a situation of imminent concern. It could be imagined that certain countries in the Mediterranean would consider the existence of the Community in the region as a counterweight to the superpowers' influence and an alternative to excessively close links to a single Member State such as the Maghreb countries with France. Other countries in the region such as Yugoslavia would find here an essential element of international cooperation, and a means of developing its structures half way between the State planned and market economies. The above considerations are sufficiently seen to conclude that the actual interdependence, expressly or implied, between the Community and the Mediterranean countries exists to a greater degree than the current professed Community cooperation policy with the Mediterranean (2).

2. The Economic and Commercial Factor.

If one should consider the Mediterranean countries as a whole, excluding the traditional relations of France and Italy with the region, the interdependence of the region (3) would be practically non-existent. It is only at the Community level that the ties with practically all the countries (4) of the region find their point of convergence. In fact, political tensions prevent any efficient regional cooperation, the levels of development are extremely different between the North and the South and make the whole non homogeneous, agricultural productions are rarely complementary.

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(1) Except France and Italy, which have traditional relations with some countries of the region.

(2) The question whether the Mediterranean constitues a real region, was posed by M. CUISENIER during the Colloque of Naples 1962. See Problèmes du développement économique dans les pays méditerranéens, Actes du Colloque International de Naples, 1962.

(3) CFr footnote nr 2.

(4) The Community established association agreements with Greece, Turkey, Tunis, Malta, Cyprus, Morocco and preferential agreements with Spain, Israel, Egypt, Lebanon and non preferential agreement with Yugoslavia, and arrangement with Portugal in the frame of AELTA countries which are not candidates to the members of the Community. Other agreements were recently concluded with Algeria, Syria and Jordan. Albania and Libya are the only two countries of the region which have no relation with the Community or asked for it.

The bad policical period followed the incidents of Bizert in Tunisia and the nationalization of petroleum firms in Algeria did not enable France to play the role of mediator between the Maghreb countries and the Community.

On the other hand, during that period, the French Policy privileged bilateral relations and gave priorities to national actions on the Community actions. (1) This bilateral approach was difficult to be compatible with the positions of the other Member States of the Community. Later, France realized that its interests could go parallel with the Community interests in the Mediterranean region. This position has led to a realist utilization of the Community instrument as the more adequate means for confirming the independent character of relations between the EEC and the Mediterranean countries. The security of the Mediterranean and the stability of its economic progress is a problem which its dimension is more European than French. Therefore, a Mediterranean global approach may permit the EEC to solve the problems of relations with the Mediterranean region. Conscious of this situation, the French Government made the champion of a Mediterranean global approach and stressed the importance of referring to this policy in the final communique of the Paris Summit of October 1972.

B. GERMANY

There is a relative harmony between the political and economic interests of Germany in the Mediterranean region. (1) Germany maintained traditional relations with certain Mediterranean countries, such as Turkey, Spain and Portugal, and demonstrated a deep concern to keep balanced relations with both Israel and Arab countries. It has become an important client and principal supplier to most of the Mediterranean countries and constituted a dynamic element in the development of relations between the Community and the Mediterranean countries.

In fact Germany tried to establish balanced relations as part of a global approach with the whole region, without taking the initiative of drawing up a general doctrine for the region.

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(1) This approach relied mainly on the dominated relations with the French Possessions, secured access to sources of energy and the opposition to the policy of blocks. See Couve de Murville "Une Politique Etrangère" 1958/1969 Paris Plon 1971.

(2) A. Grosser "La Politique Etrangère de l'Allemagne" Cours IEP 1967-1968.

Recently, Germany showed itself sensitive to any political committments taken in the region and tried to reconcile the Community regional policy in the Mediterranean basin with its world obligations.

C. THE BENELUX COUNTRIES

The attitude of the Benelux countries regarding the Mediterranean region relies on certain factors.

Concerning trade relations, traditionally, the Benelux countries have not strong trade relations with the region except with certain countries such as Spain, Yugoslavia, Greece, Israel and recently with the Maghreb countries.

Politically, the Benelux countries took hard positions against the former political systems in Spain and Portugal. For financial cooperation with the Mediterranean countries, the Netherlands in particular, was in favour of a world wide cooperation policy and it did not hide its opposition to regionalism.

Belgium adopted less strict attitude concerning the adoption of a cooperation policy towards the Mediterranean region. It also demonstrated a deep concern tc the demarches effectuated by the Maghreb countries for reaching favourable results with the EEC. During the years 1968-1969, when the relations were not too smooth between Paris on the one hand, and Tunisia and Morocco on the other, the Belgian Government was sensitive to the demands presented at the time by the representatives of these countries in Brussels. It was the efficient interpreter of the Maghreb interests at the Community level.

Luxemburg has also played important roles in finding compromise solutions for the relations of certain Mediterranean countries such as the relations with Malta. Recently, the Benelux countries joined the efforts for the establishment of a Mediterranean global approach. It was obvious that their interests are increasing in the region and becoming important. (1)

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(1) Businessmen in the Benelux countries succeeded to make a spectacular break-through and develop in a satisfactory manner their trade with certain Mediterranean countries such as Spain, Yugoslavia, Greece, Israel and Maghreb countries. See J.P. Papa Op. Cit. p. 35

1960 at the annual growth rate of 10.7 % (1).
This amount increased to 8.277 billion dollars (including Oil) in 1972 (2). About one third of the imports from the Mediterranean countries are Crude Oil, which amounted in 1972 to 2.781 billion dollars (3). The rest is divided nearly equally between industrial and agricultural products (4).
On the other hand, exports of the Community to the Mediterranean countries increased from 5.4 billion dollars in 1960 to 6.282 billion dollars in 1969 (5), at an annual growth rate of about 7.9 % (6). These figures are nearly equal to the Community's exports to the U.S.A. and double of its exports to the countries of Latin America (7).
In 1973, exports of the enlarged Community to the Mediterranean Countries amounted to about 15.054 billion dollars, representing about 17,6 % of the EEC total exports, while its imports from the Mediterranean Countries in the same year accounted for about 10.958 billion dollars representing about 12.2 % of the EEC total imports.

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(1) These figures were offered in a lectured given by Mr. J. LOEFF, Director responsible for the relations with the Mediterranean countries in the Commission. See, Semaine de Bruges 1972 - Colloque d'Europe, La Communauté élargie et l'espace méditerrenéen, 1972 - Colloque

(2) This amount represents 12,2 % from the toal imports of the enlarged Community, which reached 67.632 million dollars in 1972. Sources - Directorate General of Cooperation and Development, European Commission. See table 3. Appendix I.

(3) This amount was tripled after the increase of Oil prices after November 1973.

(4) See J. LOEFF, Op. cit., 1972, P.8.

(5) See N. VANDERMEULEN, Les relations extérieures de la C.E.E. avec les pays du Bassin méditerranéen (travail de fin d'études, Institut des Sciences Politiques et Sociales, Université Catholique de Louvain), juillet 1972, p. 15, F.N.I.

(6) The exports of the Community to these countries reached in 1972 an amount of 11.656 billion dollars representing 17,2 % of the whole exports of the Community which reached 67.951 billion dollars in that year. Source : Directorate of Cooperation and Development - European Commission.

(7) In 1969 the imports of the Six from U.S.A. reached 7.321 million dollars and their exports in the same year, 5.959 million dollars, while their imports from the countries of Latin America reached in 1969 3.330 million dollars and their exports in the same year 2.867 million dollars, See J. LOEFF, Op. cit., p. 8. See table 2-3 appendix I. See also Mémorandum de la Commission de la CEE sur la politique communautaire de coopération et développement, 1971.

Continuing the analysis, it appears that the enlarged Community represents the main trade outlet for most of the Mediterranean countries. This situation is particularly important for certain countries such as Algeria, Cyprus, Libya, Morocco, Portugal and Spain (1). The Community is especially predominant in importing agricultural products.
A simple projection of the trade data between the Community and the Mediterranean taking into account an increase in the Oil sales and the progressive industrialization of the region, envisions an annual growth rate at 10 % in product exchange.
Thus, with the Mediterranean fast becoming and important and possibly the most important Community partner, the European Community should carefully consider increasing its responsibilities towards the countries of this region if it is really anxious for their development.

4. The Energy Factor.

At the time of the first industrial revolution, the Mediterranean countries, poor in oil, were left behind partially because of a lack of this natural resource, while today hydrocarbons, the main ressource of some Mediterranean countries and the essential primary energy source for the Community (2) create a reciprocal dependency between the

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(1) The Community market absorbs about 80 % of Algerian exports, 70 % for Cyprus, 85 % for Libya, 69 % for Morocco and 60 % for Portugal.

(2) There is a high degree of dependence of the Community for energy on outside sources. The total primary energy for the Community's needs was estimated in 1973 at 1.005 mil. tons, 617 mil. Tons of Oil come mostly from the Mediterranean and the Middle East and which represents about 60,4 % of the total energy needs of the Community. See Document of the European Commission (74) 550 Final - Towards a new Energy Policy Strategy for the European Community - Brussels, 29 May 1974, p. 10. By other sources the total needs of the enlarged Community for Petrol were estimated at 723.864 mil. TEC (Ton coal equivalent) in 1972, and 772.337 mil. TEC for 1973. See F. MELLAH, L'attitude de l'Europe face à la crise pétrolière, Extrait du n° 3 du vol. XXVII, 1974 de la Chronique de politique étrangère, Bruxelles, Institut Royal des Relations Internationales, p. 351-390. In the Annual Report of the International Chamber of Commerce 1975, Table 6-2. The requirement of the Community was estimated at 959 mil. Tons coal equivalent and the import of Oil was 581 mil. TEC.
About the consumption of Western Europe primary energy, see table 4, appendix I.

two areas. In fact the Mediterranean governs the direct access to Crude Oil ; within the framework of the balanced interests between suppliers and clients.
Each one is especially important for the other in the trade of this product (1).
In the present situation, this type of interdependence is also influenced by two factors :

1. The U.S.S.R. with its fossile reserves (coal, petroleum and natural gas) can easily practice a policy of self-sufficiency.
2. The United States with a quarter of the world reserves will put them in a better position in comparision with that of Europe.

Western Europe, on the other hand, before the end of the century will cover only a certain percentage of its needs with its reserve of fossile Fuel (2).
At present, the Community requirements for Crude Oil, depend directly on the surplus in the Mediterranean area, and the Middle East (3).
The diversification possibilities in Oil exchanges thus remain narrow and it will apparently not be possible to reduce Europe's energy dependence, even at the price of enormous investments in the Nuclear Sector, despite the entrance into an operational start-up phase of a

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(1) The U.S.S.R. and East European countries possess reserves of about 4510 bil. TCE of coal and lignite and 67 bil. TCE of Petrol and Natural Gas.

(2) Prof. A. De SMAELE estimated in his research on energy and Europe Document n° 1 - 1974 - p. 1 - that Western Europe towards the end of the Century will not cover more than 20 % of its needs with its reserves of fossile fuels (400 bil. TCE from coal and lignite and 10 bil. from Petroleum and natural gas).

(3) The importations of the Community from the Arab countries (excluding Iran and including the Arab countries bordering the Mediterranean, reached 1.184.960 mil. dollars in 1972 (These figures have been given by the Department of Cooperation and Development, The European Commission, Brussels),
About the production of oil in the Mediterranean, and Middle East see table appendix I.

rapid super-regenerator (1).

On the other hand, it should be mentioned that the Community market represents the natural outlet for the consumption of Mediterranean and Middle East production.

This situation proves the supply and demand aspect between the Oil deficit of the North Mediterranean countries and the Oil surplus of the South ; giving rise however to well-known frictions.

This is a delicat problem to which a solution is difficult to foresee, because of the enormous interests involved, such as the influence exercised by the big Oil Companies on the politics of the Mediterranean countries, the political instability of the area and the absence of a Community energy policy (2).

The challenge is therefore, evident to find formulas which whould aim at European-Mediterranean relations which substitute a new solidarity for the present antagonisms.

5. The Financial Factor.

The financial factor provides an interesting analysis of the relationship between the Community and the Mediterranean.

It is not possible to consider the financial flow from the Mediterranean to Europe, because of an absence of relevant information in this area, but some experts estimated this flow as higher than the total aid from Europe. Therefore, compulsory to limit the study to the flow from the North to the Mediterranean countries. The total aid, public

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(1) The share of Nuclear Energy in the total Energy needs of the E.E.C. is estimated at 1% mil. TOE in 1973, which represents 1.4 % of the total needs (1.005 mil. TOE). The European Commission proposed that Nuclear Energy should ensure a coverage of 50 % of the electricity needs in 1985. This implies an installation capacity of at least 200 GWE for electricity production + 20 GWE for other uses. See Document of the Commission (74) 550 Final on 29 May 1974, p. 10-11.

(2) Indeed, Algeria and Libya are the two countries of the region who supply the Community with Oil and Natural Gas. But the Mediterranean controls the access to the petrol of the Middle East, which reaches Europe through pipe-lines in the eastern part of the region or by tankers passing through the Suez Canal. This means about 2/3 of Europe's supply of energy passes through the Mediterranean. See J.P. PAPA (Chef de Division à la Commission), La politique méditerranéenne de la Communauté européenne, European year book 1972. p.41.

and private, granted to Mediterranean coutries by the Six Member States reached 1.113 Billion dollars in 1970, which represents about 33 % of their world aid which amounted 5.118 Billion dollars in that year. In addition, the U.K. has supplied these countries with an amount of 140 million dollars.

The Maghreb countries received some 6 % of the E.E.C. total aid to the region (1) mostly originating from France an Italy. About 20 % of U.K. total aid went also to the region (2).

The aid given to Lebanon, Syria and Egypt only represented 4.6 % of the total aid of the Six (3). These countries received practically nothing from the U.K.

About 3.5 % of the aid granted by the Six, mostly originating from Germany went to Israel which also received about 10 % of the said given by the U.K. to the Mediterranean countries (4). The rest went to the OECD Mediterranean countries.

6. Human and Socio-Cultural Factors.

Another interdependence, unique in relations between the Community and Third Countries was accentuated by the increasingly large migration of Mediterranean man-power to various European countries, and by a growth of European tourism in the opposite direction. In fact, the available data show a presence in the Community of some 4 million foreign workers, almost originating from the Mediterranen area (5).

In other words, the various Mediterranean countries supply the Community with its missing man-power (6). In the opposite direction it appears that a large majority of European tourists travel to the sunny countries of this area.

Indeed, these massive migrations have a direct influence on the evolution of the countries concerned, because of many factors :

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(1) An amount of 554 million dollars.

(2) An amount of 28 million dollars.

(3) An amount of 51 million dollars.

(4) See LOEFF, Op. cit., p. 8.

(5) Mr. Jean Paolo PAPA estimates that the migrant workers and their families, account for about 8 million people in 1973 and constitutes, as he says, "the tenth member state of the enlarged Community". See J.P. PAPA, Op. cit., p. 38.

(6) This human interdependence develops normally from the South to the North. I.B.I.D.

1- The economic growth of the European countries, partially due to the participation of migrant workers in the economic activity of the Community.
2- The return or the migrant's salaries to their countries of origin. This hard currency contribution is sometimes equivalent to the actual commercial receipts between the origin countries and the Community itself. For this reason, the origin countries consider the migrant contribution of prime importance to their economy (1).
3- Foreign currency resulting from tourism (2), another important contribution to some Mediterranean economies.

7. Ecological Factor.

For these various forms of interdependence, it is essential to add an item of its own natural importance : the ecological interdependance of the Mediterranean which concerns, of course, all the countries bordering this sea.
Industrialized countries have launched an initiative against pollution, for the protection of their environement. The North Mediterranean countries should not expose the pollution of their industries to the Southern countries of the Mediterranean (3).
In fact, there is a problem here for the industrialized countries. Industrialization is the principal key to their development, and developing Mediterranean countries are conscious of this fact. Thus, cooperation in this field is important for both parties. While this situation should be kept in mind, the control of pollution must be balanced with the encouragement of economic development in all the Mediterranean countries, in order that the environment of the Mediterranean will not face a geographical expansion of noxious industries. The impressive total of all the above elements strongly points to the favouring of cooperation at a regional level. Such an approach is not in contradiction with the world wide consensus against pollution and must be a decisive element in the development of the whole Mediterranean (4).

(1) See Seminar on the Relations between the EEC and Greece and Turkey, Occasionnal papers of the Europa Institute, n° 2, Amsterdam, 1976, p. 26
(2) Many Mediterranean countries such as Spain, Greece, Tunisia and Morocco depend highly on tourism. See J.P. PAPA, Op. cit., p. 41
(3) Ibid., p. 40
(4) See LOEFF, Op. cit., p. 14.

SECTION II

THE PRAGMATIC PHASE OF THE MEDITERRANEAN POLICY

1. Italy and the attempt to formalize a doctrine

The Mediterranean region represents for every Member State of the Community, an interest which differs from one country to another. (1) Italy is the most Mediterranean of all Community Member States and is therefore the best placed, geographically to develop its relations with the Mediterranean countries. It was the first Member State to essay to formalize a general doctrine for the relations between the Community and the Mediterranean countries. This initiative came up in May 1964 in the so-called Italian Memorandum. (2) The Italian initiative was occasioned by the imbalance resulted from the french veto against the accession of the United Kingdom in January 1963. Deprived of the possibility of expansion to the North, the Community seemed to be concentrating on the Mediterranean as the focus for its external policy.

Italy was torn between the deeply felt need for the Community to have a Mediterranean policy and the fear that it might be elaborated at its expense. Italy thus represents itself as the champion of an active Mediterranean policy for which it may risk to become its victim because of the competition of countries situated in similar production conditions, particularly in the agriculture sector.

The Italian initiative aimed at boasting a cooperation policy between Europe and the Mediterranean countries in order to contribute to the prosperity of the region. It estimated that the European countries bordering the Mediterranean could be integrated one day in the Community and they must be prepared for the adoption of the Common Customs Tariff and the Common Policies of the Community.

1) Jean Rey "The European Community's role in the Mediterranean Europe" Journal of International Affairs 1965.

2) The Italian Memorandum had given a needed doctrinal impetus to policy in practice. In May 1967, the European Parliament looked at external relations once again in the Dehousse Report in which it was recognized that preferential agreements could be established outside the context of Membership or Association and the qualifications for Association ought to be rather less rigourus. See Stanley Henig "External Relations of the European Community" Op. Cit. p. 48.

Integration of the Southern Mediterranean countries in the Community was out of question. The memorandum indicated that their relations with the EEC could be founded on the progressive implementation of industrial Free Trade Area between the Community and these countries. It added that Community concessions which are to be granted to the Mediterranean countries should not perturb the Community's interests. Moreover, the Community concessions should not be limited to commercial field. But the proposed agreements with the Southern Mediterranean countries should be global and include cooperation which contains financial aid for the development of these countries. The inclusion of financial aid in the relations with the Southern Mediterranean countries aimed to maintain the internal equilibrium in the Community since Italy bears the essential charges in the agricultural sector and the other Member States have to bear the financial burden.

Finally, although the Italian initiative tried to formalize a coherent Mediterranean policy at the time, the Council has not positively reacted and the doctrine did not come into force. Recently, the Italian doctrine has revived through the adoption of the Mediterranean global approach by the Council in November 1972.

2. THE POSITION OF THE OTHER MEMBER STATES

A. FRANCE

The interests of France in the Mediterranean region are mostly for political and economic reasons, in the direction of the Iberian Peninsula and Maghreb countries. (3) Few years ago, it was not clear that France has a global concept of relations with the Mediterranean countries. Its policy towards the region was influenced by the active action of groups of pressure constituted by the association of agricultural unions. These groups exercised efficient pressure on the French Government to impede the establishment of a coherent Mediterranean policy. Moreover, the colonial past continued to influence the French Policy after the independence of Algeria.

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(1) Ph. Petit-Laurent "Les Fondements Politiques des Engagements de la Communauté Européenne en Méditerannée" PUF, Paris 1976 p. 87 - S. Silvestri & R. Aliboni "Italy's Mediterranean role" International Journal April 1972.

(2) Jean Petit-Laurent "Recherche de Doctrine pour une Cooperation en Méditerannée" Marchés Tropicaux et Méditérannéens - Paris Dec. 14, 1973.

(3) See Philippe de Saint-Robert "Le Jeu de la France en Méditerannée" Juliard 1967

Finaly, the archaic structure, the very weak inter-Mediterranean trade, the demographic problem which often turns development into an insoluble problem are as many obstacles to the prosperity of the region.

A. Agriculture.

The Mediterranean creates for the bordering countries a unique environment, characterized by uniform climate and land characteristics such as erosion, a lack of water and a scarcity of vast plains. These similar characteristics result in some fifteen products being considered as typically Mediterranean (1) with very similar production agendas. The Mediterranean constitues about 80 % of the E.E.C. outside supply source of these products (2). The Community is considered as the most important market in which nearly all Mediterranean countries are competitors.

The above conditions set the basis for the evolution of the E.E.C. agricultural policy. It is therefore necessary to take into account the interests of the region as a whole in order to realize the Mediterranean balance by stabilizing and increasing trade currents while improving receipts from exports by valuating the products. Even more than the growth of foreign receipts, the acceleration of agricultural trade should produce a rise in the nutrition level of inhabitants and farmers revenues.

B. Industry.

The industrial development of the Mediterranean area is considerably different going from the advanced industrial economies of Spain, Yougoslavia, Greece and Israel to the less developed economies of Tunisia, Syria and Egypt. However, development capacities exist in the region as a result of low cost man-power and the availibility of relatively cheap energy. At the present level of development of these countries the Community, because of the proximity and dimension of its markets, constitutes the major economic phenomenon of the region. The existance of the European Community constitutes already the basic factor of their growth model and must be integrated into

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1) Such as wine, olive oil, citrus fruits and various other fruits and vegetables.

2) See J. LOEFF, La Communauté élargie et l'espace méditerranéen, Semaine de Bruge 1972, Collège d'Europe (Belgique), p. 5.,

their development programs. Moreover, as the only high revenue partner, the Community constitues the main element governing investment decisions.

The conditions for the development of the Mediterranean economy are thus established, based on the complementarity production of products needed by Europe, and a growing specialization of this production in respect to Europe.

In the future, bilateral exchanges should show an increase in industrial product growth, according to the diagram which demonstrates that the more developed a country is the more its trade of manufactured products increases in both imports and exports. On the other hand, the Community produces a wide scale of capital equipment necessary to carry out this development of complimentary exchanges and this tendancy to expand should develop at the same pace as the industrial expansion of the Mediterranean countries.

Moreover, the opportunity is unique for the Community to transfer certain economic activities to the region (1) by the creation of industrial plants which will produce not only to satisfy the needs of the region, but also for the Community and world market.

The relationship between the Community and the Mediterranean countries is similar to a double circuit : electricity won't flow unless both wires are securely connected. But to reach this aim the Commitment of the Community is in the development of the Mediterranean countries must first be obtained.

3. Commercial Exchanges.

One of the most important elements of the Mediterranean interdependenc is the one concerning exchanges.The following figures clarify this reality.

In 1969, the Community imports from the Mediterranean countries amounted to about 5.3 Billion Dollars against 3.1 Billion Dollars in

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(1) The idea of transfering certain"industries de base" in the South Mediterranean, was raised by certain representatives of the Mediterranean countries in a 1972 Conference in which the Author of this Thesis was the representative of Egypt. This Colloque was organised by O.C.I.PE. (Office catholique d'information sur les problèmes européens). See Colloque CommunautéEuropéenne-Bassin Méditerranéen, Bruxelles, 29-30 novembre et 1er décembre 1972.

B. THE ATTITUDE OF THE NEW MEMBER STATES AFTER THEIR ACCESSION TO THE COMMUNITY

Since their accession to the Community, the United Kingdom, Ireland and Danemark, have at no time shown a lack of interest for a Mediterranean global approach. (1) Their preoccupation was financial as they did not wish to commit themselves with any financial obligations towards the region. They also regarded the importance of reciprocal preferences, question which was considered important, especially for the less developed Mediterranean countries. Despite these reservations, these countries have participated in formalizing the Mediterranean global approcah.

3. THE PARTIAL SOLUTION

The above mentioned analysis demonstrates that the political and economic interests of the Member States in the region were different. Difficulties in the agricultural and financial domains made it impossible for the Community, at the time, to formalize a general doctrine for the relations with the whole Mediterranean countries. These difficulties concerning the form and contents of the Mediterranean agreements resulted in persuading the Community to conclude partial agreements as a first step in the relations between the Community and the Mediterranean countries. (2)

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(1) The Mediterranean countries added together represent a not negligeable portion of the U.K. exports. For Ireland and Danemark, the economic interests of the Mediterranean area except the Spanish market, are weak. None of the Mediterranean countries, including Spain, represents more than 1 % of the foreign trade of the new Member States and the Mediterranean as a whole does not exceed 3 to 4 % of their total exports.

(2) Agreements with Greece and Turkey made an exception of this solution since they are based on precisely defined conceptions.

This partial solution was first adopted with the Maghreb countries in 1969. Later, the Maghreb agreements served as model of relations for other Mediterranean countries, such as the agreements of 1970 with Spain and Israel, and the agreements with Egypt and Lebanon of 1972.(1)

These partial agreements are characterized by limited duration and contents. They only included trade concession, (2) other economic sectors were completely excluded. They were also based on the concept of Mediterranean equilibrium. (3) Experience demonstrates that these limited concessions did not raise in practice, any particular internal problem for the Community. But on the other hand, they did not satisfy the Mediterranean countries and fall short of their aspirations.

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(1) See Ph. Petit-Laurent "Les Fondements Politiques des Engagements de la Communauté Européenne en Méditerannée" Op. Cit. p. 96.

(2) The conformity of this preferential policy with the rules of GATT was assured by the engagements of the contracting parties to realize a free trade area in a later stage through the gradual abolishment of trade barriers.

(3) The concept of Mediterranean equilibrium offers the possibility of granting balanced concessions to all Mediterranean countries concerned. See Ph. Petit-Laurent Op. Cit. p. 97

4 . Treaty Articles Relative To The Mediterranean Policy.

During the establishment of the Treaty, the authors of the Treaty of Rome and the Governments of the Member States did not foresee the rapid development of the external relations of the Community. The concept of a Mediterranean Policy was totally absent from the concerns of the authors of the Treaty although Morocco, Tunisia and Lybia are mentioned not as Mediterranean countries, but because of their relations with certain Member States. Algeria has also participated in the Community (1) and benefited from the European Development Fund, not as a third country but as a French territory (2). Morocco, Tunisia and Lybia were the subject of a declaration of intent concerning their association (3) and also the subject of a protocol annexed to the Treaty, permitting the prolongation of the existing customs system applicable to their exports to the Member States with which they had special relations (4).

However, these provisions of the Treaty were intended to avoid to upset the existing situation and did not concern the future elaboration of a concerted policy for the whole Mediterranean.

Moreover, the open character of the Treaty of Rome is only for the enlargement of the Community through adding other European countries.

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(1) See J. RAUX, Les relations extérieures de la C.E.E., Paris, Cujas, 1966, p. 339-341.

(2) Preferential Treatment had been also applied to the products within the province of the European Coal and Steal Community. See the Protocol annexed to the Treaty of Rome concerning the application of the preferential Treatment of Coal and Steal products in respect to Algeria and the Overseas Departments of the French Republic.

(3) See the declaration of intent on the Association of the Independent countries of the French area with the European Economic Community. See also the declaration of intent on the Association of Lybia with the European Economic Community.

(4) See the protocol annexed to the Treaty of Rome on goods originating in and coming from certain countries and enjoying special treatment when imported into a Member State. See also M.F. MELLAH, L'association du Maroc à la Communauté Economique Européenne, Bruxelles, ULB (Faculté des Sciences Sociales, Politiques et Economiques), 1970-71, p. 63-68.

Therefore, the development of relations with the Mediterranean became a more urgent interest than was foreseen in the Treaty. The Community replied rapidly to the demands of Athens and Ankara in an effort to shed its feelings of isolation after the United Kingdom's failure to join the Community at that time and for other various strategic reasons within the Community (1).

The successive agreements were not eventuated through a coherent philosophy but certain factors have influenced the possibility of creating a Mediterranean policy which takes into consideration new conditions for accession with the Community for the Northern Mediterranean countries (2).

a. The Legal Basis Of The Mediterranean Policy.

Articles 238 and 113 constitue the legal basis of the relations between the Community and Third countries.

Article 238 stipulates :

> "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.
> These agreements shall be concluded by the Council, acting unanimously after consulting the Assembly".

Article 113 § 3 stipulates :

> "Where agreements with third countries need to be negociated, the Commission shall make recommendations to the Council, which shall authorize the Commission to open the necessary negociations.
> The Commission shall conduct these negociations in consultations with a special committee appointed by the Council to assist the Commission in its task and within the framework of such directives as the Council may issue to it".

According to § 4 of article 114 the Council shall act in these matters by a qualified majority.

The Community's Mediterranean policy was thus founded on articles of a general meaning.

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(1) See S. SMOKOVITIS, Grèce et Turquie, Bilan de l'association, in Problems of Europe, 1967, n° 37, p. 20

(2) See Stanley HENIG, External relations of the European Community, Associations and Trade Agreements, London, 1971, p. 74.

Therefore, the Community's Mediterranean policy can only be inferred from these general phrases.

Article 238 foresees the possibility for the Community to conclude associations, but nothing determines either their characteristics or their contents (1).

b) The evolution of certain concepts.

In this respect, the evolution of certain concepts should be noted. One of them is political and concerns article 238. The Associations are not well defined in the Treaty of Rome and at the beginning the only existing ones were the African and Madagascar association. There was a period during which the word "Association" encountered a kind of prejudice. Some saw in it an instrument of colonial or post-colonial policy. After the pre-adhesion association of Greece (3) and Turkey (4) the association took a political significance and the Community refused to conclude association agreements with European countries whose institutions did not seem compatible with effective functioning of democracy.

This is demonstrated by the refusal to conclude agreements based on article 238 with Spain (5) and Portugal.

It may be estimated that although these concepts correspond to reasonable, political categories that are justified ; nothing in the Treaty except the preamble imposed this interpretation.

Similarly, it may be stated that at the time of signature of the Treaty of Rome, few jurists would have dared to assert that article 113 permitted the conclusion of preferential agreements. But this interpretation has developped since 1969, and it has been agreed that article 113, used until then in the frame of "Erga omnes" measures, could also serve as the basis for granting preferential conditions (6).

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(1) See Article 238 of the Treaty of Rome.

(2) See Article 113 of the Treaty of Rome.

(3) See Catherine DOUKAS, L'Association de la Grèce à la Communauté Economique Européenne dans le Marché Commun, in L'Association Libanaise des Sciences Politiques, 1967, p. 216-224.

(4) See S. SOMERITIS, Op. cit., p. 20.

(5) See the Statement of Birkelbach President of the Socialist Group in the European Parliament Debats, Sessions 1962-63, Séances du 27-30 mars 1962, p. 81-82.

(6) See J.P. PAPA, La politique méditerranéenne de la Communauté Economique Européenne, in European Year Book 1972 ; see also Nicole VANDERMEULEN, Op. cit., p. 26.

However, under article 238 or article 113 the capacity of the Community to conclude agreements with third countries is limited. As a consequence, the Community, as such, was entitled only to act essentially in the field of trade (1). All other items were treated by the Member States.

In fact, it is important to note that this situation has changed recently with the adoption of the principles of the Mediterranean global policy in 1972 (2). In negociations with the Maghreb countries, on the basis of this policy, the Commission was charged to negociate with these countries about other activities than trade, such as economic, technical and financial cooperation and man power (3), even though the ratification of these matters remained within the competence of the National Parliaments of the Member States.

One could say that there is no special article in the Treaty of Rome which deals with the Community Mediterranean policy. The legal basis of this policy relies on articles of general meaning and these articles constitute the legal basis for the external relations of the Community. The concept and the scope of these articles have evolved for political and economic reasons in order to effectuate the policy of the Community towards certain countries in the Mediterranean.

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(1) With the exception of products covered by the Coal and Steal Community. The practice of the Community demonstrates that Member States of the ECSC maintained their sovereignity in this field. The Commission negotiates matters of this field, for the Member States as these matters constitute a part of a global agreement such as the case of Egypt's agreement signed in January 1977 which was negotiated by the Commission including ECSC products. But a separate agreement for Coal and Steal products was signed at the same time between Egypt and the Member States of the Coal and Steal Community.

(2) See J.J. COSTONIS, Op. cit., p. 443 ; J. RAUX et C. FLASCH-Mougin, 1975, Op. cit., p. 228.

(3) The new Mediterranean agreements concluded on the basis of the global approach include sectors which normally exceed the scope of article 238, such as cooperation in the field of labour. Thus, these agreements could also be based on article 235 of the Treaty, for the domains exceeding the scope of article 238.

5. The Real Negociating Procedure in the Mediterranean Agreements.

Before evaluating the Mediterranean Agreements it would be appropriate to examine the functioning of the Community institutions and the many constraints and limitations which have determined the first Mediterranean Agreements. Actual Community practice is markedly different from the textual Community procedure.

a. Complexity And Slowness of Community Procedures.

The Mediterranean agreements, especially those of the first generation have witnessed complicated and slow procedures. The long procedures illustrated the difficulties the Community faced as a result of a strict respect to the internal decision-making process.

In each case the dialogue between the E.E.C. and each of the Mediterranean countries concerned was undertaken at the initiative of the latter (1) following as well defined scenario :

- A request by the country concerned to start negociations with the Community with a view to reaching a satisfactory agreement according to the usual general formula.
- An invitation by the Council to the Commission to make a report on the problems arising from relations with the said country.
- Exploratory conversations by the Commission with representatives from the applicant country.
- Conclusions from the Commission in a report which is the basis for the Council to work out negociation guidelines.
- Responsibility of the Commission for negociations of all questions of Community competence (2) for all commercial matters, conducting negociations until their conclusion, with the assistance of a Committee of observers from the Member Countries (3).

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(1) See Nicole VANDERMEULEN, Les relations extérieures de la C.E.E. avec les pays du Bassin méditerranéen, Op. cit., 1972, p. 31.

(2) See J.D.B. MITCHELL, The Power of the Commission, Colloque sur la Commission des Communautés Européennes, Institut des Etudes Européennes, Bruxelles, Nov. 1972.

(3) Committee of article 113.

- Procedures of signing and concluding the agreement are started together with consultations of the European Parliament, as called for by the Treaty (1).

b. Organs involved.

This system of procedures may already seem complicated. Indeed, the establishing of a negotiation "mandate" on the basis of concrete proposals from the Commission, takes place following a decision making procedure at three levels :

1- specialized groups (groups of experts) for technical study ;
2- arbitration and orientation by the Committee of Permanent Representatives (2) ;
3- final decisions by the Council taken either by formalizing the choice of the Committee of Permanent representatives, or by proceeding with the very last arbitrations.

In fact, between these three levels, the file of a negociation mandate may be in "the elevator" question by question, for a number of months before its complete elaboration.

This "elevator" conceptualizes the actual internal procedures behind the scenes among the competent organs necessary for evolving a Community agreement.

According to this mechanism, the contents of a negociation mandate are essentially made out at the expert level, where the Technical ministries of the Member States are effectively represented.

However, a negociation mandate which necessarily includes tactical positions, in which not everything can be foreseen, is never the one that permits the conclusion of agreements. It must be touched up in the course of negociations by the "elevator"/procedure which works between the negociation meetings, of the Committee of article 113, the Committee of Permanent Representatives and the Council of Ministers.

As a consequence, at the political level of the Council of Ministers, the original file is practically lost from sight from the moment of deciding to start examining a mandate to the moment when it is formally ratified.

A negociation can only succeed after the initial mandate has been amended, which requires the file or some of its elements to move back and forth horizontally on an imaginary conveyer belt which

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(1) Consultations of the European Parliament are required only in association agreements. See art. 238 of the Treaty.

(2) See Paul BAHR, Le rôle des Représentants permanents des Etats membres dans le fonctionnement des Communautés Européennes et notamde l'Euratom (thèse de doctorat, ULB), Bruxelles, 1963, p. 87-90.

permits communications between the conference room and the vertical "elevator" of Community decision-making.

Under these circumstances, it would be an exageration to say that the Commission is the only body for negociations of the Community.

In fact, the Commission must conform to very precise instructions. It/can fulfil its role as spokesman, only in the presence of "observers" of the Member States, and its positions are constantly controled through coordination meetings of the article 113 Committee which the Commission does not preside over.

This very procedure causes the Commission to initiate more lengthy discussions with the Member State countries than with those third countries in question.

Such a formula imposes on the Commission/more the role of broker than the role of negotiator. Negociations as such are reduced to formulating the differing points of view while the file is often traveling behind the scene.

All things considered, the Commission in fulfiling its role, is conscious of the Community's interests and anxious of good relations with the Third Country concerned, the Commission negociates about 90 % of its time with Member Countries and a maximum of 10 % with the country in question.

An average delay of two/years between exploratory conversations and the end of negociations must, under these conditions, be considered as normal (1). The working of the decision making process described above is moreover restrained by the fact that the work agendas of the Committee of Permanent Representatives and of the Council of Ministers are overloaded. These last two levels of the elaborating structure of the Mediterranean agreements may, in fact, only work to rectify the results of the working groups or to decide on simple options, stripped of any technicality.

The problems are therefore worked on, at lengh at the level of Council working groups, while the impulse of the Commission's function is to a conciliatory role, before the approved file is brought to the higher levels.

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(1) The situation has become even worse. The Egyptian delegation has asked, in the meetings of the joint Committee on May 28-29 1974 in Cairo, for the enlargement of the actual agreement on the basis of the global policy and until November 1975, the Council did not issue the mandate for the Commission to start negociations with Egypt. In december 1975, the Council issued its first mandate to start negotiations with Egypt but it was incomplete since it did not include the financial cooperation. This sector was approved only in October 1976.

Moreover, the Council of Ministers has considerably reduced its own efficiency by deciding only by unanimity, in contradiction to the Treaty of Rome, even in trade matters which only require a qualified majority (1).

Finally, the practice of unanimity adopted by the Council, the lack of Community political pressure and the ponderous procedural machinery turns the Community into an inefficient interlocutor. These circumstances thus exercise a negative influence on the commercial contents of the Mediterranean agreements, at least those of the first generation, which, except for the one with Greece, must all be considered as the initial step towards further cooperation.(2).

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(1) After the first two stages of the transitional period. See article 114 of the Treaty of Rome.

(2) See J. COSTONIS, The Treaty-making power of the European Community, Op. cit., p. 429 ; J. RAUX et C. FLAESCH-MOUGIN, Les accords externes de la CEE, in RTDE, 1975, p. 241, J. RAUX et D. PERROT, Les accords externes de la CEE, in RTDE, 1976, p. 295.

Section III : TOWARDS THE DEFINITION OF A MEDITERRANEAN GLOBAL APPROACH

1. The Problems Arising From The Enlargement (1)

a) Legal Problems.

The accession act foresaw that the new Member Countries would be tied by the Community's contractual obligations which were integrally and immediately applicable to them, with due reservation for transitional measures (2). This automatic take over of the Community's contractual obligations also include technical adjustements indispensable from both a legal and procedural point of view (3). It was thus inevitable that the provisions which ratified the extension of agreements to the enlarged Community would be translated into special protocols, for the adjustement of the agreement. These protocols would in the case of mixed agreements such as Greece and Turkey, be concluded by the Community and the Member States. The required protocols for the adjustement of other Mediterranean agreements, whether based on article 238 or article 113, are concluded only by the Community.

However, such protocols could be concluded only for agreements signed before Dec. 31,1972. Although the conclusion of additional protocols is necessary for the adaptation of these agreements, the Mediterranean partners of the Community were exclusively interested in the economic balancing of those agreements (4), a question which the Community was not able to solve at the time.

From January 1, 1973, there was a legal blanket concerning the extension of these agreements to the new Member States and the conditions under which agreements would be applied to these countries. This latter was the subject of controversy. There were at that time three theories concerning this controversial subject.

According to the first, which was defended by the Commission's jurists, the Community portion of the Agreements was applicable immediately in its entirety to the new Member States, without transition, from 1.1.73 (5) the date of entry for the new Member States.

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(1) See Twentieth review of the Council's work 1 Jan.-31 Dec. 1972, 151-173.

(2) See article 108 of the act of accession signed Jan. 22, 1972.

(3) These adjustments have been made in the form of additional protocols with the countries concerned in the Mediterranean.

(4) Particularly Israel and Spain for which the British market has a special interest in certain products.

(5) See J.P. PAPA, Op. cit., p. 40.

According to the second opinion, presented by the Jurists of the Council, in the absence of additional protocols the Agreements concluded within the competence of the Community would be immediately applicable between Mediterranean countries and new Member States in accordance with the transition agenda and procedures appearing in the accession acts.

The third thesis concluded that the Agreements should not be extended to new Member States in the absence of additional protocols. This last opinion turned out to be the best one, because no economic interest would want to run the risk of a useless, and costly dispute.

b. Economic Problems.

Endless economic discussions would have been possible without result, on the advantages of a vaster preferential market or on the inconvenience of a larger competition. What is undeniable, however, is that for a certain number of products, mainly agricultural, the existing agreements did not include any important concessions, while the import conditions in the U.K were very liberal before their accession to the common custom tariff and the agricultural market organisations were rather protectionistic. This situation can be noted for a number of early products such as many fruits and vegetables and their preserves (1). Although for most Mediterranean coutries these new market conditions raised less of a problem except for potential exports to the U.K, there was a significant problem with both Spain and Israel where substantial exchanges were involved which represented for certain products about one third of the total outlet.

Because of this, Spain and Israel refused to negociate additional protocols which are only to solve the legal and technical aspects of adjusting the Agreements, as since the economic consequences of the enlargement were not taken into consideration for very important products.

Their refusal to conclude additional protocols was also justified since first reconciliation of the Tariff for the new members to the common Customs Tariff took place only at the end of 1973.

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(1) Morocco and Tunisia also refused at the begining to conclude, additional protocols unless they include economic concessions. Later, Tunisia signed an additional protocol on 28.2.73 followed by Morocco on 1.3.73.

C. Political Problem.

The successful adjustement of the Agreements due to the enlargement of the Community became especially important, in view of the fact that these first agreements had no great economic consistancy, except for the ones with Greece and Turkey. They mainly represented a political committtment to do better in the near future during the second stage of these partial agreements. The Community enlargement which took place, during this time, shortened the second stage and entailed a "testing" of the Community's political good will in an earlier date than anticipated. At the occasion of this enlargement, the difficult question remained that the treatment reserved to the other EFTA Member countries was quickly and satisfactorily solved while the Community was still incapable of finding a satisfactory adjustement for the Mediterranean Agreements. Failure in this area might have meant that the Mediterranean regional policy would be questioned again, causing the Mediterranean countries to be especially dissapointed because their pressing problems were not being immediately considered by the Community.

2. Adjustement of the Mediterranean Agreements.

First Solutions Foreseen.

In the course of the year 1971, the Commission proposed to the Council that the agreements be adjusted while they were being applied without changing the original duration of these accords. The Commision consented to some additional concessions, especially in the agricultural field where both Spain and Israel have specific problems raised by the maintenance of certain trade with the U.K. These propositions were examined by the Council during the years 1971-1972 without any positive result. This can be considered therefore as a serious failure for the Mediterranean policy at a time when negociations with the EFTA countries were rapidly being finalized. The failure of this pragmatic approach was due to certain reasons :

- The absence of political pressure due to the Community being preoccupied with its enlargement which resulted in the Mediterranean becoming a problem "for later".
- The desire on the part of certain Member States to gain time while letting the legislative elections go by. This manoeuvre would avoid

at this time any new committment which might influence the electors especially in the rural agricultural areas.
- The fear of having to grant additional concessions in the adjustement of these agreements without having counter-concessions from the Mediterranean countries.
- Finally, the desire of the Member States to be especially careful in constructing these agreements in order to avoid both internal disputes and various external criticisms from either third countries or GATT.

For the above reasons, the Community was not able to act in a responsive way towards the Mediterranean countries.

3. The Global Solution.

Following the failure of this pragmatic approach, the Commission was invited by the Council on June 26-27, 1972, to submit to it before October 1972, concrete proposals in view of a global approach (1). This approach was based on a renegotiation of the Mediterranean Agreements in its entirety except for those with Greece and Turkey(2) which were conceived on the basis of permanent Committments (3). This global concept of relations between the Community and the Mediterranean conformed to the long term intentions of the Commission (4). On the basis of the reports presented by the Commission, the enlarged Community Council met on November 6 and 7, 1972 with its three future members and defined the principles of a global approach. The Council succeeded also in defining the first negotiations directive with five Mediterranean countries on June 25 and 26, 1973 according to its previous instructions (5).

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(1) See Twentieth Review of the Council's Work 1972, Op. cit., p. 152. See also Sixième Rapport Général sur l'Activité des Communautés 1972-7

(2) Ibid. § 299, p. 154.

(3) The Commission delayed the formulation of the global approach at that time because at the time of the Community's enlargement it did not seem favourable to lauch ambitious propositions. See J.P. PAPA, La politique méditerranéenne de la Communauté, Op. cit., 1972.

(4) The Council's decision was taken in order to implement the decision of the summit's decision in Paris on Oct. 19-21, 1972. See Twentieth Review of the Council's Work 1972, p. 152-153 ; see also Sixième Rapport Général sur l'Activité des Communautés, p. 273

(5) See Twenty First Review of the Council's Work 1 Jan.-31 Dec. 1973, p. 175 ; see also Septième Rapport Général sur l'Activité des Communautés Européennes, 1973, p. 426.

4. The main aspects of the Community's overall Mediterranean policy.

The purpose of this policy as defined by the Community's institutions in 1972 (1), was to eliminate the current weakness in the various Mediterranean agreements concerning their contents and duration. The existing agreements assume a great variety of forms and based on endeavours to take suitable account in a pragmatic way of the requirements of the individual countries.

The Commission proposals in this respect are fundamentally based on transforming these existing agreements (2), or those under negotiations into more global agreements (3), covering other economic sectors than trade (4). Thus, the aim of the new Mediterranean policy is to find an overall approach for all countries of the region consistent with their specific needs.

For the purpose of attaining this objective, the Commission proposed that the future Mediterranean agreements based on this global approach should have the following contents :

a) Trade concessions

i. The industrial sector

The Commission pointed out that the aim in this sector (5), is to

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(1) Since the beginning of the year 1971, the Community institutionshave been committed to work out a global policy for the Mediterranean countries. By joint effort of the European Parliament, the Commission and the Council, an overall approach, based on a political will was elaborated. See Report of the Economic and Social Committee on the Mediterranean Policy, Doc. CES 1214 Fin, January 16, 1975.

(2) At that time, the following agreements existed or at the final stage of negotiations : association agreements with Greece, Turkey, Morocco, Tunisia, Malta and Cyprus. Preferential trade agreements with Spain, Israel, Egypt and Lebanon. Non preferential agreement with Yugoslavia.

(3) Except for those with Greece and Turkey which were conceived on the basis of permanent committment.

(4) The European Summit held in Paris in October 1972, attached "essential importance to the fulfillment of the Community committments to the countries of the Mediterranean basin". See Point 11 of the Communique issued after the Paris Summit", October 1972.

(5) including E.C.S.C. products.

create a free exchange of goods within the framework of free trade areas to be established between the Community and the Mediterranean countries. For the European countries bordering the Mediterranean, whose political and economic structure would permit integration with the Community at a later date, setting up of customs unions are envisaged.(1) For the Southern Mediterranean countries, industrial free trade areas are foreseen by the Commission. On the part of the EEC, the Community, in principle, would have to remove completely tariffs and quotas by July 1977 (2), on its imports from the Mediterranean countries. As regards the removal of tariffs and quotas on the part of Mediterranean countries, more or less long transitional periods are envisaged for a whole series of products in consideration of the development and competitive capacity of those countries.

As regard quantitive restrictions, the parties, in principle would remove this trade barrier on January 1, 1975 and all measures with equivalent effect at the latest on January 1, 1977. After the entry into force of the agreements, no new restrictions or measures with equivalent effect could be introduced.

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(1) For Malta and Cyprus, the procedure referred to above would have to be adjusted to the time tables which are provided for the approximation of their tariff with the Common Customs Tariff.

(2) The duties of the Common Customs Tariff would be removed in accordance with time table except for sensitive products such as textiles and petroleum products for which this time-table could be deferred. A system of supervision similar to the one in the agreement with Portugal could be considered. After the termination of this system, at the latest on Dec. 31, 1979, annual ceilings will be abolished.

II. Agricultural sector

The Commission pointed out in its report that agricultural products account for an increasing share of the exports of the Mediterranean countries to the enlarged Community. The share of these products in their total exports amounts on an average to 50%, and in some cases is even 60% (!).

Under these circumstances, it would hardly be conceivable that a free trade area which did not extend to the most important agricultural products could be set up with these countries.

The Commission takes the view that an unrestricted removal of tariffs on manufactured products is in practice unacceptable for the Mediterranean countries, unless simultaneous efforts are made to ensure balance by including agricultural products. These problems, however, can only be settled step by step and on the assumption that market organizations will be established for most products. As a result of this, the Community's agricultural concessions can be of only limited extent in the first stage, and the Mediterranean countries would have to grant balanced reciprocal concessions in the agricultural sector in keeping with their level of development and their production structure. In view of these considerations the Commission proposed that the concessions already granted in the actual agreements should be improved where possible and provision should be made for new ones (2). The Commission will, when the time comes, put forward concrete proposals for each country and each product, on the basis of the undermentioned criteria without prejudice to the considerable concessions already provided for in the current agreements. The sum total of these concessions should affect at least 80% of all agricultural exports of each partner country to the enlarged Community, without it being absolutely necessary that the same products be covered for each of these countries.

See doc. of the Commission (72)3111 Final 27/9/72 p. 10. See also doc. of the Commission 633/X/7:7 (Directorate general of information) Politique Commerciale de la CEE dans le domaine agricole à l'égard des associés et des pays Méditerranéens.

The existing agreements with exception of the agreement with Malta provide for the reduction of 60 or 50% in respect to a limited number of products. This reduction would have to reach 60% or more by 1977.

doc. of the Commission (72)3111 Final 27/9/1972 Op.Cit., p.12-14.

b) Cooperation.

The gradual realisation of free exchange areas or customs unions between the enlarged Community and the Mediterranean countries, as previously defined is not sufficient to ensure the economic and social development and the stability in the region. Thus, the Commission stresses the necessity of cooperation in various fields as a completion to the global approach (1). In this connection, the Commission proposed a group of measures, in order to further regional mergers and to facilitate sectoral development on the basis of the division of labour and scientific and technological cooperation. The Commission considers that the following fields should receive priority treatment (2).

i. Technical cooperation.

This cooperation should supplement cooperation in its different spheres. The Community would give priority to the promotion of schemes for the training of workers and for the examination of problems of developing new areas and the like. In this connection, the Commission pointed out that there is a need above all for market and profitability studies linked directly with industrial investment projects.

ii. Financial cooperation.

This cooperation could take the form of normal loans, loans on special terms or subsidies. It would be indispensable in order to support the efforts of the least developed countries, which suffer from a shortage of capital of their own for financing the necessary measures by supplementing this capital. Financial cooperation would also further the investments necessary to give substance to the moves towards regional cooperation

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(1) It should be borne in mind that although the Council of Ministers of the Community adopted the principles of this approach on the basis of proposal submitted by the Commission, the contents of this policy were not published in the Official Journal of the Communities.

(2) See Document of the Commission (72) 3111 Final 27/9/1972, Op. cit., p. 14-17.

iii. Cooperation in the field of employment

The aim of this cooperation would be the improvement of the conditions for taking up employment and residence, and of the working conditions of the labour employed in the Community. It also aims to secure non discrimination in respect of working conditions, pay and welfare benefits and of contributing to vocational training. Finally, employment opportunities on returning to the country of origin must be enhanced by this training.

iv. Cooperation in the field of environment.

The ecological unity of the Mediterranean and the need to avoid the creation of barriers to trade which might hinder the development of economic cooperation call for the inclusion in the overall approach of cooperation in the field of environmental protection. The aim of this cooperation would be the prevention of pollution of the Mediterranean, and this is the long term interest of all Mediterranean countries. This cooperation could be embarked upon immediately in two spheres of priority :

- the disposal of sewage from the coastal areas into the sea,
- and the dumping of hydrocarbons and industrial waste in open waters.

C. Time-table and procedure (1)

The Community intends to conclude overall agreements on the basis of this policy, within a time limit which would allow the entry into force of these agreements by January 1, 1974, date at which the three acceding States undertake the first approximation of their tariff rates to the Common Customs Tariff for manufactured goods and for most important agricultural products.(2

(1) See Document of the Commission (72), 3111 Final 27/9/76, Op. cit. p. 18.

(2) The Community has already concluded agreements on the basis of the global approach with Israel in 1975, the Maghreb countries in 1976 and the Machrek countries in 1977. See F. MELLAH, Les accords Machrek/CEE, Une stratégie et une concrétisation de la politique d'approche globale communautaire en Méditerranée, in Europe Outremer, mars 1977, pp. 29-32.

SECTION IV : LIMITS AND CONSTRAINTS OF THE EEC MEDITERRANEAN POLICY[1)]

The global concept of relations between the EEC and the Mediterranean region conforms with the long-term intentions of the Community to formulize a regional policy exceeding the limits of trade relations with the Mediterranean countries. But, in establishing this policy, the Community is restricted to geographical, internal and international limits.

I. Limits resulting from the diversity of the Mediterranean countries

a) Geographical limits

The first distinction is geographical because the Treaty of Rome opens the door to accession for European countries only (2). Therefore, all countries of the Southern Mediterranean are excluded from any policy aimed at their integration into Europe.

b) Political and economic limits

Despite that the door is open to accession for European countries, only those whose institutional and economic structures prove compatible with those of the Member States of the Community are eligible for accession. Therefore, European countries which appeared unable to combine these institutional and economic conditions could not join the Community (3).because it is unreasonable to foresee the accession of European countries where the institutional system and level of life still differ clearly from that of the Community.
For the countries of the Southern Mediterranean, the Community in the first stage, concluded association agreements with Tunisia and Morocco while preferential trade agreements were concluded with Israel, Egypt and Lebanon. The Community could not offer Egypt and Lebanon an association agreement (4) since it refused from the

(1) Les limites d'une politique extérieure de la CEE, in World Today, April 1971.

(2) Article 237 of the Treaty of Rome.

(3) Ph. PETIT-LAURENT, Op. cit., p. 104.

(4) Egypt at the time was also not prepared to establish its first relationship with the Community at the level of association for political reasons.

beginning to conclude an association agreement with Israel (1).

c) The inequality of development level.

The difference of development level among the Mediterranean countries impose different solutions for the economic problems of these countries. For the European countries bordering the Mediterranean, whose political and economic structure would permit integration with the Community at a later date, establishing customs unions are envisaged. For the Southern Mediterranean countries, free trade areas for industrial products are also foreseen. On the part of the EEC, the Community in principle would have to remove tariffs and quotas by July 1977.

As regards the removal of tariffs and quotas on the part of Mediterranean countries, the Community took into account the level of economic development of each country in the region and more or less long time tables were envisaged.

2. Internal limits

a) The common agricultural policy.

Since the common agricultural policy remains founded on border pro-tections, it is clear that any import concession implicates the interests of the Community producers. Therefore, these concessions should be accompanied by certain safeguards such as, price discipline and financial compensation to satisfy the Community producers.

This antagonism of interests cannot be avoided in the present condition of the market organizations and can be overcome only in the case of either modification of the market organizations (2) or of specializations in the work between the Mediterranean countries and the Community. Neither of these solutions is now envisaged, and, for the time being, only pragmatic and hence limited arrangements are foreseen.

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(1) Although Israel has always asked for an association agreement since its first memorandum submitted to the EEC on October 1958, the Community for political reasons has consistently ruled this out and has resorted instead to a trade agreement, both under article 111 during the transitional period and 113 after. See S. HENIG, External Relations of the EEC, Op. cit., p. 92.

(2) Direct interventions replacing the border protection.

b) Financial limits

The Community is confronted with numerous problems concerning its financial aid to the Third World. Moreover, it must face its financial obligations foreseen by the Lome Convention which was concluded on February 28, 1975. Thus, the Community should, before making further financial commitments, evaluate its international obligations, especially that most of the Member States are in difficult economic situation. Consequently, it is difficult to expect the Community granting substantial financial aid to the Mediterranean countries in the first phase of its overall Mediterranean policy.

3. International Limits.

a) The credibility of a regional policy on the international level.

The credibility on the international level of a regional policy exists only if it applies to a relatively homogenous geopolitical area, presenting similar types of problems and requiring similarly balanced solutions.

This credibility thus implies a geographical limitation and it is clear that third countries particularly the USA, will only "de facto" accept the Mediterranean agreements if trade advantages they contain do not extend beyond the limits of the Mediterranean borders. On the other hand, it is evident that the advantages which the Community and the Mediterranean countries grant each other reciprocally must not result from exclusive preferences. The main justification of these agreements consistsin the development and the increase of the international exchanges of the third countries with the Community.
To be internationaly acceptable, these agreements must correspond to the derogations foreseen by the GATT, i.e. initiating free exchange areas or customs unions. Therefore, there should be no question that they are in conformity with the GATT rules. But the opponents to these agreements attack them in the GATT because the initiation of free exchange areas and customs unions

is not organized in a sufficiently precise manner.

Thus, there was a time when the Community remained isolated in the GATT because of the attacks made by third countries against the Community agreements in the Mediterranean region.

b) Improvement of the attitude of GATT members towards the Community.

Recently, especially after the Community adoption of the system of generalized preferences for the developing countries, the climate in GATT has been improved towards the Community agreements. The Community's policy was more appreciated by developing countries after the conclusion of the Lomé Convention in 1975 which includes 46 developing countries in Africa, the Pacific and Carribian. This Convention was regarded as progressive development in the Community policy towards the developing countries. Consequently, the attitude of these countries has changed and then refrained from further criticizing the Community agreements concluded with Mediterranean countries. Only the U.S.A., Japan, Canada and certain developing countries in Asia and Latin America are still hostile to the Community Mediterranean Policy. Finally, it seems that the grounds for the opposition to the Mediterranean policy are of two kinds :

1- As a matter of principle, the U.S.A. is against the use of exceptions to the rule of the most favoured nations which (1) constitutes the basis of international trade (2).

2- Moreover it is feared that the Community and its partners in the Mediterranean will develop a third force and constitute an autonomous block depriving the U.S. of its role as leader of

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(1) Mr. William Rogers, the former Secretary of State declared after a visit to the Commission in December 1972, that the U.S. opposes the adverse preferences as an element of the Community's policy towards the Mediterranean countries. See Agence Europe, n° 1177, 7 Dec. 1972, p. 3.

(2) As the most favourite nation clause did not play a significant role in the discussions between the Common Market and the Mediterranean countries, this clause will not be discussed in the present thesis. On the most favourite nation clause, see Chapter II of the report of the International Law Commission on the work of its 28th session. (Official records of the 31st session of the General Assembly, Supplement n° 10 (A/31/10) and the seven reports by Endre Ustor, made in preparation of this report.

the free world.

This fear was revived in early 1974 when the Community Energy Policy was based on special relations with the Arab countries and might put at stake the interest of the United States (1).

(1) Since the Washington conference for energy, February 1974, the U.S. has insisted on treating energy matters within an international framework. It also has succeeded in persuading the consumer industrialized countries in establishing an international agency in November 1974 which includes 18 countries, the EEC Member States except France, U.S., Japan, Sweden, Norway, Canada, Spain, Turkey, Austria and New Zealand for the purpose of the dialogue with producer countries in energy matters.

HAPTER II

HE-CONTRACTUAL RELATIONS BETWEEN THE COMMUNITY AND THE NORTHERN EDITERRANEAN STATES

he relations between the Community and the Mediterranean States have leveloped in three distinguishable stages :

1. the first stage was characterized by the pre-accession association agreements with Greece and Turkey which were concluded in the years 1961-1963 immediately after the establishment of the Community,

2. the second, was known by the period of "proliferation", conclusion of several agreements with the Mediterranean States. Association agreements were concluded with Morocco, Tunisia, Malta and Cyprus. Preferential agreements were concluded with Spain, Israel, Egypt and Lebanon. A non preferential agreement was also concluded with Yugoslavia in 1970, (1)

3. the third, is characterized by concluding new agreements on the basis of the global approach. The Community concluded, on the principles of its new policy, an agreement with Israel in 1975, and agreements with Algeria, Morocco and Tunisia in 1976. Recently, the Community signed agreements with Egypt, Syria and Jordan in January 1977 and initialed an agreement with Lebanon in February 1977.

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(1) Although Portugal produces certain products similar to those of the Mediterranean countries, it was not included in the Mediterranean Policy. Its relations with the Community was treated within the context of the arrangements designed for EFTA Member States which are not candidate to Membership of the EEC. Recently, the Community adopted a new policy towards Portugal, similar to that of the Community towards the Mediterranean. The Community signed an additional protocol with Portugal granting more concessions in trade, financial aid and facilities to Portugal's workers in the Community. See O.J.L. 266 September 29, 1976.

SECTION I : THE ASSOCIATION AGREEMENTS WITH GREECE AND TURKEY.

Greece and Turkey were the first two Mediterranean countries to seek special relations with the Community and they have been followed by other countries from the area. In 1959, the Community did not regard itself as having any particular Mediterranean vocation. The applications by Greece and Turkey were placed in the context of the E.E.C.'s relations with the rest of Western Europe, giving the Community the possibility to demonstrate its own methods and good neighbourliness in action.

The Association with Greece.

The association between the E.E.C. and Greece, retains historic importance as the first bilateral agreement with a third country (1).
The Greek Government formally requested association under article 238 in a note dated 8 June 1959, and immediately met with an enthusiastic response. For the Community it was therefore a cause for rejoicing that the first of Western Europe's countries outside both Six and Seven had opted for the Six. Indeed, the first Memorandum of the Commission had more or less solicited this kind of application of articles 237 and 238 of the Treaty of Rome (2). Moreover, the importance of Greece within NATO, made the U.S. particularly anxious that the Greek economy was to be strengthened.

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(1) See Catherine DOUGAS, L'Association de la Grèce à la Communauté économique européenne, in Les marchés communs, l'association libanaise des sciences politiques, 1967, pp. 216 - 224.

(2) The Commission submitted the first Memorandum on the economic problems of association in February 1959 and submitted also a second Memorandum in this respect. The two Memorandums are vital documents in the evolution of the external policy of the Community. See Stanley HENIG, External relations of the European Community, London 1971, pp. 26 - 28.

Formal negotiations for an association between the E.E.C. and Greece opened on March 21, 1960 and an agreement was initialled on March 30, 1961. The agreement came into force on November 1, 1962 (1). Given that the agreements' contents go beyond Community competence, it is entered into by each Member States as well as by the Council on behalf of the E.E.C. as a whole (2).

The Treaty of Athens, thus, represents the first successful act of common external policy. The aims, as laid down in the preamble to the Treaty of Athens, are the establishment of closer links between the contracting parties, the attainment of higher living standards, the development of the Greek economy, and ultimately, the accession of Greece to the Community as a full member (3). This last commitment by the Community is repeated in article 72 of the Treaty of Athens (4). Although the possibility is long-term and partly hypothetical, it does give a particular colouring to the arrangements of the association itself. The relationship of association is to be considered as a short term expedient to deal with the problems of Greece's relative economic backwardness and not as a permanent, long-term arrangement.

On the other hand, Greece does not enter into all the commitments of a full member, but neither does she receive the major privilege of full participation in Community institutions and decision-making. Instead, she receives commercial and financial priviledges and some very limited rights to affect the common policies to which she becomes progressively bound.

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(1) See Journal officiel, n° 26, 1963, p. 293.

(2) La Grèce et le Marché commun, in Revue du Marché commun, mai 1966.

(3) Le Marché commun et la Grèce à travers les textes (1959 - 1967), Bruxelles, Service de presse et d'information des Communautés européennes, 1968.

(4) See article 72 of the Treaty of Athens.

1) Content of the Agreement.

The Greek Association provides mainly for (1) the gradual establishment of a CustomsUnion through :

- the development of joint action by the parties and the harmonization of their policies on the fields referred to in the agreement;
- the placing, at the disposal of the Greek economy, within the framework of the financial protocol annexed to the agreement, of resources designed to promote and speed up its development.

The establishment of the Council of Association for the realisation of the Association objectives and the creation of the Parliamentary Committee for political control of these objectives.

For financial cooperation, a protocol is attached to the Association providing for loans to Greece totaling 125 million dollars over a period of 5 years.

For the establishment of the Customs Union, the Agreement includes the general rules for the establishment of Free Trade over a period of 12 years (12). There are, however, certain exceptions for this principle.

First, the E.E.C. Member States were at once required to cut their tariffs on imports from Greece in their progressive reduction of internal tariffs (3).

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(1) See article 2 of the Agreement.

(2) See article 6 of the Agreement.

(3) By protocol 6 annexed to the Agreement, the E.E.C. exceptionnaly granted immediate intra Community treatment to Greece. See Stanley Henig, "The external relations of the European Economy Community", op. cit., 1971, p. 88; L'économie de la Grèce et son association à la C.E.E., thèse, Strasbourg, 1963; La Grèce et le Marché commun, Revue du Marché commun, mai 1966.

Second, in order to protect its young industries, Greece is permitted during the 12 years, to apply new duties or to increase existing ones, at rates of up to 25% on a maximum of 10% of its imports, but they must be abolished or reduced to their previous levels within 9 years and then gradually removed.

Third, Greece may space its tariff reductions over a 22 year period (1) for a number of items, representing about 40% of its imports from the E.E.C. The net effect is that Greek goods gain free entry into the Community at an earlier date than the Community goods enter Greece freely, since full reciprocity is not granted until 1984.

The common external tariff of the Community is being adopted by Greece in three steps for products subject to the 12 year transition period and in 4 steps for products permitted in the 22 year transitional period. In order to protect certain agricultural products vital to the Greek economy, such as tobacco, raisins, olives and terpentine oil, the Community has agreed not to alter without the consent of Greece the Common External Tariff, beyond certain limits, during the 12 year transition period.

Quantitative restrictions on trade between the E.E.C. and Greece are being eliminated during the transition period accelerated by a special timetable for the purpose of protection certain of its economic activities, Greece may introduce new export restrictions on basic products, but in this case Greece must grant limited export quotas for trade with the E.E.C. Member States.

(1) See article 15 of the Association Agreement.

In regard to the harmonization of policies, the Greek association heavily emphasizes the area of agriculture. A consultation procedure has been established to ensure that during the formation of the Community's agricultural policy, the legitimate Greek interests for such products as tobacco are taken into account.

The Agreement deals in part V with economic policy laying down the procedure in the case of a difficulty with the Greek balance of payments. There is also a provision for coordination of trade policies. This provision deals also with the case of further associations or accessions and in such an event, the Community and Greece are to consult each other in order to settle jointly the new relations between Greece and the future associate or full Member with careful consideration of both Greek and E.E.C. interests (1).

This clause may raise difficulties for the Community in its efforts to establish relations with other countries. However, an interpretative declaration in the Greek agreement specifies that among the interests to be taken into consideration by the Community and Greece, is the interest of the E.E.C. in permiting friendly Third Countries to join the Community as Members or Associates (2).

The Agreement also includes provisions for the right of establishment which is to be progressively introduced. Nationals of the E.E.C. Member States are entitled to establish commercial enterprises in Greece and Greek nationals have the same right in the Member States. Free movements of workers is to be put into effect by the end of the 12 year transition

(1) See article 58 of the Greek Treaty.

(2) This provision was applied when the Agreement with Turkey and Nigeria were being negotiated. See Werner Feld, "The European Common Market and the World", p. 62.

period (1). Moreover, in principle, the E.E.C. provisions on transportation are to be extended to Greece (2). Greece has also accepted special lattitude regarding State aids intended to assist its economy (3).

It should be noted that the comprehensiveness of the economic provisions of the association supporting harmonization of policies between the Community and Greece suggest that the Association agreement intends to accomplish more than the creation of a mere customs Union. The real aim seems to be the construction of an economic Union that can later become the basis for full integration of Greece into the Community in the future.

2) Association Institutions.

The main organ of the Association is the Council of associations, composed on the one hand of the E.E.C. Member States, the Council of Ministers and the Commission, and Greece on the other hand. Decisions of the Council are taken by unanimity and its competence extends to any matter deamed necessary for carrying out of the aims of the agreement (4). The Council is empowered to render decisions binding on the Association partners (5).

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(1) See Werner Feld, op. cit., p. 61; Joannés Stefanos Pesmazo Glou, Objectifs et implications de l'Accord d'Athènes, Banque de Grèce, Essais et conférences, 1966.

(2) See article 44 of the Greek Treaty.

(3) See article 50 of the Greek Treaty.

(4) The Council of association may decide to set up committees to assist in the performance of its tasks. It also takes all appropriate steps to promote the necessary cooperation and contacts between the European Parliament, the Economic and Social Committee and other organs of the Community and the Greek Parliament and the corresponding organs in Greece. See article 71 of the Agreement.

(5) See article 65 of the Agreement.

It is also authorized to formulate recommendations for the proper functioning of the association and it is the chief organ for consultation and for exchange of information. In order to settle disputes that may arise from the application of or interpretation of the provisions of the Association Agreement, each associate may call on the Association Council to obtain satisfaction. The Council may either seek to settle the dispute or refer it to the Court of Justice of the European Communities (1) or to any other existing Court for settlement. If these methods of adjudication can not resolve the dispute, the parties may finally request arbitration.

3) Suspension of the Association.

The military coup of April 21, 1967, that suspended parliamentary rule in Greece, cost a pall of uncertainity over the Association. Without a parliamentary institution in Greece, the parliamentary Association Committee could not function. The European Parliament declared that the "Association Agreement could only be applied if democratic structures and political liberties are restablished in Greece" (2). The Community decided to limit the Association Agreement to routine work until civil rule is re-established in Greece. The harmonization of agricultural policies and the conclusion of new financial protocol were blocked (3).

(1) See article 67 of the Agreement.

(2) See Agence Europe, May 11, 1967, p. 9, for a good description of the circumstances surrounding these events. See Gordon L. Weil, "A Foreign Policy for Europe", Bruges, College of Europe, 1970.

(3) The Greek Association under a cloud, in Common Market, July, 1968.

4) Evaluation of progress and problems of the association.

From an economic point of view, the Treaty of Athens was a more obvious benefit to Greece, than it was to the E.E.C. The rate of trading concessions given to the Community in a relatively small market could give only negligible economic advantages for the foreseable future, while Greece would gain virtually free access for many of its exports to its largest potential trading partner.

But the results of the Association have so far not come up to Greek expectations. The Greek Government had three major complaints :

- The very large continuing trade deficit in the Greek - E.E.C. trade relationship although there has been a steady increase of Greek exports to the Community amounting to about 90% between 1961 - 1966 and although this increase is substantially higher than that enjoyed by Greek exports on a world wide bases (1), imports of E.E.C. goods into Greece have grown faster (2).

- As a result, the trade deficit continued to increase and it stood at 940 million dollars (3) or 852 units of account (4) in the year 1973,

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(1) The share of the Community in Greek exports increased from 30% in 1965 to about 50% in 1973 with the enlarged Community. See document n° 455/X/75. "Commission des Communautés européennes", Direction générale de l'Information, p. 4. See also Théodore HITIRIS, Trade effects of economic association with the Common Market, the case of Greece, New York, F.A. Praeger, 1972.

(2) The share of the Community in Greek importation increased from 49% in 1961 to 55% in 1972. See document of the Commission, op. cit., p. 5; also see table I, appendix 2.

(3) See table I, appendix 2.

(4) European unit of account : 1 $ in 1971 (See Document of the
1 $ 08 in 1972 (Commission n0 455/X/75
1 $ 25 in 1973 (op. cit., p. 3
1 $ 39 in March 1975 (F.N. (I)

and 1.122 dollars in 1975. However, the Community points out that this deficit has to be viewed in the light of Greece as a developing country. Many of the goods imported into Greece were not consumer goods but capital goods for expanding the industrialization of Greece.

- As a result, the industrial production has increased and its contribution in the formation of the Greek G.N.P. amounts to about 30,5% (1). Continued industrialization may enable the Greek economy to eventually enlarge its exports on a world wide basis. As a result of public and private investments originating from the Common Market countries, the Greek balance of payments has been showing a much smaller deficit than the balance of trade. Finally, some of the Greek agricultural products such as tobacco, dried raisins and wine, have enjoyed special tariff advantages under the Association agreement.

The second Greek complaint concerned the lack of implementing the financial protocol (2) which provided for loans to Greece from the European investment Bank totaling 125 million dollars over a period of 5 years. Up to spring 1966, only 73 million dollars in loans had been committed by the E.I.B. which sets the rules for these loans. The Greek Deputy Minister for Economic Coordination warned early in 1966 that this inaction was potential threat to the achievement of the Association (3). The Greek Government has asked for a simplification and acceleration of the examination procedures for loans and the Community promised to consider these Greek suggestions. In 1967, after the Military Coup, remaining of 51 million dollars were blocked by the Community.

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(1) See Agence Europe, May 7, 1966, p. 7.

(2) See Agence Europe, January 29, 1966, p. 5.

(3) See Werner FELD, op. cit., p. 66.

The third complaint of Greece dealt with the harmonization of the agricultural policies between the E.E.C. and Greece. Greece viewed this harmonization as implying equal treatment and therefore Greek participation in the institutional and financial machinery of the Community's C.A.P. In particular, Greece wanted to benefit from the export rebates and subsidies provided by the European Agricultural Guidance and guarantee fund for the farmers of the Member States (1). The E.E.C. had a different conception of the scope of the term "harmonization". It viewed this term as, essentially, a technically progressive process for preparing Greece for admission as a full E.E.C. Member.

Differences between the E.E.C. and Greece have also arisen from the conclusion of the association agreement with Turkey. When consulted in accordance with the provisions of the Agreement, Greece did not only raise objections to the Turkish Agreement as being incompatible with its economic interests, but it also took a hostile attitude, later, in G.A.T.T. when the Agreement with Turkey was examined for its consistency with G.A.T.T. rules (2).

5) The reactivation of the Greek association.

After the establishment of Civil Rules in Greece in 1974, the Greek Government addressed a Memorandum on August 22, 1974 to the President of the Council of the E.E.C. and the President of the European Commission asking for the reactivation of the Association (3). This Memorandum was

(1) See Document of the European Commission n° 455/X/75, op. cit., p. 4.

(2) See Agence Europe, May 7, 1966, p. 7.

(3) See : Information à la presse du porte-parole de la Commission, IP (74) 148 du 10 septembre 1974 et IP (74) 150 du 13 septembre 1974.

followed by another demand on August 27, in which the Greek Government asked for extraordinary financial aid amounting to 800 million dollars on September 17, 1974. The Council of Ministers, on the proposal of the Commission, approved to put an end to the "Freeze" (1) and decided to put at the disposal of the Greek Government, a 55,7 million dollars loan from the E.I.B., blocked since 1967.

The Council of Association held its first meeting on December 2, 1974, followed by another on March 28, 1975. The Council of Association decided to resume the negotiations relating to the harmonization of agricultural policies suspended in 1967, by starting talks to conclude a new financial protocol. The Parliamentary Committee of the E.E.C. for Greece also held its first meeting since 1967 (2).

6) The Greek demand for adhesion.

On his first visit to the Commission on September 10, 1974, Mr. Mavro, the Greek Minister of Foreign Affairs, declared the intention of his Government to accelerate the integration of Greece in the Community (3). On November 26, 1974, the Greek Government expressed, in a memorandum, its intention to become a Member of the Community in the near future. This matter was also discussed, during the visit of Mr. Ortoli, the President of the European Commission to Greece on May 8, 1975. The Greek request was officially presented on June 12, 1975.

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(1) Bulletin d'information du Porte-Parole, n° 202 du 17 septembre 1974.

(2) See : "Rapport sur l'Association C.E.E. - Grèce", Document Parlement européen 237/74 du 25 septembre 1974. See also Rapport Hans Edgar John, Rapport fait au nom de la Commission de l'Association avec la Grèce, du Parlement européen sur l'Etat et les perspectives de l'association C.E.E. - Grèce, janvier 1973.

(3) Information à la presse du Porte-Parole IP (1974), 148, 16 septembre 1975.

The Council of Ministers in its meeting on June 24, 1975 replied favourably to the Greek request, asking the Commission to establish an opinion on the Greek request in accordance with art. 237 of the Treaty of Rome. The request was accepted and negotiations are now in the preparatory stage (1).

(1) Seminar on the Relations between the E.E.C. and Greece and Turkey, Europa Instituut, Amsterdam, 1976; "La Grèce et la Communauté, problèmes posés par l'adhésion", colloque, Institut d'Etudes européennes, Bruxelles, 5 - 6 mai 1977.

SECTION II : THE ASSOCIATION AGREEMENT WITH TURKEY

The agreement establishing an association between the European Economic Community and Turkey was signed in Ankara, on September 12, 1963. It was based on article 238 of the Treaty of Rome and came into force on December 1, 1964 (1).

1. Objectives of the Agreement

According to article 2 of the agreement, the over long-term objective is "to promote the continuous and balanced development of trade and economic relations between the Community and Turkey". To reach this broad goal, the association comprises three stages :

A. A Preparatory Stage.

The long range objective of the agreement is the gradual establishment of a customs union, the harmonization of the economic policies of the parties and finally, the accession of Turkey to full membership in the Community (2). Since Turkey's level of economic development was not ready for the introduction of rules governing the customs union, a preparatory period was considered necessary during which Turkey would strengthen its economic position with the help of the Community aid. During this period which is to last at least five years (3), the Community granted Turkey preferential tariff quotas for tobacco, dried figs, raisins and haselnuts.

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(1) O.J. N° 26, September 18, 1963; A. KAZANCIGIL, Les négociations entre la CEE et la Turquie, Paris (Mémoire FNSP), 1967.

(2) Article 28 of the agreement.

(3) The preparatory period will be followed by a transitional period and a final period during which the customs union will be fully established and the economies of the parties are increasingly coordinated, including the adoption of the Community's external tariff.

Moreover, the Community offered Turkey a financial aid in forms of loans from the European Investment Bank and amounted to 175 million dollars, during the five-year preparatory period. Thus, this first stage was conceived as a period of unilateral Community concessions designed to help Turkey to strengthen its economy.

B- Transitional Stage Lasting 12 to 22 Years

This stage was designed according to article 4 of the agreement, for the ph ased introduction of the customs union between the Community and Turkey and the alignment of their respective economic policies. For this purpose, after the end of the preparatory stage, an additional protocol was adopted on November 23, 1970 (1) laying down conditions, details and time-tables for the transitional stage. It came into force on Jaluary 1, 1973 (2). The transitional stage is not a unilateral concessions period. Turkey will also take on responsabilities towards the EEC. The main obligations of the contracting parties may be summarized as follows :

1. Obligations of the EEC

On the entry into force of the additional protocol, the Community shall abolish duties and charges having equivalent effects on industrial imports from Turkey (3). Imports of petroleum products are subject to annual Community tariff quotas (4). For such particular textiles such as cotton yarn, other woven fabrics of cotton and carpets some restrictive measures are retained for these products. In the agricultural sector, the Community shall, in establishing and developing a common agricultural policy, take into account the interests of Turkish agricultural during the transitio-

(1) This protocol entered into force in advance on September 1, 1971, under an interim agreement which was extended on July 20, 1972, pending ratification of the protocol itself. See O.J. n° 2, L 348, December 18, 1972.

(2) O.J. N° L 293, December 29, 1972.

(3) Article 9 of the additional protocol.

(4) Le protocole additionnel à l'accord d'Ankara, in Revue du Marché Commun, février 1972.

nal period. Moreover, the Community granted major concessions (1) to some Turkish agricultural products (2). Furthermore, a second financial protocol was signed on November 23, 1970 and valid until May 1976 (3). This protocol provides for granting Turkey an amount of 195 million U.A. as loans. It also foresees the possibility for Turkey to obtain supplementary loans up to 25 million units of account (4).

2. Obligations of Turkey

According to the additional protocol Turkey undertakes to abolish, during the transitional period, quantitive restrictions and customs duties and all measures having equivalent effect. Turkey shall abolish customs duties on products of a 12 years period with a rate of 55 % on its import from the EEC and with a rate of 45 % on the products of 22 years period. Moreover, over a period of 22 years, Turkey shall adjust its agricultural policy with a view to adopt at the end of this period, those measures of the common agricultural policy which must be applied in Turkey if the free movement of agricultural products between it and the Community is to be achieved (5).

C. Final Stage.

This stage is based on the customs union and involves more coordination of the parties' economic policies. Thereafter, as soon application of the agreement has proved that Turkey is ready to

(1) About 90 % of the Turkish agricultural exports to the EEC benefit from tariff preferences.

(2) The coordination of economic policies and the progressive realization of free circulation of persons and services will also take place from 1976. See Document of the European Commission, DG Information, n° 603/X/74, p. 4.

(3) O.J. n° L 293, February 29, 1972.

(4) Turkey has also signed with the Community a complementary protocol by which the provisions of the association agreement will be extended to the new three Member States of the EEC. See O.J. n° L 277, October 3, 1973.

(5) Article 33 of the additional protocol.

accept all the obligations imposed by the Treaty of Rome, the Community and Turkey will examine the possibility of the accession of Turkey to the Community (1).

2. Institutions.

The association agreement provides for the establishment of the Council of association which is the principal organ and is charged with attaining the objectives of the association (2). It is composed of members of the Governments of the Member States and members of the Council and of the Commission on the one hand and of Members of the Turkish government on the other. The Council of association shall periodically review the functioning of the association. However, during the preparatory stage, such reviews shall be limited to an exchange of views. On the other hand, during the transitional period, the Council of association shall adopt appropriate decisions for the implementation of the association arrangements and the attainment of its objective.

The Council of association is also competent to examine any dispute to be submitted by the parties and relating to the application or interpretation of the agreement. It may settle the dispute by decision, it may also decide to submit the dispute to the European Court of Justice or any other existing court or tribunal (3).

If these methods of adjudication cannot resolve the dispute, the Council of association shall determine the rules of arbitration or for any other judicial procedure to which the contracting parties may resort during the transitional and final stages of the agreements.

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(1) Article 28 of the agreement.
(2) Article 22 of the agreement.
(3) Article 25 of the agreement.

The Council is also empowered to take the appropriate steps to promote cooperation and contacts between the European Parliament, the Economic and Social Committee and other organs of the Community on the one hand, and Turkish Parliament and the corresponding organs in Turkey on the other (1).

3. Evaluation and Problems of the Association.

It could be observed that the Turkish agreement lacks the detailed provisions of the Greek agreement regarding the gradual establishment of the customs union. These details cannot be spelled out until it is determined that Turkey is ready for the introduction of the customs union. Moreover the necessary provisions must take into consideration the economic and legal situation that will exist at the time (2).

On the other hand, the Turkish association, like the Greek one, lives up the principle of reciprocity with respect to the rights and obligations of the association partners.

4. The Development of Trade.

Despite the poor export performance during the preparatory stage, the overall Turkish-EEC trade has developed considerably over this period. As a result of this development, the share of the trade with the EEC in total Turkish foreign trade has increased in respect of both exports and imports. The share of exports has gun up from 33% in 1964 to 40 % in 1969, whereas the imports from the EEC have increased their share in total from 29 % in 1964 to 36 % in 1969. Besides the trade deficit, the deficit of Turkish balance of payments also increased over the same period. Thus, it is hard to argue that during the preparatory stage Turkey has strengthened its economy as envisaged by the association Treaty(3).

(1) Article 27 of the agreement.

(2) See G. USCK, La Turquie et l'Europe, in Turkish Yearbook of International Relations, 1966.

(3) Bilan de quatre années d'association entre la CEE et la Turquie, in Bull. des Communautés Européennes, Juillet 1969.

After the additional protocol entered into force, trade deficit continued to increase between Turkey and the EEC. The EEC's share in total Turkish exports droped from 40,6 % in 1970 to 39,4 % in 1971. Unlike exports, Turkish imports from the EEC increased at much faster rates than imports from the rest of the world. This resulted in a substantial increase in the share of the EEC in total Turkish imports. Disproportional increases in exports and imports contributed to the widening of the already existing trade deficit between Turkey and the EEC (1). The deficit wich was 16.9 million units of account in 1970 jumbed to 954 million dollars in 1974 and 1643 million dollars in 1975 (2).

The extension of 195 million units of account to Turkey under the second financial protocol and of another 47 million u.a. under the supplementary protocol (3) are not comparable with this deficit. But it should be noticed that one of the main reasons for the growing imblance in trade between the EEC and Turkey, is the structure of Turkish exports. Despite all efforts, agricultural products still loom very large in Turkish exports (4).

On the other hand, the loans given by the Community to Turkey had helped it towards industrialization. Between 1965-1974, the EIB granted Turkey loans totalled 347,9 million u.a. Of this total 210 million U.A. related to infra-structure projects and 125,5 million u.a. for industrial projects (5). Moreover, the transfer of Turkish workers in the Community is crucial stablizing element in the Turkish balance of payments. The emigrant workers remittances

(1) See Seminar on the relations between the EEC and Greece and Turkey, Europa Institute, University of Amsterdam, 1976, pp. 30-46 and 77-92.

(2) See table 2 appendix 2

(3) Signed June 30, 1973, following the enlargment of the Community.

(4) The contribution of agriculture also declined from 75 % to 56 % in 1973 of the total exports. See Report on activities of the European Investment Bank in Turkey 1965-1974. Research Department p. 7.

(5) Ibid., p. 17

have increased from 270 million dollars in 1970 to 1400 million dollars in 1974 (1).

Prospects of the Relations.

Increasing trade deficit is at present the most important problem hanging over the EEC-Turkey association. The Turkish believe that the commercial concessions included in the additional protocol are not promising. The industrial products which Turkey has a real potential for export, customs duties and tariff quotas are being applied. For durable consumer goods, intermediate goods and investment goods, Turkey is not in a position to export because of the structure of its economy. For traditional exports goods like tobacco and raisins, tariff quotas and customs duties have been totally abolished.

The Turkish consider that these concessions are diminished after the adoption of the Mediterranean global approach which contains major concessions to other Mediterranean countries more important than those included in the Ankara agreement (2). Moreover, another point which should be treated is the relations with the European coal and steal community since the products of this community were totally excluded in the Ankara agreement.

Financial concessions are also too small to be attractive. They fall short of Turkey economic development requirements. Moreover, there are crucial problems need for solution such as, the free movement of Turkish workers in the Community. These problems might lead to a revision of the additional protocol in the near future.

Recently, the European Commission, realizing the deterioration of the relations, has suggested a new approach entitled "Industrial and Technological Cooperation".

(1) Ibid., p. 7

(2) N. AKYOL, La politique méditerranéenne de la CEE et l'association de la Turquie (thèse, Nancy II), 1972.

It is formulated as to use the Turkish workers remittances plus an European Technology and Foreign Capital facilities.

If the Turkish government shows an interest in this new formula, it is said that an extra 650 million dollars will be offered in terms of loans (1).

This proposal did not yet receive a positive reaction from the Turkish government.

However, the trade results achieved to date are far from be ing satisfactory and growing trade deficit makes it for Turkey more difficult to comply with its obligations under the additional protocol governing the transitional period (2).

(1) See Seminar on the relations between the EEC and Greece and Turkey, Op. cit., p. 42.

(2) Ibid., p. 86.

Section III : the Contractual relations Between the E.E.C. and Malta.

On September 4, 1967, the Maltese Government sent an application for negotiations with the E.E.C. aimed at setting up close relations with the Community for a progressive and total integration. The Community replied positively to the Maltese demand, not because of the importance of Malta in the E.E.C. external trade, but for political and security reasons. The security of Europe and the penetration of the USSR in the Mediterranean impose the reinforcement of links between the E.E.C. and Malta.

On July 30, 1968 the EEC Council of Ministers invited the Commission to enter into exploratory conversations with the Maltese government. The conversations were held on October 21-25, 1968. On March 6, 1970 the Council agreed on a mandate for negotiations with Malta, with a view to an agreement to operate in two stages. The first negotiating sessions were held in Brussels on April 1-9, 1970. They were continued on June 2-3, and completed on July 24, 1970 (1).

On December 5, 1970 the agreement was signed in Valetta (2). The agreement set up an association on the basis of article 238 (3) between the Community and Malta. It provides for two successive stages of five years each (4), leading to a customs union.

1. The Content of the Agreement.

a. The first stage (1971-1976)

During the first stage, the EEC granted Malta a 70 % cut in import duties for industrial products except for petroleum products and textile items (5). The Community also eliminated all quantitative restrictions on goods for Malta (6).

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(1) See Rapport sur la politique commerciale de la Communauté dans le bassin méditerranéen, Document of the European Parliament n° 246, 1.2.1971, p. 15.

(2) The agreement came into force on April 1, 1970.

(3) See article 238 of the Treaty of Rome.

(4) See article 2, par. 2 of the agreement of Malta.

(5) For the four textile items (Nos 55.05, 56.04, 60.05 and 61.01 of the Common external tariff) the reduction in duty applies only to a tariff quota. The first regulation covering the opening, distribution and management of these quotas dates to March 1, 1971. In order that Malta shall enjoy treatment no less favourable than that which is given to countries having the benefit of generanized preferences, it was agreed that the quota should be increased by 50 % in volume from the year 1973 when the customs duties would be suspended.

(6) See article I of annex I of the agreement.

(7) See article 7 of the agreement.

Agricultural products and certain processed agricultural products of Malta were not given a tariff reduction in the first stage. An exception was made for two food products of special interest to Malta (pasta and fine pastry cakes ware). They enjoy a 70 % reduction of the fixed component.

Malta grants, in return, for Community concessions, a tariff reduction on goods imported from the Community under the following schedule (1)

- 15 % on the entry into force of the agreement ;
- 25 % at the beginning of the third year ;
- 35 % at the beginning of the fifth year.

This tariff disarmement is subject to a few exceptions. These are aimed at allowing Malta to have the benefit of fiscal receipts, enabling it to cover a large part of its budget expenditure and providing protection for certain industries. The agreement contains a special clause enabling Malta to reintroduce customs duties for the purpose of providing a guarantee for subsequent industrial projects (2).

In regard to quantitative restrictions, the Community is given the benefit of the treatment of the most favoured nation clause (3).

b. The Second Stage.

The content of the second stage will be defined during the eighteen months immediately preceding the end of the first stage. It shall include further measures for the elimination of obstacles of trade between the Community and Malta, the inclusion by the Community of agricultural products and the adoption by Malta of the Community's common external tariff (4).

2. The Repercussions of the Association Agreement.

The agreement of Valetta was qualified as incomplete in comparison with association agreements previously concluded with other Mediterranean countries (5). It did not foresee any coordination of economic policies or technical and financial cooperation. Moreover, it did not include any tariff reduction for Malta's agricultural products. Thus, the result obtained by the agreement were not favourable for Malta,

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(1) See article 1 of annex II of the agreement.
(2) See article 5 of annex II of the agreement.
(3) See article 6 of annex II of the agreement.
(4) The agreement provides for the creation of a council of association for the administration of the agreement ; it consists of members from the Maltese government and members from the Council and the Commission of the European Communities ; see articles 12 and 13. The council of association can formulate recommendations in this respect.
(5) See CHAPIN, Op. cit., p.

especially since the EEC occupies the first place in the external trade of Malta and absorbes about 60 % of its external exchange. Table 3 shows that the balance of trade of Malta is in deficit in favour of the EEC. (1) Through three years (1971-1973) the major deficit was with the UK. The EEC absorbed about 66 % of Malta's total exports with the UK absorbing 31 % of this amount (2).
It is evident from the figures, that the agreement had a very limited result on the external trade of Malta and falls short of the requirements for economic development in Malta.

3. Towards a new agreement.

During the meeting of the Council of association on April 24, 1972 Mr. DOMMINTOF, the Prime Minister of Malta, made severe criticisms concerning the results of the agreement. The given concessions were not sufficient for the development of exchanges, and agricultural sector was excluded (3).
The Maltese government presented a new demand asking for
- the inclusion of the agricultural sector,
- the immediate application of the system of general preferences,
- the inclusion of financial and technical cooperation to develop industrialization and infra-structures in Malta.

In regars to the application of the system of general preferences, the EEC decided that Malta would benefit from this system as of January 1, 1974 (4).
Concerning the other items, the Commission proposed tariff reductions on agricultural products ranging from 40 to 60 % (5) and it also proposed financial aid in the form of loans ans grants for a five

(1) See table n° 3 Appendix II.
(2) The UK exports to Malta increased to 59 million dollars in 1974, about 37 % of EEC exports to Malta (161,1 million dollars). This indicates the growing deficit of balance of trade in favour of the EEC, see Télex Méditerranéen n° 60, 25.1.1975.
(3) See rapport sur les conséquences de l'élargissement de la Communauté pour ses relations avec les pays du bassin méditerranéen, European Parliament Document n° 302/72, 28.2.1973, p. 25.
(4) See Télex Méditerranée n° 42, 25.2.1975.
(5) 40 % reduction on potatoes during the year from 19.1 to 15.5 and 60 % for flowers. See Télex Méditerranée n°.64, 27.3.1975. See also J. DONDALL, Mintoffs' Malta : Problems of Independence in World Today, May 1972.

year period (1). The negotiations between the two parties are not yet completed (2).

In conclusion, although the Community granted to Malta the advantages of the system of general preferences, it is important to stress that the application of this system has limited results on the exports of Malta. Moreover, the agreement remains incomplete and incapable in satisfying the requirements of Malta's economic development since it excludes both the agricultural and cooperation sectors.

This situation persuaded Malta to develop its relations with other powers in the world, such as China, the USSR and the Arab countries and particularly Libya.

4. Extension of the Present Agreement and Conclusion of Additional Protocols.

The first stage of the agreement of 1970 expired in March 1976. The Community and Malta were not ready to begin immediately negotiations for the second stage of the agreement. Thus, they concluded in February 1976 an agreement extending the agreement until June 30, 1977 (3), date of the end of the transitional period foreseen for the three new Member States.

a. Protocol for the Adaptation of the Agreement.

An additional protocol was also concluded on March 4, 1976 between the parties in order to adapt the present agreement to the enlargement of the Community. Beside, the application of the agreement in the territories of the new Member States, the protocol included concessions on certain agricultural products particularly those which represent special importance to Malta, such as wine, tomatoes, potatoes, onions, and cut flowers (4).

(1) About 2 million u.a., see Télex Méditerranée n° 32, 17.9.1973 and n° 63, 12.3.1975.

(2) The Council of Ministers issued the mandate for negociations on July 1, 1974. Malta asked in a letter dated 24.5.1975, the Community not to be included in the Community mediterranean global approach but treated separately. The offer of the Community was still limited in Malta's view. So, the Commission proposed an improvement to the mandate of 1974. See Télex Méditerranée n° 50, 10.7.1974, n° 52, 27.9.1974, n° 57, 22.10.1975, n° 63, 12.3.1975 and 69, 15.6.1975. See also Rapport sur la proposition de la Commission au Conseil (doc. 295/75) of the European Parliament Doc. 312/75, 3.4.1975.

(3) See Official Journal, L 81, March 27, 1976.

(4) These products were given tariff reductions of 75 %, 60 %, 40 %, 50 %, and 60 % respectively. See Official Journal L 111, 28.4.1976.

Economic and Technical Cooperation.

This additional protocol also includes a chapter for economic and technical cooperation. The objective of this chapter is to promote overall cooperation with a view to contributing to the economic and social development of Malta. To this end provisions and measures will be adopted and implemented in the field of economic, technical and financial cooperation, and in the trade and social fields.(1).

Financing Economic Projects.

In order to implement the various aspects of cooperation provided for in the additional protocol, the Community and its Member States concluded a financial protocol with Malta (2). According to this protocol, the Community granted Malta an amount of 26 million units of account as follow :

a) 16 million units of account as loan to be granted according to the conditions and procedures foreseen by the status of the European Investment Bank.
b) 5 million units of account in the form ofloans on special terms.
c) 5 million units of account in the form of grants.

The Council of Association which was established by the agreement of 1970 shall have the powers, for the purpose of attaining of the objectives set out in the agreement and additional protocols. It may take decisions, and formulate any resolutions, recommendations or opinions which are necessary for the attainment of the common objectives of the contracting parties (3).

This is the first time that the Community granted Malta an economic and financial cooperation, although the agreement of Valetta is an association. It is also the first time that Malta's agricultural exports to the Community, are given concessions. This demonstrates a development in the Community's policy towards Malta and the Mediterranean countries. On the other hand these loans and concessions will contribute to the economic development of Malta.(4)

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(1) See Official Journal L III, 28.4.1976.

(2) This protocol was signed in Brussels on March 4, 1976.

(3) See articles 12-14 of Malta's agreement and article 21 of the first additional protocol.

(4) The strategic important of Malta was seriously considered by the Community in its relations with Malta. See J. PERGENT, La valeur stratégique de Malta, in Est et Ouest, Mars, 1972.

Section IV : The Contractual Relations between the EEC and Cyprus.

In view of the growing competition of the Mediterranean agricultural products in the EEC-Market which represents the first commercial partner for Cyprus (1), the latter asked to negotiate an agreement with the Community. After several sessions of negotiations an association agreement based on article 238 was signed in Brussels on December 19, 1972 and it entered into force on May 14, 1973 (2). The agreement provides for two successive stages, each, a five year period leading to a customs union (3).

1. The Contents of the Agreement

a. The first stage (ends on June 30, 1977)

During the first stage, the Community granted reductions on import duties for both the industrial and agricultural sectors. For the industrial products, they were granted by the Community a 70 % tariff reduction from the date of the application of the agreement (4). For the agricultural products, the Community granted a total exemption for Caroub and a 40 % reduction for citrus on condition that they respect the minimum price. A specific transitional system was foreseen for potatoes and Cyprus Sherry to the British market. The Community granted an exemption for a quota of 110,000 long tons of potatoes exported to the United Kingdom from December 31, 1974. For Cyprus Sherry, the EEC authorized Cyprus to export annually 186.000 hl of Sherry to the United Kingdom and Ireland without respecting the reference price fixed by the Community for fine wine ("vin de liqueur")(5).

Cyprus grants, in return, tariff reductions on about 55 % of its industrial imports and 35 % of its agricultural imports from the EEC according to the following schedule :

- 15 % on the entry into force of the agreement (May 14, 1973) ;
- 25 % at the beginning of the third year (1976) ;
- 25 % at the beginning of the fifth year (1978).

For certain products, a partial exception was foreseen for the requirement of industrialization in Cyprus. Cyprus is allowed to increase customs tariffs for the realization of its industrial

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(1) The EEC represents more than 50 % of the external trade of Cyprus and the UK represents about 30 % of the total commercial exchanges.
(2) A complementary protocol for the enlargement of the Community was also signed between the parties. See J.O., n° L 133, May 21, 1973.
(3) See Document of the Commission n° 603.10.74, pp. 6-7 ; see also article 2, para 2 of the agreement.
(4) except petroleum products ; see article 1, annex I of the agreement
(5) The reference price is generally much higher than the normal price of Cyprus Sherry.

projects.(1).

b. The Second Stage.

The second stage is, in principle, for a five year period. It will be defined in the coming negotiations which will start 18 months before the end of the first stage. The objective of this second stage is to eliminate the obstacles of exchanges in order to establish a customs union between the EEC and Cyprus.

2. Results of the Agreement

After about three years of applying the agreement, the results did not help significantly Cyprus. The agreement included very limited concessions, particularly for the agricultural products which occupy a dominant position in Cyprus exports (2). Most of the industrial exports to the EEC are primary materials which enter, in principle, the EEC market free of duties. From the available figures it could be observed that there is a growing deficit in the balance of trade between Cyprus and the EEC in favour of the latter (3). In view of these results, the Cypriot government asked the Community to enlarge the agreement to include more commercial concessions and other sectors such as technical and financial cooperation (4). Cyprus also asked for a solution to the problem of Cyprus Sherry through a system to be applied to the whole EEC (5).

The objective of this economic cooperation is the development of an economic infra-structure and the diversification of production, particularly the industrialization and the modernization of agriculture. Moreover, it also aims for the promotion of Cyprus exports to the EEC-Market.

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(1) The agreement provides for the creation of the Council of association for the administration of the agreement but, in fact, it has no real powers. Since the development of the political situation in Cyprus, the Turkish community asked to be consulted and to benefit from the concessions granted by the Community. See Télex Méditerranée n° 72, July 31, 1975, p. A/4.

(2) About 60 % of Cyprus exports are agricultural products. See Document of the Commission "Directorate of Information", n° 603/X/1974, p. 14.

(3) See table n° 4, appendix 2. Cyprus imports from the Community amount to about the double of its exports to the EEC ; see the Document of the Commission, n° 603/X/1974, p. 15.

(4) Cyprus presented its application during the meeting of the Council of Association on July 22, 1974 ; see Doc. of the Commission, op. cit., p. 9.

(5) See Document of the Commission, Op. cit., p. 19 ; see also regulations n° 2178/74 and n° 1143/74 concerning aids foreseen to Community wine products similar to Cyprus Sherry, O.J. L 250, September 13, 1974.

3. Towards a New Agreement.

To improve the actual agreement, the Commission proposed new concessions on the basis of the Community Mediterranean global approach. The Commission proposals include concessions on certain agricultural products such as wine, fresh grapes, olive oil, tobacco, potatoes and more concessions on citrus (1). The Commission proposed limited financial assistance in a separate protocol of a six year period in the form of grants and loans from the European Investment Bank (2). Negotiations between the two parties have not yet started. It is expected to take place after the completion of negotiations between the Community and the Maghreb countries and Malta (3). Although an agreement is not yet negotiated, the Community has envisaged for Cyprus, within the framework of the Community Mediterranean global approach, a sum of 30 million of units of accounts in the form of loans and grants (4).

(1) The proposed tariff reductions are 75 % for wine, 50 % for raisins, 100 % for tobacco, 0,5 u.a./100 kg olive oil, 40 % for potatoes and 60 % for citrus ; see J.-Y. CHAPIN, Op. cit., p. 249.
(2) Since 1968, Cyprus called upon the capitals of the Member States to participate in the development of the country. Actually there is no heavy industry in Cyprus, except for a petroleum refinery established by a consortium formed by Shell, Mobil and BP. See Document of the Commission, Op. cit., p. 15 ; see also J.-Y. CHAPIN, Op. cit., p. 244.
(3) See J.-Y. CHAPIN, Op. cit., p. 249 ; see also Télex Méditerranée, n° 68, May 30, 1975.
(4) Of this amount, 20 million of u.a. as normal loan from the European Investment Bank, 4 million of u.a., loan on special conditions and 6 million u.a. as grants. See EIB Informations, n° 9, May 1977, p. 7.

SECTION V : THE CONTRACTUAL RELATIONS BETWEEN THE E.E.C. AND SPAIN.

1) The historical background.

The E.E.C. constitutes, for economic (1) and political considerations, a special importance for Spain. Significant Spanish exports were moving to member countries of the E.E.C., notably Germany, France and Italy and a large number of Spanish workers spread out in the Community (2). The E.E.C. also represents a very important source of tourists for Spain (3).

Politically, Spain was diplomatically isolated during the period after the Second World War and she was very keen to seek an approach with the E.E.C. Thus, it was natural, for these reasons, that Spain joined the parade with other Western European countries to affiliate themselves with the Common Market and in February 1962 requested association (4).

No action was taken on this request by the E.E.C. - Council of Ministers until two years later when the Spanish government recalling its earlier request, proposed exploratory talks with the Community.

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(1) Spain exports to the Community of the Six accounted for about 36% of the total Spain exports and its imports from the E.E.C. accounted for 34% of the total imports, see Chapin, "Les relations entre la C.E.E. et les pays du bassin méditerranéen", op. cit., p. 153.

(2) See Richard Comyus, "Spain and the Common Market", in The World Today, January 1964, p. 166. See also W.T. Salisbury, "L'Espagne et la C.E.E. dans la Communauté et les pays méditerranéens", op. cit., p. 101.

(3) Tourism represented 13% of Spain's GNP in 1972, see Chapin, op. cit., p. 142.

(4) Bulletin de la C.E.E., mars 1962, n° 1, p. 21; see also Laureano Lopez Rodo, "Spain and the E.E.C.", Foreign Affairs, 44, October 1965, pp. 127 - 133; G. Cazenave, L'Espagne face au Marché commun, thèse, Bordeaux, 1970; B. Soulier, L'économie espagnole face à la C.E.E., thèse, Toulouse I, 1972.

In response to this proposal, the Council authorized the Commission to open discussions with the Spanish authorities. These conversations resulted in the submission of a very long and detailed questionnaire to the Spanish government in February 1965 asking for economic, legal and administrative information to enable the E.E.C. authorities to form a judgement about the economic situation in Spain.

Although the Spanish government has furnished the replies requested in the questionnaire of the Commission by August 1965, the E.E.C. - Commission did not issue a report on its findings to the Council until October 1966. The delay was due, perhaps, to the opposition to Spain's affiliation that existed within the Commission and its staff (1). Indeed, there were major reasons that accounted for the E.E.C. Council delayed action on the Spanish request for association in 1962. One reason was the preoccupation of the Commission and the Council with British negotiations and the subsequent failure after de Gaulle had vetoed Britian's entry into the E.E.C. (2). Another reason was the sharp criticism of Spanish association, that was opposed especially in Belgium, the Netherlands and Italy. This criticism was motivated by both political and economic considerations (3). The

(1) The E.E.C. - Commission's Vice-President Mansholt reflected his critical attitude towards Spanish affiliation with the E.E.C. in an address to Dutch unionists in April 1966, see Agence Europe, April 12th, 1966, p. 3.

(2) Despite de Gaulle's veto to United Kingdom entry, France indicated early in 1964 that she was prepared to support Spain's request for association and later Germany's government also expressed it support for the Spanish request. See Werner Feld, op. cit., p. 87.

(3) See J. Raux, "Les relations extérieures de la C.E.E.", op. cit., p. 301.

The Socialist parties and Labour Unions (1), particularly in these countries but also elsewhere in the Community, objected to an association with a country ruled by an authoritarian government and opposed the supply of financial and other aid to the regime of General Franco (2).

Economically, the Italians were also concerned, that preferential tariff arrangements for the import of Spanish agricultural commodities, in many respects similar to those of Italy, would unfavorably affect the export of their own farm products to the Community.

In view of this strong opposition to Spain's association, the Spanish government began to embark on an intense lobbying campain to promote its case through contacts with influential Commission staff members, the Permanent Representatives of the E.E.C. Member States in Brussels and talks with some of the member governments, especially Italy, to dispel its economic apprehensions. As a result, the opposition to Spanish affiliation in some of the Member States of the E.E.C. has begun to weaken. The two parties were able to start the first round of negotiations in September 1967 and April 1968 (3). The Spanish wanted the conclusion of a global agreement covering all the economic problems but the E.E.C. proposed only a non-preferential agreement. After eight years of negotiations, the final

(1) The E.E.C. trade union organisations (ICFTU and IFCTU) were strongly opposed to the Spanish association and declared in a statement in April 1967, that such an association would be inconsistent with the basic principals of the E.E.C. - Treaty, namely "to strengthen the safeguards for peace and freedom ...", see Agence Europe, April 13, 1967, p. 3.

(2) The Spanish request was also violently attacked in the European Parliament, see the declaration issued by Birkelbach, President of the Socialist group , see Parlement européen, débats, session 1962 - 1963, séances du 27 au 30 mars 1962, pp. 81 - 82.

(3) The first mandate was adopted by the Council on July 11, 1967.

result was the conclusion of two stages (1) of preferential agreement based on article 113 of the Treaty of Rome (2), half way between an ordinary trade agreement and an association (3).

The contents of the agreement are relatively modest in the view of the Spaniards. The linear tariff cuts are made by both sides, with emphasis on industrial products. The agreement included preferences for only a few agricultural commodities which represent special importance for Spain, such as citrus fruits and olive oil. No article in the agreement deals with technical and financial cooperation.

The Spanish government was less than satisfied with such an agreement, but it would constitute a beginning for the fulfilment of Spain's aspirations.

2) The contents of the agreement.

a. Community Concessions.

The Community abolished quantitative restrictions on (4) its industrial imports from Spain and granted tariff concessions cover about 95% of its imports of industrial products and about 61% of its imports of agricultural products from Spain.

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(1) The duration of the first stage is six years and the transition to the second stage is subject to the agreement of the two parties; see rapport de M. Boano au Parlement européen, documents de séance 1970 - 1971, n° 164 du 16 novembre 1970.

(2) The agreement was signed on June 29, 1970, and came into force on October 1, 1970; O.J. L 182, July 1970.

(3) The agreement is completed by the same complicated rules of origin which feature in other mediterranean agreements (Morocco, Tunisia and Israel) and a number of common declarations.

(4) There are certain exceptions, petroleum products were granted tariff reductions withen a limit of 1.200.000 tons annually, also cotton textiles (position 55.09) were granted tariff reductions on quantity of 1.800 tons annually.

i. Concessions on industrial products.

Annex 1 of the agreement detailed the concessions being given by the Community. The industrial products (1) were granted 60% of tariff reduction in three stages : the first reduction of 30% takes place on the date of entry into force of the agreement followed by a second reduction of 20% from January 1st, 1972 and the last reduction of 10% on January 1st, 1973 (2).

The Community made an exception for some industrial products from these reductions. It submitted certain Spanish exports which are considered sensitive products such as textiles and refined petroleum products to a system of annual ceiling. The tariff reductions were only given to an annual contingent of 1.200.000 tons of refined petroleum products (3) and an annual contingent of 1.800 tons of cotton textiles (4).

ii. Concessions on agricultural products.

Specific concessions were also granted for certain agricultural products which represent special interest for Spain (5). Some of these concessions are subject to price guarantees such as the tariff arrangements for oranges and other citrus products (6). Particular tariff concessions were also given

(1) See article 1 of annex 1 of the agreement.

(2) See article 2 of annex 1 of the agreement.

(3) See article 3 of annex 1 of the agreement.

(4) See article 4 of annex 1 of the agreement.

(5) Such as citrus, fruits (grapes, figs, dates, bananas, mangos and avocados), vegetables, olive oil, fish and meat, see articles 7 - 11 of annex 1.

(6) See article 7 of annex 1, this system is also applied to other mediterranean countries.

for some fresh or processed vegetables, fruits, fish and meat (1). Tariff reductions for Spanish wine were subject to a declaration issued by the Community and annexed to the agreement. In this declaration, the E.E.C. offered Spain a tariff reduction of 60% and 50% on wines of Malaga (2). Olive oil was also submitted under a Community system applied to the mediterranean countries, which produce olive oil (3). In all these cases, the Community reserves the right to modify its agricultural policy, but, in such an eventuality, guarantees for comparable treatment were envisaged for Spain.

b. Spain's concessions to the E.E.C.

The second annex of the agreement contains the counter concessions granted by Spain to the E.E.C. products. Spain abolished quantitative reductions on about 80% of its industrial imports from the E.E.C. and offered tariff reductions on the lists of commodities ranging from 25% to 60% and fixed according to a timetable (4).

(1) Figs fresh or dried were granted 30% of tariff reductions on annual contingent of 200 tons and complete exemption for annual contingent of 1700 tons of fresh and dried grapes, see article 9 of annex 1 of the agreement.

(2) See the declaration of the E.E.C. delegation relative to wine and annexed to the agreement.

(3) The Community system of olive oil offers for concerned mediterranean countries a tariff reduction of 0,5 units of account per 100 kg. In addition to this advantage Spain was granted tariff reduction of 4 u.a./100 kg as an economic advantage. This means that Spain has to impose equivalent amount as tax on its exports to the E.E.C.

(4) See article 1 of annex 2 of the agreement.

For agricultural products Spain accepted a stand-still in the tariff on the agricultural products enumerated in annex II of the Treaty of Rome (1). Spain also obligated itself to buy from the E.E.C. 90% of its annual total imports of milk or conserved milk (2).

Moreover, Spain is engaged according to the agreement to buy from the E.E.C. with the normal conditions of the market, 25% of its annual importations of butter. This percentage to be increased annually to reach at least 30% at January 1st, 1976 (3). These concessions cover about 43% of Spain's importations from the E.E.C. (4).

3) The development of commercial exchanges after the conclusion of the agreement.

The enlarged Community absorbs about 45% of Spain's total trade. Germany ranks the first partner to Spain among the E.E.C. member States, followed by France, the United Kingdom and Italy (5).

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(1) See article 7 of annex 2 of the agreement.

(2) See article 10 of annex 2 of the agreement.

(3) See article 9 of annex 2 of the agreement.

(4) See Chapin, "Les relations entre la C.E.E. et les pays du bassin méditerranéen", op. cit., p. 161.

(5) Germany's exports to Spain represent about 36,8% of E.E.C. total exports to Spain (1972) and its imports represent about 33,2% of E.E.C. total imports from Spain, followed by France whose exports accounted in 1972 for about 28,9% of E.E.C. total exports to Spain, the United Kingdom's share was 18,3% of exports and 18,6% of imports, and Italy whose share accounted for 18,7% and 14% of E.E.C. total exports and imports respectively, see Chapin, op. cit., pp. 153 - 154.

The figures show that commercial exchanges have developed between the E.E.C. and Spain after the conclusion of the agreement. Spain's exports to the E.E.C. (nine) increased from 797 million dollars 1969 to 1.721 million dollars 1972 (1). The share of the E.E.C. in Spain's total exports also increased from 42% in 1969 to 45,2% in 1972 and 44,7% in 1975 (2). Despite this increase, it could be observed that Spain's agricultural exports to the E.E.C. have decreased. The share of agricultural products in comparison with Spain's total exports to the E.E.C. continued to decrease (3), despite the importance of this sector in Spain's trade with the E.E.C. (4).

On the other hand, Spanish imports from the E.E.C. have remarkably increased. The imports from the Community of the nine increased from 1.828 million dollars, in 1969, to 2.870 million dollars, in 1972, with a percentage of 63% (5). Consequently, the balance of trade between Spain and the E.E.C. continued to be in deficit. The deficit increased from 824 million dollars, in 1970, to 1.149 million dollars in 1972 (6). In 1975, this deficit reached about 2.209 million dollars (7).

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(1) See table n° 5 in appendix n° 2.

(2) See table n° 5 in appendix n° 2.

(3) Agricultural products represented about 2/3, 1963 and 52%, 1970 of Spain's total exports to the E.E.C. This share decreased to 37%, 1975, see the , see also Chapin, op. cit., p. 154.

(4) See The Economist, Septembre 1976, p. 63.

(5) See table n° 5 in the appendix n° 2.

(6) The total deficit of Spain's balance of trade accounted for 2.227 million dollars in 1972, of which more than 50% was with the E.E.C.

(7) See table 5, appendix 2.

4) Towards a new agreement.

The obtained results of the agreement did not satisfy the government of Spain, in view of the increasing deficit in its balance of trade with the E.E.C. Moreover, the enlargement of the Community may have effects on Spain's exports to the new E.E.C. member States, particularly the United Kingdom whose market represents special importance to certain Spanish agricultural products (1).

Thus, the Spanish government asked the Community to negotiate an enlarged agreement (2) based on the E.E.C. global approach towards the mediterranean countries, including more trade concessions and other sectors than trade, such as technical and industrial cooperation. On the basis of the reports submitted by the Commission, the E.E.C. - Council issued the first negotiation directive with Spain on June 25th and 26th, 1973 (3). The first round of negotiations between the two parties took place in Brussels in July 1973.

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(1) Spain's agricultural exports represent about 60% of the total exports of Spain to the United Kingdom. Moreover, the British customs tariff on these products are lower than those of the E.E.C., see Chapin, "Les relations entre la C.E.E. et les pays du bassin méditerranéen", op. cit., p. 164; The external position of Spain and the enlargement of the E.E.C., in Bank of London and South America Review, Septembre 1972.

(2) An additional protocol was signed between the E.E.C. and Spain, on January 29th, 1973 for the adaptation of the agreement of 1970 with the enlargement of the E.E.C. It envisaged the non-application of commercial articles in the new member States.

(3) See the 21. review of the Council's work, January 1st - December 31st, 1973, p. 475. See also "Septième rapport général sur l'activité des Communautés européennes", 1973, p. 426.

a. The E.E.C. position.

The E.E.C. delegation asked during the negotiation to complete the full opening of the Spanish market for E.E.C. industrial products according to a timetable to be fixed in the agreement. The delegation also hoped that a free zone for all industrial products including E.C.S.C. products, could be established gradually and be completed not later than January 1st, 1979 (1).

On the other hand, the E.E.C. was not prepared to grant more concessions to Spanish agricultural products than those included in the agreement of 1970. It only envisaged the review of the agricultural sector in 1977 (2).

b. The position of Spain.

The Spanish delegation stated that his country could not completely open its market for E.E.C. industrial products. They added that Spain could do so, only if the Community market would open for the Spanish agricultural products. Thus, the Spanish delegation asked for the completely free circulation of exchanges for both industrial and agricultural products,

(1) See Chapin, op. cit., p. 164; Jean-Petit Laurent, Démonstration de l'unité et de la spécificité de la politique méditerranéenne - le couple Espagne Israël, Revue du Marché commun, May 1973.

(2) According to the French and Italians the concessions granted by the 1970 agreement were unbalanced in favour of Spain. They refused to grant more concessions in the agricultural sector unless Spain gave more substantial concessions in the industrial sector. On the other hand, the British were in favour of giving more preferences to Spain's agricultural products. Since, a great part of these products enter the British market with zero tariff, the alignement of the British tariff with the common custom tariff risks the increase of alimentary product prices in the British market. See Chapin, op. cit., p. 165.

proposing the gradual establishment of a free zone for both products to be completed not later than January 1, 1984.

The Spanish argumentation was based on the fact that about 92% of E.E.C. exports to Spain are industrial products, while 48% of Spain's exports to the E.E.C. are agricultural products. Moreover, the Spanish delegation stated that the E.E.C. offer only covers 63% of Spain's agricultural exports to the E.E.C. (1). In view of these differences of opinion over the requested concessions, the first round of negotiations ended without positive result. Thus, the Commission asked the E.E.C. - Council of Ministers to adopt a wider mandate to meet the Spanish aspirations. The Council adopted a new mandate in July 1974, but it was entirely refused by the government of Madrid (2). Later on, the events developed rapidly in Madrid and the political situation became very tense between Spain and the E.E.C. countries, because some Spanish citizens were condemned to death for political crimes. The E.E.C. member States strongly reacted and the E.E.C. decided to block negotiations with Madrid.

After the death of General Franco, the political situation has improved between the Community and Spain. The government of Madrid succeeded in normalizing its relations with the E.E.C. - countries.

Actually, an eventual possibility of Spain's accession to the E.E.C. is not excluded, especially because Spain is economically more advanced than other mediterranean countries which have already applied or want to join the Community. But it appears that the E.E.C. is still waiting

(1) See Chapin, "Les relations entre la C.E.E. et les pays du bassin méditerranéen", op. cit., p. 166.

(2) The new mandate did not substantially improve the Community's offer.

for more political modification in the present regime (1). Thus, the Spanish government asked only that the agreement of 1970 be adopted in order to settle problems of Spanish exports resulting from the accession of the new member States to the Community. The E.E.C. - Council of Ministers agreed to examine the Spanish request in its meeting of September 20th, 1976. In view of Spain's new open policy, its relations with the E.E.C. are expected to be developed in the near future.

(1) See the declaration of M. Van Elslande, Belgian Foreign Minister on the accession of Mediterranean countries to the E.E.C., La Libre Belgique, September 22, 1976.

Section VI : The Contractual Relations between the E.E.C. and Yugoslavia.

Yugoslavia is the first socialist country which has developed (1) its economic relations with both East (2) and West Europe and developing countries. Since 1961 Yugoslavia has participated within the framework of the OECD and plays an important role in the United Nations Economic Commission for Europe. It also established contacts with the Secretariat of EFTA and joined GATT in 1966 (3). Yugoslavia was the first socialist country which established contractual relations with the E.E.C. (4) and is represented at the meetings of the scientific and technical cooperation group (STCO) since May 1971 (5). On the other hand, since September 18, 1964 Yugoslavia has been associated, under a particular statute, to the works of the COMECON (6). As the E.E.C. has an important share in the external trade of Yugoslavia, the exports of the latter to the Community market faced many problems because of the application of the common policies of the Community, particularly in the agricultural sector (7).

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(1) Document of the Commission n° 702/X/1973, p. 1

(2) Yugoslavia exports to Easten Europe represented in 1972 36 % of its total exports and its imports from this area amounted to about 24,7 % of its imports. The USSR comes as the first in both exports and imports. See J.Y CHAPIN, Op. cit., p. 219.

(3) See Document of the Commission (Directorate General of Information) n° 702/X/1973, p. 1.

(4) Yugoslavia recognized the EEC as a legal personality.

(5) The scientific and technical cooperation group acts under the aegis of the EEC Council of Ministers and comprises representatives of the EEC Nine Member States, and also Norway, Austria, Finlande, Portugal, Greece, Sweden, Switzeland, Turkey and Spain. See Document of the Commission n° 305/X/1975, p. 7.

(6) The Prime Minister of Yugoslavia, Bijedic, attended in July 1972 the 26th Session of the COMECON. It was the first time that Yugoslavia was represented on such a high level in this organisation. See Document of the Commission n° 702/X/1973, p. 1.

(7) About 36 % of Yugoslavia's exports go to the enlarged Community and about 42 % of its imports come from the E.E.C. ; Germany is the first supplier (44,6 % of Yugoslavia's imports from the E.E.C.) and then comes Italy and France. Italy represents Yugoslavia's first client. Yugoslavia's exports to Italy in 1972 amouted 34,4 % of its exports to the EEC with Germany and France following. See J.Y. CHAPIN, Op. cit., p. 215-217.

tly, Yugoslavia has asked since 1962 for negatiations with the E.E.C. in view of concluding an agreement with the Community to settle the problems facing its exports to the E.E.C. market. The Council of Ministers of the E.E.C. authorized on December 4, 1962 the Commission to start exploratory negotiations which took place in January 1965. In July 1968 the first mandate was given to the Commission to negotiate a non-preferential agreement with Yugoslavia. After several sessions of negotiations in October and November 1968 and February 1970 a non-preferential agreement based on article 113 of the Treaty of Rome was signed on March 19, 1970 and came into force on April 30, 1970 (1).

1. The first agreement.

The agreement specifies that the contracting parties agreed to grant each other the most-favoured-nation treatment in all matters (2) relating to customs duties and taxes and the immediate application of the reduced customs tariffs resulting from the Kennedy Round.

The agreement also provides for the arrangement of the Community on certain categories of meat (baby beef) imported from Yugoslavia through the permanent cooperation between the two parties. Another arrangement was made for the wine imported into the EEC from Yugoslavia. But the agreement does not cover the outstanding problems concerning the Community restrictions on importation of certain Yougoslavian products such as tobacco, fish preserves and certain seeds (3).

Finally the agreement provides for the establishment of a joint Committee which comprises representatives of the Council and Commission on the one hand and of Yugoslavia on the other. This Committee is charged with the observation of the good functioning of the agreement. It formulates proposals for the development of exchanges between the two parties.

The agreement substitutes the former commercial agreements concluded between Yugoslavia and the EEC Member States (4).

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(1) See Zarko MARKUSIC, L'avenir des relations économiques entre la Yougoslavie et la CEE, in La Communauté et le problème du développement, Bruxelles, Institut d'Etudes Européennes, 1970, p. 121.; L'accord commercial entre la CEE et la Yougoslavie, in RMC, juin 1970 ; L. ACIMOVIC, Yugoslav concern for an independant Mediterranean, in New Middle East, Febr. 1970.

(2) With the exception of the concessions granted or to be granted by one of the contracting parties to a third party. See Revue du Marché Commun, n° 143, 1970, pp. 283-287.

(3) See Document of the Commission n° 702/X/1973, p. 7.

(4) According to regulation n° 69/494 of December 16, 1969 the EEC Member States are no longer competent to conclude commercial agreements with third countries, as individual countries.

2. The Second EEC-Yugoslavia Trade Agreement

The Government of Yugoslavia regarded the agreement of 1970 as unsatisfactory and expressed its wish in November 1971 to negotiate a new agreement on larger basis and to include, especially, both commercial and economic cooperation. Yugoslavia made the application for this purpose in July 1972. The Community replied positively to the Yugoslavian demand and after several sessions of negotiations a non-preferential agreement based on article 113 was signed on June 26, 1973, for a five year period and came into force on October 1, 1973(1).

The new non-preferential trade agreement replaced the agreement of March 1970, which had expired on September 30, 197 3. The new agreemen provides for yearly renewal. It specifies that the contracting parties shall continue to grant one another most-favoured-nation treatment in all matters relating to customs duties and taxes of whatever kind charged on the import or export of goods.

For various categories of high quality beef (the so-called "Baby-beef") the Community has increased the levy differential granted to Yugoslavi (2) under the earlier agreement. This features, as an instrument, permanent cooperation between the two parties and is subject to respectin specific price levels. Moreover, the agreement provides for the possibility for the Community to introduce safeguard measures in the event of disturbing conditions in the meat market (3).

The agreement also provides for the creation of the EEC-Yugoslavia joint Committee, which is to meet at least once a year (4). The first duty of this Committee is to supervise the functioning of the agreement and it is also mandated to investigate the ways and means of promoting

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(1) O.J., n° L 224, August 8, 1973.

(2) The new arrangements were set according to a time table covering the five years of the agreement. See article 1 of annex one of the agreement. See also J.Y. CHAPIN, Les relations entre la CEE et les pays du Bassin méditerranéen. Bruxelles, 1974, p. 223.

(3) On July 17, 1974 the EEC suspended beef imports into the Community on account of the surpluses existing in the Community. Yugoslavian opinion was greatly disturbed by this decision. In April 1975 the Commission decided upon a gradual reopening of the Community market to certain imports of beef. See Document of the Commission, n° 305/1975, p. 4. This problem was invoked by Mr. Minic, Vice-Prime Minister of Yugoslavia during his visit to Brussels on September 25, 1975. See Télex Méditerranée, n° 57, October 25, 1974, p. 1/8. See also article 3 of annex one of the agreement.

(4) See article 6 of the agreement.

economic and commercial cooperation between the two parties. This cooperation seeks, in the early stages, non tariff and similar barries to encourage the prospective promotion of cooperation between the parties and to extend and diversify the trade in line with changes in the economic policies of the EEC and Yugoslavia.

Finally, on the signing of the agreement, the contracting parties exchanged letters regarding Yugoslavian workers in the EEC Member States. For the first time, the EEC countries demonstrated their willingness to enter into discussions with Yugoslavia on this question (1).

3. Yugoslavia and the Generalized Preferences.

Yugoslavia is one of the countries which derived benefit from the system of generalized preferences introduced by the Community from July 1 1971 (2) in conformity with UNCTAD Recommendations.

Buffer-stops or maximum amounts are fixed for each of the countries which have the benefit of this system. The effect is to put a specific percentage limit on the maximum extent to which each country is entitled to make use of the ceilings and quotas laid down for differer products (3).

For the sensitive products, which are subject to Community tariff quotas, Yugoslavia attained the buffer-stop for 10 products in 1971, for 4 in 1972, for 19 in 1973 and for 13 in 1974. Among quasi-sensitive products which are subject to special supervision, Yugoslavia went beyond the buffer-stop in 6 cases in 1971, 13 in 1972, 16 in 1973 and 17 in 1974. Yugoslavia is one of the few cases of beneficiary countries against which customs duties fell, and then were reimposed because of the buffer-stop machinery (4).

The particular importance of Yugoslavia as a user of the Community's generalized preferences raised problems in some of the more sensitive industries (5).

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(1) Yugoslavian emigrant workers account for about 1 million. In Germany there exists about 470.000 and in France 70.000. The receipts transfered by the workers to Yugoslavia accounted for about 711 million dollars in 1971. See J.Y. CHAPIN, Op. cit., p. 207. There are also other declarations and exchanges of letters relating to Yugoslavia's exports of corn, tobacco, and preserved pigments.

(2) This system provides for a total customs franchise for all non agricultural manufactured goods and a partial franchise without a quantity ceiling for a number of processed agricultural products.

(3) See footnote n° 2.

(4) See regulation (EEC) n° 2171/1973, August 8, 1973 and regulation 2172/1973, August 8, 1973.

(5) See also Document of the Commission n° 305/X/1973, p. 6 ; see S. HOLT and K. STAPLETON, Yugoslavia and the European Community (1959 1970), in JCMS, Sept. 1971.

On December 2, 1974, the Community Council of Ministers handed down a general decision on the application of the system of generalized preferences in 1975. At this meeting, it decided to make special buffer-stop allowances of 15 % on 16 products from Yugoslavia. This solution helped to diminish the number of products subject to Community tariff quotas, and to balance the preference advantages between the beneficiary countries (1).

4. Scientific and Technical Cooperation between Yugoslavia and the EEC.
Since May 1971, Yugoslavia attends the meetings of the scientific and technical cooperation group which acts under the aegis of the EEC Council of Ministers and comprises representatives of the EEC Member States and also the other Nine European countries (2). Yugoslavia has also entered into agreements in regard to telecommunications, metallurgy, nuisances and air and water pollution. On October 11, 1973, Yugoslavia signed a Convention for setting up the European Center for medium-term meteorological forecasting, to be located at Berkshire in Great Britain.

5. The Repercussions of the Agreements on Trade Relations between Yugoslavia and the E.E.C.
Despite the concessions granted to Yugoslavian exports to the EEC, as a buyer from the Community, Yugoslavia has increased its imports, while it has remained in its place as a supplier of goods to the Community without remarkable progress. In 1973, Yugoslavia imported from the Community about 42 % of its total imports while its exports to the EEC represented about 36 % of the total exports (3).

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(1) It is important to note that, with the generalized preferences system, the Community specified that, in principle, the granting of preferences on textiles of cotton and substitute materials should be limited to developing countries which are signatories to the GATT long-term agreement on cotton textiles (L.T.A.) but the Community foresaw the granting of that preference to countries which are not signatories of the LTA with certain conditions. Yugoslavia is not a member of LTA and it asked during the meeting of the mixed Committee in 1971 and 1972 to negotiate an agreement on the trade in cotton textiles. Negotiations took place and an agreement was signed on 18.4.1973 for one year and renewable annually. See Document of the Commission 305/X/1975 p.

(2) In July 1974 Yugoslavia put forward new proposals regarding the European transportation system. See Document of the Commission n° 305/X/1975, p. 8.

(3) See J.Y. CHAPIN, Op. cit., p. 215. In the first ten months of 1975 Yugoslavia imported 3,8 billion dollars from the West but only managed to export 1,2 billion dollars or less than athird as much. See Financial Times Report, Dec. 12, 1975, p. 16.

As the table shows (1), Yugoslavia's trade balance with the Community has consistently shown a big deficit, partly through the growth in imports from the E.E.C. (2) and partly through the stucture of the export trade, which still has a 40 % element consisting of basic and agricultural products, such as meat, corn and wine. Yugoslavia's trade deficit with the Community is more than half the total deficit in its foreign trade. This situation has become even worse in the last few years, the total deficit of the balance of trade reached 2.111 million dollars in 1974 and 1.600 million dollars in the first five months of 1975 (3).

Yugoslavian exports to the Community are summarized in broad categories as industrial goods, agricultural products and basic products. Concessions granted by the Community in these Sectors are limited and often were suspended. This has already happened in 1974 when the Community suspended beef imports in the Community, which represents about 25 % of the total exports of Yugoslavia to the E.E.C. (4). The frequent application of safeguard measures by the Community has affected the development of Yugoslavian exports to the Community. More over, there are other important products for Yugoslavia, such as tobacco, fish products and seeds which are not covered by the agreement. These limited concessions may result that the agreement will be considered as incomplete and not of important economic value. This situation forced Yugoslavia to impose restrictions on its imports, in order to face the growing and aggrávating deficit of balance of trade (6). Moreover, the Yugoslavian Government asked for the enlargement of the actual agreement in order to include more advantages for Yugoslavian exports and access to the Community's resources for loan. This subject was discussed also with Mr. ORTOLI, the President of the European Commission, during his visit to Belgrade on June 12-15,

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(1) See table n° 6 appendix II

(2) Consisting largely of equipment for the industry, it represents about 90 % of industrial products imported from the E.E.C. to Yugolavia. See Document of the Commission n° 305/X/1975, p. 1-2.

(3) See Télex Méditerranée, n° 73, 16.9.1975, p. B/6.

(4) See the Document of the Commission

(5) These measures will continue until the end of 1975. See Télex Méditerranée, n° 73, 16.9.1975, p. B/6. See also Financial Times, December 12, 1975, p 16-17.

(6) See Télex Méditerranée n° 69, 15.6.1975, p. A/4.

1975.(1) The experts of the two parties are now engaged with the study of the Yugoslavian demand. (2) On the other hand, the agreement with Yugoslavia has political significance as it encouraged Yugoslavia to continue its policy of non-alignement and open the way for Yugoslavian exports to the EEC market. Recently, the Yugoslavian Government asked for the conclusion of a new agreement with a larger scope including economic and financial cooperation. During the meetings of the joint Committee on March 30, 1977, the Yugoslavian delegation repeated this demand and asked for the start of negotiations as soon as possible.(3) The Community Delegation has given considerable importance to the Yugoslavian request but the new agreement will also be non-preferential as the previous one. On the other hand, the Community agreed to give Yugoslavia a loan of 50 million units of acounts from the European Investment Bank.

Yugoslavia is the first socialist country to be granted a loan from the Community. This action conforms with the Community new Mediterranean global approach.

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(1) See Telex Méditerannée n° 71 - 14.7.1975 p. A/0

(2) See Telex Méditerannée n° 66 - 1.5.1975 p. A/8

(3) See Agence Europe n° 2188 - March 31, 1977 p. 6

CHAPTER III : THE CONTRACTUAL RELATIONS BETWEEN THE EEC AND THE SOUTHERN MEDITERRANEAN.

Section I : The Contractual Relations Between the E.E.C. And Israel.

The E.E.C. is the first partner in Israel's external trade and the Community market represents a special importance for Israel's exports (1). Thus, Israel was the first Third World country to seek relations with the Community and it was the first third State to establish diplomatic relations with the Community (2). Since the establishment of the E.E.C., Israel was eager for some kind of trade agreement with the Community. For this purpose, it submitted a Memorandum to the E.E.C. on possible trade problems as early as October 1958. The Memorandum expressed concern about trade in Citrus and simply requested closer contacts with the Community. The Council of Ministers asked the Commission to study the situation and Israel promptly responded with a second Memorandum. After eighteen months the Commission came up with the first real sign of activity in the form of a "questionnaire" to Israel's Government. In July 1961, Israel formally requested the opening of negociations on the possibilities of an agreement for the maintenance and reinforcement of trade links without defining the content of such agreement. It avoided use of the word association. The Council in its meeting on July 25, 1961, noted the request, described it as premature and invited the Commission to make an indepth study of the problems involved. On November 24, 1961, Israel submitted a third Memorandum in which it set out for the first time its exact desire together with some specific proposals. It asked for a global agreement to answer its needs and proposed a free trade area under article 24 § 5 of GATT.

The Commission concluded that Israel really desired an association and it foresaw particular difficulties in meeting Israel's request. The Commission proposed "erga omnes" reductions (3) and asked to be char-

(1) The importance of the Community market stems from the fact that more than 40 % of all Israel's exports were shipped to the E.E.C., in particular to Germany and the Benelux countries. See W. FELD, The Common Market and the World, op. cit., p. 135.

(2) See S.I. MINERBI, Les relations d'Israël avec la Communauté Economique Européenne dans la Communauté et les pays méditerranéens, Bruxelles, Institut de Sociologie (ULB), 1970, p. 127.

(3) Preferential Tariff Arrangements were held to be out of the question. See H. STANLY, The External Relations of the European Economic Community Associations and Trade Agreement, London, 1971, p. 98. N. ALON, Relations économiques d'Israël avec l'Europe, in Revue de la Société d'Etudes et d'expansion, mars-avril 1971 ; P. URI, Israel and the EEC, in New Middle East, mars-avril 1972.

ged with negociating a commercial agreement under article 111 to cover mutual measures of trade liberalizations, enlargement of quotas, non discriminatory tariff measures and provisions for financial and technical cooperation. The Netherlands and Germany gave full support to the Commission's reports. But in view of objections raised by Italy for economic reasons, the Council gave the Commission a very limited mandate and formal negociations opened on 26.11.1962. Israel's delegation dismissed the Community's offer, repeated the desire of global solution and made counter proposals.

The Netherlands, supported by Germany, threw its weight behind Israel's demands at the permanent representative meeting in February 1963 ; the Netherlands representative presented a list of some twenty products for which actual tariff suspensions should be granted. Moreover, the Dutch representative linked Israel's negociations with those proceeding with Iran (1). He made it clear that Dutch acceptance of an agreement with Iran depended on Italian concessions for Israel. After several internal discussions, the Council asked the Commission to study the Dutch list and on April 3, 1964, the Council accepted the Commission's proposal. Negociations were resumed on April 13, 1963, and Israel accepted the Community offers in general (2). Finally, a full agreement was reached and the Agreement (3), based on article 111 of the Treaty of Rome, was signed on June 4, 1964.

1. The First Agreement.

The agreement provides for temporary reductions (suspensions) of the Community's Common external tariff (4) and immediate alignement of the present or reduced rates of the Common external tariff (C.E.T.) to be applied to certain products by Member States whose customs duties are in excess of these rates (5). It also provides for liberali-

(1) See H. STANLY, Op. cit., p. 98.

(2) Israel wanted to indicate that this agreement is a first stage but the Council refused the Committment. See H. STANLY, Op. cit., p.

(3) The agreement entered into force on July 1, 1964. Official Journal, n° 95, June 13, 1964, p. 1517. This is the second non discriminatory commercial agreement negociated by the Community with a non-member country. The first agreement was concluded between the Community and Iran on September 3, 1963. Official Journal, 23 Oct. 1963, p. 2553.

(4) See article 1 of the agreement.

(5) See articles 2 and 3 of the agreement.

zation of several products by Member States (1). The temporary reductions of the Common external Tariff concern 21 agricultural and industrial products and range from 40 % to 10 % of the present rates (2). For all the products in question those Member States which at present have a higher customs duty than the rate of the common external tarif: thus reduced, will apply the lower rate as of the time the agreement enters into force. Both suspensions and alignements are applicable to Israel as well as to non-member countries benefiting from the most favoured nation clause (3).

The agreement provides for import liberalization for 7 tariff heading: or subheadings to be applied by certain Member States of the Community (4).

The agreement contains a declaration of intention by Israel to increa: imports from the Community and provides for the establishment of a joint Committee composed of representatives of the Community and Israel to supervise the application of the agreement and follow the trends in trade between the Community and Israel (5).

A protocol annexed to the agreement provides that if the Community should conclude, with one or more third countries which are large producers of oranges, any agreement likely to affect materially the outlets for these products in Community markets, the question will be examined by the joint Committee (6).

The two heads of the delegations also exchanged letters containing a declaration of intention according to which the Community in the cours of Kennedy negociations, will give every consideration to the questior of Israel's exports.

The agreement was purely bilateral, signed by the acting President of the Council and the representative of the Commission.

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(1) See article 4 of the agreement.

(2) Under article 1, the E.E.C. suspended customs duties for various chemical products, clothing and aluminium goods by 20 %, for grapefruit by 40 %, for grapefruit juice by 10 %, and for advocato pears by 33 %.

(3) As Israel is not the main supplier to the Common Market of these products, so the supplier countries also benefit under the GATT favoured nations clause from the tariff reductions . See W. FELD, Op. cit., p. 135-136.

(4) See article 4 of the agreement.

(5) See articles 5 and 6 of the agreement.

(6) See article 7 of the agreement and the annexed protocol.
The Committee meets once a year and it has power only to recommend appropriate action to the two parties.

The procedure used for negociation was a mixed delegation with the Commission acting as President of the Community delegation. As an interpretation of article 111, this undoubtedly derogated from the Commission's position as negociator. The Commission expressed its concern to the President of the Council and received some reassurance that there would certainly be no attempt to curb the role of the Commission in handling the negociations (1).

Substantially the agreement is difficult to evaluate, but it has importance as an early exercise in Community decision making. Its shape was determined both by the general absence of either a Commercial or a Mediterranean policy and by a strong feeling that the spirit as well the letter of GATT should be upheld.

These considerations, as well as the political problems of the Middle East, seemed to make the Community institutions incapable of producing any kind of policy for a long time.

However, it is possible to argue that the first step in the Common Commercial policy of the Community was evidenced in the agreement(2). During the last phase of negociations, the Italians were in the process of producing proposals for an overall Mediterranean policy. The Commission also began to feel its way towards a policy which could cater to all Mediterranean countries. These are the links between the first E.E.C.-Israel agreement and the subsequent policy developments (3).

2. The Second E.E.C.-Israel Agreement.

Although Israel's exports to the Common Market rose slightly in 1965 and although this trend continued in 1966 (4) the agreement fell short of satisfying the aspirations of Israel. It gave them no exclusive preferential advantages and no protection against possible unfavourable effects of the Community's Common Agricultural policy. Israel's Minister of Finance declared, in February 1966, that the economic relation with the Common Market had unfortunately not fulfilled Israel's

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(1) J. REY, Member of the Commission, objected in vain when the same practice was followed for the Iranian negociations. See H. STANLY, Op. cit., p. 76-106.

(2) See Arie DAGAN, Israël et le Marché Commun, Revue du Marché Commun, n° 129, janvier 1970, p. 25-31.

(3) See H. STANLY, Op. cit., p. 107.

(4) From 1963 until 1970 the annual average growth was to be 8 %, but Israel's share of the E.E.C. market remained constant. See H. STANLY, Op. cit., p. 107.

expectations and that a comprehensive agreement, possibly an association, was needed to obtain satisfactory results for trade between the two parties. As a consequence, Israel filed a formal application for association on October 4, 1966 (1).

There was considerable reluctance in the Common Market countries to accept Israel's association, both on political and economic grounds. Some of the E.E.C. Member States fear that granting associate membership to Israel might alienate certain Arab States and the Israel-Arab war in June 1967 has served to increase this apprehension (2). Moreover, Italy was concerned about possible Israeli competition with its Citrus fruits and other farm products. The Commission expressed itself in favour of an association and has suggested as a possible solution a free trade area in the industrial sector only and some kind of concessions on agricultural products. This would provide a vast market for Israel's specialized industries and would afford a measure of protection for intra-Community farm production (3). Little progress was made during the next two years. Five countries of the Community were willing, from an early date, to agree to a solution based on the Commission's report, although not necessarily extending to association in word or deed. France, however, consistently blocked progress (4). As a result of German and Dutch pressure, France shifte its attitude and agreed on a compromise condition that the Community could proceed to a preferential agreement with Israel, provided that it also explored the attitude of other countries in the region, particularly the Arab countries (5).

During September 1969, the Commission drafted a mandate for the negociation and it was presented to the Council in October 1969 which accepted it in essence. Official negociations with Israel opened on November 12, 1969, continuing with two or three day montly sessions

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(1) See W. FELD, Op. cit., p. 136.

(2) See H. STANLY, Op. cit., p. 110-117.

(3) Agence Europe - January 27, 1967, p. 6 and Le Monde, June 11-12, 1967, p. 8.

(4) After the expiry of the 1964 agreement at the end June 1967, upo aCommission proposal, the Council unanimously decided to keep in for for 12 months the existing suspensions on a unilateral basis. This w done again in both 1968 and 1969.

(5) France contacted Egypt to urge to establish relations with the E.E.C. The first contacts for this proposal took place between the Commission and the Egyptian Embassy in Brussels in July 1969.

until February 13, 1970 (1) and the second agreement with Israel was signed on June 29, 1969 (2) based on article 113 of the Treaty of Rome.

a. The Content of the Second E.E.C.-Israel Agreement.

The second agreement with Israel contains considerably more economic substance than the first and is clearly seen as a type of model which can be applied to other countries, particularly those in the Mediterranean (3). The revised preamble (4) justifies the proposition that the five year period of the agreement is a part of a dynamic relationship rather than a purely static arrangement. The agreement is dealing in a general manner with favoured nation arrangements, safeguards, and the establishment of a mixed Committee (5). No article in the agreement deals with technical or financial cooperation. Certain annexes and protocols are attached to the agreements. Annex 1 details the concessions being given by the Community. These concessions range from 30 to 50 % of tariff reductions for Israel's exports to the E.E.C. An immediate tariff concession of 30 % on the date of entry into force of the agreement is to be increased in four equal annual stages starting on January 1, 1971 (6). These concessions are subjected to a large number of exceptions (7).

Specific concessions are also granted for some agricultural products

(1) Although agreements on all matters of substance had been reached, the negociations were not formally completed on 13.2.1969. Israel had wanted the preamble to be based on those in the Morocco and Tunisia agreements which referred to mutual resolution to eliminate obstacles for the "essence" of trade. However, the agreement in neither case laid down detailed time tables for the elimination of all customs duties, and had accordingly run into some criticism for GATT.
At the Council meeting on March 20, the Netherlands urged that the preamble be brought more closely into line with that in the Spanish agreement.
The matter was dealt with by the permanent representatives despite the opposition of France. The agreed text stated that the negociations should be held eighteen months before the expiry of the agreement and in the context of the progressive elimination of trade barriers in accordance with the rules of GATT. See H. STANLY, Op. cit., p. 122.

(2) The agreement came into force on 1.10.1970. See Official Journal, n° 183, 17.8.1970.

(3) Similar agreements were signed with Egypt and Lebanon.

(4) See the preamble of the agreement. Article 17 provides for the renegociation and refers to "enlarged bases" for the new agreement.

(5) See articles 1-6, 11, 12 and 14 of the agreement.

(6) See art. 1-3 of annex 1 of the agreement. Many of the products involving general reductions had already been agreed in the Kennedy Round. See H. STANLY, Op. cit., p. 123.

(7) See article 1 of annex 1 of the Agreement.

which have special interest for Israel (1). Some of these concessions are subject to price guarantees such as the tariff arrangements for oranges and other citrus products (2). Particular tariff concessions are also given for some vegetables and processed citrus products (3). In all these cases the Community reserves the right to modify its agricultural policy, but in such an eventuality guarantees comparably advangageous treatment for Israel.

The second annex contains the counter concessions granted by Israel. At the time, the whole of Israel's tariff schedule is reprinted in 5 lists, four of which comprise dutiable items for which the Communit is to receive tariff preferences of 30, 25, 15 and 10 % respectively (4). The fifth list covers products which attract no duty but on which Israel reserves the right in the future to impose one, in which case the Community will be granted a 15 % advantage (5). Finall a sixth list comprises products for which Israel undertakes to remove quantitative restrictions within two years (6).

The Treaty is completed by the same complicated rules of origin which are featured in the Morocco and Tunisia agreements and by a number of common declarations. The most important of these declarations places all future commercial relations between Israel and the E.E.C. member States in the context of the Common Commercial Policy, as well as giving Israel the same kind of **sales-guarantees** of citru juice, for which the agreement gives no concessions (7).

Another important declaration made by Israel concerns its undertaking

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(1) Such as grapefruit, citrus, bananas, annanas, mangos and avocados which were granted 40 % tariff reductions. See art. 5 and 6 of annex one of the agreement.

(2) See article 5 § 2 of annex one of the agreement.

(3) See articles 7 and 8 of Annex one of the agreement.

(4) See article one of annex two of the agreement.

(5) See article 2 of annex two of the agreement.

(6) See article 4 of the annex two of the agreement.

(7) See the declarations annexed to the agreement.

to eliminate the safeguard system applicable on importation in Israel, since the Community considered it as incompatible with the spirit of the agreement (1).

b. The Development of the Commercial Relations between the E.E.C. and Israel within the second agreement.

The Figures show (2) that the commercial exchanges had developped between the E.E.C. and Israel after the conclusion of the agreement. Israel's exports to the Community of the Six increased from 206 million dollars in 1970 to 298 million dollars in 1972 (3) with an increase of about 25 % in 1971 and 15,5 % in 1972. Israel has particularly succeeded in increasing its industrial exports which are able to compete with other Mediterranean countries products in the Community Market (4). Israel has also succeeded in diversifying its agricultural products by producing agricultural products other than citrus, the traditional agricultural exports to the E.E.C. Market (5).

Germany figures as the first partner among the Six. In 1972, Germany imported about 34,5 % of Israel's total exports to the E.E.C. The Netherlands comes in second place and Belgium and Luxemburg together come in third place (6).

On the other hand Israel's imports from the E.E.C. had increased in a remarkable way. They increased from 314 million dollars in 1968 to 694 million dollars in 1972, an increase of about 121 %. The increase was about 25,5 % in 1971 and 23,7 % in 1972 (7). The U.K. is the most important exporter of the enlarged Community to Israel. Its exports

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(1) Israel has eliminated this system definitely as from December 27, 1973. See Telex Mediterranée, n° 42, 25.2.1974. p.

(2) See table n° 7. appendix II.

(3) Israel's exports to the U.K. increased from 81 million dollars in 1970 to 113 million dollars in 1972. See table n° 7. appendix II.

(4) Such alimentary industrialized products, textiles, chemical and metal products and diamonds. In the 1950's the importance of the industrial sector was limited in comparison with the agricultural sector. In 1950 citrus only represented about half of Israel's total exports, but now actually represents from 70 to 80 % of agricultural exports and about 10 % of Israel's total exports. See J.Y. CHAPIN, Op. cit., p. 131.

(5) Such as vegetables, mangos and melons.

(6) See table n° 7. appendix II.

(7) These figures for the Community of the Six. Israel's imports from the U.K. increased from 216 million dollars in 1968 to 365 million dollars in 1972. See table n° 7. appendix II.

to Israel increased about 60 % from 1970 to 1972 (1). Germany is the second most important supplier to Israel. In 1972 it supplied about 32,8 % of the total imports of Israel from the Community of the Six. Italy is the third largest exporter to Israel. Its exports increased from 76 million dollars in 1970 to 166 million dollars in 1972 (2). Although most of Israel's imports from the EEC are capital goods and services which are necessary for the expansion and development of it economy, the balance of trade between Israel and the Community remai in a constant deficit in favour of the E.E.C. The deficit with the enlarged Community increased from 393 million dollars in 1970 to abo 650 million dollars in 1972 (3). This deficit represents in the year 1970, 1971 and 1972 about 31,7 %, 40 % and 61 % respectively of the total deficit of Israel's balance of trade in these three years (4).

3. The Third E.E.C.-Israel Agreement.

Although the second agreement contained more substance than the firs one, Israel was not satisfied with the obtained results in view of t increasing deficit in its balance of trade with the E.E.C. The agree ment fell short of the aspirations of the Government of Israel as it did not include sufficient trade preferences and important sectors such as industrial, technical and financial cooperation (5). Moreove the enlargement of the Community (6) might produce serious effects o Israel's exports to the new adherent Member States, particularly the U.K., which market is of special importance to certain Israel pro-

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(1) The U.K. exports to Israel in the 1st ten months of 1973 reached 421,5 million dollars, an increase of about 50,5 % in comparison with the first ten months of 1972. See Telex Méditerranée, n° 40, 25.1.1974, p. B/9.

(2) See table n° 7 appendix II

(3) See table n° 7 appendix II

(4) The total deficit of Israel's balance of trade in these three years was 1.328, 1.220 and 1.060 million dollars respectively. See J.Y. CHAPIN, Op. cit., p. 127.

(5) In a television interview on 25.1.1973, in Jerusalem, the forme Israeli Foreign Minister, Mr. Abba Eban, stated that his country co sidered that the second agreement with the E.E.C. is not of a chara ter to solve the outstanding trade problems with the Community and does not cope with the enlargement. He urged the Community to revie its agreement and to include Israel among the countries beneficiari of the system of general preferences. The Israeli request was suppo ted by Mr. Behrendt, the President of European Parliament who was a that time officially visiting Israel.

(6) During the meeting of the joint Committee on 26.1.1973 the Isra delegation raised the subject of the application of general prefere on Israel's exports and the expected effects of the enlargement on Israel's exports to the Community.

ducts (1). Consequently, the Government of Israel asked the Community to negotiate an enlarged agreement based on the E.E.C. Mediterranean global policy (2) including sectors other than trade, such as industrial and technical cooperation (3).

On the basis of the reports presented by the Commission, the E.E.C. Council succeeded in reaching a definition of the first negociation directive with Israel and the other four Mediterranean countries(4) on June 25 and 26, 1973 (5).

a. Differences of Opinions over Israel's Counter Preferences.

After the Council's decision, the Commission was authorized to negotiate a trade and cooperation agreement with Israel. The first round of negotiation took place in Brussels in July, and the second round of negotiations in October, 1973. In these two stages of negotiations the Commission proposed that the Community undertakes to eliminate immediately the quantitative restrictions and complete abolition of customs tariff on Israel's industrial exports to the E.E.C. (6) not later than July 1, 1977. In return Israel undertakes to eliminate quantitative restrictions and gradual abolition of customs tariffs on the Community exports to Israel not later than 1980 (7).

Israel refused the Commision proposal, arguing that it cannot afford a complete tariff abolition within the period proposed by the Commission as it has already eliminated quantitative restrictions on an important volume of its imports from the E.E.C. (8).

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(1) Especially agricultural products, as the British Customs Tariff is lower than that of the E.E.C.

(2) The Community's institutions have been committed since 1971 to working out a global policy for the Mediterranean countries and the urgency of the matter has been increased by the enlargement of the Community.

(3) The preamble and article 17 of the second agreement foresee larger bases for the new agreement.

(4) The other four countries are Algeria, Morocco, Tunisia and Spain.

(5) See Twenty First Review of the Council's Work Jan. 1 - Dec. 31, 1973, p. 175. See also Septième Rapport Général sur l'Activité des Communautés Européennes, 1973, p. 426.

(6) Including Coal and Steel products which will be governed by a separate agreement.

(7) See J.Y. CHAPIN, Op. cit., p. 138-140.

(8) On 85 % of its imports from the EEC. Israel has abolished since December 27, 1973, the safeguard system applicable to imports. See J.Y. CHAPIN, Op. cit., p. 139 and Telex Méditerranée, n° 42, 25.2. 1974, p.4

The Israeli delegation added that the only protection left for Israel industry is in fact the customs tariff, and the elimination of this element of protection in a short period will expose Israel's industry to the strong competition of Community industry. This will endanger the investments employed in this sector and the development of new industry in Israel. The Israeli delegation proposed the elimination of customs tariffs on its imports from the E.E.C. in two stages : the first covers 60 % of its imports, to reach complete abolition in 1985, and the second covers the remainder of imports. The complete elimination of customs tariffs will be realised in 1989 (1). The Community's delegation was not authorized to accept this offer and the negotiations were blocked until July 1974, when the Council succeeded in modifying the first mandate of 1973, to enable the Commission to reach a compromise solution with Israel (2). Negotiations between the two parties were resumed on 3 and 4 October 1974 and the last round of negotiations took place in December 1974. An Agreement was finally reached and it was initialed in Brussels on January 23, 1975 (3) and officially signed on May 11, 1975 (4). The agreement is based on article 113 of the Treaty of Rome (5) and the global policy of the Community towards the Mediterranean countries (6). It replaced the agreement of 1970 (7). Another agreement was signed on the same date between the Member States of the Coal and Steel Community and Israel in which for the first time the two parties established relations relevant to the Coal and Steel products (8).

b. The Content of the Third Agreement.

The agreement contains reciprocal trade preferences and industrial and technical cooperation.Its aim is to promote through the expansion of re-

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(1) See J.Y. CHAPIN, On. cit., p. 139.

(2) The Council adopted the new mandate in its meetings 22-23 July 1974. See the Council Document n° 1/107/1/74 rev. 29.7.1974. See also Telex Méditerranée n° 20, 25.7.1974, p. A/1.

(3) See Telex Mediterranée n° 60, 25.1.1975, p. A/1.

(4) Official Journal n°L136, 28.5.1975. The agreement came into force July 1, 1975 with an unlimited duration.

(5) See the preamble of regulation (EEC) n° 127/75 of the Council of May 20,1975 concluding the agreement between the E.E.C. and Israel.

(6) See "Press Communication" published by the Secretariat of the Council on the occasion of the signature of the agreement n° 6P1/75, 11.5.1975, p. 3.

(7) See article 30 para 4 of the agreement.

(8) This agreement is subject to Member States national procedures for ratification.

ciprocal trade the harmonious development of economic relations between the Community and Israel and thus to foster in the Community and in Israel the advance of economic activity, the improvement of living and employment conditions, and increasing productivity and financial stability (1).

i. **Trade concessions granted by the EEC.**

In the industrial sector, including Coal and Steel products, (2) Israel's exports were granted total exemption from customs tariffs (3) from July 1, 1977. The abolition of customs tariffs will take place in three stages : the first reduction of 60 % takes place on the date of the entry into force of the agreement followed by a second reduction of 20 % from January 1, 1976 and a last reduction of 20 % on July 1, 1977 (4).

Quantitative restrictions on Israel's exports to the Community shall be abolished on the date of the entry into force of the agreement, and measures having an effect equivalent to quantitative restrictions on imports shall be abolished not later than 1.1.1976 (5).

The Community submitted certain Israeli exports which are considered sensitive products, such as textiles, refined petroleum products and chemical products, to a system of annual ceilings, or strict observance. This system shall be abolished by not later than December 31, 1979 (6).

In the agricultural sector, the agreements envisage substantial concessions on principal Israeli exports (7) to the E.E.C. The concessions cover about 85 % of Israel's agricultural exports to the Community and range from 30 to 80 % of tariff reductions (8). Citrus fruits which constitutes the important part in Israel's agricultural

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(1) See also article 1 of the agreement.

(2) And also transformed agricultural products, especially those relevant to regulation n° 1059/68 (CEE).

(3) Also charges having equivalent effect on imports into the Community of products other than those listed in annex II to the Treaty of Rome and other than those listed in Annex A of the agreement.

(4) See article 1 of Protocol one annexed to the agreement.

(5) See article 4 of Protocol one annexed to the agreement.

(6) See article 5 of Protocol one annexed to the agreement.

(7) Such as fresh fruits and vegetables, especially citrus, melons, avocados, onions, carrots and preserves of grapefruit, tomatoes and fruit juices and vegetables.

(8) See article 8 of Protocol one of the agreement.

exports to the E.E.C. (1) were granted a 60 % reduction (2) except lemon, which was given a 40 % reduction as foreseen by the agreement of 1970.

The Community submitted certain sectors of agriculture to precautionary procedures in order to avoid causing perturbations in the E.E.C. market. The agreements foresees the use of certain mechanisms to regulate the supply in the Community such as the respect of reference price on importation of fresh fruits and vegetables (3) and the introduction of the system of time table (4) and tariff quotas for other agricultural products (5).

ii. Trade concessions given by Israel.

In the industrial sector, Israel undertakes to abolish customs (6) tariffs on its imports from the E.E.C. in two stages : the first stage covers about 60 % of Israel's imports from the E.E.C. on which Israel grants complete exemption of customs tariffs on January 1, 1980. The realisation of this exemption will be accomplished in five years starting with 30 % at the date of entry into force of the agreement, and reaching 100 % on January 1, 1980. The second stage covers the other products and the total exemption will be realised in principle on January 1, 1985 (7) starting with a 5 % reduction on July 1, 1977.

Concerning new industry in Israel, the agreement provides that Israel may take protective measures if they are necessary for the protection of its industrialization and development (8). Israel may

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(1) Oranges, mandarins, lemons represent about 36 % of Israel's agricultural exports to the E.E.C. See Communications to the Press, n° 601/75, Op. cit., p. 5.

(2) The new three Member States were authorized to apply on Israel's exports of citrus a reduction of 80 %. An amelioration for oranges and mandarins was foreseen in the framework of the first reexamination of the agreement.

(3) Apply generally on oranges and mandarins and minimum prices for lemons.

(4) Such as melons, onions and garlic.

(5) Such as concentrated tomatoes and fruit preserves

(6) And charges having equivalent effect on imports into Israel of products other than those listed in Annex II of the E.E.C. Treaty. See article one of Protocol two of the Agreement.

(7) Ibid. However this date could be modified by common agreement and delayed not later than Jan. 1, 1989. See art. 3 para 4 of Prot. two.

(8) These measures may be taken only if they are necessary to protect a new processing industry not already existing in Israel on the date of the entry into force of the agreement . See article 3 of Protocol two of the agreement.

increase or reintroduce customs duties not exceeding 20 % after consultation within the joint Committee and up to December 31, 1983. The total value of the products for which these measures can be applied may not exceed 10 % of the total value of Israel's imports from the E.E.C. in 1973.

In the agricultural sector, Israel granted on a limited list of products concessions ranging from 15 to 25 %. Quantitative restrictions on imports into Israel and measures having an effect equivalent to quantitative restrictions on imports shall be abolished on the date of entry into force of the agreement. However, restrictions on certain products shall be abolished not later than January 1, 1985 (1).

iii. Cooperation.

The third agreement with Israel includes a cooperation sector which constitutes a new element in comparison with the agreement of 1970. This cooperation is foreseen as a complementary factor to commercial exchanges (2). To realise this objective, the agreement charged the joint Committee to seek ways and means of promoting the development and diversification of trade, facilitating the transfer of technological know-how, and encouraging private investment and contacts and cooperation between the industries of the Community and Israel. The Committee is empowered to make recommendations in this field. The contracting parties may, as a factor complementary to trade, develop economic cooperation in spheres which are of mutual interest to them, taking into account developments in the Community's economic policies. This cooperation has been enlarged and detailed in a separate protocol initialed in Brussels on November 10, 1976.

The agreement provides for its reexamination according to the results gained during its functioning, the first in 1978 and the second in 1983 (3). It also provides for the establishment of a joint Committee to be responsible for the administration of the agreement (4). Final-

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(1) See article 18 of the agreement.

(2) See article 18 of the agreement.

(3) See article 22 of the agreement.

(4) The joint Committee consists of representatives of the Community on the one hand, and representatives of Israel on the other hand. The Committee is empowered to make recommendations and take decisions in the cases provided for in the agreement. See articles 19, 20 and 21 of the Agreement.

ly, these protocols and some declarations of intent are annexed to the agreement. The most important of these declarations is that concerning the readiness of the Community to consider the possibility of Israel sharing in certain ventures of scientific and technological cooperation which the Community is planning to undertake with other third world countries or in the results of certain such ventures (1).

4. Two Additional Protocols for Economic, Technical and Financial Cooperation.

Two additional protocols were initialed between the Community and Israel (2) in Brussels on November 10, 1976, as complementary to the agreement of 1975. The first protocol concerns economic and technical cooperation, and the second concerns financial cooperation between the contracting parties.

a. Protocol for Economic and Technical Cooperation.

The legal basis of this protocol stems from article 18 of the agreement concluded between the parties on May 11, 1975.

Article 18 of this agreement stipulates that :

> "The Community and Israel shall, as a factor complementary to trade, institute cooperation in spheres which are in the mutual interest of the contracting parties.
>
> To this end, the joint Committee shall seek ways and means of promoting the development and diversification of trade, facilitating the transfer of technological know how, and encouraging private investment and contacts and cooperation between the industries of the Community and Israel".

Israel was not satisfied that the domain of cooperation was treated in an article of general meaning. Thus, during the first meeting of the joint Committee held in Israel on June 7, 1976, Israel asked for the replacement of article 18 of the agreement of 1975, by a protocol which details all the aspects of economic and technical cooperation

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(1) For some years, Israel did not cease to ask to cooperate within the scientific and technical cooperation group (STCO) which acts under the aegis of the E.E.C. Council of Ministers and comprises representatives of the Nine and nine other European countries.

(2) The two protocols were signed between the Community and its Member States on one hand, and Israel on the other hand. Thus, these protocols need for ratification of the national authorities of the Member States since they contain other domains than trade which exceed the competence of the Community. Both protocols are an integral part of the agreement of May 11, 1975. See articles 14 and 15 of the first protocol and articles 11 and 13 of the second one. **The two protocols are based on article 238 of the Treaty of Rome. See Commission Doc. (76) 608 FIN Nov. 18, 1976.**

between the parties. The Community reacted positively and agreed upon the conclusion of a protocol for economic and technical cooperation.

Contents of the Protocol.

According to the provisions of this protocol the purpose of cooperation between the Community and Israel is to promote in particular :

1- the development of production and the economic infrastructure of Israel particularly in view of encouraging complementary economies and industrialization (1)

2- promotion of products exported by Israel.

3- industrial cooperation through measures :

a) to encourage the implementation of Israeli industrial development programs ;

b) to foster the organization of contacts between the Community and Israeli industrial policy makers and firms in order to promote the establishment of new relations in the industrial field ;

c) to facilitate the acquisition on favourable terms of patents and other industrial properties ;

d) to permit the removal of non-tariff and non-quota barriers likely to impede access to either market.

4- cooperation in the fields of science, technology and the protection of environment.

5- cooperation in agriculture and fisheries in view of the realization of complementary economies.

6- the encouragement of private investment which is the mutual interest of both parties.

The contracting parties may decide on further areas of cooperation(2). The Community is prepared to participate in the financing of any measures to promote the development of Israel under the conditions laid down in the financial protocol (3).

B. Protocol for Financial Cooperation.

In order to implement the various aspects of economic and technical cooperation provided for in the first protocol, the Community concluded another protocol with Israel for financial cooperation (4).

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(1) See article 4 of the protocol.
(2) By concluding this protocol, article 18 of the agreement of 1975, was abolished. See article 8 of the protocol.
(3) See article 6 of the protocol.
(4) The contracting parties to this protocol are the Community and its Member States on one hand, and Israel on the other hand.

According to the provisions of this protocol, the Community is committed to give Israel, through the European Investment Bank, an amount of 30 million units of account (1). This amount shall take the form of a loan to be granted through a period of five years, according to the conditions and procedures foreseen by the status of the European Bank (2).

Capital projects enjoying special priorities in financing are those which contribute to increasing productivity, complementary economies, and which encourage in particular the industrialization of Israel. It is obvious that the Community and its Member States shall be involved through the two protocols in developing the economy of Israel. This demonstrates a new approach in the relations between the Community and Israel within the framework of its new Mediterranean policy.

C. Institutions.

The protocol for economic cooperation provides for the establishment of a cooperation council which replaces the joint Committee set up by the agreement of 1975 (3). This council is composed of representatives of the Community and its Member States, and representatives of the Government of Israel (4). It has a wide area of competence and powers of decisions-making. The cooperation Council's decisions are to be taken by mutual agreement and binding on the parties (5). Moreover, the cooperation council is empowered to take necessary measures to facilitate cooperation and contacts between the European Parliamentary Assembly and the representatives of the Knesset. This demonstrates an important development in the composition of and the powers conferred upon the new institution responsable for the attaining of the objectives of the agreement (6).

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(1) Unit of account = about 1.2 U.S. dollar.

(2) See article 2 of the financial protocol.

(3) Thus, article 19 of the agreement of 1975 is replaced by article 10 of the protocol which established the cooperation council.

(4) See article 11 of the protocol.

(5) See article 13 of the protocol.

(6) The cooperation council is the competent organ for settling the disputes which may arise from application.

5. The Prospects for the Third Agreement with Israel.

The agreement is the first agreement to be signed on the basis of the Community global approach with a country in the region. The timing of the signature invoked certain reactions from the Arab countries, especially the Maghreb countries which expected that their agreements should be on par with the agreement with Israel (1).

Although the agreement is not legally based on article 238 of the Treaty of Rome, which deals with association, it includes more substance than certain association agreements, already concluded with countries in the Mediterranean, such as Morocco, Tunisia, Malta and Cyprus (2).

The agreement, by establishing a free trade area for the industrial products in a reasonable period (3) and granting substantial reductions to Israel's agricultural exports to the E.E.C., will have important effect on the development of Israel's exports to the E.E.C. The substantial preferences included in the agreement will enable Israel to increase and develop its trade with the Community especially as it has already reached a level of economic development which enables its products, particularly the industrial products, to compete with other countries' products in the Community market (4).

The agreement, by creating a free trade area for industrial goods and facilitating the export of Israel's agricultural products, has realized what Israel wanted since the sixties but, because of political and economic reasons, could not achieve (5).

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(1) It was understood in the circles of the Community that the agreement with Israel and those with the three Maghreb countries would be signed at the same time, but because of the Italian opposition to preferences, especially for agricultural products, the negociations were blocked with Maghreb countries. Moreover, it has been said that the Community hastened the conclusion of the agreement with Israel as a counter balance to the declaration of the Nine on Nov. 6, 1973 on the Middle East situation which annoyed Israel at the time.

(2) The Community tried to avoid the word association for its political implications.

(3) The free trade area will be completely realised for Israel's industrial exports to the E.E.C. on July 1, 1977.

(4) The share of industrial exports to the E.E.C. is still growing. The percentage increased from 47,3 % in 1971 to 51,3 % in 1972 and to 57,3 % of the total of Israel's exports to the E.E.C. in 1973. See Document of the Commission (Directorate General of external Relations) n° I-A-I (PB/NI) Dec. 22, 1975, p. 5.

(5) On November 24, 1961 Israel submitted a Memorandum to the Community in which it set out for the first time its exact desires with some specific proposals. It considered that only a global agreement would answer its needs and proposed a free trade area under art. 24 § 5 of GATT. According to an agreed timetable the two parties would abolish tariffs and quotas. This proposal was refused by the Community at that time. See H. STANLY, External Relations of the E.E.C., p. 94.

Besides its economic importance, the agreement has great political significance (1) as the agreement was signed in a period in which Israel was isolated internationally because of its hard positions in the Middle East conflict.

Economically, the concessions given by the Community to Israeli exports will certainly have a favourable effect on the development of Israel's exports to the Community, especially in that a large part of these exports already enter free of duties or with preference in the E.E.C. (2). This, although in 1972 Israel's exports to the E.E.C. represented only about 0,7 % of the total Community imports from the world (3).

The review of the agreement at two later dates (4), according to the obtained results, will enable Israel to ask more concessions in the future and to maintain the substance of the agreement in case the Community grants new concessions to other Mediterranean countries.

Although Israel did not ask for financial cooperation at the beginning of negotiations in 1973, it surprised the Community delegation during the round of negotiation in October 1974 by demanding financial cooperation on the basis of the global approach (5) and by demanding to be included in a separate protocol. The Community delegation was not authorized to discuss Israel's request and reported the matter to the Council supported by the Netherlands and Denmark. The agreement was concluded without settling this request, but Israel succeeded in persuading the Community in a letter exchanged between Mr. Allon and the President of the Council to study Israel's request at a later date. The exchanged letters during the signature of the agreement were not published.

Israel's request was examined several times at the meeting of the Council examining the mandate of negotiation for Machrek countries (6) but without positive results. The Netherlands and Denmark made it clea

(1) Mr. Allon, Israel's Foreign Minister, said in a speach delivered on the occasion of the signature of the agreement on May 11, 1975, that "this ceremony has deep and far-reaching significance particularly in these days when Israel is striving to reach a lasting peace with its neighbours".

(2) Israel's exports entering the Community under tariff concessions reached 88,8 % of the total Israeli exports to the EEC in 1973.

(3) See table n° appendix

(4) In 1978 and 1983 - See article 22 of the agreement.

(5) According to the global approach, financial cooperation was decided essentially for the less developed countries in the region, such as the Maghreb countries. See Télex Méditerranée n° 54, Oct. 10,1974,p.A/i

(6) They are Egypt, Lebanon, Jordan and Syria.

that they would not approve financial cooperation for Machrek countries unless the same thing were to be adopted for Israel. France refused the link between the Machrek mandate and Israel's request. The differences of opinion between the EEC Member States left the matter outstanding for both Israel and Machrek countries (1). Later, a compromise was reached among the Member States according to which the Council approved financial cooperation for both the Machrek countries and Israel. The Israeli access to the resources of the European Investment Bank is of important significance. The 30 million units of account is a step toward more loans in the future. This will help Israel in financing capital projects and in the implementation of its industrial development programs.

Israel has succeeded also in getting a promise from the Community, in the form of an exchange of letters annexed to the agreement, that the Community is ready to consider the possibility of Israel's sharing in certain ventures of scientific and technological cooperation which the Community is planning to undertake with third countries or in results of certain ventures (2). This undertaking may facilitate Israel's cooperation within the framework of the scientific and technical cooperation group (STCO), which acts under the aegis of the EEC Council of Ministers (3).

The chapter on cooperation in the agreement of 1975 is expanded and detailed in an additional protocol for economic and technical cooperation. This cooperation is expected to cover wider fields of cooperation in the future. This can be seen from the texts of the protocols which authorize the parties to decide on further cooperation (4). This cooperation will be of a great importance, as it responds to Israel's needs. It will enable Israel to promote and diversify its exports, facilitate the transfer of know how and encourage the flow of investments toward Israel. The most important is that this cooperation will realize complementary economies between the two parties.

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(1) The subject was examined in the meeting of the Council of Nov. 9-10, 1975 and these differences led to a mandate without financial cooperation for Machrek countries.

(2) It has been said among the Community circles that the Nine have given this undertaking to Israel as a counter balance to Euro-Arab dialogue which covers the scientific and technologial cooperation between the Nine and the Arab countries.

(3) See the speech of Mr. Allon on the occasion of the signature of the agreement in Brussels on May 11, 1975, p. 4.

(4) See article 4 para 2 of the protocol for economic and technical cooperation.

For the E.E.C., the agreement responds to the objectives of the Community towards the Mediterranean region as it is the first agreement be concluded on the basis of its Mediterranean global approach (1). Although the EEC exports to Israel represent only about 1,3 % of the total Community exports to the world, Israel's market represents certain weight and relative importance in comparison with the Community's relations to other countries in the region (2) and are expected to develop and expand in the future.

The agreement also answers in a certain manner, to public opinion in Europe, which exercised continuous pressure on the European Governments to grant Israel generous terms. It remains to be examined whether this agreement realises the"equilibrium"within the conception of the Community Mediterranean global approach. This question could be answered only after examining the agreement with other Mediterranean countries based on the global approach. The term "equilibrium" does not mean that the Community grants the other Mediterranean countries the same concessions given to Israel since the economic structures of the countries in the region are different. Every country in the region, particularly the developing ones, should have concessions which answer the needs of its economic development and assure its stability (3).

6. The Agreement and GATT Rules.

Finally, it is important to refer to the presentation of the new agreement to GATT and the evolution of Community relations with Israel. Given that the preamble of the new agreement refers to the progressive elimination of the obstacles of trade in accordance with the provisions of GATT concerning the establishment of free trade areas (4), the contracting parties did not ask for derogation under article XXV of GATT. The evolution of the Community's relations with Israel also shows how over a decade the EEC attitude has changed towards the GATT. At an early stage no agreement for preferential arrangements could be contemplated outside the context of a customs union

(1) See Document of the Commission - Secrétariat Général - N° SEC (72) 3111 Final, 27.9.1972.
(2) See table n° appendix
(3) See Memorandum of Mr. Cheysson, Member of the Commission for Development and cooperation, Perspectives économiques découlant de la paix du Proche-Orient, 17.5.1975, p. 3 - See also Document of the European Parliament on the last development of the Community Mediterranean Policy - Doc. 385/75 - 21.11.1975, p. 36-37.
(4) See the preamble of the agreement. See also article XXIV paras 5-9 of the GATT.

or free trade area, which would be founded, for non-members, on a system of association. Thus, the Community refused preferential arrangements to Israel in the sixties. Today, the Community is prepared, on the basis of article 113, to sign preferential agreements which are hardly in accord with the letter, much less the spirit, of GATT(1).

In fact, during the first few years, the Community was feeling its way in international trade, and allowed the rules of GATT to help its external policy. Today, the Community has the economic strength to be unruffled by reactions in GATT. The first agreement with Israel illustrated the difficulties the Community faced as a result of strict adherence to GATT rules. The second and the third exemplify the Community's present confidence as well as the external policy which is emerging (2).

(1) See Document of the Commission - Directorate General of External Relations - Projet de réponses au questionnaire GATT concernant l'accord CEE/Israel. Question n° 3 - Doc. n° 1-A-1 (PB/NL) Dec. 22, 1975, p. 1.

(2) See G. STANLY, Op. cit., p. 126. J.RAUX et D. PERROT, Les accords externes de la CEE, in RTDE, 2, 1976, p. 299.

Section II : The Relations between the EEC and Maghreb States in general. (1)

This section deals with relationship between the Community and Morocco and Tunisia together since they were the subject of a declaration of intent concerning their association. They were also subject to a protocol annexed to the Treaty of Rome, permitting the prolongation of their existing tariff system applicable to their exports to the Member States, with which they had special relations. Finally, Morocco and Tunisia concluded identical agreements in 1969 with the EEC. Thus, their agreements are to be analysed together since they include mostly the same concessions and instruments.

For Algeria, the situation is different. Until its independence, Algeria was a part of the EEC, and treated as an European territory, belonging to France. After the independence, Algeria, for certain reasons, did not join Morocco and Tunisia in concluding agreements with the Community in 1969.

Although there was no agreement between Algeria and the Community, until April 1976, Algerian exports to the Community enjoyed special status, different from one Member State to another. Therefore, the relations between the Community and Algeria will be treated in a sub-separate section. (2)

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(1) L'Europe et le Maghreb, in Les cahiers atlantiques, 1972/1; P. MAY, Economic and legal aspects of the Maghreb countries with the EEC, Illinois, College of Law, 1972.

(2) F. SEKKIOU, L'Algérie et la CEE, thèse de droit, Lausanne, 1971 L'Algérie et la CEE, in Revue trimestrielle de droit européen, p 1-janvier-mars 1972. A.BOUTEFLIKA, L'Algérie et l'Europe : perspectives de coopération, in Chroniques de politique étrangère, mars 1972. A. MAHIRI, L'Algérie et la CEE, in Revue algérienne de science juridique, économique et politique, juin 1968.

1. The history of the relations.

As previously mentionned, Morocco and Tunisia were the subject of a declaration of intent concerning their association(1). They also continued to maintain their preferential treatment in the french Market in accordance with a protocol annexed to the Treaty of Rome (2). According to this privileged system approximately 50 % of the exports of Tunisia and Morocco entered the French Market free of customs duties (3). After the independence of Morocco and Tunisia, many of these advantages were retained and the French Market remained an important outlet for the exports of these countries (4).

This privileged situation developed after the establishment of the Treaty of Rome. The political circumstances led to a limited interpretation of the contents of this protocol and its duration. The Community was not satisfied in maintaining the execution of this protocol beyond the transition period, and it considered that the maintenance of this protocol would represent an obstacle to the functioning of the Common Market (5). Thus, according to the Community, the conclusion of new agreements between both Morocco and Tunisia and Community were necessary to normalise the relations between them.

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(1) See the declaration of intent annexed to the Treaty of Rome on the Association of the independent countries of the French area with the European Economic Community.

(2) See the protocol annexed to the Treaty of Rome on goods originating in and coming from certain countries and enjoying special treatment when imported into a Member State.

(3) Algeria was treated at this time as a part of the French territories and benefited from the European Development Fund. See J. RAUX, Les relations extérieures de la CEE, Paris, Cujas, 1966, p. 339-341.

(4) See M.F. MELLAH, L'association du Maroc à la Communauté Economique européenne, Casablanca, 1971, p. 63.

(5) The other Member States considered that the maintainance of this protocol after the transitional period, was incompatible with the Treaty and would constitute an obstacle to the establishment of the Community policies. Therefore, they insisted that this protocol should come to an end and the relations with the Maghreb countries must be stablished at Community level.

This interpretation was, of course, contrary to the interpretation of the Maghreb countries which considered that the protocol was permanent (1). This protocol should remain applicable as long as new agreements were not concluded, and even if the new agreements did not cover all the products, the protocol remained applicable for the products not included in the agreements (2). Moreover, Mr.Daniel Vignes considered this protocol to be an undertaking of the E.E.C. Member States toward France, to maintain the status quo of the preferential system that favoured Tunisia and Morocco (3).

However, the Community developed the interpretation that this protocol was limited in both content and duration (4). This limited interpretation was due to the application of the Community Agricultural Policy. Moreover, the application of the Common external tariff has weakened the advantageous position of Morocco and Tunisia on the French Market (5).

Furthermore, some writers conclude that the protocol does not constitute a good frame for guaranteeing the maintenance of privileged commercial relations between the E.E.C. and the two Maghreb countries. Thus, according to Mr. G. Valay, the protocols should be substituted by new agreements in order to establish contractual bases which give more security and stability to the commercial relations (6).

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(1) See Ben Salem GUESSOUS (former Ambassador of Morocco to the Communities), Les convergences de l'Europe Communautaire et du Maghreb, Colloque de Casablanca. Revue du Marché Commun, n° 142, mars-avril 1971, p. 4 ; see also M.F. MELLAH, Op. cit., p. 66-67.

(2) Daniel VIGNES, Deux éléments de la notion d'association à la C.E.E., Revue du Marché Commun, n° 142, mars-avril 1971, p. 36-38.

(3) Ibid., p. 38.

(4) It is interesting to note that on the occasion of the first negociation for adhesion, the U.K. wanted to apply this protocol for the Commonweath countries but the Community, at the time, interpreted the protocol not to exceed the transition period. See M.F. MELLAH, Op. cit., p. 66.

(5) See M.F. MELLAH, Op. cit., p. 66.

(6) G. VALAY, La C.E.E. et les pays du Maghreb, in Revue de l'Occident Musulman et de la Méditerranée, 1966, 2, p. 199. Despite this opinion it seems that the protocol continued to be applied for the products not included in the Association agreements with Morocco and Tunisia. This position could be observed from the letters exchanged and annexed to the agreements. See M.F. MELLAH, Op. cit., p. 69.

The Attitude of Morocco and Tunisia Towards The E.E.C.

Desiring to normalize their commercial relations with the E.E.C., the two Maghreb countries expressed their wish to establish contractual relations with the Community. Despite the urgent need to substitute the protocol with contractual obligations, the political climate delayed the opening of negociations between the parties.

For the Maghreb countries, they were not ready to immediately establish relations with the E.E.C. First, for psychological reasons since, at that time, most of the Third World regarded the Community as colonial constellations (1). Second, for economic reasons, because it was obvious that the Community was at the time busy with the internal construction of its organization and the Maghreb countries feared that the Community was not ready to grant major concessions. Finally, for political reasons, the two Maghreb countries could not start negociations as long as the Algerian conflict was not settled (2).

For the E.E.C. Member States, the success of France in persuading the Community to conclude association agreements with the African States (First Yaoundé Convention) was considered by the other E.E.C. Member States as an important concession favouring the sales of France in Africa.

Thus, they showed no enthusiasm to start negociations with the Maghreb countries because of these reasons, especially since France has already a privileged relationship with Maghreb countries. Moreover, some of the E.E.C. Members prefered enlargement of the Community towards the North by the accessionof the U.K. and Nordic Countries, rather than expansion in the South (3).

The Legal Basis of the Association Agreements with Tunisia and Morocco.

Tunisia and Morocco desired at the beginning to avoid the term "association" because of its political implication. Therefore, they asked for agreements not based on association articles. The Community replied that it was only possible to conclude agreements according to the provisions of the Treaty of Rome. The declaration of intent invoked by the Maghreb countries does not constitute, as Mr. G. Valay indicates (4), an integral part of the Treaty of Rome, but it is an annex to the intergovernemental conference for the E.E.C. and Euratom. Thus the

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(1) See B.S. GUESSOUS, Op. cit., p. 41 ; M.F. MELLAH, Op. cit., p. 147.
(2) See J.P. PAPA, Op. cit., p. 45
(3) See M.F. MELLAH, Op. cit., p. 146
(4) See G. VALAY, Op. cit., p. 215.

Community will not be able to conclude international agreements on the basis of declarations of intent (1). The Treaty of Rome provides the Community with essential instruments to conclude agreements with third parties. Articles 111 and 113 are for tariff and commercial agreements and article 238 for association agreements (2). Thus, the agreements with the Maghreb countries should be based on one of these articles. However, this legal problem was not the only concern for the Maghreb countries because their preoccupations were other than legal ones. They wanted an immediate legal frame for their commercial relations with the E.E.C. in order to avoid the threat of Mediterranean competition to their products, particularly in the agricultural sector.

Therefore, they officially made their demand to conclude agreements with the E.E.C. on December 1963, wishing that the agreements include not only commercial preferences but also both technical and financial cooperation and arrangements for Maghreb workers in the E.E.C. Member States, leaving for the Community the responsibility of finding the appropriate legal basis.

d. Exploratory Conversations.

Exploratory negociations took place between the two parties in October 1964. The Maghreb countries asked for the creation of a Free Trade Area taking into consideration the disimilar economic structures of the Community and Maghreb countries. They asked also for the application of the same treatment that is applied among the Six on their agricultural products and also, for the technical and financial cooperation. Moreover, the Maghreb countries requested the Community to retain their previous privileges in the French Market (3). The E.E.C. delegation estimated that the Maghreb demands were inacceptable especially in the agricultural sector because they affected considerable Community agricultural interests and the C.A.P.

e. The Incomplete First Mandate in 1965.

The Commission submitted a report on the exploratory negociations and the Council issued its first mandate on June 15, 1965.

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(1) See MEGRET, Le pouvoir de la C.E.E. de conclure des accords internationaux, Revue du Marché Commun, n° 75, déc. 1967, p. 530.

(2) See D. VIGNES, L'association des Etats africains et malgache à la C.E.E., Paris, P.U.F., 1970, p. 12.

(3) Les conversations Maghreb, C.E.E. et les conclusions des rapports de la Commission sur les conversations avec le Maroc et la Tunisie, Revue Maghreb, sept.-oct. 1965.

The mandate was limited and very incomplete (1). It did not include any financial or technical cooperation or privisions for Maghreb workers in the E.E.C. It covered only a limited part of the commercial exchange neglecting the essential products for Maghreb countries such as Olive Oil, Wine, Fruit and Vegetables (2). The E.E.C. offers were completely inacceptable to the Maghreb Countries.

In fact, the E.E.C. Member States were not, at the time, enthusiastic about establishing immediate relations with the Maghreb countries, since the Community was busy with the Kennedy Round negociations. Some E.E.C. Member States particularly the Netherlands, preferred the expansion of the Community to the North and not to the South where the political tension in certain Arab countries was not favourable to opening negociations with the Maghreb countries and finally, Italy had demonstrated certain reservations because it wished to guarantee its agricultural products which are similar to the Maghreb countries and are in strong competition with them. It expressed its position in its famous memorandum presented to the Council of Ministers in May 1964 (3).

f. The Mandate of October 1967 and the Conclusion of Agreements.

On June 23, 1967 the Council of Ministers issued its second mandate authorizing the Commission to start negociations with the Maghreb countries in view of concluding association agreements with the two countries.

The new mandate was more objective than the first one but it did not include any technical or financial cooperation.

The Community has proposed in this mandate the grant of concessions for about 60 % of the exports of the two countries to the E.E.C. According to this mandate, the industrial products of the two countries enter the Community free of duty and without quantitative restrictions, but with certain exceptions. Citrus fruits for the two coun-

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(1) See M.F. MELLAH, Op. cit., p. 150.

(2) La négociation Maghreb-C.E.E.-Marché Commun vers un accord préférentiel de 10 ans, Journal de la Vie Economique, 21 juillet 1967.

(3) Memorandum of the Italian Government submitted to the Council of Ministers. 4 May 1964. See European Document of May 16, 1964, n° 261, p. 4.

tries were given an 80 % reduction of the custom tariff, certain products were not given any concessions, especially the Olive Oil which represents particular importance in the total of Tunisian exports to the Community (1).

Despite the modest economic contents of the Community offer, Tunisia and Morocco finally agreed to conclude association agreements with the E.E.C. on the basis of this mandate (2).

g. Counter Concessions.

The two Maghreb countries accepted the principle of reciprocity and granted the Community modest concessions, "erga omnes", on the part of Morocco which did not denounce the Algesiras act (3). Its concessions to the Community were therefore restricted by this act. The association agreement with Tunisia was signed on March 28, 1969 and the association with Morocco was signed on March 31, 1969 (4).

The two association agreements, as we mentioned before, cover only trade exchanges and foresee a general safeguard clause for the parties, (5) and an exceptional clause is also included for the protection of infant industries (6) in Tunisia and Morocco. The two agreements are applicable for the products which were granted. For the other products which are not included in the agreements, the protocol annexed to the

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(1) Olive Oil represents about 8 % of the agricultural exports of Tunisia to the E.E.C. The concession given to it 5 u.a. a reduction for 100 kg on condition of imposing an export tax equivalent to this reduction. See CHAPIN, Op. cit., p. 86-87.

(2) The reaction of Tunisia was disappointing in that it described the mandate as "late and partial" because it does not cover all the products. On the part of Morocco, the foreseen agreement was very limited, but it has been considered as a first step for further cooperation. See more details on the reaction of Tunisia in La Vie Economique 17 nov. 1967. For Morocco, see La Vie Economique, 1 Dec. 1967. See also M.F. MELLAH, Op. cit., p. 154-156.

(3) The act of Algesiras was signed between Morocco and Spain, Germany, U.K., France and U.S.A. in which the economic sovereignity of Morocco was limited. This system was known as "the system of open door" imposing on Morocco a system of free trade in favour of the foreign powers the egality of treatment and tariff ceiling. See C. BIGORRY, Le mythe d'Algésiras, Etude sur le statut international du Maroc", Revue de la Politique Etrangère, 1950,3, p. 328. See also M.F. MELLAH, Op. cit., p. 31-35.

(4) Both agreements entered into force 1.9.1969.

(5) See art. 8 of both agreements.

(6) See art. 7 of both agreements.

Treaty of Rome remains in force (1).

The two association agreements were founded on art. 238 of the Treaty of Rome. The preambles of the agreement refered to the creation of an association between the E.E.C. and both Morocco and Tunisia (2). The conformity to article 238 implies ipso facto the reciprocity of concessions between the two parties (3). But despite the opinion of some writers that reciprocity is a basic notion in international relations (4) it seems that the Community recently deviated from this principle when it accepted the application of the most favoured nation clause in its relations with the partners of the Lomé Convention (5). Finally, it should be indicated that both associations provided for the creation of two Councils of Association composed of representatives from the E.E.C. Council of Ministers and the Commission, and representatives from Tunisia or Morocco unlike the Greek or Turkish ones. This Council has no power to make decisions. It is established only for the administration and good functioning of the agreement (6).

2. The Repercussion of the Association Agreements with Tunisia and Morocco

a. On the Part of the E.E.C.

The E.E.C. Member States considered that the agreements with Morocco and Tunisia responded to the objective of the Community policy of co-

(1) See the letters exchanged between the parties in this respect, annexed to each association agreement.

(2) See the preambles of both agreements with Tunisia and Morocco.

(3) This conception finds its origin in the European law in E.C.S.C. and Euratom - Art. 206 and in the EEC - Art. 238. See also M.F. MELLAH Op. cit., p. 161-163.

(4) See D. VIGNES, Deux éléments de la notion d'association à la CEE, Revue du Marché Commun, n° 142, mars-avril 1971, p. 34-35.

(5) The Lome Convention was signed on Feb. 28, 1975 between the E.E.C. and 46 African, Pacific and Caribbean States.

(6) Art. 10 to 13 of both agreements.

operation towards developing countries (1). The pragmatic system adopted in the agreements is flexible and permits for each party to choose the domain in which it wishes to cooperate. The commercial system is balanced in the two agreements by taking into consideration the limited concessions granted to the Community by the Maghreb countries (2).

The two agreements are qualified as a pragmatic solution and a first step in the way to more cooperation in the future and represent a step in the realization of the Community Mediterranean policy (3). However, the European party admitted that the contents of the Maghreb agreements did not respond to the wishes of the Maghreb countries. This was indicated in the speach of Mr. Gaston Thorn on the occasion of the signature of the agreement of Rabat (4). Mr. Thorn pointed out the importance of establishing relations between the E.E.C. and the Mediterranean area especially with the countries bordering the sea which constitutes an essential factor for stability and peace in the region (5). He added that these agreements are considered only as a point of departure for further cooperation.

B. On the Part of the Maghreb Countries.

Although the contents of the two agreements are limited, the Maghreb countries consider that the two associations represent a manifestation of the Community political will at a time when external relations were frozen (6).

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(1) Mr. DUBOIS indicates that the real interests in the concessions provided by the association agreements are not only the receipts of exports but the open possibility for Maghreb industrialization through access to a big and rich consumer market. See DUBOIS, L'association de la Tunisie et du Maroc à la Communauté, Revue du Marché Commun, n° 125, juillet-août 1969, p. 362.

(2) See DUBOIS, Le régime des échanges dans le cadre de l'accord créant une association entre la C.E.E. et le Royaume du Maroc, Revue du Marché Commun, mars-avril 1971, n° 142, p. 51.

(3) See Premier rapport général sur l'activité de la Communauté. Commission C.E.E., p. 48.

(4) Discours prononcé par Mr. Thorn à l'occasion de la signature de l'association entre le Maroc et la C.E.E., Rabat, 31 mars 1969. Document des Communautés Européennes, p. 3.

(5) Ibid., p. 5

(6) See M.F. MELLAH, Op. cit., p. 169-173; M. BOUSSOFFARA, La Tunisie et la CEE, aspects et perspectives de l'économie tunisienne, 1969/2.

The agreements also legally regulated the statu quo of the former relations with France and liberated the Maghreb countries from their dependent relations with the mother country. These agreements gave the Maghreb countries the possibility of diversifying the outlets for their products which where dominated by the French market (1).

The creation of a formalized trade climate may promote and encourage European capital to participate in the development of the Maghreb countries (2).

Finally, the Maghreb countries regarded these two agreements as a first step to better conditions in the future, especially in the agricultural sector. Thus, the two agreements provided for new negociations in order to conclude new agreements with more substance after the end of the third year of the initial agreements (3).

3. The Evolution of Exchanges between the E.E.C. and Tunisia and Morocco.

a. TUNISIA.

Despite the tariff preferences granted by the Community to Tunisian exports, these preferences have little effect on the flow of Tunisian external trade. This means that the agreement did not help in reducing the crucial deficit of the balance of trade through increasing the industrial exports (4). The agricultural exports (5), especially Olive Oil (6) which is the main product has suffered more among Tunisian exports to the E.E.C. (7). The deficit in trade balance be-

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(1) GUERIDA, Face au Marché Commun, in Camalif, n° 27, fév. 1969, p. 11. See also Préface de l'ancien Ministre du Maroc, Dr Laraki, Revue du Marché Commun, n° 142, mars-avril 1971, p. 6.

(2) A. MEKOUAR, Les liens commerciaux du Maroc avec la C.E.E. et l'association, Revue du Marché Commun, n° 142, mars-avril 1971, p. 76. See also L'association avec le Marché Commun doit permettre de développer certaines branches de l'industrie marocaine, La Vie Economique, 10 oct. 1969.

(3) See art. 13 § 2 of both agreements of Rabat and Tunis.

(4) See CHAPIN, Op. cit., p. 84.

(5) The agriculture sector increased its contribution to the production from 15,8 % in 1971 to 17,4 % in 1972. During the period of 1960-1965 the share of this sector was 20 % but since 1966 this share has decreased only a little. From 1971 the Tunisian government has given this sector special importance since it plays a crucial role in the national economy. See CHAPIN, Op. cit., p. 77-78.

(6) Tunisian exports of Olive Oil reached 48 and 92 Million dollars in the years 1971 and 1972 respectively. Olive Oil, Wine and Citrus represent 28 % of Tunisia's total exports to the E.E.C. See L'Expansion, November 1975, n° 90, p. 252.

(7) The other main agricultural exports are citrus, wine, dates and vegetables. See La Tunisie souhaite des relations plus équilibrées avec l'Europe, in Marchés tropicaux et méditerranéens, 14/12/1973.

tween Tunisia and the Community increased from 65 Million dollars in 1970 to 115 million dollars in 1972 of which 94,8 million dollars wa with France who still occupies the primary position in Tunisian external trade (1). Since some of the Tunisian industrial products (2) have doubled or tripled its prices since 1973, it is expected that this growth will have certain effects on the deficit of the balance of trade in the coming years (3). Moreover, the Tunisian government has made real efforts to attract foreign investors to Tunisia (4).

But despite Tunisian efforts to improve its balance of trade with the E.E.C. the last three years showed an obvious deterioration in view of the Community protective rules towards Tunisian main agricultural products. Tunisia exports of wine, citrus and olive oil were almost handicaped,especially olive oil, because of these protective rules (5). The price levy imposed on olive oil imports into the E.E.C. market made it practically impossible to export to the Community market (6). Consequently, the deficit of the balance of trade between Tunisia and the EEC increased from 20 % in 1971 to 108 % in 1974 and to 297 % in the first trimester of 1975 (7). Moreover, the price of important industrial exports such as phosphate become unprofitable in view of the high cost of production.

Thus, Tunisia asked urgently for a new type of relationship with the E.E.C. capable of solving these problems between the two parties.

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(1) After France come Germany and Italy.

(2) Such as petrol and phosphate. The exports of the latter reached about 41 and 40 million dollars in the years 1971 and 1972 respectively.

(3) The prospects of tourism and Tunisian worker transfer are also promising. In 1972, the worker transfers reached 59,4 million dollars and touristic receipts accounted for 134,6 million dollars. See CHAPIN, Op. cit., p. 76.

(4) The total investments used in exporting industries in Tunisia provided by German, Duch, British and French entreprises reached 44,3 million dollars in 1973-1974. See L'Expansion, Nov. 1975, n° 90, Special Edition on Tunisia, p. 245.

(5) Wine is also submitted under a transitional system giving only a 40 % tariff reduction. Citrus fruits are also conditioned with a reference price.

(6) These rules were imposed by the Community according to the Italian demand since Italy is the principal producer of this product and prefers to maintain its monopoly of exporting these products to the E.E.C. market.

(7) This represents about 99,5 % of the total deficit. See the declaration of Mr. Hedi Nouira, Prime Minister of Tunisia in L'Expansion, Nov. 1975, Special Ed. on Tunisia, n° 90, p. 252.
See also table 8. Appendix II.

b. The Evolution of Exchanges Between the E.E.C. and MOROCCO.

The problems of Morocco's exports to the E.E.C. are also identical to the Tunisian ones, since agricultural exports occupy a dominant place in Morocco's exports to the Community. As previously indicated, the E.E.C. market absorbs about 60 % of the total exports of Morocco of which about 70 % are primary and agricultural products. These products are either excluded from the concessions or given concessions under conditions such as citrus fruits which were submitted under guarantee price.

Despite these constraints, according to the figures supplied by the Commission (1), Morocco's exports to the E.E.C. increased by 111,3 % 1972, 28,8 % 1973 and 51,6 % in 1974. But these exports declined to 12.9 % in 1975 while the Community exports to Morocco increased by 30.4 % in 1973, 25,8 % in 1974 and 30,8 % in 1975. Consequently, the balance of trade between Morocco and the Community was in favour of Morocco during the years 1970 to 1974. But in 1975 the balance of trade deteriorated against Morocco and the deficit of trade reached 224,8 million dollars in this year. It has been said that the stabilization of imports and the increase of exports during the years 1970-1974 were due to the execution of the quinquennal plan of 1968-1972 in Morocco. Morocco was not satisfied by the contents of its agreement of 1969.

4. Towards New Agreements.

In view of this situation, and desiring to promote relations between the parties, Morocco and Tunisia asked for negotiating new agreements based on the principles of the Community global approach (2). In 1973, the Commission received the Council's directive to open negotiations with Morocco, Tunisia and Algeria. The mandate adressed to the Commission includes more subjects than trade such as economic, technical and financial cooperation. The first round of negociations took place in Brussels in July 1973, followed by two other rounds in 1974 and 1975. The parties finally agreed upon the conclusion of cooperation agreements for unlimited time period based on article 238 of the Treaty of Rome. Additional protocols for financial co-

(1) See table 9. Appendix II.

(2) The previous association agreements also provide for the conclusion of a wider basis of new agreements. See art. 14 of both agreements of Morocco and Tunisia of 1969.

operation were also concluded at the same time. The agreements and the financial protocols did not yet come into force (1). Only provisions concerning trade were immediately applied by the conclusion of interim agreements.

a. Objectives of the Agreements.

The preambles of the two agreements indicate that the parties intend to establish wide-ranging cooperation which will contribute to Morocco and Tunisia's economic and social development. They also aim to promote economic and trade cooperation between the Community and the two countries, taking into account their respective levels of development. The preambles of the two agreements expressly state that the parties by concluding these agreements intend to establish a new model for relations between developed and developing States, compatible with the aspirations of international Community towards a more just and more balanced economic order.

From the texts of the preambles one can conclude that the new agreements have taken account, the current development in the relations between the developed and developing countries. The agreements of 1969 did not include such balance of relations between the parties.

b. The Contents of the Agreements.

Each agreement contains two parts. One part is made for trade, the other is designed for economic, technical, and labour cooperation.

i. Trade.

In this field, the object of these agreements is to promote trade between the contracting parties (2), taking account of their respective levels of development and the need to ensure a better balance in their trade, with a view to increasing the rate of growth of Morocco and Tunisia's trade and improving the conditions of access for their products to the Community market.

To attain these objectives, the Community abolished quantitative restrictions and granted tariff exemption to its industrial imports (3) from Morocco and Tunsia, and granted important concessions on a large volume of agricultural products.

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(1) Since these agreements include other domains than trade which exceed the competence of the Community, ratifications of the competent authorities of the Member States are required.

(2) See article 8 of both agreements.

(3) See article 9 of both agreements.

a. Industrial Products

Products originating in Morocco and Tunisia which are not listed in Annex II of the Treaty of Rome shall be imported into the Community free of quantitative restrictions and measures having equivalent effects and of customs duties and charges having equivalent effect. Exception to this exemption is made for imports of certain products such as refined petroleum products, natural cork and agglomerated cork which are subject to annual ceilings, above which the customs duties will be applied. However, the ceilings provided for in this agreement shall be abolished by December 31, 1979 (1).

b. Agricultural Products

The Community also granted important concessions for a large volume of agricultural products. These concessions range from 40 to 80 % and for certain products to full exemption of customs duties.

The Community also granted concessions for olive oil and wine of the two countries, but submitted to certain conditions. For olive oil (2) the Community reduced the levy by an amount not exceeding 10 units of account per 100 kg provided that each of the two countries levies special charge equal to this amount on export of olive oil to the Community (3). The Community granted also reduction of 80 % of the common tariff for wine of fresh grape exported to the Community by Morocco and Tunisia (4).

ii. Economic, Technical and Financial Cooperation

The two agreements include provisions for cooperation in economic and technical domains. They aim at contributing to the development of Morocco and Tunisia, by efforts complementary to those made by the

(1) See article 12, § 5 of both agreements.
(2) Exports of olive oil, other than olive oil having undergone a refining process; see article 16 of the Tunisian agreement and article 17 of the Moroccon agreement.
(3) Exports of olive oil of both countries benefit also from a reduction of 0.5 units of account per 100 kg without any conditions.
(4) Another annual quota of 50.000 hectolitres for each country is also exempted from customs duties under certain conditions. See article 20 of the Tunisian agreement and article 21 of the Moroccon agreement.

two countries themselves. This cooperation intends to promote, in particular (1) :

- the participation by the Community in the efforts made by Morocco and Tunisia to develop their production and economic infrastructure in order to diversify their economic structures. Such participation should be connected, in particular, with the industrialization in both Tunisia and Morocco, and the modernization of their agricultures ;
- the marketing and sales promotion of products exported by Morocco and Tunisia ; industrial cooperation aimed at boosting the industrial production through appropriate measures, encouraging the participation of the Community in the implementation of the development programs in Morocco and Tunisia ;
- cooperation in the fields of science, technology, protection of the environment, fisheries sectors, and the encouragement of private investments ;
- the participation of the Community operators in programs for the exploration, production and processing of Tunisia and Morocco's energy resources.

iii. Financing Economic and Technical Projects.

In order to implement the various aspects of cooperation provided for in the agreements, the Community committed itself and for a period of five years, to give Morocco and Tunisia the following amounts :

- for Morocco, an amount of 140 million units of account as follows(2)
  a) 56 million units of account in the form of loans from the European Investment Bank, granted from its own resources on the term set out in its statute ;
  b) 58 million units of account in the form of loans on special terms ;
  c) 16 million units of account in the form of grants (3).
- for Tunisia (4), an amount of 95 million units of account as follows :
  a) 41 million units of account in the form of loans from the European Investment Bank, granted from its own resources on the terms provided for in its statute ;
  b) 39 million units of account in the form of loans on special terms ;
  c) 15 million units of account in the form of grants.

(1) See articles 1-7 of both agreements.
(2) A unit of account = about 1,2 U.S. dollar.
(3) See articles 1-2 of protocol n° I on technical and financial cooperation annexed to Morocco agreement.
(4) See articles 1-2 of protocol n° I on technical and financial cooperation annexed to Tunisia agreement.

iv. Cooperation in the Field of Labour.

The two agreements include provisions for labour cooperation (1). According to these provisions, workers of Morocco and Tunisia employed in the Community shall enjoy a treatment free from any discrimination based on nationality, as regards working conditions or remuneration, in relation to the Community nationals. They shall also enjoy, in the field of social security, treatment free of any discrimination based on nationality in relation to nationals of the Member States in which they are employed. The workers in question are allowed to transfer freely to their respective countries any pensions or annuities in respect of old age, death or invalidity resulting from industrial accident or occupational disease.

In order to realize this purpose, the cooperation council is empowered to implement these principles and adopt detailes rules for their application. The actions taken by the cooperation council in this field should not affect any rights or obligations arising from bilateral agreements linking Morocco and Tunisia and the Member States where those agreements provide for more favourable treatment for their nationals or for the nationals of the Member States (2).

v. Concessions given to the Community.

Morocco and Tunisia accepted to grant the Community, in the field of trade, a treatment no less favourable than most favoured nation treatment. But they may not apply this treatment in the case of the maintenance or establishment of customs unions or free trade areas with other countries (3).

vi. Safeguard Measures.

The two agreements include provisions which permit Morocco and Tunisia to introduce into their arrangements with the Community new custom duties or charges having equivalent effect and new quantitative restrictions of such measures if such measures are necessitated by the industrialization of Morocco and Tunisia (4).

The agreement also provides for safeguard measures, if disturbances arise in any sector of the economy or if difficulties arise which might bring about serious deterioration in the economic situation of a contracting party. Such measures may be also taken in serious

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(1) See articles 40-43 of Morocco agreement and articles 39-42 of Tunisia agreement.
(2) See art. 43 of Morocco agreement and art. 42 of Tunisia agreement.
(3) See art. 27 of Morocco agreement and art. 26 of Tunisia agreement.
(4) See art. 28 of Morocco agreement and art. 27 of Tunisia agreement.

difficulties threaten the balance of payments of a contracting party (1).

viii. Institutions.

The agreements of Morocco and Tunisia provide for the establishment of the cooperation council with more powers of decisions and a system of arbitration for the settlement of disputes which may arise from the application of the agreements ; it is the first time that this system exists in the Maghreb agreements. Similar system is also included in Algeria agreement. Thus, it would be useful to treat these institutions together since they have the same structures and powers (2).

(1) See articles 37-39 of Morocco agreement and articles 36-38 of Tunisia agreement.

(2) The agreements provide for consultations in the event of a third State concludes an association agreement or accedes to the Community, in order to take the interests of the parties into consideration. The agreements also provide for a review of their contents, first from the begining of 1978 and again from the begining of 1983, in order to maintain their economic balance. See article 55 of Morocco agreement and article 54 of Tunisia agreement.

Section III : The relations between the EEC and Algeria

Although no agreement had been signed between the Community and Algeria until 11 April 1976, it may be useful to examine the relations between the EEC and this country, especially in comparison with Morocco and Tunisia. First of all, Algeria was part of the Community (1) until its independence (2), enjoying a special status which the Member States mutually granted each other.
Afterwards, Algeria retained only the simple status of a previous Member State territory.
Moreover, it has always been admitted that the protocol which allows the maintenance of the customs conditions applicable by France to Morocco and Tunisia and the declaration aiming at the association of these countries should necessarily be extended to Algeria for the evident political reason that Algeria should not be penalized for having obtained its independence at a later date than the other two (3).
In the same spirit, the Community would have wished to globalize the solutions designed for Morocco and Tunisia on the Maghreb scale, and has always exhibited a tendency towards trying to apply identical conditions to the three countries (4).

1. History of the relations between the EEC and Algeria

- a) Before the independence.

At the time of the signature of the Treaty of Rome, the Six Member States in regulating relations with their overseas territories within the frame work of the Treaty, proved their intentions that these territories will attain sooner or later their independence. This was clear from the specific date of the application of their association with the EEC. In regard to Algeria, nothing indicated that France would grant it its independence (5) at a later date and the behaviour of France in Rome confirmed this tendency (6). This explains the

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(1) As a part of the French territories subject to the application of article 227 of the Treaty of Rome. See article 227 § 2 of the Treaty.

(2) Algeria obtained independence on July 3, 1962.

(3) See J.-P. PAPA "Les relations entre la CEE et les pays du Bassin méditerranéen", The European Year Book, 1972.

(4) It should be noted that with the predominance of oil exports in the industrial sector and of wines in the agricultural sector, the problems of Algeria are much more limited than those of its neighbours.

(5) Although the Algerian revolution has broken out since November 1954.

(6) At the time of the formation of the Constitution of October 4, 1958, the access to independence was not foreseen for Algeria.

treatment of relations with Algeria within the frame work of article 227 particularly § 2 which concerns the geographic application of the Treaty of Rome (1). The analysis of the text of article 227 explains that the provisions of the Treaty apply to Algeria as an integral part of France, but only under certain conditions. In this respect we must distinguish between two series of provisions :

- those mentioned in § 2 of article 227 apply automatically to Algeria from the date the Treaty enters into force ;
- other provisions shall be applied within two years of entry into force of this Treaty by decisions of the Council, fixing the conditions of application (2).

Moreover, Algeria benefited from the loans provided by the first European development fund for association of overseas countries and territories (3).

- b) After independence.

Before Algeria's independence, this special status granted to Algeria by the Community did not raise any particular problem since Algeria was a part of the French territories, but this situation became complicated after the independence and raised a problem of international law concerning the succession of treaties. Writers of international law say that treaties bind and engage only the subjects of law who participated in their conclusions (4). The succession of these treaties, consequently, will not produce complete effects unless the new State gives freely its consent. Thus, if the new State refused to bear the contractual obligations concluded by the parent country, these obligations shall be abolished (5).

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(1) § 2 of article 227 stipulates "with regard to Algeria and the French overseas department, the general and particular provisions of this Treaty relating to the free movements of goods, agriculture, save for article 40 (4), the liberalization of services, the rules on competition, the protective measures provided for articles 108, 109 and 226, the institutions, shall apply as soon as this Treaty enters into force".

(2) The rules of competition taken by the Commission and the Council and the movements of capital, articles 69-73 and 106 of the Treaty were applicable by the decision of the Council in May 1960. See K. FARZI "Modèle d'accord économique entre l'Algérie et la CEE", Mémoire pour le diplôme d'études supérieures de droit public, Université de Rennes, octobre 1971, p. 5.

(3) See K. FARZI, Op. cit., p. 5.

(4) See L. DELBEZ "Principes généraux du droit international public", LGDJ, 1964. See also FLORY "La succession aux Traités", AAN 1966, p. 11.

(5) See K. FARZI, Op. cit., p. 6.
See also "UN Convention on the succession of States", ILC drafts.

For Algeria, it has the ability to choose between two positions :

- to refuse the effects of the provisions of article 227 which was taken by France for Algeria ;
- or to accept the obligations resulting from the application of article 227.

The last solution seems rather difficult in its adaptation to the realities since Algeria is an African and not an European country. It is also more difficult for Algeria to accept any restrictions imposed on its sovereignity (1). Consequently, Algeria stated that it could not accept the effects of article 227 and made it clear that it did not succeed France in the obligations and rights resulting from article 227, but continued after its independence in benefiting from the provisions of this article (2). Although Algeria did not accept the new obligations of article 227 contracted in its name by France, it has not manifested its intentions to break off its relations with the EEC as Guinea did in 1958 (3). On the contrary, it expressed its will to cooperate with the Community but only on new bases.

This desire was materialised in a Memorandum adressed to the Community authorities on December 24, 1962 (4). In this Memorandum, Algeria wanted to seek through conversations with the Community organs the type of possible future relations that might exist between Algeria and the Common Market, and to maintain the benefits included in the provisions of article 227. The EEC replied positively to the Algerian demand in the first meetings between the two delegations in February 1964, and engaged itself in fulfilling obligations resulting from the application of article 227.

The attitude of the EEC Member States responds to the spirit of a preferential system in Algeria's exchanges with the EEC (5). This *de facto* situation raised

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(1) For more details about the legal status of the relations between the EEC and Algeria, see J. RAUX "Les relations extérieures de la CEE", Paris, Cujas, 1966 p. 339-441.

(2) But more limited than before the independence.
See J.-P. PAPA, Op. cit., p. 42.

(3) Guinea did not denounce the association with the EEC in an official communication, but it simply never applied the Treaty of Rome, which means denunciation de facto.
See "Revue du Marché Commun", avril 1969, p. 189.

(4) See "Bulletin de la CEE", mars 1963 - n° 2, p. 35, and
"Sixième rapport général 1963", § 129.

(5) See K. FARZI, Op. cit., p. 8.

certain ambiguities and did not remain for a long time. The years 1967-1968 were marked by a period during which every Member State of the Community was free to apply the preferential system, which depended largely on each Member State's own interests.

Italy (1) and Germany denounced article 227 and considered Algeria as a Third Party (2). The Benelux countries applied a partial customs tariff, favourable in particular to Algerian citrus fruit. France continued to apply the Treaty of Rome to Algerian exports in the French market, except for Algerian wines, in which a special agreement was concluded between the two parties (3). But on December 30, 1965, France unilaterally abolished this agreement and forbid the Algerian importation to France (4). In 1968, a compromise was reached by the Council of Ministers for the treatment of the Algerian wine in the EEC Member States, but was not published. This formula remained in effect until 1973, when the Community set up a temporary system to be applied on all imported wines including the Algerian wines (5).

2. The contractual relations between the EEC and Algeria

After the development of its special status, Algeria expressed its strong will to normalise its relations with the EEC. To this end, Algeria again asked the Community on March 17, 1970, to negotiate a new agreement with the EEC. Algeria applied for a global agreement including other fields than just exchanges such as financial and technical assistance and the treatment of Algerian workers in the EEC (6).

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(1) In fact, Italy treated Algeria as a Third Party since 1.1.1965. This information was given to us by Mr Morad Bencheikh, First Councellor of Algerian Embassy in Brussels, in an interview on December 31, 1975 on the relations between the EEC and Algeria.

(2) Germany applied reduced tariff on Algerian wines.

(3) The agreement was concluded on December 30, 1963, and permits a quota of 8 million HL of Algerian wine to enter the French market free of duties.

(4) France abolished the agreement with the aim to establish a "politique de qualité" and to stop the policy of blending wines, but this policy has not been realised as Italy replaced Algeria and blending Community wines is not forbidden in the EEC, causing an interesting problem between two Member States.

(5) According to this compromise, the EEC Member States applied different tariff levels. France applied 1/8 of the customs tariff, the Benelux applied 50 % on quota of 120 thousand HL, Germany applied 2/3 of the customs tariff on quota of 100 thousand HL, but Italy applied the normal custom tariff. Refer to the interview of Mr Bencheikh, December 31, 1975.

(6) See "Communication of the Commission to the Council on the relations of the Community with Algeria", Soc. (70) 1237 Final, 14.4.1970.

After three years of internal discussions, the Council of Ministers succeeded in reaching a definition of the first negotiations directives with Algeria (1) on June 26 and 27, 1973 (2). The first round of negotiations took place in Brussels in July 1973 (3) and the second was in October 1973 (4), followed by other rounds in 1974 (5) and 1975 (6).

- a) The Community offer for Algeria.

During the first stage of negotiations, only the commercial sector was discussed in the meetings. In this area, the Community delegation proposed to extend the tariff system applied to Tunisia and Morocco, since the conclusion of their agreements in 1969 to Algerian exports to the EEC. For the Algerian wines, the Community proposed to renew the transitional system for wine, applied by the Community since 1973 with an increase in reduction from 40 to 60 %. The Community asked Algeria to present a counter offer in favour of Community products. Algeria did not accept the offer, declaring that it was not satisfactory.

In the second stage of negotiations in October 1973, the Community offer remained essentially the same. Algeria refused, for a second time, the Community's offer, arguing that :
- most of its exports enter the EEC market with a zero tariff (7) and about 87,9 % of these exports are crude oil, and other industrial products benefit from the system of general preferences applied by the Community on the products of developing countries.

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(1) and for other Mediterranean countries : Morocco, Tunisia, Spain and Israel, on the basis of the global approach.
See 21st Review of the Council's Work 1973, p. 175. See also 7e Rapport général sur l'activité des Communautés Européennes 1973, p. 426.

(2) See Document of the Council R/1888/73 (AGRI 568).

(3) See Télex Méditerranée n° 58, 12.12.1974, p. A/1.

(4) Resumed on 2 and 3 December 1974 after a rupture of more than one year.
See Télex Méditerranée n° 58, 12.12.1974, p. A/1.

(5) 7 April 1975.
See Télex Méditerranée n° 64, 27.3.1975, p. A/1.
See also Agence Europe n° 1794, 22-23.7.1975, p. 5.

(6) See CHAPIN "Les relations entre la CEE et les pays du Bassin méditerranéen", p. 121.

(7) About 89,9 % in the year 1972. See CHAPIN, op. cit., p. 121.

- In regard to agricultural products, its share in the total exports to the EEC decreased from 30,8 % in 1966 to 6 % in 1973. This means that negotiations bear only on 6 % of Algerian exports to the Community, of which wine represents about 2/3.
- Moreover, the Community offers, relative to fruits and vegetables, were even worse than the actual situation since Algerian exports of these products enter France free of duties (1). Consequently, Algeria asked for the extension of the French system to the whole Community, retaining its former special status.
- For wine, the Community proposed, in the second round of negotiations, a reduction of 75 % for Algerian wines. This offer was not accepted by Algeria since it was conditioned with respect to the reference price and the prohibition of blending (2). Algeria asked the Community to authorize temporarily a derogation from the regulations for a limited quantity (5 million HL annually) and to permit the blending of wines (3). Algeria also asked for the inclusion of the Coal and Steel products in the industrial sector, which were excluded in the Rabat and Tunis agreements of 1969. For petrol products, it asked for a complete exemption since it is crucial that the EEC and Algeria develop real cooperation in the domain of energy.

Finally, Algeria expressed the importance of including certain provisions for financial and technical cooperation and for Algerian workers in the Community.

The Community was unable to reply positively to the Algerian demands and negotiations were distrupted for more than one year.

The Commission reported to the Council and asked for a modification of the mandate which was approved by the Council in its meetings in July 1974 (4) and the negotiations were resumed between the two parties on December 2 and 3, 1974 (5).

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(1) The French market absorbs 75 % of Algerian citrus and 90 % of other fruits and vegetables exported from Algeria to the EEC.

(2) Blending of Algerian wines was prohibited since the abolishment of the agreement of 1963 unilaterally by France.

(3) This solution will facilitate the policy of reconversion and the replacement of wine with other products. As a result of this policy, the production of wine in Algeria decreased from 18 million HL in the sixties to 6 million HL in the seventies.

(4) The Community proposed that 500thousandtons enter the EEC free of duties. Actually Algeria had no large quantities for export, but in view of the expansion of refineries, Algeria could have 16 million tons in 1980 and the target is set for 30 million tons by 1985. Thus, Algeria will be able to export from 5 to 6 million tons by 1980. Refer to the interview with Mr Bencheikh on 31.12.1975.

(5) See "Document of the Council n° 1/110/1/74 Rev. 1", July 29, 1974.

On the third round of negotiations, the Community offer was improved. For wine of normal consumption, the EEC proposed a reduction of 80 % conditioned by both a reference price (1) and the prohibition of blending. For fine wine (vin de qualité), the Community proposed a reduction of 100 % conditioned by respecting a reference price and only on a limited quantity to be negotiated between the two parties.

With regard to the industrial products in the last offer, the Community proposed free entry for Algerian industrial products, except manufactured cork and petrol products, which were subjected to a system of ceiling (2).

In the third offer, the Community increased the ceiling of petrol products from 500 thousand tons annually, to 900 thousand tons, to be increased 5 % annually until December 31, 1979, at which time there would be no more limitation on these products.

For other sectors, the Community advocates economic and technical cooperation with Algeria.

It proposed that the financial cooperation amount to 114 million units of account, of which 70 millions were loans with normal conditions, 19 millions were with special rate of interest, and 25 millions were grants over a period of 5 years.

For the Algerian manpower in the EEC, the Community's previous proposal remained essentially the same.

The Algerian delegation did not totally refuse the Community's offer, but asked for more improvement. For wine, especially for fine wine, the delegation considered that there was no reason to respect the reference price since this kind of Algerian wine arrives at the EEC frontiers with a higher price than this minimum price and it hoped for larger quantities.

Regarding Algerian manpower in the EEC, Algeria asked for the possibility of Algerian workers transfering family allowances to members of their families living in the country of origin. It also asked for the creation of a system of vocational training for the Algerian workers.

The Community's delegation was not authorized to decide on the Algerian demands. Therefore, the two parties agreed to meet during the year 1975.

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(1) Minimum price at the entrance of the EEC Market.

(2) For manufactured cork amounting to about 500 tons.

The 4th round of negotiations already took place in Brussels on April 7, 1975, but the Community could not offer more concessions than those of the last round in view of the fact that the Council had not reached an agreement to modify the original mandate in order to respond to the Algerian request (1).

The Algerian Government considered that the Community's offer did not constitute an acceptable basis for agreement from their point of view. Consequently, the negotiations were interrupted (2).

3. Closure of negotiations and signature of the agreement

After an interruption of about one year, negotiations were resumed between the parties in January 1976.

During this round of negotiations, the Community's offer was slightly improved, particulary concessions foreseen for wine and petroleum products.

Finally, the Algerian delegation accepted the Community's offer, and a cooperation agreement based on article 238 (3) for an unlimited time period was signed between the parties in Algiers on April 26, 1976.

An additional protocol for financial cooperation was also signed at the same date.

This agreement and the additonal protocol are similar to those of Morocco and Tunisia.

- a) Objective of the agreement.

The preamble of the agreement is identical to those of Morocco and Tunisia.

It indicated the intention of the parties to promote economic and trade cooperation, taking account of the respective levels of development.

The remarkable development of the Community policy can be seen as the preamble

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(1) The Council discussed this subject in its meeting in Luxembourg on July 22-23, 1975. In this meeting, the Council succeeded in reaching an agreement on the common rules according to which Italy will be compensated for the concessions given to the Maghreb countries in the agricultural sector. But the Council did not approve any improvement in the Community's offer to Algeria, Tunisia or Morocco. Ref. interview with Mr Bencheikh, 31.12.1975.
See also "Agence Europe" 22-23.7.1975.

(2) Later , contacts took place between the parties and it was agreed to resume the negotiations in January 1976 to discuss pending matters.
Ref. Mr Bencheikh, 31.12.1975.

(3) The reference to article 238 did not exist in the preamble of the agreement, in contrast to the agreements with Morocco and Tunisia, of 1969, in which article 238 was espressly mentioned in the preambles. Mentioning of article 238 only appears in the preamble of the Council regulation concluding the agreement.
See Document of the Council n° 5/735/76 (AL12), May 6, 1976.

stipulates that the parties, by concluding this agreement, intend to establish a new model for relations between developed and developing countries, compatible with the aspirations of the international Community towards a more just and more balanced economic order.

This demonstrates the aspects of the Community's new policy in the Mediterranean, since this reference did not exist in the agreements concluded before the adoption of the Mediterranean global approach.

- b) Contents of the agreement.

The agreement mainly contains provisions for trade, and other provisions designed for economic, technical and labour cooperation.

i.

Trade

In this field, the parties intend to promote trade between themselves, taking account of their respective levels of development and of the need to ensure a better balance in their trade.

For the purpose of attaining these objectives, the Community abolished the quantitative restrictions and granted important tariff concessions to Algerian exports to the Community.

a) Industrial products (including coal and steel products) (1)

Products originating in Algeria, which are not listed in annex II of the Treaty of Rome, enter the Community free of quantitative restrictions and measures having equivalent effect, and of customs duties and charges having equivalent effect (2).

Exception to this exemption is made for imports of certain products, such as petroleum products, natural cork and agglomerated cork, which are subject to annual ceilings, above which the customs duties will be applied.

However, the ceilings provided for in this agreement shall be abolished by December 31, 1979.

b) Agricultural products

The Community also granted important concessions for a large volume of Algerian agricultural products.

These concessions range from 40 to 80 %, with full exemption of customs

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(1) Products of the Coal and Steel Community were included in an agreement concluded between Algeria and the Member States of the Community.

(2) See article 9 of the agreement.

tariffs and levies for certain products (1).

For Algerian wine, which raised great difficulties during the negotiations, the Community granted :

- a reduction of 80 % of customs duties on imported wine for direct human consumption (2) ;
- for other kinds of wine, each with various designations under the Algerian law, the Community granted full exemption of customs duties on importation into the Community, within the limits of an annual tariff quota range from 250 thousand hectolitres, in the first year to 450 thousand hectolitres in the fifth year of the agreement.

ii.

Economic, technical and financial cooperation

The agreement includes provisions identical to those included in the Morocco and Tunisia agreements for economic and technical cooperation (3).

This cooperation aims at contributing to the development of Algeria through the participation of the Community in the efforts made by Algeria to develop its production and economic infrastructure.

Such participation should be connected, in particular, with the industrialisation of Algeria and the modernization of its agriculture, through various measures :

- to encourage participation by the Community in the implementation of Algeria's development programme ;
- to foster the organisation of contacts and meetings between Algeria and Community industrial policy makers ;
- to permit the removal of non-tariff and non-quota barriers likely to impede access to either market.

The agreement has also foreseen cooperation in the domains of science, technology, protection of the environment, fisheries, and the encouragement of private investments which are in the mutual interest of both parties.

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(1) Among these products, citrus fruits given 80 %, olives 60 %, onions 60 % during certain periods, tomatoes 60 %, potatoes 40 %, prepared or preserved vegetables 20-80 %, preserved fruits 80 % and prepared and preserved fish 100 %. See articles 15 and 19 of the agreement.
Olive oil imports to the Community were given a reduction on the levy not exceeding 10 units of account per 100 kilograms provided that Algeria levies a special charge on its exports equal to this reduction.

(2) See article 20 of the agreement.

(3) See article 1-7 of Algeria's agreement.

As regards energy, the Community operators shall participate in programmes for the exploration, production and processing of Algeria's energy resources.
The parties may decide on further areas of cooperation through the cooperation council which is established by the agreement (1).

iii.

Financing of economic and technical projects (2)

In order to implement the various aspects of cooperation provided for in the agreement, the Community is committed to granting Algeria, for a period of five years (3), an amount of 114 million units of account (4) as follows :

- 70 million units of account in the form of loans from the European Investment Bank, granted from its own resources on the terms set out in its satute ;
- 19 million units of account in the form of loans on special terms (5) ;
- 25 million units of account in the form of grants.

iv.

Cooperation in the domain of labour (6)

The agreement also provides for cooperation in the field of labour, since this domain is of a special importance for Algeria in view of the large number of Algerian workers employed in the Community.
According to the provisions of the agreement, which are similar to those of Morocco and Tunisia, Algerian workers employed in the Community shall be free of any discrimination based on nationality, as regards working conditions or remuneration, in relation to the nationals of the Member States of the Community.
Algerian workers also enjoy, in the field of social security, treatment free of any discrimination based on nationality in relation to nationals of the Member States in which they are employed.
They are allowed to transfer freely to Algeria any pensions or annuities in respect of old age, death or industrial accident.
For realizing this objective, the Cooperation Council is empowered to adopt detailed rules to implement these principles. Actions of the Cooperation Council

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(1) See article 4 of the agreement.

(2) Especially capital projects in the fields of production and economic infrastructure.

(3) Expiring October 31, 1981, see article 2 of protocol n° 1 on technical and financial cooperation.

(4) Unit of account = about 1,2 US Dollar.

(5) Granted for forty years with an amortization period of ten years, and with an interest rate of 1 %

(6) See articles 38-41 of Algeria's agreement.

in this domain should not affect any rights or obligations arising from bilateral agreements linking Algeria and the Member States, where those agreements provide for more favourable treatment of nationals of Algeria or of the Member States.

v.

Counter-concessions

In return for the Community concessions, Algeria granted the Community, in the field of trade, treatment no less favourable than most-favoured nation treatment.

This treatment may not be applied in case of maintenance or establishment of customs union or free trade areas between Algeria and other countries (1).

vi.

Safeguard measures for Algerian industrialization

The agreement provides for safeguard measures for the protection of Algeria's industrialization.

These measures enable Algeria to introduce into its trade arrangements with the Community new customs duties or charges having equivalent effect, and new quantitative restrictions if such measures are necessitated by Algeria's industrialization and development requirements (2).

The agreement also includes other safeguard measures for both parties, to be used if disturbances arise in any sector of the economy or if difficulties arise which might bring about serious deterioration in the economic situation of a contracting party (3).

Procedures for consultation were provided in the event that a third country concludes an association agreement or acceedes to the Community.

Finally, the agreement provides for the establishment of institutions to be responsable for the good functioning of the agreement. These institutions will be treated together with those of Morocco and Tunisia, since they have the same structures and powers (4).

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(1) See article 25 of the agreement.

(2) See article 26 of the agreement.

(3) Safeguard measures may also be applied in case of difficulties in the balance of payments of a countracting party. See article 37 of the agreement.

(4) The agreement also provides for a review of its contents in the beginning of 1978 and again in the beginning of 1983, in order to maintain its economic balance. See article 53 of the agreement.

4. Institutions in the three agreements of the Maghreb countries

- a) Cooperation Council.

Each of these agreements provides for the establishment of a Cooperation Council for the purpose of attaining the objectives of the agreement (1). This Council shall be composed, on the one hand, of the members of the Council and members of the Commission of the European Communities and, on the other hand, of members of the Government of the other party to the agreement.

It is empowered to formulate any resolutions, recommandations or opinions which it considers necessary for the attainment of the common objectives and the smooth functioning of the agreement.

The Cooperation Council takes decisions by mutual agreement between the parties and which binds the parties.

In implementing its duties, the Cooperation Council shall be assisted by a Cooperation Committee, which is composed of one representative of each Member State, and one representative of the Commission of the European Communities, and of representatives of the other contracting party (2).

The Cooperation Council is also an appropriate place in which consultations between the parties can be held when they are necessary for the good functioning of the agreements.

The Cooperation Council meets once a year upon the invitation of its president, and it also meets whenever necessary at the request of either contracting party.

- b) Cooperation between the Parliaments.

The three agreements provide for cooperation between the European Parliamentary Assembly and the Chamber of Representatives in Algeria, Morocco and Tunisia.

The Cooperation Council is empowered to take any appropriate measure to facilitate the necessary cooperation and contacts between these legislative bodies (3).

- c) Arbitration.

A system of arbitration was adopted in the three agreements. According to the provisions of these agreements, the Cooperation Council is competent to examine

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(1) See article 42 of the Algeria's agreement, article 43 of Tunisia's agreement, and article 44 of Morocco's agreement.

(2) The Cooperation Council may decide to set up any other committee that can assist it in carrying out duties.

(3) See article 46 of Algeria's agreement and articles 47 and 48 of the agreements of Tunisia and Morocco.

any dispute which may arise between the contracting parties concerning the interpretation of the agreements. But if the Cooperation Council fails to settle the dispute, either party may notify the other of the appointment of an arbitrator. The other party must then appoint a second arbitrator within two months. The Cooperation Council shall appoint a third arbitrator. The decisions of the arbitrators shall be taken by a majority vote and shall be binding on each party to the dispute (1).

No reference was made to the competence of the European Court of Justice to settle the disputes (2).

5. The legal force of the Maghreb agreements

Since these agreements are mixed, in that they include domains which still remain the competence of the Member States, it is necessary that they have to be ratified by the competent authorities of the Member States.

Since this procedure may take time in the nine Member States, the Community was obligated to conclude interim agreements based on article 113, in order to immediately implement trade provisions of the original agreements. The interim agreements need only a Community legal act in order to come into force since they only concern trade.

For this purpose, the Council adopted three regulations for the conclusion of interim agreements with Algeria, Morocco and Tunisia (3).

Consequently, provisions concerning trade in the original agreements came into force from July 1, 1976.

For the execution of other fields of cooperation, ratification of the national authorities of the Member States is required.

Until then, these domains will remain unexecuted.

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(1) See article 50 of Algeria's agreement and articles 51 and 52 of the Tunisian and Moroccon agreements.

(2) Unlike the Greece agreement, in which article 67 authorizes the Council of association to submit the dispute to the Court of Justice or any other existing Court or Tribunal.

(3) Reg. EEC n° 1287/76, May 28, 1976
Reg. EEC n° 1288/76, May 28, 1976
Reg. EEC n° 1289/76, May 28, 1976
} Official Journal, n° L 141, May 28, 1976.

6. Procedure of consultation of the European Parliament

Since the Maghreb agreements are based on article 238, although they are not entitled "associations" (1), consulting the European Parliament is required according to the Treaty of Rome.

The opinion of the European Parliament on these agreements was obtained on October 12, 1976 (2).

These consultations were made after the signature of the agreements, but before their conclusion (3).

7. New elements in the recent agreements, reflecting the development in the Community policy towards the Mediterranean

The analysis of the previous and recent agreements concluded with the Maghreb countries demonstrates a remarkable difference between the agreements concluded in 1969 and those concluded in 1976, although the legal basis for both remained article 238 of the Treaty of Rome.

It is obvious that the new agreements include more economic substance and more powers for their institutions.

Economically, the new agreements, which are considered mixed agreements, contain more economic fields than trade.

They include economic, technical and financial cooperation, which were not included in the previous agreements of 1969.

These domains of cooperation are of a great importance for the economic development of the Maghreb countries. This cooperation aims at boosting the industrial production of these countries through different measures, and consequently helps in the diversification of their production and their exports.

Thus, these agreements reflect the aspects of the new Community policy towards the developing countries in the Mediterranean Basin.

This new policy complies with the Community general policy towards the developing countries in the world, particularly with those who are member of the LOME Convention.

) They are entitled "cooperation agreements".

) See Document of the Council n° 1099/76 (ASS 704), October 14, 1976.

) According to Lunz' formula, the competent committee in the European Parliament was informed about these agreements before the signature, but this is informal procedure and is not a procedure of consultation according to the Treaty of Rome.

This can be seen from the preambles of the Maghreb agreements, which stipulate that the contracting parties are :

- "resolved to promote, having regard to their respective levels of development, economic and trade cooperation between the Maghreb countries and the Community, and to provide a sound basis therefore in conformity with their international obligations ;
- resolved to establish a new model for relations between developed and developing States, compatible with the aspirations of international Community towards a more just and more balanced economic order".

In conformity with these objectives, the Community was satisfied to be granted, in the field of trade, the most favoured nation treatment, as a counter-concession. It is obvious that the Community did not insist on the principle of reciprocity, which was a general rule in the previous agreements.

Other developments can also be seen in the composition of and powers conferred upon the Cooperation Council, the main organ of the institutions provided for by the agreements.

The level of representation in this Council is higher than that of the Joint Committee included in the previous agreements concluded with other Mediterranean countries.

In the Cooperation Council, the Community is represented by members of the Council of Ministers of the Community and members of the European Commission, and the Maghreb countries are represented by the members of their Governments. In the Joint Committee, the representation of the parties was usually below ministerial level.

Moreover, the powers of making decisions given to the Cooperation Council are larger and cover a wider area of competence. Furthermore, the new agreements include cooperation between the Parliaments of the parties, which is of a great significance in strengthening relations on the parlementary level.

Finally, the introduction of arbitration in the agreements gives these agreements more weight, since this system provides the parties with judicial means for solving the disputes which may arise from the application of the agreements.

Thus, it is logical to say that the more substance the agreements contain, the more powers the institutions have.

8. The perspective of the future relations

Finally, despite that the agreement as a whole did not yet enter into force, it is necessary to analyze the development of commercial relations between the EEC and Algeria.

As we mentioned above, when Algeria was part of the Community, the Community represented more than 80 % of the Algerian total trade of which France occupied about 90 %. This situation continued also for a few years after Algeria's independence. But since 1968, the situation started to change, as the Algerian Government decided to diversify the markets of its external trade (1).

In 1968, the Algerian exports to the EEC represented 77,9 % of the total exports, while the imports from the EEC accounted for 71,6 % of its total imports. In 1970, it can be seen that both these percentages decreased. The Algerian exports in 1971 to the EEC decreased to 73,5 % in this year, while Algerian imports from the EEC decreased to 66,67 %.

The tendency for diversification is still growing in order to reduce the dependence of Algerian trade on the EEC market (2).

Algeria has already succeeded in developing its trade with other West European countries such as Spain, and also with the USSR and socialist countries (3), and with Third World countries, such as Brazil (4).

) Ref. Mr Bencheikh, 31.12.1975.

) The share of the EEC accounted for 55 % of the total trade of Algeria in 1974/1975.
Ref. Mr Bencheikh, 31.12.1975.

) The buyings from Algeria to Spain increased to 18 % in 1972, the exports of Algeria to USSR accounted for 6,59 % of its exports in 1972, and its imports from USSR in the same year amounted to 4,01 % of the total imports. Moreover, Algeria signed a 7 year long term contract to sell the major part of its wine to USSR.
See CHAPIN, Op. cit., p. 120.

) The exchanges between Algeria and the Third World countries amounted to about 4 % of Algeria's trade. See CHAPIN, Op. cit., p. 118.

Among the EEC Member States, France still occupies the first place, followed by Germany, Italy, the Benelux countries and the UK (1).

Thus, the Algerians stress the importance of having a global agreement with the EEC, guaranteeing the continuation of dialogue and cooperation in the domains of technology, economy, finances and energy.

This position can be discerned from the obvious active role of Algeria in the international conference between the North and South in Paris on December 16, 1976 (2).

In conclusion from the previous analysis, we could say that the relations between the EEC and Algeria are promising and are expected to be developed in the coming years, particularly since Algerian products are already acquainted with the European consumer and the Algerians are also accustomed to the European products.

Moreover, in view of the various relations between Europe and Algeria, and the remarkable efforts of Algeria for industrialization and development of its economy, the avenues of cooperation in domains of technology and energy are available with Algeria's need for the European knowhow and its potential in providing Europe with energy necessary for the expansion of its economy (3).

On the other hand, although Algeria benefited from a preferential system without contractual relations, its balance of trade is in deficit with the EEC as the figures show (4).

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(1) After deterioration of relations between France and Algeria because of the nationalization of its petrol industries, the role of Germany increased especially in contribution to Algerian industrialization.
See CHAPIN, Op. cit., p. 117.

(2) See Abdel Aziz BOUTEFLIKA (Algerian Foreign Minister) "Les nouvelles chances du dialogue Nord-Sud" and C. CHESSON "La Communauté a donné l'exemple" in Le Monde, October 7, 1975, p. 17.
See also Le Monde 17.2.1975.

(3) Algeria has a special position among the Mediterranean countries for many reasons : it was, at one time, part of the EEC, its geographic situation to Europe, its exports of energy and primary materials, its workers and its capability to export industrial products necessary for the implementation of Europe's economic plans.

(4) See Table n° 10 - appendix II.

But despite the importance of the receipts of external trade in Algerian national output, Algeria is preoccupied in cooperating with the EEC in the field of technology and economic development (1). This explains the Algerian behaviour during the last negotiations with the EEC.

The fact remains that most of Algeria's exports to the EEC constitute crude oil, representing about 90 % of Algerian exports to the Community with zero tariff (2).

The essential problem in the agricultural sector is that its exports of wine which represent actually about 3 % of the total exports, do not attain a satisfactory quantity and tariff reduction (3). The Algerian exports of wine to the EEC market have obviously decreased in the last few years (4).

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1) The external commerce represents actually about 22 % of Algeria's national output and was directed to the growth of the country. Algeria's programme of external commerce for the coming years until 1980 foresees a considerable increase of 70 % of its importation and exportation.
See CHAPIN, Op. cit., p. 110.

2) Particularly since Algeria is increasing efforts towards its industrialization. In the first economic plan (1969-1973), Algeria has realised a rate of growth od 6 % and it was foreseen in the second plan that production would increase to 9 % annual.
See CHAPIN, Op. cit., p. 108.

3) It is interesting to mention that Algerian oil production increased from 38,37 million tons in 1967 to 50,48 million tons in 1972.
See CHAPIN, Op. cit., p. 109.

4) Algerian production of wines until 1962 was about 18 million HL and decreased to about 6 million HL in 1974-1975. Nearly the total of this production is destined for export, ref. interview with Mr Bencheikh, 31.12.1975.
The EEC (Six) imports of Algerian wines were about 6.803.890 HL in 1970 and decreased to 209.170 HL and 375.470 HL in 1972.
See CHAPIN, Op. cit., p. 112.

SECTION IV : THE CONTRACTUAL RELATIONS BETWEEN THE E.E.C. AND THE LEBANON.

1) The first agreement.

Lebanon was the first Arab country to establish contractual relations with the European Economic Community (1). It signed a non-preferential agreement with the E.E.C. for a three year period on May 21, 1965, based on article 111 of the Treaty. The agreement was the first that covered both trade and technical cooperation (2). It did not include any tariff concessions, but concentrated on the mutual extension of the most favoured treatment (3) for both parties of this agreement, included non tariff obstacles and technical assistance (4). The agreement set up a joint working party on technical cooperation to examine Lebanese applications for assistance and to supervise the execution of approved schemes (5). In addition, a joint Committee was established to watch over the proper application of the trade clauses of the agreement (6). The Committee would also become involved if the Community were to conclude an agreement with orange producing countries that might materially influence the markets for oranges in the member States (7).

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(1) See Moustapha Souli, "Le Marché commun européen et ses relations avec les pays arabes", Revue Commerce du Levant, n° 58, June 1965, pp. 5 - 13.

(2) The agreement of 1965 with Lebanon is a mixed agreement. It includes other sectors than trade which exceed the competence of the Community. Thus, the intervention of the member States was required. See Elias Gannage, "Vers une nouvelle orientation de la C.E.E. : l'accord avec le Liban", Revue Commerce du Levant, n° 67, March 1966, pp. 21 - 33; see also Albert Nassif, "Le Liban et le Marché commun", op. cit., n° 79, March 1967, p. 23.

(3) See article I of the agreement.

(4) See article II of the agreement.

(5) See article 7 of the agreement.

(6) See article 4 of the agreement.

(7) See protocol n° 2 annexed to the agreement; see also Werner Feld, "The Common Market and the World", op. cit., pp. 136 - 137.

The substance of the agreement did not meet the aspirations of the government of Lebanon and trade between the two contracting parties developed only in favour of the E.E.C. (1). Moreover, nothing important was carried out in the fields of technical assistance (2). The agreement expired in 1968 and was thereafter renewed annually by a decision from the E.E.C. Council. Finally, the government of Lebanon asked the Community on October 1, 1970 to conclude a new agreement with more important substance than the first one.

2) The Second E.E.C. - Lebanon Agreement.

As it was previously explained, Lebanon's exports to the E.E.C. did not rise in a sufficient manner during the period of the agreement. This trend continued in the following years. The first agreement fell short of satisfying the aspirations of Lebanon, it granted no exclusive preferential advantages and no protection against possible ill effects of the Community agricultural policy. As a consequence, Lebanon filed a formal application for negotiating a new agreement with the Community (3). The official negotiations started in 1970 and lasted for about two years and a preferential agreement was signed on December 18, 1972 (4) on the basis of article 113 of the Treaty of Rome. The second agreement with Lebanon contains considerably more economic substance than the first one. It is clearly seen as a typical model which has been applied to other Mediterranean countries (5).

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(1) E.E.C. exports to Lebanon accounted in the years (1966, 1967, 1968, 1969, 1970, 1971 and 1972) 174 - 154 - 204 - 187 - 203 - 262 and 305 million dollars, while Lebanon exports to the E.E.C. in the same period 46 - 34 - 76 - 67 - 55 - 76 and 60 million dollars, see Chapin, Les relations entre la C.E.E. et les pays du bassin méditerranéen, op. cit., p. 81.

(2) See Nagib Sadaka, "Les relations entre le Liban et le Marché commun", Beirut, 1967, p. 69.

(3) See rapport de la Commission au Conseil des conversations exploratoires avec le Liban (5 - 6 février 1970) - Commission des Communautés européennes SEC (70) final, 4 avril 1970.

(4) See J.O., n° L 18, January 22, 1974.

(5) Similar agreement was signed with Egypt.

The duration of the agreement is five years and it did not replace the first agreement. The latter continued to be valid for the fields not covered by the preferential agreement (1).

The agreement granted trade preferences to some of Lebanon's exports to the E.E.C.-Market, but no article in the agreement deals with technical or financial cooperation. Certain annexes and protocols are attached to the agreement. Annex one details the concessions being given by the Community. These concessions range from 30 to 50% of the tariff reductions for Lebanon's exports to the E.E.C. An immediate tariff concession of 45% for industrial products was envisaged on the entry date of enforcement of the agreement, to be increased to 55% from January 1974 (2). Specific concessions are also granted for certain agricultural products (3). Some of these are subject to price guarantees such as tariff arrangements for oranges and other citrus products (4). The second annex contains the counter concessions granted by Lebanon to the E.E.C. Lebanon reduced its customs duties on the E.E.C. exports. The reduction ranges from 6 to 30% and is to be carried out in accordance with a timetable (5). The agreement is also completed by a protocol on the definition of the concept of "originating products" and the methods of administrative cooperation. A number of common declarations were also attached to the agreement.

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(1) The new agreement included a declaration of intent by the European Economic Community and the Member States on the annual extension of 1965 agreement, see J.O., n° L 18, 22/1/1974, p. 94.

(2) Some industrial products such as textiles and petroleum products were excluded and submitted under contingents system.

(3) Such as citrus, grapefruit, onions, garlic, bananas, mangos, avocados, see article 5 of annex I of the agreement.

(4) See article 5 of annex I of the agreement.

(5) See article 1 of annex II.

3) The development of the commercial relations between the E.E.C. and the Lebanon.

Trade represents the key sector of Lebanon's economy. Its share in the national income of Lebanon accounts for about 32% (1).

Traditionally, the balance of trade in Lebanon is in deficit but this deficit is compensated by the gains resulting from transit operations (2). The E.E.C. constitutes the first commercial partner in Lebanon's trade. Its exports to Lebanon represents about 33% of Lebanon's imports. On the other hand the E.E.C. import accounts only about 7% of Lebanon's exports (3). Despite the contractual relations established with the E.E.C. Lebanon's trade with the E.E.C. had not developped in a sufficient manner. The first figures show that Lebanon's exports increased slightly after the conclusion of the second agreement while the E.E.C. exports to Lebanon were nearly doubled (4). They reached in 1974 about 743,9 million dollars and 576,3 million dollars in 1975 (5). The deficit in balance of trade between Lebanon and the E.E.C. accounted for 630,7 and 498,8 million dollars in 1974 - 1975 respectively. Consequently, Lebanon was not satisfied with the obtained results in view of the increasing deficit in its balance of trade with the E.E.C. The agreement did not meet the aspirations of the government of Lebanon since it did not include sufficient trade preferences and excluded the financial cooperation. Moreover, the enlargement of the Community may effect Lebanon's exports to the newly adhered Member States, particularly the United Kingdom.

(1) See Chapin, "Les relations entre la C.E.E. et les pays du bassin méditerranéen", op. cit., p. 179.

(2) Ibid., p. 179.

(3) Idem.

(4) See table n° 11 in the appendix 2.

(5) See table n° 11 in the appendix 2.

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For these reasons, the government of Lebanon asked the Community for negotiating an enlarged agreement based on the E.E.C. global approach towards the Mediterranean countries (1) including other sectors than trade as industrial and financial cooperation.

On the basis of the reports presented by the Commission, the E.E.C. Council issued the first negotiation directive with Lebanon and other Machrek-countries (2) in December 1975. The negotiations have not yet started at that time, between the two parties because of the political situation in Lebanon.

4) Initialing a new cooperation agreement.

In February 1977, the negotiations took place between the parties in Brussels and a cooperation agreement (3), similar to those of Egypt, Jordan and Syria was initialed on 16 February. A financial protocol was also initialed at the same time. The agreement provides for free access for industrial products and preferences for agricultural products. It also contains provisions for economic and technical cooperation.

In order to implement the economic and technical projects, the Community committed itself for a period expiring in 5 years, following the entry into force of the agreement, to grant Lebanon an amount of 30 millions units of account in the form of grants in part and the rest as loans from the European Investment Bank.
The agreement also provides for the establishment of a cooperation council which is the principal organ of the institutions and composed of representatives of the Community and of its Member States and of representatives of Lebanon. It has a wide area of competence and decision-making powers similar to those included in the other Machrek agreements.

(1) The second agreement included a declaration by the E.E.C. on the global approach for relation between the Community and Mediterranean countries as a whole. See J.O., L 18 January 22, 1974, p. 89.

(2) Egypt, Syria and Jordan.

(3) The agreement was concluded for unlimited period and based on article 238 and within the framework of the Community Mediterranean global approach. The agreement was officially signed in Brussels, on May 3, 1977.

SECTION VI : COOPERATION AGREEMENTS WITH JORDAN AND SYRIA.

Jordan and Syria expressed their wish to establish contractual relations with the Community only in the 1970's. Jordan first demand took place on June 30, 1972 followed by an official request on September 12, 1972. Exploratory talks took place in Brussels on November 8 - 9, 1973.

The Syrians request came later in 1974; during a visit of Mr. Cheysson, Member of the European Commission to Syria in March 1974. The Syrian Government expressed its wish to establish contractual relations with the Community within the framework of the Community's global approach.

In December 1975, the Council of Ministers of the Community issued the first mandate to the Commission to open negotiations with the Arab Machrek countries, Egypt, Jordan, Syria and Lebanon, representing the second stage of implementing the global approach. Jordan is the first country not bordering the Mediterranean to be included in the global approach.

The first Round of negotiations between the Community and Jordan and Syria, took place in Brussels in January 1976.

The second Round took place in October 1976 at which both Jordan and Syria initialed cooperation agreements for unlimited period with the Community. protocols for financial cooperation were also initialed at the same time. The official signature for both agreements (1) and financial protocols has

(1) Other agreements were also signed between Jordan and Syria and the Member States of Coal and Steel Community.

taken place in Brussels on January 18, 1977 (1).

1) Objectives of the agreements.

The preambles of both agreements which are similar to those of Egypt and the Maghreb countries indicate that the parties intend to establish a wide ranging cooperation which contributes to Jordan and Syria's economic and social development.

They also aim to promote economic and trade cooperation between the Community and the two countries. The preambles also expressly state that the parties by concluding these agreements intend to establish a new model for relations between developed and developing States, compatible with the aspirations of international Community towards more just and more balanced economic order.

2) Contents of the agreements.

Each agreement contains two parts. One part for trade, the other is designed for economic and technical cooperation (2).

a. Trade (3).

In this field, the agreements aim at promoting trade between the contracting parties taking into account their respective levels of

(1) No reference is made in the agreements to their legal basis but the Commission proposed article 238 as legal basis to both agreements. Reference to legal basis appears in the regulation of the Council concluding the agreements. There is also no clear reference in the agreement to the global approach. Reference to the global approach only appeared in the Press Communique on the occasion of initialing or signing the agreements.

(2) Both agreements include protocols similar to those of the Maghreb countries and Egypt concerning the definition of the concept of originating products and methods of administrative cooperation.

(3) Both agreements also provide for safeguard measures and a review of their contents after certain period.

development, with a view to increase the rate of growth of Jordan and Syria's trade and improving the conditions of access for their products to the Community Market (1). To attain these objectives, the Community abolished quantitative restrictions and granted important tariff concessions for Jordan and Syria's exports to the Community, as follows :

i. Industrial products (including coal and steel products).

Imported into the Community of products originating from Jordan and Syria other than those listed in Annex II to the Treaty of Rome, and other than those listed in Annex A in both agreements, enjoy tariff reductions according to the following time tables :

- 80% on the date of entry into force of the agreement,
- 100% from July 1, 1977.

Certain products, such as petroleum products, certain woven fabrics of cotton and phosphatic fertilizers are subject to annual ceilings above which the customs duties actually applied in respect of third countries, may be reintroduced (2). These ceilings shall be abolished by not later than 31 December 1979.

ii. Agricultural products.

The Community also granted concessions for certain agricultural products such as citrus fruits and vegetables range from 40 to 80%.

(1) See art. 8 and 9 of both agreements.

(2) See art. 14 of both agreements.

b. Economic, technical and financial cooperation (1).

Both agreements provide for economic and technical cooperation and particular consideration has been taken into account for priorities of Jordan and Syria's development plans and economic programs and the promotion of regional cooperation between them and other countries. The purpose of this cooperation intends to promote in particular :

- participation by the Community in the efforts made by Jordan and Syria to develop their production and economic structure in order to diversify their economic structure. Such participation should be connected in particular with Jordan and Syria's industrialisation and the modernisation of their agriculture;

- the marketing and sales promotion of products by Jordan and Syria;

- industrial cooperation aimed at boasting the industrial production in Jordan and Syria through various measures;

- cooperation in the fields of science, technology and the protection of environment;

- the encouragement of private investments.

c. Financing the economic and technical projects.

In order to implement the various aspects of cooperation provided for in the agreements, the Community committed itself for a period expiring in 5 years following the entry into force of the agreement to grant the following amounts :

(1) See art. 1 - 7 of both agreements.

1. For Jordan : 40 million units of account as follows (1) :

   - 18 million units of account in the form of loans from the European Investment Bank, granted from its own resources according to the terms set out in its statuts;

   - 4 million units of account in the form of loans on special terms;

   - 18 million units of account in the form of grants.

2. For Syria : 60 million units of account as follows (2) :

   - 34 million units of account in the form of loans from the European Investment Bank on the same above mentioned terms;

   - 7 million units of account in the form of loans on special terms;

   - 19 million units of account in the form of grants.

These amounts which are fixed in the financial protocols shall be used for financing or partial financing :

- capital projects in the fields of production and economic infrastructure;
- promoting industrialisation and modernising agriculture in Jordan and Syria (3).

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(1) See art. 2 of the Syrian Financial Protocol.

(2) Art. 21 of Jordan's agreement and art. 22 of the Syrian agreement.

(3) Art. 34 - 38 of the Jordan agreement and art. 35 - 39 of the Syrian agreement.

d. Concessions given to the E.E.C. (1).

In return for the Community concessions, Syria and Jordan granted the Community in the field of trade, the most favoured nation treatment. This treatment may not apply in the case of the maintenance or establishment of customs unions or free trade areas between Jordan or Syria and other States.

e. Institutions (2).

Both agreements like the agreement with Egypt provide for the establishment of a cooperation Council which is composed of representatives of the Community and of its Member States and the representatives of the Government of Jordan or Syria. The cooperation Council has a wide area of competence and decisions-making powers. Moreover, the cooperation Council is also empowered to facilitate cooperation and contacts between European Parliament Assembly and the representatives of Parliaments in Jordan and Syria. The agreements of Jordan and Syria unlike the Maghreb agreements did not adopt the system of arbitration for settling disputes which may arise from the application of the agreements (3).

3) The enforcement of the agreements.

As previously mentioned, the European Commission proposed art. 238 of the Treaty of Rome as the legal basis for these agreements. Since these agreements include domains which are still remaining within the competence of the Member States, ratification of the competent authorities in the

(1) Art. 21 of Jordan's agreement and art. 22 of the Syrian agreement.

(2) Art. 34 - 38 of the Jordan agreement and art. 35 - 39 of the Syrian agreement.

(3) The composition of the cooperation Council in the Jordan and Syrian agreements is also under "ministreriel level", unlike the composition of the cooperation Council in the Maghreb countries which is of Ministerial level.

Nine Member States is required. For the immediate implementation of trade provisions, the Community may conclude interim agreements similar to those of the Maghreb countries since this field only requires an act from the Council of Ministers of the Community.

4) Procedures of consultation of the European Parliament.

Official consultations have not been made, since this procedure usually takes place after the signature but before concluding the agreements. According to "lun's Formula" the competent Committee in the European Parliament was informed about these agreements on November 19, 1976. By concluding agreements with Jordan and Syria, the Community implemented the second phase of its global approach. The Community has now contractual relations with all Mediterranean countries either with the Northern or with Southern Mediterranean countries, except with Albania and Lybia (1) which did not ask until now to negotiate any kind of relationship with the Community (2).

5) Trends of trade between the E.E.C. and Jordan and Syria.

Despite that the agreements with Jordan and Syria did not yet come into force, it would be useful to examine trands of trade between the parties. Figures show that there has been an increasing deficit in balance of trade between these countries and the Community. Deficit of trade between Jordan and the Community increased from 48,1 million units of account in 1975. A remarkable deficit of trade also can be seen between Syria and the E.E.C. The deficit increased from 14,6 million units of account in 1971 to 220,5 million units of account in 1974 (3).

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(1) The Community actually has agreements with Greece, Turkey, Spain, Malta, Cyprus, Yugoslavia, Israel, Algeria, Morocco, Tunisia, Egypt, Lebanon, Jordan and Syria.

(2) See M.F. MELLAH, Les accords Machrek - C.E.E. Une stratégie et une concrétisation de la politique d'approche globale communautaire en Méditerranée, Europe Outremer, mars 1977, pp. 29 - 32.

(3) See table 12 and 13, appendix 2.

PART Ⅲ

PART III

EGYPT : A case study of a Mediterranean country's developing relationship with the Community

In order to understand Egypt and its involvement with the EEC, one must look at Egypt, a developing country dependent on its agrarian economy. (1)

Since the early fifties, the Government has stressed the need to build an industrial base to boast the country's economic growth while counter balancing the negative effects of an ever growing population base on a limited amount of cultivated land. The key to this increased industrialization and development is the effective combination of planning a growth economy while adopting new open policies for foreign investments as the foundation of this economy.

The following background chapter will explore Egypt's capacity to produce and export, not only primary materials, but also finished products. It will become obvious that diversity of these exports is very important since the revenues from these same exports are essential for financing the needed programs for economic develoment in a changing agrarian Egypt.

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(1) Agriculture plays a vital part in the economy of Egypt :

- satisfaction to a large extent of domestic demand,
- source of work to a large proportion of the population,
- a very important element in exports,
- a source of raw materials for industry (cotton),
- a factor in industrialization (fertilizers, mechanism).

CHAPTER I - ASPECTS OF THE EGYPTIAN ECONOMY

INTRODUCTION

Egypt lies in the North-Eastern corner of Africa, on the Southern shore of the Mediterranean, at the cross roads between North Africa and Western Asia, Europe and the East. This privileged position and the absence o natural defences exposed her from time immemorial to foreign invadors : Hyksos, Persians, Greeks, Romans, Byzantines, Arabs and Ottomans. She attracted Napoléon Bonaparte and his short expedition (1) marked the begining of her modern history and a new era of contact with Europe. The most original feature of this expedition was the inclusion of a group of brilliant scientists in the french corps. Through their work, the monumental "description", Europe rediscovered Egypt and Egypt began to rediscover herself. Egypt also owed to her credit the Suez Canal, a major international waterway opened to navigation in 1869. It created a new and significant European interest adding to other existing links, trade, investments and immigrants. But until 1956, Egypt derived little direct economic benefit from the enterprise and the Canal proved to be a political liability. In 1956, the nationalization of the Canal brough war to Egypt, raised President Nasser to the stature of a national and Arab hero, and inaugurated a new epoch in the country's relationship with great powers.

Egypt owed both its lands and its waters to the Nile. While Egypt's political boundaries delineate an area of some one million square kilometers, the habitable area is restricted to about 36.000 square kilometers located mainly along the river and a few scatered oases in the Western Desert. The Mediterranean coast, and the Red Sea littoral are scarsely populated. A few thousand live in Sinaï, near the sea shores and the edges of the Valley.

MINERAL SOURCES

Mineral sources are either limited or as yet unproven. However, the desert supplies the country with different minerals such as : limestone, which is being increasingly used for fertilizers and cement, which has become an important industrial material. Other minerals such as phosphate , manganese, sandstone, zinc, chromium, granite and basalte, are also evident. At present the most important mineral resources are iron, ore and petroleum.

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(1) from 1778 to 1801

Production of iron is entirely consumed by the domestic industry. The oil production of Egypt may not be compared with other Middle Eastern and North African countries. It is just enough to meet Egypt's needs. Large scale exploration is being undertaken at present by Egypt in cooperation with foreign firms. Some oil experts expect Egypt to become a middle rank producer in the late 1970's.(1) If these expectations are born out, the deserts will play a significant role in the futne development of Egypt.

SECTION I - ECONOMIC GROWTH

1. The rate of economic growth

During the second half of 1950's, Egypt's GDP grew at 5,5 % annually. (2) The substantial increase in investment following the introduction of the first development plan in 1960 caused real GDP to rise by 6 % annually during the first half of the 1960's. Agriculture, which provided about 30 % of GDP growth during these two periods, grew at 3,5 and 4 % respectively, exceeding population growth by 1 and 1,5 %. It thereby provided a major source of surplus to finance industrial expansion. Industry grew from 17 % of GDP in 1955, to 21 % by 1965, however, a sharp slowdown in economic activity started to set in around the second half of the 1960's.

This commenced with a shortage of foreign exchange in 1965, which reduced imports for industry. A poor harvest of 1966 agravated the balance of payments position resulting in further import restrictions; deflationary, fiscal and monetary policies and cutbacks in investment expenditures, with annual GDP growth in 1966-1967 at only 3 %. The June 1967 war came at a time when the Egyptian economy was already facing serious difficulties. The immediate adverse effects of the war were the loss of foreign exchange earnings from the Suez Canal and tourism, damage to infrastructure and industry, and the loss of oil fields in Sinai.

The war caused a 2,5 % GDP decline in 1967-1968, as well as further import restrictions, increased taxes, and severely contained investment and non defense current expenditures. The Egyptian economy has shown considerable resilience in the face of the dislocations caused by the war, thanks to Arab financial support and increased petroleum resources.

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(1) See British Petroleum "BP Statistical Review of the World Oil Industry" 1972 London 1973

(2) See Table 1, See also Robert Mabro "The Egyptian Economy" 1952-1972 Oxford 1974 p. 164.

In 1969-1971, the economic growth was only half of 1961-1966. The agriculture growth has deteriorated to reach about 2 %. (1)

The recovery of industrial and construction activity provided most of the increase in output after 1967.

There were also encouraging developments in the economy in 1970-1973. A rise in Government revenues, a resurgence of tourism, conclusion of new aid and debt re-scheduling agreements with Western countries, were most evident. Moves in the direction of economic liberalisation, mainly to encourage domestic and foreign private investment also helped to encourage this economic growth.

But agriculture did not recover. The balance of payments situation, which worsened after mid 1972, has been a major factor of slowing general economic growth since then. This constraint would have been more serious had not cotton export prices risen substantially during 1971-1974. However, high grain prices in 1973 and 1974 greatly increased the burden of food imports while export markets for cotton dried up in late 1974 as a result of the recession in the developed countries

Consequently, the economy slowed to a growth rate of about 3,5 % in 1973. Industrial growth has reached 3 % while agricultural growth was 2,4 % i.e. roughly in line with an increase in population of about 2,5 % a year. (2)

In 1974, the GDP increased in real terms by 3,8 %. The main increases were in manufacturing and construction. This increase in manufacturing output came mainly from the chemical, textiles, and food and beverage industries. The mining sector continued to show a decrease in value added, resulting from the closing down of the Suez Gulf Oil fields in the first quarter of 1974, following the war of October 1973.

The agricultural sector also continued to be a major source of weakness during 1974, with annual growth by only 1 %. The most important reason for this was the decline in productivity of all major crops.

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(1) See Table 2 Appendix 3

(2) See document of the World Bank n° 870 ; EGT Nov. 21, 1975

For 1975, initial estimates show that investments have increased by 86 % compared to 1974. Total investment has reached LE 1.210 million and the GDP increased in real terms by about 10,9 %.(1) The main increase came from the growth in agricultural production with the exception of cotton, industrial output especially oil production and tourism and Suez Canal.

RECENT ECONOMIC DEVELOPMENTS

After the war of October 1973, the behaviour of the Egyptian economy was largely dominated by international events.Most important among these were :

- the slow progress towards peace in the Middle East,
- the steep rise in the prices of Egypt's main imports,
- the recession in the industrialised countries of the free world,
- the consequent drop towards the end of 1974 in the demand on Egypt's major exports, especially of raw cotton,
- a slower disbursement of concessional assistance and private external capital than had been envisaged.

Consequently, Egypt's external accounts came under severe pressure.

These events, of course, had repercussions on the rest of the economy. The Government attempted to damp down on the increase in the domestic prices of imported foodstufs by a nearly threefold increase in net budgetary subsidies on the so-called "supply commodities". This reduced public savings and induced the Government to borrow directly and indirectly a large amount from the Banking system. The change in the composition of imports towards more "essential" items decreased Government revenues from import duties. The diversion of cotton exports to bilateral payment agreement countries reduced the earnings of urgently required convertible exchange.

The short fall in medium and long term external capital increasingly pressured the Government resort to banking facilities. This significantly increased the effective costs of debt servicing and limited the room for manoeuver of debt management policy.

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(1) See report of Central Bank of Egypt for the year 1975 (in Arabic) July 1976 p. 13.

SECTION II - PERFORMANCE OF ECONOMIC SECTORS

1. AGRICULTURE

a) The Importance of Agriculture in the Egyptian Economy

Egyptian agriculture is at a cross road. Twenty years ago Egypt launced an industrial development effort which rested heavily on agriculture to finance the development of industry, feed the rapidly growing population, and provide employment for the labour force which was growing more rapidly than employment possibilities in other sectors. This was part of a major social revolution which, in the agricultural sector, included a major land reform in which one-six of the farming area was redistributed to small farmers. (1) Cooperatives were established for all farmers and the Government gradually acquired a decisive role in the pricing and marketing of major agricultural inputs, the provision and investment funds to agriculture and the planning of agricultural production, including determination of the cropping pattern.

The Government completed the Aswan High Dam in 1970, which increased the availability of water and the regularity of its distribution. This permitted the conversion to perenial irrigation of those portions of the cultivated areas along the Nile which had previously been basin irrigated. The increased supply of water also enabled the Government to undertake a major program of land reclamation, which added about 1 million feddans (2)to about 6 million feddans already farmed.(3)

Agricultural policies produced remarkable results during 1955-1965, agricultural production increased by 3,6 - 4 % annually, (4) foreign currency earnings from agricultural exports grew, per capita, food consumption rose and food prices were relatively low and stable under state control.

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(1) In 1952, the first land reform law fixed a 200 feddans ceiling on individual land ownership, while the second agrarian reform law of 1961, further limited the land allowed to 100 feddans per head, a ceiling which was lowered to 50 feddans in August 1969. The 1952 law eliminated absentee land lordism and encouraged the formation of Agricultural cooperatives. See Magdy Hefny "The Proposed project for a merger between Egypt and Lybia" The Economic Possibilities and the Future" Berlin 1973 p. 12

(2) 1 feddan = 1.030 acres.

(3) See Table 3 Appendix 3

(4) See Document of International Monetary Fund n° SM/75/193 July 23, 1975. Egypt recent economic developments.

By the middle of the last decade, however, the agriculture sector began to falter. The growth in production declined to about 2 % and has not regained its former monentum, with the exception of cotton, the yields of most crops have not improved significantly. A large proportion of the reclamed lands, roughly two-thirds, has not been made fully productive.

The slowdown in agricultural growth has had profoundly adverse effect on Egypt's economic and social development. Since 1965, food production has lagged behind population growth and diets have deteriorated. Foreign exchange earnings, which depend largely on agricultural products have not risen appreciably. Increased food imports have impeded imports of capital goods for industry and helped to widen the foreign exchange gap.

In the recent four years, food imports costs have risen sharply from less than LE 100 million to about LE 500 million. Government subsidy costs to supply basic foods in urban areas at low prices, and fertilizesrs and pesticides to farmers at fixed prices have also risen from about LE 50 million to close to LE 500 million. Despite the outlays, food prices in Egypt have risen 60 % since 1967 much faster than other prices. Agriculture has thus become a major burden on the economy, while it still accounts for 57 % of the population, 47 % of employment , 30 % of GDP, and nearly 80 % of exports. (2) Slow growth in agricultural results in slow or no increase in the income of nearly half of the population who are farmers, and current high food prices are reducing the real incomes of urban workers.

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(1) According to Robert Mabro "Gross value added in agriculture at constant prices seems to have increased at an average annual compound rate of 2,5-2,7 % during the whole period. See Robert Mabro "The Egyptian Economy" 1952-1972 Oxford 1974 p. 171

(2) Cotton accounts itself for approximately 40% of the total exports. See Table 4 Appendix 3

Growth in agricultural production in the past decade has been slowed by capital shortages and the slow land reclamation from the desert. Wars and defense expenditures drained large amounts of capital from the domestic economy. Moreover, the agricultural policies of the past two decades have caused the sector to become heavily dependent on the Government for production guidance, essential capital inputs and marketing of the main crops. (1)

Today, the need to improve performance in the agricultural sector is obvious. The need to develop the production potential of lands which have been reclaimed is also extremely important. The improvement would provide a better balance in production, so that agricultural exports could be maintained but food imports reduced and internal food supplies improved. This necesitates the establishing of better balance of resource use between the small farmer-cooperative sector and development of already reclaimed lands. An expanded effort to transform the cooperatives into viable and diversified production units would also be required, and methods to utilize the resources of the private sectors more efficiently are suggested.

The Egyptian Government recognizes the existing problems and the need to improve performance in the agricultural sector. For this purpose, major investments have been designated.(2)

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(1) The Government created a body called "The General Cooperative Organisation responsible for technical and financial help, and for for the provision of essential inputs such as fertilizers, improved seeds, credit and agricultural services and marketing supervision. The cooperatives have effectively become a means of taxing agriculture by the compulsory marketing of the main crops, which are brought at relatively low prices and the sale of some inputs at low prices. See "The Financial Times" November 30, 1974, Special Edition on Egypt.

(2) See also Robert Mabro "The Egyptian Economy" 1952-1972 Oxford 1974 p. 74-82. See table 5. Appendix 3.

In the 1976-1980 economic plan, the Government has given third priority to agriculture after infrastructure and industry. Agricultural investments will increase and priorities within agriculture will be given to drainage and soil improvment. Moreover, in the 1976-1980 plan, the Government emphasises the development of integrated agro-industrial complexes in reclamation areas, such as establishing fresh fruit and vegetables grading and packing stations, and meat processing plants for export and domestic consumption. The October working paper (1) which identified Egyptian objectives for economic and social developments, revealed little about the development of Egypt's agriculture. The paper stressed the role of industry to provide machinery and fertilizers and other inputs to radically develop Egyptian agriculture and increase its yields to an exent parallel to that of industrial growth. It recognized that the cooperative sector in agriculture is in need of a strong drive so as to keep pace with the target rates of developments.

The Main Agricultural Crops

Cotton, rice, wheat, maize and clover are the main Egyptian agricultural crops. They account for over 80 % of the value of crops production and close to half the total of agricultural production. (2) Although 50 % of Egypt's agricultural exports consists of cotton, the relative value of cotton at the farm level has been steadily falling. By 1973, cotton amounted only 12 % of the value of total agricultural production. Production of rice has been increased because of the additional supplies of water from the Aswan High Dam which became available in the mid-sixties and permitted the expansion of rice areas.

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(1) The October working paper was presented by the President of the Republic to the Peoples Assembly in April 1974 and approved by a national referendum in May 1974. This paper defined the Egyptian objectives for economic and social developments. It also laid out a comprehensive outline for a major redirection of policies in both political and economic spheres.

(2) See Table 6 Appendix 3 - The Financial Times - November 30, 1974 p. 21. "Report on agro-industries and rural developments in Egypt" Chapter IV - IBRD - March 1973.

Rice figures as the second in Egyptian agricultural exports (1) on the other hand, while Egypt continues to export the bulk of its cotton crops, it must import the majority of its wheat requirements. The area planted, however, wheat determined largely by the decision concerning acreage allocated for cotton, However, wheat output has shown upward trend due to steady increase in yields. Recently, vegetables and fruits have become relatively important. The demand for livestock products, is also rising rapidly and food imports are becoming expensive. This may lead to a shift out of fields crops into high value products. (2)

Developments in the area, in yields and in production since 1960 suggest other reasons for these changes as well.

The additional supplies of water from the Aswan High Dam, which become available in the mid-sixties, permitted the development of new lands in previous desert areas and a shift basin to perennial irrigation in those portions of the Old Valley where this had not already taken place. This shows in the increase in cropped area from 10.1 million feddans in 1965 to about 10.5 million feddans thereafter, (3) and in high rise in maize yields between 1964 to 1966. Maize was shifted from a low yield to a higher yield summer crop.

Egyptian crop yields are high compared with world averages, but for a fully irrigated labour intensive country, with a warm climate, they are relatively low, except for cotton and few other crops. Moreover, Egypt has had a long history of agricultural research and has comparatively well educated population capable of developing higher yielding crop varieties and improved production techniques. In view of these conditions the absence of significant yield increases over the past decade, is a disturbing phenomenon.

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(1) Egypt, today, is the third largest rice exporter, in 1971, Egypt exported about 2 million tons out of a total production of 2.605.000 tons at a value of LE 34.2 millions. See Yousef Ahmad "Absorpative capacity of the Egyptian Economy "Development Center Studies of the OECD - Paris 1976 p. 20

(2) See Document of the IBRD n° 931/Egt Nov.21,1975 p.9.See also Table 7 Appendix 3.

(3) See Table 8 Appendix 3

The Impact of Agriculture on Foreign Trade

Egypt's international trade performance and balance of payments is directly linked to the performance of agriculture. Processed and unprocessed agricultural commodities accounted for 87 % of total commodity exports in 1965 and in 1970. (1) In 1972 and 1973 this dropped to about 84 and 83 % respectively, and fell sharply in 1974 and 1975 due to declining cotton production and reduced export demand for Egypt's major export, cotton.

Agricultural imports accounts for about 32 and 39 % in 1970 and 1973 of Egypt's total imports in these years. (2), In 1974 and 1975 agricultural imports rose well above half of total imports, due primarely to high world grain prices but also to increased imports of a number of foods.

The stagnation in cotton production at about 1.4 million Tons, (3) since 1969 has resulted in stagnation and decline in the volume of cotton exports. From 1971 to early 1974, the decline in the quantity of cotton exports was more than offset by the worldwide rise in cotton prices, but prices began to fall in 1974 with the sharp curtailment in Western European demand.

Wheat and flour have been customarily accounted for about 45 % of agricultural imports. During the first half of the 1960,s total grain imports averaged about 2,5 million tons, of which wheat and flour import accounted for at least 2 million tons. Wheat and flour import prices began to rise in 1972 and by 1974 were three times the level of 1971, as were prices of many other food imports. This has sharply increased the already large trade deficit which increased from LE 65 million in 1960 to LE 163 million in 1970 and LE 226 million in 1973.

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(1) See Table 4 Appendix 3

(2) See Table 9 Appendix 3

(3) Out of the cultivated area, about 1,5 million feddans for cotton, 3 million feddans for clover, about 1,5 million feddans for maize, over 1 million feddans for rice, about 800.000 feddans for vegetables and about 250.000 feddans for fruit trees. See Robert Mabro "The Egyptian Economy" 1952-1972 Oxford 1974 p. 48-52 and p.97-102.

2. EGYPT'S POPULATION AND ECONOMIC DEVELOPMENT

The Egyptian population displays the typical demographic features of a densely inhabitated country with a high population growth rate. This growth rate rose from an average of 1-2 % in the 1960,' as a result of a sharp fall in death rates not compensated by a similar decline in birth rates. The rate of population growth has continued to increase and the population was estimated at about 37 million in census of March 21, 1975. (1) Rapid population growth on this limited land area has resulted in a steady decline in cultivated land per capita while at the same time increasing the need for food. (2) This pressure on the land has been the principal reason for the increased speed of internal migration to urban areas. (3) But Egyptian cities have not been able to provide sufficient employment to these migrants. Although Egypt's civilian labour force has been growing at 2.9 % annually in recent years, a labour shortage exists in Egypt. The contradiction between a perceived labour shortage and an evident labour surplus results from a number of anomalies in Egypt's manpower structure.

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(1) Estimated population in 1800 = 2.500.000
First modern census 1882 = 6.806.381
Estimated population in 1900 = 10.000.000
Estimated population in 1950 = 20.461.000
Census of May 30 1966 = 30.075.858
Estimated population in 1972 = 34.583.000 (April)
Estimated population in 1973 = 35.619.000
See Yousef Ahmad "Absorptive capacity of the Egyptian Economy" OECD Centre Paris 1976, p. 16.

(2) Despite efforts of control and family orientation programs, the rate of growth of the population exceeds that of the expansion of cultivated surface area. See Report of M. Pierre Noutrissat - EEC Agricultural expert on Egyptian agriculture. December 1-5, 1974-p.3

(3) See Robert Mabro "The Egyptian Economy" 1974 p.25.See also Ben Hansen and Gergis Marzouk "Development and economic policy in UAR (Egypt)" Amsterdam 1965 p. 44-45.

Thus, a shortage of perhaps 350.000 skilled workers is said to exists while there is widespread underemployment in the profession and the Government and social services. Thousands of skilled Egyptians seek employment outside the country where wages are higher (1) and where unskilled labour is also thought to be scarce. This results from adverse wages differentials and concentration of employment centers in a limited number of localities. The steady decline in manpower utilisation and in employment rates is expected to be further complicated in the case of a demobilisation of a part of Egypt's armed forces. The economic implications of this high and continually using population density are complex. (2) An increase in the man land ratio in agriculture has a depressing influence on average incomes and also distributional effects. This raise in the man land ratio has extended a major influence in the direction of economic efforts. Thus, emphasis has been placed on creating infrastructure necessary for rapid industrialisation, while at the same time fostering more intensive cultivation of the existing agricultural base.

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(1) The movement of labour migration is not expected to make substantial contribution to the employment problem unless a successfull political merger could be reached between Egypt and its underpopulated neighbours.

(2) See Robert Mabro. Op. Cit. p. 37 . See also D. Mead "Growth and structural change in the Egyptian Economy Home Wood" Illinois 1974 p. 29-30.

2 - INDUSTRY

a. Role of the Industrial Sector in the Egyptian Economy

The Sector of Industry and Mining in Egypt presents a creative example of how a country which has been chiefly dependent on agriculture for thousand years can change to an industrial society within a short space of time. Without such achievments in industry over the last two decades, the Egyptian people could not have held out as tenaciously as they did. Two main phenomenas have conditioned the evolution of the Egyptian economy in the past decades : state involvment in the economy through the public sector - major concentration on the industrialization of the country.

The nationalization measures of the early 1960's left nearly all the larger and medium sized companies in the hand of the State. Since then, the Government with the assistance of the Soviet Union, and other East European countries, embarked on a number of big projects, most notably the iron and steel complex at Helouan and the aluminium smelter at Nag Hamdi in Upper Egypt.

Until 1952, the State's role in industrial development, was passive and limited to the promotion of legislation for local production, like the laws of the 1930's giving tariff protection and the granting of subsidies to some industries like textiles. As for direct participation of the State in industrial production before 1952, it was practically non existent and was limited to the petroleum refining plant, the Governmental workshops for rolling stock maintenance and construction.

The role of the public sector gradually increased and developed in three distinct phases :

First, there was the period from 1952-1957 during which the State's participation in industrial production grew directly through joint ventures of the public sector in industrial projects or indirectly through the industrial Bank, which was 51 % state owned. Among the industrial projects accomplished during that phase, was the Iron and Steel Factory and the Kima Fertilizer Plant at Asswan.

In the second phase, from 1957 to 1961, there was a tremenduous expansion of the public sector's share in industrial production, largely as the result of the state take-over of all British and French share holdings in the wake of the Suez war.

In the third phase, from 1961 there was the whole sale transfer of most private enterprises, medium sized as well as large, to State ownership under the Socialist decrees of that year. It was the first time that in economic planning more stress was given to the industrial sector than to the agricultural one. The object was to produce a more overall development of the economy and increase the national income. In the first five year plan, industry and electricity received the lion's share of the investment outlay with LE 516 million representing 34 % of the total investment, while only LE 355 million, or 23.2 % of the total investment went to agriculture, including irrigation, drainage and the High Dam.

In the following 1965-1970 plan, effectively abandoned in 1967, industr and electricity were granted LE 751 million representing 43.6 % of a total of LE 1.7 billion, while only 20.3 % went to the agricultural sector.

Despite the effort made by the State over the past two decades, industr now does not account for much more than 20 % of GDP and 13 % of employment through its share of exports at about 35 % is relatively much higher. (1)

The value of industrial production in 1952 was LE 313 million (2) Twenty years later, in 1974, the value had increased in current prices to LE 1.883 billion. (3)

b. The Share of Main Industries

Foodstufs, spinning and weaving industries have a dominating position in Egypt's industrial sector. In 1974, these industries accounted for 64 % of the total gross value of production. However, the relative importance of these consumer goods industries has declined steadily in recent years. The Chemical, Engineering and Metallurgical product industries, on the other hand, have grown at faster than the industrial sector as a whole. By 1974, these industries produced 26 % of the total gross value of output.

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(1) In 1952, the share of industry in the GDP was 10 %. The World Bank does not consider such a level as one compatible with a state of industrialization (equated with a 40 % share of the GDP). See Yousef Ahmad "Absorptive capacity of the Egyptian Economy" Op. Cit. p. 22

(2) This amount is made up of LE 34 million for petroleum - LE 84 millio for textiles -LE 122 million for food processing -LE 30 million for electric and engineering industries -LE 10 million for electricity generation and LE 8 million for construction materials. See The Financial Times Nov. 30, 1974 p. 18

(3) See Table 10 Appendix 3

The private sector in Egypt is constrained largely to less basic industrial activities, the share of the total gross value of production is about one quarter and has remained more or less constant in recent years. (1)

In recent years, manufacturing industry has been held back by foreign exchange scarcities. The lack of industrial materials components and spare parts led to falling capacity utilisation that amouted at one time to about 30 % for industry as a whole. The situation has now improved but it is clear that productivity and therefore industrial growth, will depend essentially upon the continuing availability of large and increasing funds for investment and for the import of raw materials.

Petroleum, Iron and Steel industries are Egypt's priority sectors in industrial development. This reflects the situation that although a number of minerals are found in the country, such as phosphate, salt, manganese and iron ore, their production is unimportant. Among these, iron ore is by far the most substantial. The actual production of iron and steel is completely used for the domestic consumption, but it is expected by 1982 not only to meet domestic needs, but provide a net balance of about half a million tons a year for export.

The textiles industry, has been, and continues to be, the principal earner of foreign exchange, productivity is likely to increase significantly when the plans for modernisation are implemented. (2)

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(1) Through the adoption of socialism, largely diminished the role of private enterprise in the industrial sector, it nevertheless continues to play an important role in industrial activity. In 1970, it was responsible for 24 % of production of textiles, 25 % of processed food, 12 % of chemicals, 87 % of wood products, 95 % of output of shoes and 93 % of furniture. See Document of IMF Op. Cit.p. 9. See also "The Financial Times" 30 November 1974 p. 19.

(2) See Yousef Ahmad "Absorptive Capacity of the Egyptian Economy" Op. Cit. p. 25. See Tables 11 and 12 Appendix 3.

C. Prospects for Industry

The ambitious Egyptian development plan takes the fact that the future of the country is closely linked with the progress of Industry. It seeks to increase production and development averages at a pace which should be faster than it was 10 years ago. Some of the urgent tasks now under consideration by planners and economists include :

- Maximum increase of industrial production by utilising available capacity to meet increasing demand for industrial goods at home to boost exports. Giving absolute priority to the eliminating of production bottlenecks and to speeding up renewal and replacement processes in industry to avert any possible drop in production averages,
- Setting up suitable industries that could contribute to the plan for the reconstruction of the Suez Canal cities and Sinai. Another priority here is to restore to operation the plants in that region;
- Increasing industrial development averages to exceed those which existed in the period between 1956 and 1965. This is one of the aims of the upcoming five year plan; (1976-1980) (1)
- Developing new industrial projects by use of Arab and Foreign capital investment. This will be done either through participation in these projects or by investment in duty free zones. It also takes into consideration, the utilisation of available loans and economic agreements,
- Stimulating the industrial private sector to participate in full and with maximum capacity in industrial production to meet the needs of the country.

This is just a brief account of the achievements of the Egyptian industry which will always remain one of the fundamentals of the Egyptian Economy.

(1) During the 1974-1975 transitional plan, special emphasis was put on completing projects still under construction and provide for the expansion of other vital industries such as fertilizers, cement, sugar, and corrugated iron industries.

PETROLEUM

A. The Promising Future of the Pteroleum Industry

Although the petroleum industry presently accounts for only 1-2 % of GDP, it holds out great promises for future development. After a sharp drop following the June 1967 war and the loss of the Sinai fields, production of crude petroleum began to rise, reaching a record level of 16,4 million metric tons in the year ended June 1971. (1) Most of this increase came from the offshore El Morgan fields in the Gulf of Suez, but prospecting work in the Western Desert has also led to discoveries at El Alamein in 1968 and at Abu Gharadik in 1969. Further finds were made in the Western Desert in 1971 and 1972. Despite these strikes, total production has declined steadily since 1972, due to a drop in reservoir pressure at El Morgan and to the temporary shut down of El Morgan and the other Red Sea fields following October 1973 war. By 1974, output was only 7,5 million metric tons, less than half the level of previous peak years.

In spite of the various setbacks suffered in the recent years, production of crude petroleum was projected to raise substantially in the coming years and there are factors which suggest that further significant increases in output may be on the horizon. In the first place, output in 1973 and 1974 was below capacity because El Morgan and other Red Sea fields were closed for about 6 months.

Following the October 1973 war, production at Abu Ghadarik in the Western desert has also been restricted pending the completion of facilities for tapping the associated gas reserves. Moreover, intensive development of two recent discoveries in the Gulf of Suez, is taking place . Production from these two fields (2) was expected to jump from 1 million metric tons in 1974 to 4,3 million metric tons in 1975/1976, and a water flooding project has been instigated which will partially restore the reservoir pressure and output of El Morgan field by 1976.

(1) Table13 Appendix 3

(2) July and Ramadan fields.

In addition, the Sinai fields have been returned. Most importantly, the Egyptian Government has drawn up a ten year program for oil production. The program envisaged intensified exploratory work over nearly 500.000 sq. km. of prospective production figure of 50 million metric tons by 1980. (1) It was clear that such a program, based on technical expenditure of foreign exchange and availability of technical expertise, would require foreign participation.

As of mid-December 1974, the total number of agreements signed with foreign oil companies since June 1973, came to 24. (2) Total exploration commitments were reported to have reached 531.775 million dollars and receipt from signature bonuses to 69.995 million dollars. A number of further production-sharing agreements are also being negotiated.(3) This indicates that a substantial increase in prospecting work is in the offing.

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(1) See Table 14 appendix 3

(2) Oil production had been held back in the past by the restrictive attitude of the Egyptian Government towards all mining and extractive activities considered as "strategic" sectors. Exploration for oil fields and drilling of oil wells were subject to strict control and supervision. Egypt was also among the first oil producing countries to insist upon participation in place of concession, as the basis of the new foreign company/Government relationship. The result of the demand in the late forties that only companies incorporated in Egypt with a 51 % Egyptian share holding could be granted bases, led to the withdrawal of the major oil companies. The situation changed dramatically at the begining of 1973. Foreign companies were by then interested to resume operations because of the need to find new sources of oil supplies. The new price structure made exploration for new fields more attractive and the spread of production sharing arrangements had made Egyptian terms more acceptable. See Yousef Ahmad "Absorptive capacity of the Egyptian Economy" Op. Cit. p. 86

Egypt's refinery output has also dropped sharply following the June 1967 war, reaching an amount of 2.6 million metric tons in the year ended June 1970. In subsequent years, however, production has increased steadily as efforts have been directed towards building up capacity. By 1974 output of refined products totaled 6.9 million metric tons. The two refineries in Suez, damaged in 1967 and 1969, were reopened in 1975. With this additional capacity production in 1975 and 1976 was expected to increase substantially.

Moreover, there are plans to build a large refinery in a free zone near Alexandria, to process the crude oil coming through the Sumed. The projected cost was estimated to be around 400 million dollars and the annual capacity approximately 12 million tons of refined products. Recently, the Egyptian Government called for a giant refinery complex to be set up on a joint venture basis among Arab States, as a follow up to the Sumed. According to later reports Koweit has undertaken feasibility studies for a refinery in the Alexandria free zone, costing about 950 million dollars, which will be capable of turning out 30 million tons of refined products a year. (2) The new refinery is likely to aim at the North Meditarranean markets and, as such, prove attractive to Arab oil funds. There are also plans for a second and more limited oil refinery in the Canal Zone. The project has been taken up with France for possible french participation. (3) Iran has shown interest in this field and is expected to invest in a petrochemical complex in Egypt as a part of the economic accord of 1974. Finally, the existing refinery capacity in Egypt is not very high but adequate over a wide range of products, for its domestic needs.

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(1) Saudi Arabia was expected to be the main contributor of finance.

(2) Irak will also consider participation in the new joint refinery.

(3) In the joint communique issued at the end of President Sadate's visit to Paris, in January 1975, there was specific mention for manufacture of Petrochemicals. United States firms have also shown interest in carrying out a Petrochemical program in Egypt worth over 700 million Dollars.

B. Natural Gas Reserves and Sumed Pipeline

Oil exploration has proven three gas fields in the country with a total of recoverable reserve of 3.500 billion cubic feet of gas. (1)

Production from the fields in Western Desert (2) is expected to reach 100 million cubic feet a day by early 1976.

Construction is under way on a 270 km Pipeline to transport this gas to the iron and steel works and cement plant at Helouan. Other field in Northern Delta (3) was inaugurated in early 1975. The output of this field estimated at 100 million cubic feet a day, will be piped to fertilizer plant under construction at Talka and the textile factories at Mehalla El Kubra. A similar output is anticipated from the offshore Abukir field near Alexandria, which will come into production in early 1977. (4)

On a related front, work is progressing on the Sumed Crude Petroleum Pipeline project , which link the Gulf of Suez and the Mediterranean. (5 Completion of the project is expected by late 1977, and its cost in estimated at 450 million dollars. (6)

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(1) See Yousef Ahmad "Absorptive Capacity of the Egyptian Economy" Op. Cit. p. 91

(2) Abu Garadik field (Their production with Abukir field is estimated

(3) Abu Madi Field (to reach 375 million cubic feet a day by 1978.

(4) This gas will be used in the power stations and industrial installations of Alexandria, Kafr El Dawar and Damanhour.

(5) This pipeline is of two 42 inch diameter parallel lines with a combined throughput of 65-85 million metric tons per annum.

(6) This undertaking is being financed by the Arab Company for Oil Pipelines Sumed, a joint venture formed by Egypt, the United Arab Emirates, Saudi Arabia, Quatar and Kuwait.

Egypt's trade in petroleum and refined products at present is limited. (1) The output was below or just sufficient for consumption needs. The conditions of shortage persisted until the late sixties when refining capacity reached a level that was about 15 % higher than the domestic consumption level. Refining capacity will have to be restored to the pre-1967 war level and further enlarged if projection for exports are to be realised and domestic consumption fully met.

However, much hope is placed on new and expected oil discoveries. Egypt expects a substantial increase in its oil and gas production over the coming years. According to forecast prepared by the Egyptian General Petroleum Corporation, total oil production is estimated to reach over 50 million tons a year in 1980, of which no less than 20 million tons of both petroleum products are to be exported. This will earn the country some 2 billion dollars in revenues.

Thus, the future outlook would appear to be fairly bright, although expected discoveries may not reach the level forecast by the Egyptian General Petroleum Corporation. (2)

5. BALANCE OF PAYMENTS

A. Signs of weakness in the Last Decades

Egypt's balance of payments has shown signs of weakness for the last two decades. Over this period the average annual deficit has been SDR 85 million, (3) financed initially out of the large foreign exchange reserves built up around the world war II and more recently through external borrowing by the Banking system and the use of bilateral payments agreement credits.

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(1) See Table 13 Appendix 3

(2) See Document of International Monetary Fund n° M/75/193 July 23, 1975 p. 12 , Yousef Ahmad Op. Cit. p. 96

(3) See Tables 15 and 16 Appendix 3.

Throughout most of this period, the deficit on trade and services has been growing. In the years immediately before the 1967 war, the deficit reflected the substantial capital inflow which were occuring. The 1967 war brought a cessation of Suez Canal reserves, which was offset by unilateral transfers from other countries. In the early 1970's the exigencies of the military situation and the need to provide adequate supplies of basic consumer goods at a time of rising world prices, led to a sharp rise in imports. Despite some increase in exports and the recovery of the services account, the trade and services deficit has remained over SDR 400 million since 1970. (2) Unilateral transfers have not been sufficient to finance gaps of this magnitude and with negative capital flows in some years, the overall balance of payments has continued in deficit. These deficits have occured despite a restrictive import policy which at times has severely limited the sypply of imported commodities.

There are two particular aspects to this vulnerability in the balance of payments. The first problem is that exports have shown virtually no real growth in recent years. At the same time, production of basic goods for domestic consumption has not grown rapidely enough to keep up with the growth in population, therefore, imports of such goods have risen. Secondly, inflows of productive capital have been low and recently the large burden of debt repayment has led to net capital outflows. (3)

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(1) See Tables 15 and 16 Appendix 3

(2) One Egyptian Pound (LE 1) = 2,118 SDR (special drawing rights)

(3) Egypt's non military medium and long term debt outstanding and disbursed at December 31, 1974 is estimated at 2.760 million dollars. See Document of the World Bank n° 870 - EGT p. 16

The weakness of trade and capital accounts is to some extent attributable to the military situation and, more recently, the world economic situation. A large part of the problem seems to be attributable to structural weakness in Egypt's external sector.

Egypt has taken a number of steps towards overcoming these structural weakness such as reforms in the exchange system, external trade system and foreign investment laws.

In 1974, Egypt's balance of payments has come under great pressure, stemming from various international developments. The deficit in its commodity trade amounted to LE 685 million, more than twice that experienced in 1973.

In 1975, exchange control statistics of the Central Bank of Egypt, demonstrated a deficit of about LE 968,6 million in the balance of trade and services.

Thus, trade deficit in current account, along with high increasing debt service payments and totally inadequate reserves, has constituted a continuing constraint on Egypt's development effort.

b. Exchange Rate System

The official exchange rate of LE 1 = 2.561 US$ applies to most transactions. At the time of the US dollar devaluation, in February 1973, Egypt decided to maintain its official exchange rate unchanged in terms of SDRS. Since 1969, Egypt has been experimenting with the use of exhange rates to influence the supply and demand for foreign exchange, by establishing premiums or surcharges over the official rates. On September 1, 1973, these were consolidated and expanded through the creation of the parallel market, in which exporters of specified commodities were given a premium of 50 % (1) over the official rate. This gives rise to an effective exchange rate for exports of about LE 1 = 1.70 US$ The parallel market was further extended by the introduction of the "own exchange import scheme", whereby Egyptians holding foreign exchange abroad could import, without requiring a licence, goods from a list of about 300 items, up to a value of LE 5.000.

(1) This premium is increased to 64% in Feb. 1976. This measure will attract more capital to the parallel market. See Table 17 Appendix 3. See The Annual Report of the Central Bank of Egypt 1975 p. 19.

For larger amounts, a licence was necessary, but required only a minimum of formalities. Imports under the parallel market and the own exchange scheme are estimated to account for about 15 % of total imports in 1975.

C. External Trade.

1. The denomination of traditional goods in Egypt's exports

Although Egypt has achieved a considerable export diversification over the last two decades, in recent years raw cotton has still accounted for about 45% of the total exports. The sharp rise in cotton prices in 1974 was the main factor contributing to the rise in the income of Egypt's exports. The value of cotton exports in 1973-1974 marketing year rose by 94 % despite a decline volume of 14 %. (1) Higher prices for other commodities, such as rice, also contributed to the increase of the income from exports. In 1975, there appears to have been little decrease in the value of the total exports compared with 1974. (2)

There was, however, a substantial expansion in industrial exports in the years 1974 and 1975. The figures indicate that exports expanded by 53 % in 1974. Part of this increase was attributable to better capacity of production. The availability of necessary spare parts and raw materials enabled the enterprises to operate close to capacity compared with the situation at the end of 1973 when over 30 % of the capacity was estimated to have been idle.

The application of the parallel market rate (3) to miner industrial exports appears to have resulted in a relatively substantial increase in such exports. More significant is the expansion of exports through bilateral payments accounts. This was partly the result of the increased availability of industrial goods for export, but another factor was an increased willingness of bilateral partners to import such commodities to utilise their credit balances with Egypt.

(1) See Table 18 Appendix III
(2) See Table 19 Appendix III
(3) The parallel market provides exporters with a premium of 50 % over the official rate.

The share of agricultural products in Egypt's total exports decreased to 33,4 % in 1975 compared with 51,2 in 1974 and 56,6 % in 1973, while the share of industrial products in the total exports increased to 54,4 % in 1975 compared with 37,8 % in 1974 and 31,6 % in 1973. (1)

Despite this development and the Government's effort to diversify the country's external trade, a basic transformation in the structure of exports is unlikely to be achieved soon. Raw cotton, cotton yarn and cotton textiles will remain main items of exports followed by rice and recently by crude oil, and petroleum products. (2) Thus, stress should be placed on encouraging trade in vegetables and fruits (3) and non traditional items such as leather goods, furniture and cement, in order to increase exports revenues.

Machinery and transport equipment, chemicals and cereals will continue to be major items of imports. (4) These items are needed for the implementation of economic projects. (5) Cereals and other food stuff items are required to meet the needs of the growing population.

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(1) See The Annual Report of the Central Bank of Egypt- July 1976,p.21

(2) Receipts from the exports of oil and its products accounted for LE 50.4 million in 1974. See Table 18 Appendix III.

(3) It is foreseen in the present economic plan, the necessity of attaining optimum commercialisation of certain agricultural products particularly citrus fruits and vegetables. Projects were designed to use modern equipment for improving their quality in order to secure their competitiveness in foreign markets.

(4) See Table 20 Appendix III

(5) Priorities were given to imports necessary to the national defense followed by alimentary products, especially wheat. This situation produced certain unfavourable effects in the Egyptian economy, especially the industrial sector which suffered for a certain period, a shortage of primary materials.

II. DIRECTION OF TRADE

The figures indicate that the bulk of Egypt's exports go to the Eastern European countries under various bilateral agreements, (1) while most of her imports, particularly in the recent years, originate in the convertible currency areas. Egyptian policy is now shifting and increasing portion of its exports to these areas, but this diversion has been fairly small. The share of the convertible currency areas in exports in 1974 rose to 36 % from 33 % in the year before. The share of imports, however, increased to 74 % from 62 % in 1973.

In 1975, the Eastern block absorbed 65 % of Egyptian total exports while their exports to Egypt accounted only for 18 % of Egypt's total imports. (2)

The increase of imports from convertible currency areas is partly explianed by the larger credit facilities offered by Western countries and partly by the availability of items required by Egypt economic needs.

This raises important questions for future export policy. Egypt's future development depends largely on, especially the engineering goods sector. The aim is to increase growth rates in both production and exports. Price competitiveness is not a sufficient motivation by itself. Quality design, running cost, regular availability of spares, and the extension of credit to potential buyers, must also be considered. Thus, a major structural change in the direction and composition of exports is required. Consequently, Egypt must increase its exports to the convertible currency countries, in order to balance its huge imports from these countries.

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(1) See Table 21 and 22 Appendix III

(2) See The Annual Report of the Central Bank of Egypt 1976 p. 21
See Tables 19, 21 and 22 Appendix III

III. PLACE OF THE EEC IN EGYPT'S EXTERNAL TRADE

The EEC share in Egypt's external trade is relatively important. It constitutes the first supplier to Egypt, followed by the Eastern Countries. (1) The Community also comes as the second largest importer of the Egyptian products.

Egypt's exports to the Common Market countries accounted for LE 90.9 million, about 14,8 % of Egypt's total export in 1975, while Egypt's imports from the Common Market amounted to LE 583,1 million about 34,5 % of Egypt's total imports in 1975. The trade deficit between Egypt and the Community increased from LE 89,5 million in 1973 to LE 238,1 million in 1974 and to LE 554,3 million in 1975.

Egypt's exports to the EEC are mostly agricultural products, cotton and cotton products. Capital goods, chemical products and food products constitute the bulk of Egypt's imports from the EEC. Among the Member States of the Community, Italy is the first client followed by the U.K., France and Germany. (2) For imports, France is the first supplier followed by Germany, the U.K. and Italy. (3)

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(1) Imports from Eastern countries accounted for 18 % of Egypt's total imports in 1975. The USSR comes the first among these countries. The Soviet Union's imports from Egypt amounted to LE 240,7 million while its exports reached only LE 137,7 million in 1975. See the Annual report of the Central Bank of Egypt, July 1976 p. 21. See also Table 19 Appendix III.

(2) Before 1973, Germany was the first client to Egypt, followed by Italy and France, and the first supplier among the Six followed by Italy and France.

(3) Egypt's exports to the USA accounted for 3 % of Egypt's total exports and imports from the USA amounted to about 17 %. The deficit in the balance of trade between Egypt and the USA was LE 285 million in 1975 compared with LE 256,1 million in 1974 and LE 100,5 million in 1973. For Arab countries, their share in Egypt's external trade accounted for 5,5 % of the total. See The Annual Report of the Central Bank of Egypt. July 1976 p. 21

SECTION III

EGYPTS NEW APPROACH TO FOREIGN INVESTMENT

Egypt's new attitude to foreign investment has developed over the past few years and constitutes a radical departure from its previous stand. The October working paper laid out a comprehensive outline for a major redirection of policies in both political and economic spheres. The paper took pains to explain that the new liberalism in economic affairs, with its emphasis on the role to be played by the private sector and by foreign capital. This strategy seems attractive to foreign capital interests. The oil states capital surpluses combined with Egypts abundance of labour allied with Western technology could transform Egypt into a regional industrial power, providing for a significant part of its domestic needs and giving a considerable surplus for export. For the purpose of attaining this objective, the Egyptian Government has taken certain measures in order to attract foreign capital to Egypt.

A. Foreign Investment

The Government promulgated law n° 43 of 1974 (2) provides an incentive package for foreign investment and issues guarantees against nationalisation in order to attract external capital and technology. The incentives differ between investment in free trade zones and investment in other areas.

The incentives for investment in free trade zones include complete exemption from all taxes and tariff duties for an indefinite period, and no restrictions on repatriation of earnings and capital. Free trade zones projects must export their output and pay a one percent levy in foreign exchange on its value in lieu of taxes. In addition, purchases of all local imports must be paid for in foreign currency, from the employment of local labour, the foreign exchange received for the use of local resources and the percentage levy, constitute the primary benefits to the Egyptian economy from investment in free trade zones.

(1) The paper was presented to the People's Assembly in April 1974 and approved by a National Referendum in May 1974.

(2) Law n° 43 completes law n° 65 issued in September 1971 "Concerning the investment of Arab funds and the Free Zones" The 1971 law was too general in its provisions, leaving room for haggling over arbitration provisions for the repatriation of profits and other issues.

he incentive for foreign investment in areas outside the free trade ones include :

- full exemption from business profit taxes for a period of 5 years following the start of operations,
- exemption from taxation of annual distribution of profits up to a maximum of 5 % of invested capital to shareholders residing in Egypt,
- the repatriation of earnings of foreign investments outside free trade areas is directly linked to their net export earnings.

Thus, there is a built-in mechanism in the law to encourage foreign investments outside free trade areas in export oriented and domestic resources based industries.

2. THE INCENTIVE OF DOMESTIC PRIVATE INVESTMENT

The Government has yet to offer incentive measures similar to these for foreign investment in order to stimulate domestic private investments. To be sure, the Government has allowed an enlarged role for private sector industry and has indicated that nationalization is a concept of the past. Furthermore, the apparent relaxation of the restrictions on industrial licensing and the liberalization of the import regime for industrial needs have contributed to the economic climate from Arab and foreign investors.

3. POSITIVE RESPONSE TO EGYPT'S ECONOMIC OPEN POLICY

Arab capital participation has produced positive responses. A notable example of the "mariage" of Arab capital and Western technology, is the Suez Mediterranean Oil Pipeline in which Saudi Arabia, Kuwait, Abu Dhabi and Quatar have taken 50 % share (1) and a consortium of Italian companies (2) have taken the responsibility of carrying out this project.

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(1) To finance the $ 400 million estimated cost of the pipeline a joint stock multinational company called the Arab Sumed Pipeline C° was formed at the end of 1973. Egypt's share is 50 %, the other 50 % is divided among the 4 Arab countries.

(2) Consisting of 4 Italian firms. Montubi. Cimi, Scupens and Snam Progetti.

Apart from this kind of participation, Saudi Arabia, Kuwait, Abu Dhabi and Quatar are starting the finance of a number of development projects in Egypt. One of the most positive moves has been the joint Egyptian-Kuwait protocol on industrial cooperation signed in July 1974. (1)

Furthermore, in 1976, the four Arab countries have agreed upon the establishment of an Arab fund with a capital of one billion dollars to help Egypt in financing the development projects.

A similar agreement has also been signed with Iran on May 25, 1974, in the terms of which Iran pledged loans, credits and investments worth of 849,60 million dollars. Iran has apparently proposed a number of petrochemical schemes in the Canal Zone. In addition, a protocol was signed in 1974, providing for the establishment of a joint investment bank.

Possibly, there will also be Western investments in Egypt.(2) The joint statement issued by the Presidents Nixon and Sadate in June 1974, referred to the intention of the U.S. participation in financing Egypt's economic projects. In October 1974, an agreement was also signed to establish two joint ventures in order to undertake a full range of commercial banking operations in Egypt.

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(1) The protocol covered schemes for the production of fertilizers, cement and sheet glasses, fisheries on Lake Nasse, ship building. Kuwait private sectors also signed an agreement in July 1974 to establish a joint investment company with a capital of 25 million $ to carry out investment projects in Egypt. See Yousef Ahmed. Op. Cit. 109

(2) The USSR and Socilalist countries have also participated in the financing of Egypt's projects. The Soviet Union committed an amount of 120 million roubles(approximately 168 million $) in July 1974 to assist in a number of projects including the expansion of the Nag Hamdi aluminium complex and the construction of a cement plant and a textile factory. Romania offered Egypt a loan of 100 million $ in 1974 to finance joint projects. Bulgaria pledged credits amounting to 60 million $ for reconstruction work. There is also extensive cooperation with Czechoslavka, Poland, Hungary and Yogoslavia.

British firms have also been discussing joint ventures in Egypt. (1) Talks had begun concerning British Massy Fergusson participation in the construction of a tractor plant. German firms have reached an agreement with Egypt to participate in certain projects. In 1974, a 79,8 million contract was awarded to West German consortium for the construction of a fertilizer plant in Alexandria free zone. In addition, the Government of the Federal Republic of Germany, has granted Egypt a long term credit of DM 500 million in July 1974. Additional agreements were concluded on November 26, 1974 in which Germany will lend a further sum of DM 212 million to Egypt.

French firms have also shown their interest to participate in land reclamation, telecommunication, petrochemicals and electric power projects. Moreover, the french Government made available to Egypt in August 1974, a long term loan of 200 million francs, supplemented later by short term credits amounting to 300 millions, to finance the purchase by Egypt of french equipment and machinery for joint projects.

The Netherlands has signed an agreement in January 1975, in which they will provide Egypt with 15 million florins. Another loan of 25 million florins was granted by The Netherlands in 1976, to finance certain agricultural products in Egypt. Moreover, there have been talks with Dutch firms, to build a number of ships for the Egyptian Merchant Navy.

Japanese firms have been participating in exploring oil in Egypt for some time. Shortly after the October 1973 war, the Japanse Government made a first committment of financial assistance of 140 million $, to help in clearing the Suez Canal. Another agreement was reached in March 1974, for a credit facility of 150 million $ for widening and deepening the Canal and a contract for the work involved was awarded in October 1974 to a Japanese firm. (2)

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(1) The British Government has also provided a loan of approximately 2,4 million $ for the purchase of British equipment.

(2) The Penta-Ocean Construction Company.

The international aid agencies, such as the World Bank,(1) the International Development Association,(2) The International Monetary Fund,(3) and the African Development Bank (4) have extended a variety of assistan to Egypt in recent years.

This analysis shows that the flow of capital and direct investment in Egypt is promising. But much will depend upon the steps taken by the Egyptian Government during this period to mobilize foreign resource more effectively and to ensure that the disbursment and utilization of these resources are both prompt and efficient.

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(1) The World Bank Group agreed in 1974 to commit about 200 million $ in development loans and credits during the period July 1974-June 1975

(2) This agency extended to Egypt a loan of 5 million $ in 1974 to help in financing a health and family planning project in Egypt.

(3) The IMF granted Egypt a credit equivalent to 40 million SDRS in 197[illegible]

(4) This Bank has lent Egypt 6 million $ for financing various electrical projects. See Yousef Ahmad Op. Cit. p. 111.

SECTION IV

PLANNING AND PRIORITIES

1. The First attempt for planning.

The first attempt at comprehensive development planning in Egypt was a 5 year plan issued in 1960 and covered the period between July 1960 and June 1965. (1) A second five year plan for the period 1965-1966 to 1969-1970, was prepared but never implemented. Owing largely to the uncertain situation created after the war of 1967, the system of medium term planning was, in effect, abandonned and replaced by annual plans. A fresh start towards lenghtening the planning horizon was made in 1974 with the adoption of an 18 month interim plan, and work has commenced on a five year plan for the period 1976-1980.

2. The Interim Plan

The interim plan runs from July 1974 to December 1975, with the following priorities :

- reconstruction of the Suez Canal area,
- completion of the ongoing projects,
- renewal, balancing, and better utilization of existing industrial capacity,
- investment in new "strategic projects" i. e. those considered vital to the needs of the public, or those whose output forms an important imput into other sectors, for example : fertilizers and cement.

The 1975 annual plan makes an important change in both strategy and size when compared with previous annual plans.

The 1975 plan contains three broad features. First it is an interim plan to bridge the period of abnormal conditions that arose after the war of October 1973 to a future time when planning for usual quinquenal periods could be resumed.

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(1) This plan was generally reckoned to be a success, national income increased by about 37 %, an average annual rate of growth of about 6 % at the same time production was up by 36,4 % compared with the 42,6 % projected by the plan. See Endreas Gerakis "U.A.R. Development" International Monetary Fund - Staff Papers Vol. XIV 1967 p.456.

Second, it is the first attempt to give an operational meaning to the "Open Door" economic policy. (1)

Third, in an effort to rapidly increase output, it concentrates largely on short gestation projects, such as those for balancing and modernisation and the fuller use of existing industrial capacity.

The plan aims at raising the GDP by 9,2 %. The major contributions to this growth are projected to come from the commodity sectors, which are estimated increase by 10,2%.

The 1975 plan projects total investment at LE 1465 million. This sum is composed of a fixed capital formation of LE 1155 million (2) and a change in inventories of LE 310 million. (3)

The distribution of investment follows the order of priorities discussed above. The bulk of investment is allocated to the transportation and Suez Canal sector followed by industry, mining and housing. The shares of public and private sectors differ appreciably within the total allocations. (4) Essentially the interim plan should be seen as a holding operation in preparation for the 1976-1980 year plan. (5)

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(1) The plan thus assigns a much greater role to the private sector. Private investment in 1975 is projected at almost three times the level of the previous year.

(2) LE 1057 million for the Public Sector and LE 98 million for the Private Sector.

(3) LE 40 million in the business sector and LE 270 million of strategic commodities.

(4) About 34 % of the total investment is for private sector.

(5) The details of this plan are not yet officially declared.

THE FIVE YEARS PLAN FOR ECONOMIC AND SOCIAL DEVELOPMENT 1976-1980

The main targets of the plan as defined by the Government are :

- realisation of an annual rate of growth in gross national product (GNP) varying from 7 to 10 %,
- decreasing the current deficit in the balance of payment to realise a degree of equilibrium as far as possible during the last years of the plan. Consequently, the deficit will not exceed the value of imported capital goods, and thus will be devoted to financing investment, and not consumers or intermediate goods,
- initiating policies and taking measures leading to rationalisation of rates of family and collective consumption and increase in gross local savings,

To reach these targets, it is planned that growth rates during the period 1975-1980 shall reach 20 % for agricultural production, 80 % for industrial production and 30 % for construction. The realisation of these levels will result in structural changes in the national economy . It is further planned to increase exports from 18 % of GNP in 1975 to about 30 % in 1980. The investments, new petroleum discoveries, the Suez Canal and the Sumed Pipe Line, Tourism and an increase in industrial exports represent the main contributors to these targets.

For imports, it is planned to decrease its value from 46 % of GNP in 1975 to 37 % in 1980.

The rate of investment is planned to increase from 20 % of the GNP in 1975 to 25 % in 1980, depending on gradual increase in rates of local savings to approach about 15 % of GNP during the last years of the plan.

The gross capital investment of the plan is estimated at about LE 8000 million of which about LE 5000 million in foreign currency.

The internal financial resources of Egypt cannot cope with this plan. The total value of foreign financing is estimated at about LE 8000 million to meet the following demands :

- the equivalent of about LE 5000 million for capital investment,
- about LE 2000 million to bridge the deficit resulting from consumers and intermediate goods import. It is estimated at about LE 800 million in 1976, and it is expected to gradually decrease with a rate of LE 200 million, each year until it disspears in 1980.

About LE 1000 million to be used for scheduling current medium term loans to become long term extending to after 1980.

The value of gross investment for industrial projects in the plan 1976-1980 supervised by the Ministry of Industry and Mineral Wealth is estimated LE 1150 million representing about 18,5 % of the investment of the plan totaling LE 8000 million. (1)

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(1) The industrial projects fall under 3 main categories, namely :

- industrial public sector projects of the Ministry,
- industrial reconstruction projects in the Suez Canal zone,
- industrial joint venture projects

See Document of the Ministry of Mineral Wealth - Concise presentation of industrial program in the 5 year plan 1967-1980. Cairo September 1976. See also document of General Organisation for Industrialisation - Program of National Action - Cairo 1972.

SECTION V

DEVELOPMENT PROSPECTS

Despite the current economic difficulties, Egypt's economic potential over the long run is promising. The reasons for this assessment may be briefly summarized :

- the country has a large market, a skilled population, relatively low wages, varied raw materials and key geographical location, which makes it a natural base for industries that wish to supply the domestic market at the growing regional market. It is obvious that the development prospects in medium term hinge to a large extent on the country's ability to attract external capital and technology. For this purpose the Government has adopted certain measures encouraging capital inflow. Among these measures, the promulgation of law n° 43 of 1974, which provides incentive package for foreign investment.
- Suez Canal revenues are estimated to reach a level around of LE 300 million per year by 1980, these could increase to a possible LE 500 million per year as a result of physical expansion and greater usage of the Canal,
- the improved prospects for oil production which is estimated by oil companies at 1 million barrels a day by 1980-1982. (1)
- considerably increased earnings from tourism,
- a much more intensive utilisation of agricultural land, with greater emphasis on higher value added crops,
- an increased flow of remittances from Egyptians working in Arab and foreign countries.

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(1) In a Press Conference published by the Newspaper of Al Ahram on November 17, 1976, the Egyptian Minister for Petrol said that Egypt concluded up till now 33 agreements with foreign companies for exploring petrol in Egypt. In these agreements the Foreign Companies undertake to spend about 650 million dollars for the operations of petrol exploration. The production of petrol is expected to reach 1 million barrels daily in the early 1980's.

However, the realisation of long term potential hinges upon a number of complex factors. The most important of these is a definite movement towards an equitable and permanent peace settlement in the Middle East. Moreover, the attainment of Egyptian prospects requires the transfer of large amounts of capital from abroad. This, in return, must be preceded by a considerable amount of work in preparing a suitable portfolio of projects for the consideration of potential investors.

The Government has, therefore, formulated an economic management program to steer its way past the short term obstacles.

The main elements of this program are :

- improved coordination in economic policy making,
- improved public sector efficiency through decentralisation and other measures,
- rationalisation of consumption subsides and increased national savings,
- promotion of efficient resource allocations through widening the parallel foreign exchange market,
- rationalisation of the external debit situation and implementation debit management program.

Finally the flow of foreign capital and the efficient mobilisation of this capital together with the local resources may enable Egypt in the near future to set itself firmly on the path of self sustaining growth.

CHAPTER II

THE RELATIONS BETWEEN THE EEC AND EGYPT

Before analysing the actual agreement concluded between the two parties in December 1972, it would be desirable to give a brief explanation of the political climate which preceeded Egypt's request to the EEC to negotiate a preferential agreement. This political climate produced certain factors which caused the delay of the Egyptian request until the late sixties. Moreover, an analysis of the probable effects on the Egyptian exports after the creation of the Community seems indispensable in justifying the Egyptian request to establish relations with the Community.

SECTION I

CREATION OF THE EEC AND REACTION TO ITS FORMATION

The establishment of the European Economic Community in 1957, produced at the time different reactions in the world. The European minded people and the United States greeted the Community with full optimism, sympathy and support, while the Community was received with scepticism and distrust by third countries, especially by East European (1) and developing countries. The fears of third countries were based on the probable adverse effects of the EEC on their exports to the Member States of the Community as a result of the establishment of the common customs barriers around the Community.

Reaction of developing countries

Developing countries argued that their trade with the EEC countries is much more than the trade among themselves. They obtain the bulk of their capital goods from the European countries and export to them their primary and semi-finished products. Consequently, the creation of the Common Market with its external tariff together with the Common Agricultural Policy will create a burden on the developing countries trade and will raise new problems with regard to their exports.

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(1) See Pravda (Soviet Press) August 26, 1962 "The Imperialist Integration in Western Europe" p. 3-4, See also article by Jergy Lukazavski Foreign Affairs, 1968 p. 381, and Agence Europe, December 19, 1969 "Severe Judgement on the Community from Moscow and Peking" p. 28

Moreover, the Community was regarded as a grouping of colonial powers and was subject to hostility from some developing countries. (1)

2. Reaction of Egypt

Thus, in view of this psychological and political climate which dominated most of developing countries regarding the Community, Egypt was not prepared at the time to establish any relations with the EEC. Egypt also has specific reasons which delayed its request to the late sixties. Among these reasons are :

- the bad political relations with France following the 1956 Suez war. This climate continued until General de Gaulle came to power. The participation of France in the Suez war created a feeling of distrust towards the EEC and made it difficult for Egypt to approach the Community,(2)
- the Algerian war for independance. It was natural that Egypt's support to the Algerian revolution would not be compatible with establishing relations with the Community which France was an eminent member,
- the adoption of the non-alignement policy. Egypt was among the three countries which sponsored the policy of non-alignement in the world. Thus, it was difficult for Egypt to reconcile itself between its non-alignement policy and establishing relations with the EEC which has a political implication. It is sufficient to recall that all the Six Member States of the Community are members of NATO, with its political implications, although European leaders did not want to give the impression that the Community is the economic face of the North Atlantic Treaty. (3)

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(1) Former President Nikromah of Ghana has in many occasions expressed his hostility to the EEC. See J.J. van der Lee,"African Affaire" Vol. 66 n° 264, July 1967, p.206

(2) There was also a bad period in political relations with Belgium when the differences between the two countries over the Congo led to the nationalisation of the Belgian interests in Egypt in 1969, and the severenceof diplomatic relations. A similar situation came up in 1965, following the German recognition of Israel, and thus Egypt and other Arab countries severed their diplomatic relations with Germany.

(3) See Paul Henri Spaak "La signification du Marché Commun" discours prononcé par Mr. Spaak le 11 octobre 1962 devant l'Assemblée Générale des Nations Unies. Revue Synthèse n° 198 Novembre 1962 p. 22.

however, the political implication of the Community could be seen from the conditions required for the membership of the Community,(1)

moreover, Egypt was an active member of the Casablanca Charter which reflected Egypt's african policy. (2) The Charter expressed the will of its Member States to liberate the African territories still under domination, granting assistance to these territories and liquidating the existing colonialism and any colonialism under any form. (3) The Member Staes of the Charter were hostile to the policies of foreign powers regarding the independance of African territories. Consequently, in view of this situation, the idea of having relationship with the EEC was excluded at that time.

the economic and psychological factor. The Community appeared at the time as a gigantic economic constellation, consolidating its position internally and externally. This situation had produced a feeling of distrust in the Arab world towards the EEC, particularly Egypt which

1) Regarding the political conditions of adhesion to the Community.See Willy Birkelbach "Les Aspects Politiques et Institutionels de l'Adhésion ou de l'Association à la Communauté" Rapport fait au nom de la Commission Politique -Assemblée Parlementaire-Document de séance 1961 1962. Janv. 15, 1962 n° 122 p. 4

2) This Charter was signed in January 1961.Its members were Ghana,Guinea, Mali, Morroco, Egypt and the provisional Governemnt of Algeria. Later the Casablanca group formed together with the Menorovia group, the Charter of the organisation of the African Unity 1963.

3) On the occasion of the visit of Mr. Ehrard of Germany to Cairo in 1960, President Nasser, in a Press Conference, held on Feb. 26,1960, indirectly criticised the Common Market by saying it will have bad effects on Egypt. The President repeated the idea again in his speach to the Indian Parliament on March 30, 1960, during his visit to India. See President Nasser speeches book (in Arabic) Cairo 1960 p. 92 and 132

has a bad experience with the West in maintaining its independence,(1)

- the growing relations between Egypt and the Soviet Union and Socialist countries. The USSR and socialist countries regarded the EEC as the creation and instrument of non-European power, with the objective of impeding the expansion of stable economic relations between the EEC Member States and third countries. (2) This resulted in negative influences in Egypt's position regarding the EEC.

These were the reasons in brief, which delayed the Egyptian Government in seeking a relationship with the Community in the early sixties.

Thereafter, the political climate has improved as a result of the French approach to the Arab world during the de Gaulle's administration. Moreover, Lebanon signed a non-preferential agreement with the EEC in 1965, and it was the first agreement to be concluded with an Arab country. Egypt indicated in 1966, that she was interested in trade talks with the Community. The Arab League has recommended that other Arab countries follow the example of Egypt and request the negotiation of trade agreements with the EEC. (3)

This improved political climate together with the fears of probable harmful effects on Egypt's exports particularly the agricultural products, persuaded the Egyptian Government to approach the Community in the last sixties.

Before dealing with the Egyptian request to the EEC to negotiate trade agreements, it would be useful to explain the probable effects of the EEC Common Customs Tariff and Common Agricultural Policy on Egypt's exports, especially the agricultural products which represented the bulk of its exports to the Communities in the sixties.

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(1) See Pravda "The Imperialist Integration in Western Europe" Aug.26, 1962 p. 3-4

(2) The policy of certain Member States of the Community regarding the independence of African countries reflected negative position in Egypt regarding the EEC.

(3) See Agence Europe December 13, 1966 p. 8

3. THE PROBABLE EFFECTS OF THE EEC ON EGYPT'S EXPORTS

Before the establishment of the Community in 1957, Western European countries were the first trading partners of Egypt. Their share consisted of 49 % and 44 % in Egypt's total exports and imports respectively in 1953. The share of the Community of the Six in Egypt's trade was also evident. In 1952, the Six absorbed about 32,3 % and 24,4 % of Egypt's total exports and imports respectively. (1)

A. Agriculture Exports

Most of the Egyptian exports were agricultural products. In 1966, the Six imported about 45 % of Egypt's total exports of onions, 11,6 % of its exports of groundnuts, 13,8 % of potatoes and 7,8 % of rice. Thus, Egypt's main agricultural exports may face a problem with the establishment of the Common Agricultural Policy. (2)

But, in studying the probable effects of the EEC policies on Egypt's exports we should distinguish between two periods, the first with the establishment of the Community in 1958, and going to 1962, and the second from 1962 onwards.

In the first period, the establishment of the Common Market, could effect imports from Third Countries only through the removal of trade barriers between the Six, since the gradual introduction of the Common Market customs tariff was agreed to start only at the end of the first stage.(3)

By the end of the first stage, on December 31, 1961, the time table was not only fully applied, but was also speeded up to both industrial and agricultural products. Internal tariffs on agricultural products were therefore reduced by more than 30 % and quotas on agricultural products were increased by 60 %.

Consequently, tariffs paid by the Member States were lower than those paid by Third Countries, including Egypt. For example, while both Italian and Egyptian exporters of onions (4) to the Federal Republic of Germany paid a tariff of 25 - 30 % in 1957, Egyptian exporters paid 10 % and the Italians paid only 8 % in 1961.

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(1) See Tables 23 & 24 Appendix 3

(2) See Table 25 Appendix 3

(3) See Rossi Aride "Le marché agricoledans le bassin Méditerannéen - Problème de l'Europe" n° 35, 1967 p. 23

(4) Onions represent the third major product of Egypt's agricultural exports.

Up to the end of the year 1961, it did not appear, however, that the reduction of trade barriers between the Six had any significant effects on the Egyptian exports to the Community. But after the year 1962, the situation had completely changed.

This year was important in the history of the EEC. First it was the year in which the Common Customs Tariff was introduced on both industrial and agricultural products. Second, it was also the year in which the Common Agricultural Policy was first agreed upon. It allows agricultural produce to circulate as free as in a national market over a period starting from August 1, 1962 to December 1969.

Certain general measures were also introduced in this year. The most important of these, from the point of view of third countries, is the substitution of a new system of levies for the existing tariff system for all major farm products. This system should be replaced by the begining of the year 1970 by completing free trade within the Member States based on uniform prices.

In addition to the general principles on agriculture, a number of regulations were passed for specific products. The ones which concern Egypt's exports are :

- Regulation n° 23/62 (1) on the progressiveestablishment of a common organisation for the market in fruits and vegetables which also include onions.

This regulation did not change the Treaty position in that the Common Customs Tariff must be progressively introduced until completely established in January 1, 1970. Thus, the new levy system did not apply to onions (2) but this regulation likely has effects on Egypt's exports to the EEC. The introduction of the Common Customs Tariff in 1970, together with the abolishment of trade barriers among the Six, will put Egyptian exporters to both Germany and the Netherlands at a disadvantage when compared with other producers from the Six. While the German tariff on Egypt's exports will be increased to 12 %, exports from other Member States will benefit by the abolition of tariffs which they used to pay at the German frontiers 1961.

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(1) Regulation n° 23 has been replaced by Regulation 1035/72 O.J.L. 118 May 20, 1972

(2) Onions are not subject to any levy.

Again, while Egyptian exporters to the Netherlands were paying no tariff in 1961 on an equal footing with Member States, they will pay a tariff of 12 % in 1970. (1) It is true that the Common Customs Tariffs will be lower than the French tariff but this will not compensate Egypt for the disadvantage resulting from the new higher tariff of the Netherlands and Germany. (2)

However, a real threat of Egyptian onions exports comes from Article 11 of regulation n° 23 which provides that if Community markets suffer or become liable to suffer serious disturbances because of imports from Third Countries at prices below a reference price, Member States may suspend such imports or subject them to countervailing charges upon entry which shall be equal to the difference between the reference price and the price of the imported product at entry excluding customs duty.

This means that if, for instance, Italy finds that exports of Egyptian onions to Germany are threatening its own exports to that country, it can persuade the Commission to suspend the importation of Egyptian onions or subject them to a charge upon entry which would have practically the same effects. Moreover, Egypt's exports of fruits and vegetables to the Community will also face the same difficulties under regulation 23 and other implementing regulations.

Regulation 16/64, Rice was not included in regulation n° 19 which contains the arrangements on cereals between the Six in 1962, but a common Market organisation for rice was established by regulation 16/64 which was completed by regulation 359/67. The main measures included in this regulations are the following :

- in the first place, a new system of levies and refunds on exports are to take the place of the existing customs duties.

  If it is likely that the prices of Italian or French rice exported to other Member States are above those of rice imported from outside sources, Member States will be permitted according to this system, to grant refunds on exports which would increase their competitiveness with foreign rice exporters.

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(1) This tariff continued to be applied after 1970

(2) Egypt's exports of onions to the Six have been going mainly to Germany and the Netherlands, the exports to these two countries constituted between 1959-1961, more than 80% of Egypt's exports to the Six.

Secondly, Madagascar rice was, in principle, granted high tariff reductions within the framework of Yaounde Convention. This will put Egyptia rice in a less competitive position.

Thirdly, customs duties on rice imported from Third Countries are to be replaced by variable import levies. These levies are based on the difference between the current international price and certain price guaranteed to producers (1) which will be fixed at the level considered appropriate for maintaining price production within certain limits.

Finally, imports will be licensed so that even if the levy system is found unsufficient for protecting Community producers, the Commission may temporarly suspend imports from Third Countries. (2) Consequently, Egypt's exports of rice will be affected by these regulations. (3)

- Regulation 136/66. For fats and Oils. Groundnuts were not included among the products agreed upon in the Common Agricultural Policy 1962, but were included later in Regulation 136/66 for fats and oils. According to this Regulation, there will be no customs tariff on imports of groundnuts from Third Countries. This was already the case in 1961 in all the Member States, except France and Italy, who charge 9 % and 3 % respectively. But neither France nor Italy were importers of Egyptian groundnuts. Thus, the new system will neither harm or benefit Egypt's exports of groundnuts. The only possible danger to Egyptian exports to the Member States is that the Six devote funds for increasing the production of groundnuts in the associated countries. This may result in Egypt's exports being replaced by increased imports from these countries.

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(1) Intervention price

(2)See Article 22 of Regulation 359/67 concerning safeguard measures

(3) New regulation n° 1418/76 was adopted by the Council, concerning the Common Organisation for the market of rice and which replaced regulation 16/64. O.J.L. 166/76

(4) Within the 6 groundnuts are grown only in Italy, the remaining countries therefore relay on imports from Third Countries. France is the greatest importer of groundnuts and relies heavily on imports from associated overseas countries.

At the time, potatoes was not a subject of a regulation establishing a Common Market Organization.(1) The Six have agreed on the Common Customs Tariff on the different varieties of potatoes. The main part of Egypt's exports of potatoes to the Community of the Six, goes to the Netherlands and Germany. The only likely competitor with Egypt in this respect is Italy, whose early potatoes reach the European market in the Spring. Tariff agreed upon is much higher than the national tariffs of Germany and the Netherlands. Thus, it can be said that, after the complete removal of barriers between the Six and the establishment of the Common Customs Tariff, Egypt's exports of potatoes are likely to suffer from increased competition from Italian exporters.

To conclude, it is likely that exports of Egypt, of fruit and vegetable to the Community, will decline as a result of the establishment of the EEC and the association system.

Exports of rice, onions, fruits and vegetables are likely to suffer.(2)

Industrial Exports

The other main exports of Egypt to the Common Market are : raw cotton, cotton yarn and cotton textiles, and recently crude and Petroleum products. (3)

For Egypt, cotton is the primary export commodity and the more important source to provide the country with foreign currency. Cotton has long played, and still continue to play, an important role in the Egyptian economy.

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1) Actually, there is a draft regulation for establishing a Common Market Organization. The draft regulation does not submit potatoes to any system of levy, it maintains the previous system of customs tariff (15 %). O.J. n° C 61/2 March 17, 1976.

2) See Galal Amin "U.A.R. Foodstufs and EEC" l'Egypte Contemporaine Cairo January 1965 n° 319 p. 123.

3) Within the Community, cotton is grown in South Italy. Among the associated overseas countries, Tchad is the main producer of cotton which represents 60 % of its total exports. The Community obtains about 40 % of its requirements from Italy and the associated countries and the rest of its needs from Third Countries.

In the EEC area, the Common Customs Tariff on raw cotton is nil. (1) Despite this zero tariff on cotton, Egypt exports of raw cotton to the EEC did not increase sufficiently compared with the economic expansion of the Community. (2)Moreover, cotton yarn and cotton textiles were subject to a high custom tariff. This custom tariff likely hinders the development of exports of these products to the Community.(3)

For oil (4) and petroleum products, at the time Egypt's exports of petroleum products were relatively small, but in view of the new discoveries and the potential capacity of exporting refined products, Egypt was worried of the customs duties imposed on its petroleum products.

3. THE EGYPTIAN APPROACH

In view of this situation, the Egyptian Government decided to approach the EEC in 1969 to negotiate a trade agreement, in order to prevent the continuing decline of its exports to the Community. Egypt realized that without having an agreement with the Community,,its exports will face a difficult competitive situation of similar products coming from the Mediterranean countries which enjoy tariff preferences. Egypt requested to be granted preferences for a number of agricultural products (5) and tariff exemption for industrial products. (6) Moreover, Egypt also asked for financial and technical aid from the Community. (7)

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(1) Only Italy collected a levy of 6% which was gradually reduced and which is completely abolished.

(2) The Six taken together as a consumer of raw cotton come after the China and the USSR. They represent about 15% of the world consumpt of cotton.

(3) Before 1952, only 12% of the cotton production was consumed by national industry of spinning and textiles. Now about 1/3 of the tot production goes to the national industry of Egypt.

(4) Crude oil enters the EEC free on duty.

(5) Such as schrimps, flower, early potatoes, onions, sweet peper, swee onions, garlic, dates, mangoes, citrus fruit, fresh grapes, water melon, rice, medecine plants, schrimps preserves, molasses, prepar fruit, fruit purees, orange juice and table wine.

(6) Such as, table salt, petroleum product, chlorine, wadding, henna, perfume oils, leather clothing, cotton thread, other cotton matera knotted carpets, other carpets, under and outer clothing, table li and manganese.

(7) The Egyptian request cover only 30% of Egyptian exports to the EEC but a big part of exports subject to customs duty or levy.

The first contact between Egypt and the Commission in this respect took place in July 1969 between the officials of the Egyptian Embassy in Brussels and representatives of the Commission.

The Egyptian demand received a positive response, strongly supported by the Commission (1) and certain Member States. (2) In conformity with its policy in the Mediterranean basin, the Community has given the Egyptian request a considerable importance, particularly after concluding agreements with Israel and other Mediterranean countries. The conclusion of agreements with Egypt and other Arabic countries was considered a normal development of the Community Mediterranean policy. (3)

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1) The first sign was made by the Commission on the occasion of the representation of credentials of the Egyptian Ambassador to the European Communities in December 1968. On the occasion Mr. Jean Rey, the President of the Commission, at the time, said that the Community welcomes an Egyptian request to establish relations with the EEC.
2) Especially France which supported and encouraged Egypt to negotiate an agreement with the Community. See S.H. Henig Op. Cit. p. 119
3) On other occasion, on 26.2.1970, rejecting criticism to preferential agreements, Jean Rey stated that "After negotiating an agreement with Israel, a similar agreement with Egypt is a normal develoment, we could not refuse negotiations with the Arabs after Israel, that would be a political mistake". See Agence Europe 27.2.1970.

SECTION II - THE CONTRACTUAL RELATIONS BETWEEN EGYPT AND THE EEC

1. THE POSSIBLE FORM OF RELATIONS OPEN TO EGYPT IN ACCORDANCE WITH THE TREATY OF ROME

The authors of the Treaty of Rome, conscious of the future role of the new Europe on the international scene, made the Treaty of open characte in order to enable Third Countries to establish relations with the Community. For this purpose different instruments and procedures were designed. These provisions enunciate three different kinds of relationships between the EEC and Third Countries.

a. The First Concerns Membership

Accession to the Community is subject to complex political and economic conditions. This kind of relationship is reserved only for European countries which have a similar political and economic structure to thos of the Member States of the Community. (1)
Therefore, in view of these geographic and political conditions, this formula is not of interest to Egypt. (2)

b. The Second Concerns Association

This formula could be applied to European and non European countries. I public international law, the term "association" was employed in order to establish relationship of a specific nature between states or other legal persons.Thus, the term has a particular significance since it designates for the associate member only an incomplete participation in the institutional organs and the other obligations. (3) In the EEC system a similar interpretation can be observed. (4) According to Prof. Daniel Vigne,the associate is not a full member but is more than a Third Country. (5)

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(1)See Birkelbach "Les Aspects Politiques et Institutionels de l'Adhésion ou de l'Association à la Communauté" Op. Cit. p. 17

(2)See Article 237 of the Treaty.

(3)See H.G. Schermers "International Institutional Law" Vol. I p. 69 IBID Vol. II, p. 67 and the following.

(4)On the association of the EEC. See J.REY "l'Association de la Grèce et de la Turquie à la CEE" European Yearbook 1963 p. 50-58. Werner Feld "The Association agreements of the European Communities" Comparative analysis, 19 Int.Org. 1965 p. 223-249. Armand Saclé "l'Association dans le Traité de Rome" à RTDE, 1968 p. 1-18. J. Raux"Les relations Extérieures de la CEE" Op.Cit. p. 281. G. Le Tallec "The Common Commercial Policy of the EEC", 20 ICLG 1971 p.732-739.

(5) D. Vigne "L'Association des Etats Africains et Malgaches à la CEE" Paris 1970 p. 12

In the case of the establishment of the customs and economic union among the Member States of the EEC, the associate member is neither a member or a Third Country regarding the EEC internal system and the mutual obligations between the Member States.

The associate member could not also participate in the internal machinery of the Community, but it could have proper institutional relations with the institutions of the Community. As a result, we can say that an association is not a membership, but a type of close collaboration creating a profound solidarity between the parties which exceeds just a simple cooperation between states.

The system of association was foreseen in the Treaty of Rome by articles 131-136 (2) and more specifically by article 238.

The legal definition of association is found in article 238 which stipulates :

> "The Community may conclude with Third States, a Union of States or an international organisation agreements establishing an association involving reciprocal rights and obligations, common action and special procedures..
> These agreements shall be concluded by the Council, acting unanimuously after consulting the Assembly.
> Where such agreements call for amendements to this Treaty, these amendements shall first be adopted in accordance with the procedure laid down in Article 236".

It appears from the text that association is situated between membership and commercial agreement, but its definition is rather vague. According to J. Megret (2) the difficulty resides in the impossibility of finding a reasonable and balanced interpretation to the terms of Article 238. This difficulty finds its explanation in the initial purpose of the Article. At the time, an association was concluded with the United Kingdom within the framework of the Coal and Steel Community. But this agreement did not include any real obligation, it only adopted the procedure of consultation for coordinating actions, between these parties.

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(1) Art. 131-136 included in Part IV of the Treaty are designed only for the overseas countries and territories which have special relations with some Member States of the EEC. See part IV of the Treaty.

(2) See J. Megret "Le pouvoir de la CEE de Conclure des Accords Internationaux" Revue du Marché Commun, Décembre 1967 n° 75 p. 530.

However, article 238 was used in a positive way and it developed its own character, becoming one of the fundamental instruments of the Community's external policy.

In view of this interpretation of article 238, we can say that this article can be applied in different cases. This situation may raise questions about the contents of these agreements. J. Megret also indicates in this respect that article 238 leaves room for two interpretations.

The first interpretation confers on the Community the power of obligating itself on the international level in all fields covered by the Treaty on condition that it can't modify the essence or form of the Treaty rules. The other interpretation limits the Community's power to only matters where the Community expressely received competence regarding its relations with Third Countries. This compentence is clear in the Tariff Sector.

Experience demonstrates that the established relations between the Community and Third Countries include all matters relevant to economic and commercial domains. In this case, an association creates close and permanent relations and implies the establishment of common institution for promoting a regular cooperation between the parties.

Politically, association implies the acceptance by the associate countr of the ideals of the Community and shares with it certain objectives as indicated by M. Lesort "On ne s'associe qu'avec des gens qui partagent un même idéal ou qui poursuivent au moins un même but". (1)

In fact, there are no defined political conditions for association. But the relationship implies acceptance by associates of the economic principles of the Community, which have, of course, political implications. The Italian Memorandum has gone further and insisted upon certain political conditions which imply in a certain manner, the same political conditions as for membership for associates. (2)

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(1) See G. Lessort "Un Monde de Coopération en Méditerannée" "L'association, La Communauté et les Pays Méditérannéens" Bruxelles 1970 Institut de Sociologie p. 25. See also Birkelbach "Les Aspects Politiques et Institutionels de l'Adhésion ou de l'Association à la Communauté" Op. Cit. p. 17.

(2) See Stanley Henig "External Relations of the European Community - Association and Trade Agreements" London 1971 p. 43-44.

However, examination of every individual case largely explains the diversity of associations and each association's degree of political obligation. Among the different kinds of association, we can distinguish the following :

- Association based on a Customs Union (1)
- Association based on Free Exchange Area (2)
- Particular agreements of economic cooperation (3)

The political aspects of an association depend naturally on the choice of the candidate country, and the fact that the Community has a free hand in accepting the request of the applicant country.

These briefly, are in general, features of the concept of association. Theoritically, Egypt could fulfill the conditions required by the Treaty to conclude an association with the Community based on Article 238. But because of the political implications (4) which an association may produce, it was difficult for Egypt, at the time, to ask for an association agreement with the EEC.

C. The Third Formula - Tariff and Trade Agreements

Article 111 (5) and 113 of the Treaty, deal with the conclusion of Tariff and Trade Agreements with Third Countries. § 3 of Article 113 stipulates:

> "Where agreements with Third Countries need to be negotiated, the Commission shall make recommendations to the Council, which shall authorize the Commission to open the necessary negotiations. The Commission shall conduct the negotiations in consultation with a special Committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it."

(1) Such as agreements of association with Greece and Turkey
(2) Such as Yaoundé Conventions
(3) Despite the agreements concluded with Morocco and Tunisia in 1969, entitled association, they are in fact agreements of economic cooperation. They neither established a customs union or free trade area.
(4) Such as the Greek case when the EEC discontinued its financial aid following the military assumption of power, and the voting of the associated African countries at the U.N. General Assembly in favour of France regarding independance of Algeria.
(5) Article 111 was used for tariff agreements during the transitional period.

In practice, Article 113 was used as the main instrument of the Common Commercial Policy and was taken as the legal basis of the Community agreements with Third Coutries.

Egypt as a Third Country, could conclude an agreement with the Community based on this article. Since 1969, the interpretation of this article has developed. It has been agreed that article 113 used until then in the frame of "erga omnes" measures could also serve as the basis for granting preferential conditions.

2. NEGOTIATIONS FOR THE CONCLUSION OF A PREFERENTIAL TRADE AGREEMENT

a. Exploratory Conversations

Through official demand presented by the Egyptian Government on September 17, 1969, , (1) the Council of Ministers of the Community authorized in its meeting of 17-18 October 1969, the Commission to begin exploratory conversations with the Egyptian Government. These negotiations took place in Brussels on November 25, 1969.

During this round, the Egyptian Delegation asked for a complete exemption of customs tariff on industrial products and important tariff reductions on major agricultural products. Moreover, they asked for a technical and financial assistance. The Commission took note of the Egyptian request and promised to report to the Council in order to adopt a mandate of negotiation for concluding an agreement with Egypt.

On February 26, 1970, (2) the Commission presented its report on the results of the exploratory talks to the Council favouring the conclusion of a preferential trade agreement with Egypt similar to the agreements already concluded with other countries in the Mediterranean region.

In July 1970, the Council of Ministers issued the first mandate authorizing the Commission to start negotiations with the Egyptian side. On the basis of this mandate, the first round of negotiations took place in Brussels in September 1970. (4)

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(1) The exploratory talks were preceeded by conversations between the parties on experts level on July 11, 1969.

(2) See document of the Council T 1539/69 - 22.10.1969.

(3) See document of the Commission Sec. (70) 526 February 18, 1970

(4) "Les Nouvelles" "Droit des Communautés Européennes sous la Direction de W.J. Ganshof van der Meersch" Brussels, 1969, § 584-589, 2326.

b. The Limited Dimension of the First Mandate

The first mandate addressed by the Council to the Commission for negotiations with Egypt, was limited by various points :

- it only covered a small part of exchange sectors, on the basis of Egypt's exports to the Community in the year 1969/1970, the Community offer covers only 18 % of Egyptian industrial exports and 19 % of agricultural products. (1) Important agricultural products such as rice was excluded,
- tariff reductions for certain important agricultural products such as onions (2) were restricted to a certain period during the year.
- quantitative restrictions were not abolished for important industrial products such as cotton, textiles and refined petroleum products,
- the mandate did not include any other sector than trade, technical and financial assistance were excluded.

In view of this limited offer, the Egyptian Delegation refused the Community's proposals on the grounds that they fell short of Egypt's aspirations to have an agreement with economic significance. The Commission promised to transmit the Egyptian desire to the Council, which in fact, did not improve the substance of the Community's offer.

c. The Second Round of Negotiations

The second Round of negotiations took place in Brussels, during the period between October 28-30, 1970. (3) In this stage of negotiations the Egyptian Delegation expressly stated that they could not sign an agreement without including the Egyptian main agricultural products.

During this round, another problem concerning the application of certain Egyptian rules arose. These rules relate, in fact, to the system of economic boycotts which have political implications.

(1) See document of the Commission - Directorate General of External Relations - n° IBI May 4, 1970 p. 3.

(2) Onions represent the second agricultural product in Egypt's agricultural exports to the Community.

(3) The author of this thesis participated in the stages of negotiation since October 1970, as a member of the Egyptian Delegation. In April 1971, he was nominated as the first secretary and then the Councelor of the Egyptian Embassy in Brussels, responsible for relations with the European Communities.

The European side insisted that the application of these rules should not lead to any discrimination between the nationals of the Member States or their enterprises.

In view of the differing positions between the parties, negotiations were stopped, and remained passive for approximately one and half years.

d. The Third Round of Negotiations

After this long interruption, negotiations were finally resumed between the parties in Brussels on April 25-26, 1972. At this stage of negotiations, the parties reached a compromised formula on the application of these particular rules concerning economic boycotts. (1)

Regarding the Egyptian demands for agricultural products, the Community only approved tariff reductions of 15 % for dried onions, and 14 % for dried garlic. For other products, especially rice, the Community did not change its previous position. Most Egyptian vegetables, fresh and dried, including potatoes, were excluded. During this round, the Community presented a draft agreement to be signed by the parties. The Egyptian Delegation found that the Community's offer was still far from the Egyptian demands and refused to sign the draft agreement unless further concessions could be given to rice and anions. The Community delegation stated that they were not authorized to grant further concessions and they must ask more orientation from the Council. The Commission presented a report concerning the above demand to the Council. (2)

e. Lobbies and Political Contacts

During the period from April to July 1972, several political contacts were effectuated with the national capitals of the Member States. At the time, the Egyptian Government embarked on an intensive diplomatic campaign both through the representatives of the Member States accredited to Egypt and through the Egyptian missions in the national capitals of the Member States of the Community.

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(1) This compromise was reached in fact during an unofficial visit of the Community Delegation presided by Mr. Sigirst, Director General of the External Relations in the Commission at the time, to Cairo in November 1971.

(2) The Commission stated during the meetings of the Committee of the Permanent Representatives in March 1972, that the contents of the Community's offer, were not sufficient to meet Egyptian demands. See document of the Commission n° IBI May 4, 1972 p. 3.

The Egyptian authorities indicated that the offer of the Community did not consider the structure of the Egyptian exports and ignored the particular interest of certain Egyptian products, and thus could not constitute the basis for an agreement. (1) They also indicated that an agreement with the EEC should help in the economic development of the country by increasing the gains of exports. Moreover, the contents of the actual Community's offer were relatively modest in comparison with the concessions already granted to other Mediterranean countries. Thus, the Community's position could be interpreted as a lack of interest in establishing relations with Egypt.

On the other hand, the Commission drew the attention of the Member States that a failure in concluding agreement would produce political implications, especially after concluding agreements with other countries in the region. The Commission added that this situation might delay the establishment of relations with other Arab Countries. It also stressed the importance of enlarging the Community's offer, not only for meeting the Egyptian demands, but for strongly presenting the Agreement to GATT. (2)

f. Closure of Negotiations and Signature of the Agreement

In view of the previous considerations, the Council of Ministers of the Community, agreed upon part of the Egyptian demands. In its meeting in July 1972, the Council approved the granting of a 25 % reduction on the levy for the Egyptian rice as an economic advantage. But onions and other Egyptian agricultural products did not receive any positive reaction.

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(1) The Egyptian Foreign Minister raised the matter with President Pompidou, during his visit to France, in April 1972. The Egyptian Ambassador in Brussels also discussed the issue with some members of the European Parliament.

(2) See Document of the Commission - Directorate General of External Relations - IBI May 4, 1972 p. 4

These results were communicated by the Commission to the Egyptian authorities indicating that this offer was the maximum the Community could offer at the time, promising that it would be improved upon the enlargement of the Community. After several contacts between Cairo and Brussels, the Egyptian Government finally accepted the Community's offer, without a further round of negotiations, and the parties agreed upon the conclusion of the negotiations.

On December 18, 1972, the agreement was officially signed (1) followed by an additional protocol on December 19, 1972 (2) concerning the application of the agreement in the three new Member States of the Community. The agreement and the protocol came into force on November 1, 1973, after exchanging letters of ratification.

g. The Slow and Lenghty Procedure of the Community

Although negotiations with Egypt were not as lenghty as other countries' negotiations, (3) they demonstrated both the slowness of the internal Community machinery and the complexity of measures to be followed before concluding agreements.

These factors can be observed in the Egyptian negotiations as follows ;

- it was a period of more than 3 years since Egypt presented its application in September 1969 until the actual signing on December 18,1972,

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(1) See Official Journal of the European Communities" Volume 16 n° L 251 September 7, 1973.

(2) The agreement required no consultation by the European Parliament since article 113 did not provide for this procedure, but, according to the Egyptian Constitution, article 151, the agreement need to be ratified by the People's Assembly in order that the agreement could come into force and be applied in the Egyptian territory. However, the Commission informed the European Parliament before and after the conclusion of the agreement.

(3) Spain and Yogoslavia spent about 8 years negotiating with the Community since they presented their application in 1962, until they both concluded agreements with the EEC in 1970. See Werner Feld "The European Common Market and the World"Op.Cit.p.86 See also Chapain "Les Relations entre la CEE et les Pays du Bassin Méditerannéen" Op. Cit. Vol. 1 p. 219.

- the official negotiations between the two parties during this period did not exceed 12 days, During the rest of this period, the Egyptian file moved from the Commision to the Council, to the Committee of Permanent Representatives and then to the working groups. From there the file started its journey again from working groups to the Committee of Permanent Representatives and at last, to the Council of Ministers whose function is to decide positively on the file or to send it back to the Committee of Permanent Representatives for more discussions. The Committee can also send the file back to the working groups for more discussions. This journey can be repeated more than one time until a compromise between the Member States is reached,
- in the meetings of the working groups and the Committee of Permanent Representatives, the Commission was always represented. Its role was to reconcile the different interests between the Member States in order to reach a common understanding regarding the Egyptian request.(2)

For tis purpose the Commission mostly negotiated with the Representatives of the Member States and required little time with the Egyptian delegation. It is evident how complicated Community procedures are in concluding agreements with Third Countries.

Despite the fact that negotiations could only be pursued with the Commission, experience demonstrates that the Egyptians were unofficially obligated to negotiate with the representatives of the Member States in Brussels. According to information leaked by friendly countries concerning the position of some Member States regarding Egyptian demands, Egyptian officials made contact several times with the concerned Member States regarding such issues as rice (3) and onions.(4)

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(1) See Bernard R. Bot "Negotiating Community Agreements Procedure and Practice" 7 CML Rev. 1970 p. 286-310 See also J. Costonis Op. Cit. p. 429 J. Raux et Flash-Mougin RTDE 1975 Op.Cit. p. 241

(2) The author of this thesis made several interviews at the time with Mr. Pelletier Concellor of the French Permanent Representation and with other officials at the Italian and Belgian representations in Brussels concerning the issue of Egyptian rice.

(3) Other contacts made by the Egyptian Commercial Concellor in Brussels with the representatives of the Dutch and German Representations concerning the concession for onions.

Although decisions of the Council of Ministers should be adopted by a qualified majority from the third stage of the transitional period, the Council failed to grant an extension of 15 days period of tariff reduction for Egyptian onions, because only one Member State opposed this extension. (1) This reversion to unanimity is against the spirit of article 114 specifically (2) and the Treaty of Rome in general. The resulting damage affects not only Third Countries but the Community itself.

h. Member States Influence on Community Negotiations

Despite negotiations with Egypt which were directed by the Community Delegation presided by the Commission, (3) experience proves that Member States have great influence on these negotiations and leave no room for the Commission to manoeuver with Third Countries. Different interests between Member States produced certain passive results in the Egyptian agreement. For example, the Commission was in favour of granting tariff reductions for Egyptian rice, but Italy and France were against this opinion and succeeded in excluding this product from the mandate addressed to the Commission.

Italy is a rice producer and feared that its rice would face strong competition if the Egyptian rice was given tariff reduction.

France was indirectly involved as its rice production is below the national consumption. It feared that the reductions proposed for the Egyptian rice would harm rice coming from overseas countries. This interest is obviously clear since the production of rice in these countries was mostly controlled by French interests, particularly in Madagascar, the largest rice producer among the overseas countries.

Italy and France were also the Member States who prevented the Community from granting tariff reductions on most Egyptian vegetables, arguing that this produce is similar to their products and would thus create strong competition for their products.

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(1) 15 days tariff reductions did not represent vital importance or would produce serious effects for the Member States'own agriculture See Paul Bahr "Egyptian onions" a Comment in German on the conclusion of negotiations between Egypt and the EEC, Published in Europeische Gemeinschaft November 1972.

(2) Assisted by a special Committee composed of representatives of Member States apointed by the Council. See art. 113 of the Treaty.

(3) Only after political intervention, the Council at last approved 25 % reduction on the levy for Egyptian rice as an economic advantage while rice coming from overseas countries enjoyed 50 % reduction on the levy.

The Community also failed to extend the period of tariff reductions for Egyptian onions because of the objection from the Netherlands on the basis that this extension would affect its products?

It is obvious that the self interest of individual Member States can adversely affect the Community's intent in its negotiations with Third Countries. (1)

3. THE LEGAL FORCE OF THE AGREEMENT

A. WITHIN COMMUNITY LAW

The Community Legal Act

The Treaty of Rome did not precisely define the procedures of concluding Community agreements. Article 228 of the Treaty only stated that Community agreements are to be concluded by the Council, but this Article remained silent concerning the form of legal acts by which the Council concludes agreements. Article 189 of the Treaty recognizes three types of binding acts by the Community organs: regulations, decisions and directives. (2) Regulations have general application and are directly applicable in each Member State. Decisions are directed to and binding on specific addresees. Directives are also binding but less directly applicable as they are binding the result to be achieved upon each Member State to which are addressed, leaving choice of form for achieving this result to the individual states.

Experience proves that the Council's action in concluding an agreement, takes the form of a regulation, (3) or a decision.(4) Through the same act, the Council both approves the agreement and authorizes its conclusion. The text of the agreement is reproduced in an annex. All are to be published in the official journal of the Communities.

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(1) Frans A.M. Atling van Geusau "The External Representation of Plural Interests, the European Community and its Members in the conduct of External Relations" 5 JCMS, 1966 p. 426-453

(2) See Article 189 of the Treaty.

(3) Regulation was used for example in the conclusion of trade agreements with Yogoslavia, Spain and Israel.

(4) The form of decision was used in the conlusion of the Kennedy Round agreement.

The Council used the form of a regulation for concluding the preferential trade agreement with Egypt. (1) By this regulation the Egyptian agreement shall be binding on the institutions of the Community as well as the Member States, (2) and thus, the agreement shall apply in the territories of the Member States without further legal action. It appears from the Treaty that no special Community act is required to transform the agreement into Community law.

b. Within Egyptian Law

This agreement must undergo the process of ratification in order to come into force and apply in the Egyptian territory. According to the Egyptian Constitutional law, this agreement requires either ratification by legislative action or if the legislature is in recess, by Presidential decree (3) until Parliament meets and ratifies the agreement in the next session. By this process the EEC-EGYPT agreement becomes national law.

4. THE CONFORMITY OF THE AGREEMENT WITH GATT RULES

The agreement was presented by the parties to GATT in 1973 for examination. (4) The GATT Council established a working party to examine the agreement on the basis of replies given by both parties to a questionnaire submitted by the working party. At the first meeting of this working party, on May 17, 1974 in Geneva, certain countries particularly the U.S.A., Canada and Japan, disputed the compatibility of the agreement. They argued that the agreement discriminated against other GATT contracting parties and ignores the most favoured nation treatment, an important principle of GATT. (5)

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(1) Regulation n° 2409/73 July 24, 1973. See O.J. n° L 251 1973. See J. Raux et C. Flasch-Mougin "Les Accords Externes de la CEE" RTDE 1975 Op. Cit. p. 247

(2) See Article 228 § 2 of the Treaty of Rome. See H.G. Schermers "International Institutional Law" Op.Cit. Vol. II p. 717-722.

(3) This agreement was ratified by Presidential Decree, August 1973.

(4) See GATT Document N° L 4015 April 18, 1974. Also Doc. CM 90 and GATT/AIR/1052

(5) The majority of the European, Mediterranean and African countries considered the agreement compatible with GATT rules. It is obvious that the climate in GATT towards EEC agreements has radically changed than the situation existing in the sixties. Application of the system of general preferences and the conclusion of the Lome Convention with 46 Developing Countries reduced the complaints of these countries against the Community. See Document of the Commission EEC/ARD 4/74 July 5, 1974 p. 7.

Among the various questions submitted by the working parties we particularly refer to question one which has specific importance in qualifying the agreement and its compatibility with GATT, especially with Article XXIV. The following are the question and reply.

QUESTION 1

"The agreement between the EEC and Egypt makes no mention of the parties intent to form either a free trade area or a customs union. How do the parties justify, under the articles of the GATT, the formation of a trade agreement which discriminates against other contracting parties trade interests for the purpose of promoting an expansion of trade between the parties".

REPLY

"In conformity with the preamble and the provisions of its first article the object of the agreement is to promote the growth of trade between the EEC and Egypt and thus to contribute to the development of international trade through the progressive elimination of obstacles to substantially all trade between the two parties. The agreement is in conformity with article XXIV. It constitutes an interim agreement leading to the establishment of free trade area. Therefore, it marks the beginning of a process of dismantling tariff and quota obstacles on substantially all the trade and thus creates the necessary conditions in order to fulfil at a later date the provisions and modalities leading to the achievment of a free trade area". (1)

It is obvious that the parties to the agreement defend their agreement on the basis that it is intended to be a stage in the progressive elimination of obstacles with respect to substantially all the trade, and thus meets the criteria and conditions for an "interim agreement" within the meaning of Art. XXIV § 5 (C) of the GATT.

(1) See GATT Document n° L/4015 April 18, 1974 p. 2

In this sense, the procedure and aim referred to in Article 17 of the agreement are a specific expression of the will of the parties to extend it to cover substantially all the trade between the Community and Egypt. (1) Consequently, the parties to the agreement did not request for an Article XXV waiver, since the objective for which the agreement was concluded comes within the provisions of Article XXIV § 5-9 and not Article XXV of the GATT. (2)

5. THE CONTENTS OF THE AGREEMENT AND ITS OBJECTIVE

The agreement as we previously indicated, was concluded on December 18, 1972 for a five year period and was based on Article 113 of the Treaty of Rome. (3) It is mainly composed of :

- the preamble and the main body which included 22 articles,
- two annexes for the application of the provisions of the agreement,
  - : the first annex details the concessions granted by the Community,
  - : the second annex contains the concessions given by Egypt,
- protocol on the definition on the definition of originating products and methods of administrative cooperation,
- joint declarations and change of letters.

(1) Art. 17 § 2 of the Agreement provided that "Eighteen months before expiry of the agreement, negotiations may be opened with a view to concluding a new agreement on wider basis". On the basis of this article a new wider agreement was signed between the parties in Brussels on January 18, 1977.

(2) According to § 5 of this article a waiver requires a 2/3 majority of the votes cast and such a majority compromises more than half of the contracting parties.

(3) The reference to Article 113 is only mentioned in the Council's regulation concluding the agreement while the preambles agreements of Morocco and Tunisia of 1969 referred to their legal basis, article 238.

a. The objective of the Agreement

As previously mentioned, the preamble of the agreement makes no mention of the parties intent to form either a free trade area or customs union. It only states that the object of the agreement is to promote the growth of trade between the Community and Egypt through the progressive elimination of obstacles of trade between the parties, and thus, to contribute to the development of international trade. Therefore, the agreement is intended to be a stage in the progressive elimination of obstacles with respect to substantially all trade. This objective can be seen in the preamble where it provides that eighteen months before the expiration of the agreement, negotiations may be opened for the purpose of reaching an agreement under which the progressive elimination of obstacles to the main body of trade between the parties will be pursued.(1)

The preamble also stressed the Community's interest to develop relations with the countries bordering the Mediterranean.(2) This reference to the development of relations with the Mediterranean countries did not exist in the early agreements with the Mediterranean countries.

b. Tariff concessions foreseen by the Agreement

1. Community Concessions

The Community abolished quantitative restrictions on its industrial imports from Egypt (3) and granted tariff reductions which cover about 45 % of these imports which were subject to customs tariffs. The Community also gave concessions to about 50 % of the Community's agricultural imports which were subject to customs tariffs or levies.

2. Concessions for Industrial Products

Annex 1 of the Agreement details the concessions being given by the Community to Egyptian products. Industrial products were granted 55 % (4) of tariff reductions in two stages :

(1) See preamble of the agreement and article 17.

(2) Similar references were also made in the preambles of the agreements with Spain and Israel of 1970.

(3) Exception was made for certain products.See art.5 of Annex 1 of the Agreement

(4) Certain products such as aluminium and motor vehicles for transport were only given 41 % and 35% respectively.See art.2 of annex 1 of the Agreement.

- a first reduction of 45 % takes place on the date of the entry into force of the agreement,
- a second reduction of 10 % follows from January 1st 1974. (1)

The Community excepted cotton textiles and refined petroleum products from this system. Since it considered them sensitive products.(2) Tariff reductions were limited to an annual quota of 200.000 tons of refined petroleum products (3) and annual contingent of 2.500 tons of cotton textiles. (4)

b. Concessions for Agriculture Products

The limited concessions given to the Egyptian agricultural products are different in the percentage of reduction and for certain products are restricted to a certain period during the year.

RICE : Egyptian rice exports enjoy a tariff reduction of 25 % of the average of additional duties applied in the course of the base period (5) within an annual quota of 31.000 tons, on condition that Egypt shall, upon exportation of that quota, apply a special tax equivalent to the reduction of the levy to be calculated on the basis of the import price of the EEC. (6)

CITRUS : Fresh oranges, fresh mandarines and fresh lemons enjoy tariff reductions of 40 %. These reductions are subject to price guarantees in order to respect a minimum price in the market of the Community. (7)

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(1) See article 1 of annex 1 of the agreement.
(2) Cotton textiles and refined petroleum products were subjected to an annual tariff quota. See art.3 of annex 1 of the agreement.
(3) Increased by the additional protocol to 360.000 tons.
(4) Increased by the additional protocol to 3.250 tons.
(5) Average of the 3 years preceeding the coming into force of the agreement.
(6) See article 9 of Annex 1 of the agreement.
(7) See article 6 of annex 1 of the agreement.

FRESH ONIONS AND GARLIC : These products were granted tariff reductions of 50 % for onions, the concessions apply from February 1st to April 30th and for garlic they apply from February 1st to May 31st. Dried onions and garlic were also given tariff reductions of 15 % and 14 % respectively. (1) Other concessions ranging from 25 to 50 % were given to frozen schrimps, grapefruit, water melon, mangoes, dates and certain preserved vegetables and fruits. (2)

Important Egyptian vegetables such as potatoes and tomatoes were excluded. However, the agreement included three lists of goods to which the Community's preferential treatment shall not apply. (3)

II EGYPTS CONCESSIONS FOR EEC PRODUCTS

On the other hand, annex 2 of the agreement contains tariff reductions given by Egypt to its imports from the Community. These reductions were granted to a certain number of products classified in three lists. (4)

- the first list concerns various machinery equipment and electric materials,
- the second list contains chemical products, organic or non organic,
- the third list concerns tallow and vegetable oils.

The three lists enjoy tariff reductions of 30 % on the date of entry into force of the agreement. Another reduction of 10 % will be followed on January 1, 1974 for the first two lists. More reductions of 10 % will be given for only the first list on January 1, 1975.

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(1) See Article 8 of Annex 1 of the Agreement.

(2) See Article 7 of Annex 1 of the Agreement

(3) List A : products whose importation into the countries of the EEC is subject to special regulations in line with the Community's common agricultural policy, such as glucose, lactose, sugar products, chocolate, children food preparations, food pastes and luxury backery products.

List B : Plywood, laminated wood, cotton yarn not processed for retailing, outer grarments and accessories thereof and other non-cotton textiles.

LIST C : Cotton fabrics of knotted and spongy types, carpets, ready made cotton fabrics (outer garnments, underwear, bedsheets, handkerchiefs, gloves, etc...)

(5) See Article 1 of Annex 2 of the Agreement.

c. Safeguard measures

The agreement provides for protective measures to be applied by both parties in case of serious disturbances occuring in a sector of the economy of the party or prejudicing its external financial stability, or if difficulties arise, which adversely affects the economic situation, in a region of the party. The joint Committee should be notified immediately of such measures and of their application. (1)

The agreement also provides for other measures to be applied by Egypt if they prove necessary for the protection of its industry and development. For this purpose, Egypt may withdraw concessions granted in respect to products listed in annex 2 of the agreement on condition that they are replaced by concessions which maintain the balance of the agreement. (2)

d. Administration of the Agreement

The agreement calls for the establishment of a joint Committee to be responsible for the implementation of the accord.(3) The Committee is composed of representatives of the Community and representatives of the Arab Republic of Egypt. The said Committee shall hold an annual meeting upon the invitation of its chairman and will, moreover, meet whenever necessary, upon the request of one of the contracting parties. Actions of the Committee have to be taken by mutual agreement. (4)

The joint Committee may also decide to set up working parties to assist in the performance of its tasks. (5) The agreement did not provide for other institutions either Parliamentary or Judiciary. It is also silent about the means to be followed to solve problems which may arise from the application in case of failure to reach solutions within the joint Committee.

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(1) See Article 12 of the Agreement.
(2) Such withdrawal and replacement shall take place after consultation in the joint Committee. See Article 13 of the Agreement.
(3) See Articles 14-16 of the Agreement.
(4) In its first meeting held in Cairo in May 1974, the joint Committee laid down its rules of procedure and adopted the rules governing the implementation agreement. See doc. of the Commission EEC/ARE L/74.
(5) In its first meeting the Committee set up a working party to examine problems arising from the application of the arrangements provided for by the agreement in respect to imports of rice into the Community.

It is obvious that the institutions in the Egyptian agreement are mostly administrative. They are similar to those institutions included in other agreements with certain Mediterranean countries. (1) They are unlike those institutions included in the Greek and Turkish agreements which enjoy a larger area of competence and are empowered to render decisions binding on the parties.

(1) Such as those included in Israel's agreement of 1970, and Lebanon agreement of 1972.

6. TRENDS OF TRADE BETWEEN EGYPT AND THE EEC AFTER THE CONCLUSION OF THE AGREEMENTS

The Community, as previously mentioned, is an important partner to Egypt's external trade since it is primary supplier to Egypt and the second largest importer of Egyptian products. Despite trade concessions given to Egypt by the Community, balance of trade with the Community demonstrates a constant deficit. This deficit amounted to about LE 89,5 millions in 1973 and increased to LE 238,1 million in 1974, and to LE 492,2 million in 1975.(1) Egyptian exports to the EEC increased from LE 60,9 million in 1973 to LE 106,9 million in 1974 and decreased to LE 90,9 million in 1975. (2) But on the other hand, imports from the Community increased faster, Egypt's imports from the EEC amounted to LE 150,4 million in 1973, increased to LE 345 million in 1974 and reached LE 583,1 million in 1975. Obviously, the agreement has not produced favourable effects on Egypt's exports to the EEC. Even the remarkable increase of Egyptian exports to the EEC in 1974 was due to the increase of international prices and not because of an increase in volume. Concessions included in the agreement were economically modest. Tariff reductions regarding certain agricultural products were restricted by time tables and quotas which covered only a part of Egypt's exports of these products to the Community. Moreover, the enlargement of the Community had certain negative effects on a number of Egypt's traditional exports to the United Kingdom, especially potatoes which did not enjoy any tariff reduction from the Agreement.

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(1) The Community share in Egypt's total exports accounted for about 15 % in 1975 and its share in Egypt's total imports amounted to about 35 % in the same year. See Annual Report of the National Bank of Egypt, July 1976 p. 21. See Table 19 Appendix 3.

(2) Cotton and cotton products, comes as the first items in Egypt's exports to the EEC followed by Crude Oil and Petroleum Products, onions, potatoes, rice and oranges.

The agreement also did not include any type of cooperation to help Egypt in diversifying and promoting the commercialisation of its exports. On the other hand, a part of these effects resulted from the fact that Egypt was not able to completely utilise concessions being granted by the Community because of internal problems concerning production and export. Therefore, Egypt must find effective solutions to the problem of local production and concentrate its efforts on the quality level of these products, so that its exports could compete with the products of other countries. Moreover, Egypt should also review both the structure and the direction of its external trade in order to maintain the balance between exports and imports towards various economic blocks and countries in the world. (1)

Finally, the Community should now be convinced of the importance, in the context of international cooperation in the field of trade, of increasing and diversifying exports of the Mediterranean countries, in order to enable these countries to realize sustained and stable economic growth. In this connection, the Community has realised this necessity and adopted its Mediterranean global approach which offers more substantial trade concessions and included fields of cooperation such as economic, technical and financial cooperation with the Mediterranean countries.

On the basis of this new policy, the Egyptian Government asked to negotiate a new agreement on larger basis with the Community.

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(1) See Tables 18, 20, 21, 22 and 26 Appendix 3

SECTION III

THE SECOND AGREEMENT BETWEEN THE COMMUNITY AND EGYPT

During the first meeting of the joint Committee, (1) the Egyptian Delegation stated that the present agreement merely constituted an initial link between the Community and Egypt. They added that the time has come to launch a real cooperation on a larger basis, in various fields between the parties, in order to encourage Egypt's development. Consequently, the Egyptian Delegation asked to negotiate a new agreement based on the principles of the Mediterranean global approach, including more trade concessions, economic, technical and financial cooperation. (2) After about 18 months, the Council of Ministers of the Community issued its first mandate on December 9, 1975, authorizing the Commission to begin negotiations with Egypt and other Arab Countries. (3) The first round of negotiations took place in Brussels on January 28, 1976. Another round was made in October 1976, at which the two parties agreed to close the negotiations and initialed an agreement entitled "Cooperation agreement" for unlimited period. (4) An additional protocol for financial cooperation was initialed at the same date.

1. Objective of the Agreement

The preamble of the agreement, like those of the Syrian and Jordanian agreements, indicates that the parties intend to establish a wide ranging cooperation which will contribute to Egypt's economic and social development.

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(1) The joint Committee held its first meeting in Cairo on May 28,29, 1974. The author of this Thesis was the Secretary of the joint Committee for the Egyptian side until January 1976.

(2) Article 17 § 2 of the agreement of 1972, provided for negotiations eighteen months before the expiration of the agreement, with a view to concluding new agreement on a wider basis.

(3) Syria, Jordan and Lebanon.

(4) The agreement and the financial protocol were initialed on October 15, 1976. Another agreement between the Member States of the European Coal and Steel Community and Egypt was also initialed at the same date. Both agreements were officially signed on January 18, 1977.

The parties also aim at promoting economic and trade cooperation between themselves taking into account their respective levels of development. The preamble expressly states that the two parties, by concluding this agreement, intend to establish a new model for relations between developed and developing states, compatible with the aspirations of the international Community towards a more just and more balanced economic order. It is obvious that the new agreement reflects an important development in the Community Policy towards the developing countries in the Mediterranean area. The previous agreement with Egypt did not include a reference to this new model of relations between developed and developing countries.

2. Contents of the Agreement

The agreement provides provisions for trade and general rules. Other provisions are designed for economic and technical cooperation. (1)

a. Trade

In this field, the agreement aims to promote trade between the contracting parties taking into account their respective level of development. The agreement also ensures a better balance of their trade, with a view to increasing the rate of growth of Egypt's trade and improving the conditions of access for its products to the Community market. For the purpose of attaining these objectives, the Community abolished quantitative restrictions and granted important tariff concessions for Egypt's exports to the Community, as follows : (2)

1. Industrial products (including coal and steel products)
   Products originating in Egypt which are not listed in Annex II of the Treaty of Rome and Annex A of the agreement enjoy the following tariff reductions.

(1) The agreement also included a protocol concerning the definition of the concept of "originating products" and methods of administrative cooperation. Certain joint declarations by the contracting parties are also annexed to the agreement.

(2) See Article 9 of the Agreement.

- 80 % on the date of entry into force of the agreement,
- 100 % from July 1977.

Other arrangements were made for certain products such as petroleum products, phosphatic fertilizers, cotton yarn and cotton textiles, which were subject to a system of ceiling.(1) This system of ceiling shall be abolished by no later than December 31, 1979. (2)

11. Agricultural Products

The Community also granted concessions for certain agricultural products. (3) These concessions range from 40-80 %. (3) For rice, the Community granted a reduction of 25 % of the levy on an annual quantity not exceeding 32.000 metric tons. This reduction is conditioned with the undertaking of the Egyptian Government to levy an equal amount to 25 % on its exports of rice.

b. Economic, Technical and Financial Cooperation

The provisions provided for in the agreement for this cooperation aim at contributing to the development of Egypt, by efforts complementary to those made by Egypt. In order to achieve this cooperation, account shall be taken, in particular, of the following : (5)

1. the objective and priorities of Egypt's development plan and program,
2. the importance of schemes into which different operations are integrated,
3. the importance of promoting regional cooperation between Egypt and other states,
4. the purpose of cooperation between the Community and Egypt intends to promote in particular :

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(1) The Community granted tariff reductions according to the above mentioned time table for an annual quota of 450 thousand tons of petroleum products, 35 thousand tons for phosphatic fertilizers, 700 tons for cotton yarn and 3.250 tons for other woven fabrics of cotton to be increased 5 % annually.

(2) See art. 14 § 6 of the Agreement.

(3) See Art. 17 of the Agreement.

(4) Among these agricultural products are oranges and mandarines 60 % onions 60 % (from 1/2 to 30 april) garlic 60 %(from 1/2 to 31 May) potatoes 40 % (from 1/1 to 15 May) tomatoes 60 % (from 1 November to 14 May) grapes 60 % (from 1/1 to 14 July) vegetables and fruit prepared or preserved 80 %.

(5) See Article 3 of the Agreement

- participation by the Community in the efforts made by Egypt to develop its production and economic infrastructure in order to diversify its economic structure. Such participation should be connected, in particular, with Egypt's industrialisation and the modernisation of its agriculture,
- the marketing and sales promotion of products exported by Egypt,
- industrial cooperation aimed at boasting the industrial production of Egypt through various measures, (1)
- cooperation in the fields of science, technology and the protection of the environment,
- the encouragement of private investments which are in the mutual interest of both parties.

The contracting parties may also decide on further areas of cooperation. The cooperation Council shall periodically define the guidelines of cooperation for the purpose of attaining the aims set out in the agreement.

c. Financing the Economic and Technical Projects

In order to implement the various aspects of cooperation provided for in the agreement, the Community shall participate in the financing of measures such as those that contribute to the economic and social development of Egypt, account being taken of the possibilities of a triangl cooperation. (2) For realising these purposes, the Community committed itself for a period expiring in 5 years, following the entry into force of the agreement to grant Egypt an amount of 170 million units of account as follows :

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(1) Such as measures to encourage the participation by the Community in the implementation of Egypt's industrial development programs, to permit the removal of non-tariff and non-quota barriers likely to impede access to either market and to facilitate the acquisition on favourable terms of patents and other industrial property by means of financing in conformity with the provisions of the financial protocol. See Article 4 § 1 of the Agreement.

(2) See Article 6 of the Agreement.

.) 93 million units of account in the form of loans from the European Investment Bank, (1)
) 14 million units of account in the form of loans on special terms,(2)
) 63 million units of account in the form of grants. (3)

his amount which is fixed in the Financial Protocol shall be used for he financing or partial financing of : (4)

capital projects in the fields of production and economic infrastructure, aimed in particular at diversifying the economic structure of Egypt and especially promoting its industrialisation and modernisation its agriculture, (5)
technical cooperation as a preliminary or complement to capital projects designed by Egypt,
technical cooperation in the field of training.

hese results of the financial and technical cooperation, shall be exained annually by the cooperation Council. It is empowered to define here appropriate the general guidelines of such cooperation.

. Concessions given to the Community

n return for the Community concessions, Egypt granted the Community in he field of trade, the most favoured nation treatment. (6) This treatent may not be applied in the case of the maintenance or establishment f customs unions of free trade areas between Egypt and other States.

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1) The loans referred to in § (a) are generally combined with 2 % interest rate subsidies financed by means of the funds shown in § "c".
2) Loans on special terms are granted for 40 years with an amortisation period of 10 years and the interest rate is fixed at 1%. See art. 6 of the Financial Protocol.
3) Grants are generally used for financing technical cooperation.
4) See article 3 of the Financial Protocol.
5) Capital projects shall be eligible for financing either by loans from the Bank or by loans on special terms or by combination of these two means. See Article 4 of the Financial Protocol.
6) See Article 25 of the Agreement.

e. Safeguards Measures

The agreement included provisions which permit Egypt to introduce into its arrangements with the Community, new customs duties or charges having equivalent effect and new quantitative restrictions if such measures are necessitated by the industrialisation of Egypt. (1) The agreement also provides for safeguard measures, if disturbances arise in any sector of the economy or if difficulties arise which might bring about serious deterioration in the economic situation of a contracting party. (2) Such measures may also be taken in case of serious difficulties that threaten the balance of payments of a contracting party. (3)

f. Institutions

The agreement with Egypt like the agreements with Syria and Jordan provides for the establishment of a cooperation Council (4) which replaces the Joint Committee set up by the agreement on 1972. This Council is composed of representatives of the Community and its Member States and representatives of the Government of Egypt. (5) It has wide area of competence and powers of decisions making. (6) The cooperation Council's decisions are to be taken by mutual agreement and binding on the parties. Moreover, the cooperation Council is empowered to facilitate cooperation and contacts between the European Parliamentary Assembly and the representatives of the Assembly of People of Egypt.

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(1) See Article 25 of the Agreement

(2) See Article 34 and 36 of the Agreement.

(3) The agreement also provides for a review to its contents from the begining of 1979 and again from the begining of 1985 in order to maintain its economic balance. See Article 46 of the Agreement.

(4) See Articles 37-43 of the Egyptian Agreement.

(4) The Egyptian Government agreed that the composition of the Cooperation Council shall be under Ministeral level and the competent Minister will attend the meetings of the Council if it is desirable. The Syrian and Jordanian agreements include the same level of representation in the Cooperation Council.

(5) The cooperation Council may formulate any resolutions, recommendation or opinions which it may consider desirable for the attainment of the common objectives and the smooth functioning of the agreement. See Article 37 § 2 of the agreement.

e Egyptian agreement unlike the agreements with the Three Maghreb untries, did not include any provisions for arbitration or any reference the European Court of Justice, for settling disputes which may arise om the application of the agreement. However, it is obvious that there a development in the powers confered upon the new institution for taining the objective of the agreement.

THE LEGAL FORCE OF THE AGREEMENT

e agreement is not yet entered into force. There is no reference either the preamble or in the texts of the agreement regarding its legal ba- s. The Commission proposed art. 238 as the legal basis for Egypt, Syria d Jordan's agreements. Since they include domains which still remains thin the competence of the Member States, ratification of the competent thorities in the Nine Member States is required. This procedure usually kes time in the Member States. Thus, it is expected that the Community y conclude interim agreements similar to those of the Maghreb countries, order to immediately implement trade provisions of the agreement. (1)

PROCEDURE OF CONSULTATION OF THE EUROPEAN PARLIAMENT

nce art. 238 is proposed as the legal basis for the agreement even ough it is not entitled an association, consultations with the European rliament are required according to the Treaty of Rome. These consulta- ons usually take place after the signature of the Agreement. But accor- ng to "Lunz Formula" the competent Committee in the European Parliament s informed about the Egyptian agreement on November 19, 1976. (2)

.) The agreement included change of letters on the implementation of the agreement's trade provisions before its entry into force in respect to economic, technical and financial cooperation.

) When the agreement enters into force, the agreement of 1972 between the two parties shall cease to be applicable on the same date, the second agreement comes into force. See Art. 51 of the Agreement.

SECTION IV

PROTOCOL CONCERNING THE DEFINITION OF THE CONCEPT OF ORIGINATING PRODUCTS AND METHODS OF ADMINISTRATIVE COOPERATION

This protocol is similar to protocol included in agreements concluded with other Mediterranean countries. (1) It is considered as an integral part of the agreement.

1. DEFINITION OF THE CONCEPT OF ORIGINATING PRODUCTS

For the purpose of implementing the agreement, this protocol defined the concept of originating products in each contracting party. According to the meaning of the protocol, the following products on conditions that they were transported directly within the meaning defined by this protocol (2) shall be considered as products originating in Egypt :

a) products wholly obtained in the Arab Republic of Egypt,
b) products obtained in Egypt in the manufacture of which products other than those wholly obtained in Egypt (3) are used, provided that the said products have undergone sufficient working or processing within the meaning defined by the protocol. (4) This condition shall not apply however, to products which within the meaning of this protocol originate in the Community. (5)

The protocol includes lists (6) of working or processing operations which results in a change of tariff heading without conferring the status or originating products on the products undergoing such operations, or conferring this status on certain conditions.

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(1) Such as Algeria, Morocco, Tunisia, Jordan and Syria.
(2) Art. 5 of the protocol.
(3) These products shall be considered as wholly obtained in the Community with the same conditions.
(4) Art. 3 of the protocol.
(5) See art. 1 & 1 of the protocol.
(6) See lists A and B annexed to the protocol.

ese conditions determining the value of originating products and the lue of imported products are restrictive. In certain cases, the manuctured product does not enjoy the status of originating product unless -80 % of the value are originating from the contry concerned. In other ses, the imported products should not exceed 10 or 20 % of the total ight of the manufactured product.

is restrictive concept of originating products does not help in develop- g regional cooperation between the countries of the region. According this concept, fish processed in Morocco with Tunisian olive oil and nned in Egyptian tins, do not enjoy the status of originating product.

spite the new agreements are much more developed than the first genera- on agreements, the concept of originating product remained mostly the me as in the previous agreements.

ARRANGEMENTS FOR ADMINISTRATIVE COOPERATION

e protocol provided arrangements for the evidence of originating atus of products. This evidence is given by a movement certificate lled "EUR 1" which a specimen is annexed to this protocol. (1)

is movement certificate EUR 1 shall be issued by the customs authori- es of the exporting state when the goods to which it relates are ported. (2) The movement certificate shall be made out on the form which a specimen is given in this protocol. This form shall be inted in one or more of the languages in which the agreement is drawn .

) See art. 6 of the protocol.

) See art. 7 of the protocol.

) It shall always be possible to replace one or more movement certificates EUR 1 by one or more other movement certificates EUR 1. Form EUR 2 shall be completed by the exporter. See art. 15 and 16 of the protocol.

SECTION V

THE PROSPECTS OF THE COMMUNITY NEW POLICY IN THE DEVELOPMENT OF EGYPT'S AND OTHER DEVELOPING COUNTRIES IN THE MEDITERRANEAN

The analysis of the previous agreement with Egypt in 1972 (1) and the re cent one, demonstrates an effort made by the Community to develop its policy towards the Mediterranean, especially the developing countries in this area. The aspects of this policy can be seen from the various fields of cooperation included in the new agreements.

It is obvious that the new agreement included more economic substance ir the fields of trade. The Community felt the importance of increasing and diversifying trade of the Mediterranean countries, in order to enable th developing countries in the region to enjoy a sustained and stable econo mic growth. In this connection, the Community recognizes the need to encourage expansion of these countries exports by granting major concessio so that they can achieve constant and considerable increases in their export earnings in order to finance their development programs. (2)

To enable these countries to diversify and expand their trade, regularly measures are designed in the new agreements to give them progressively better access to the Community market. For the purpose of attaining thes objectives, the Community participates through various measures at promoting in particular, the development of production, economic structure, industrialisation and exports of Egypt and other Mediterranean countries

Moreover, in the new agreement, the Community committed itself to partic pate in financing economic projects, especially capital projects which contribute to increasing productivity and encourage industrialisation in these countries. These measures will certainly have favourable effect in the future relations between the Community and Egypt.

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(1) "L'accord Commercial Preferentiel entre la CCE et l'Egypte" RMC Décembre 1972, p. 771

(2) It is admitted that external trade earnings represent an important element in the economic development of the developing countries.

The abolishment of tariff and non tariff barriers, facilitating the transfer of technological know-how, cooperation between the industries, encouraging private investment, (1) and finally access to the Community resources will help Egypt in increasing production and improving the quality of its exports in order to enable these exports to compete on an equal footing in the Community Market.

The possibility foreseen by the agreement of triangle cooperation is of an important significance. This kind of cooperation will permit the establishment of joint ventures projects between the Community, Egypt and Third Party most probably an Arab country. The mariage of Arab capital with the European know-how in Egypt's economic projects will largely contribute to the development of Egypt, especially if the products of these projects enjoy free duty treatment in the Community Market. This kind of cooperation will help in diversifying Egypt's exports and improving the quality of its industrial products and consequently increasing export earnings.

In conformity with the principles of the Community's new policy towards the developing countries in the Mediterranean, the Community was satisfied to be granted in the field of trade, the most favoured nation treatment as a counter concession. The Community did not insist on the principle of reciprocity which was a general rule in the previous agreement.

The development in the substance of the Egyptian agreement is also accompanied by another development in the institution of the agreement. It is natural that the more substance the agreement contains, the more powers the institutions have. Despite the fact that the Egyptian agreement did not include any reference to arbitration or to the European Court of Justice for settling disputes arising from application, the powers of decisions-making conferred upon the cooperation Council are obviously more than those granted to the Joint Committe, in the agreement of 1972.

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1) The encouragement of private investments is a factor of great importance for Egypt which has already taken the necessary measures for attracting foreign capitals as previously explained in section 3 of Chapter I, concerning new approach to foreign investment. Adding to this that European technology is still mostly the property of the private sector. Thus, a combination of both investment and technology will offer Egypt a better and rapid way for industrialisation and development.

Another development can be observed in the new agreement. That concerns cooperation between the European Parliament and the Assembly of People in Egypt. This cooperation is of a special importance as it will strengthen relations between the parties in various fields of cooperation on the Parliamentary level. Furthermore, one can see that the legal basis of the new agreement with Egypt, Syria, Jordan and Lebanon is different than that of the previous agreements of 1972 with Egypt and Lebanon. Article 238 was proposed as the legal basis for the new agreements while Article 113 was used as the legal basis for the previous ones. Moreover, the previous agreements concluded with the Mediterranean countries and based on Article 238 had limited contents. Now the Community used the same article for concluding agreements with larger scope. Thus, the evolutionary character of the existing legal instruments in the Treaty of Rome, helped the Community to develop its policy towards the Mediterrane countries without requiring new legal instruments. Furthermore, the principle of reciprocity was not maintained in the new agreement while it was respected in the previous agreement. The duration of the new agreement is not limited to a certain period as the previous one. But, the agreement provides for a review of its contents in order to maintain its economic balance in the future.

However, this agreement is not ideal for Egypt as there are certain domains not covered by the agreement, such as cooperation in the field of labour and the establishment of a system of stabilizing export earnings. Moreover, tariff reductions regarding imported Egyptian agricultural products remained restricted by time tables (1) or quotas. (2) Furthermore, the restrictive concept of originating products does not help in promoting the regional cooperation and other States in the regio

(1) Such as onions, tomatoes, potatoes and grapes.

(2) Rice was given reduction of 25 % on the levy for 32 thousand ton year

spite these shortages, the agreement demonstrates an effort towards e establishment of a new model of relationship between the Community d the Mediterranean countries. This new model of relationshipsis expec- d to develop and evoluate by application for the mutual benefits of e two parties.

nally, the Egyptian agreement and agreements with other Machrek coun- ies constitute a part of the Community Mediterranean Policy and its w policy of cooperation. Thus, they reflect the Community regional d international strategy.

ese agreements also affirm the presence of the Community in the gion. The establishment of institutional links with these countries nstitutes an equilibrium in the region and will give the Community place to play a positive role in establishing a just and durable peace . the region. Moreover, these agreements will constitute a positive ep in the Community cooperation policy towards the Arab countries thin the framework of the Euro-Arab dialogue.

r the Machrek countries, the establishment of such variety of rela- ons with the Community is in fact, a choice of political character. ese various relations, commercial, economic , financial responds to certain extent to the aspirations of these countries and will create re closer links with the Community in the future. (1)

.) See M.F. Mellah "Les Accords Machrek/CEE" l'Europe Outremer n° 563 Mars 1977 p. 31.

CONCLUSION

The establishment of the European Economic Community has produced extensive results affecting the other world Communities on both the universal and regional level. Through the construction of the Communit internal organisation certain common activities have evolved towards third countries. The most important of these are the Agricultural and Commercial policies. The evolution of a distinct Community personalit has enabled the Community to develop its external policy towards diffe rent areas of the world (1). The Community has succeeded in building a Common Commercial Policy and has taken necessary measures for its impl mentation. These measures were taken either within the internal level of the Community or at the external level, through the conclusion of bilateral and multilateral agreements with third countries. These agreements resulted from very long and complicated negotiations.

1. THE COMMUNITY ACTION ON THE UNIVERSAL LEVEL

On the international level, the Community was the first economic block to implement in 1971, the general system of preferences recommended by UNCTAD, favouring the developing countries industrial products. The EE has given tariff-free entry to industrial products and to some process agricultural products from developing countries.This preference system has been improved and is becoming quite substantial, especially after the enlargement of the Community in order to compensate Common Wealth preference.(2) The general system of preferences has now become an important element of the Common Commercial Policy of the Community.

The Community was a partner in the Kennedy Round negotiations and demons trated a considerable degree of unity towards the United States during these negotiations. The Community is also now an eminent partner in the Tokyo multinational negotiations within the framework of GATT.

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(1) See Peter Coffey "The external Economic Relations of the EEC" London 1976

(2) Since 1968 the Community has offered developing countries, food aid which amounted to about 300 Million Dollars in 1974. Within the framework of the international Convention of 1967, the EEC engaged itself to supply annually an amount of 1. 35.000 Tons of wheat or cereals. This aid includes the Community, as such, and its Member States. See "European Community" May 1974,- p. 6.See also Table1,Appendix 4.

2. THE COMMUNITY POLICY ON THE REGIONAL LEVEL

On the regional level, the trading importance of the Community and the evolution of the European economic structure attracted and encouraged both individual countries as well as groups of countries to sign agreements with the Community. Therefore, the Community took action in different areas of the world. The policy of association has been a basic principle for the relations with Africa. The Community succeeded to establish and deepen its relations with the African countries through the system of association materialised in the Yaounde Conventions and recently in the LOME Convention concluded with 46 ACP countries in February 1975.

In contrast, the Community adopted a restricted policy towards Eastern European countries.The Common Commercial Policy towards Eastern Europe had remained embryonic. Negotiations between the Community and Eastern European countries have been delayed by deferring any obligation to implement the Common Commercial Policy before the end of the transitional period, and by the Soviet Union and its allies, refusing to accept the Community as a negotiating partner. However, renewed contacts between the parties have recently taken place and a new area of negotiations may have begun. (1)

3. THE COMMUNITY POLICY TOWARDS THE MEDITERRANEAN

The Mediterranean region is especially important to the Community and therefore the subject of Community Policy, which resulted from certain events in the region plus the enlargement of the Community. (2)

An analysis of the current Mediterranean situation clearly reveals the strength of its ties and those factors of interdependence which have led to extensive cooperation of the countries bordering the Mediterranean with the European Community.

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(1) See John and Pauline Pinder "The European Community's Policy towards Eastern Europe" - Chatham House PEP May 1975

(2) See Jean Petit-Laurent "Pour une cooperation entre pays Méditerannéens" Revue du Marché Commun, juin/juillet 1973

The relationship between the Community and the Mediterranean countries has resulted in the interaction of considerable interests concerning all fields of international relations, from commercial interests to those of security and even civilization itself.

For the EEC, the geographic unified aspect of the Mediterranean is vital for the Community's considerations of strategy, security (1) and energy. (2) The Mediterranean region moreover, now represents a market of vital interest, three times more important than the whole of Latin America. (3)

For the Mediterranean countries, the EEC represents an important partner in all aspects of development and constitutes a reassuring alternative to the influences of super-power states. (4)

On the other hand, the concept of a unified Mediterranean has never existed. (5) The authors of the Treaty of Rome did not foresee at the time of establishing the Treaty, the possibility of a developing relationship between the Community and the Mediterranean region. (6) The working relationship between the Community and the Mediterranean countries shows that interactions preceeded the development of a formalised policy by the Community. This interaction could only be felt at the Community level through the existing institutional tool, the provisions of the commercial policy decreed within the framework of the Treaty.

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(1) R.A. Kilmarx "Challenge of the Mediterranean-cross-Roads of U.S. Soviet relations". Military review 1970. See also L.Legendre "Méditerannée et problèmes de défense" Revue de Défense nationale, Paris Octobre 1972,

(2) See J.J.Beneby "Le Pétrole enjeu politique autour de la Méditerannée" Politique étrangère 1971.

(3) See Michel Papayannakis "Premiers éléments de l'Etude du Commerce International en Méditerannée" Options Méditérannéennes n° 15 Octobre 1972. See also Tables n° 1-3, Appendix 1.

(4) See M. Masmoudi "Méditérannée - Présence Soviétique Myopie Européenne Preuves" Sept.1973 n° 43 See also an interview for President Sadate in this respect, Le Monde Jan.22, 1975 also la Méditérannée-L'Europe, les Super-grands, Cahiers Atlantiques - 1972.

(5) See Jean Petit-Laurent "Recherche de Doctrine pour une coopération en Méditerranée" Marchés Tropicaux et Méditerranéens - Paris, Déc. 14 - 1973.

(6) Among the EEC Member States only Italy and France showed their interest to have a Mediterranean policy. See Silvestri & R.Aliboni Italy's Mediterranean role, International Journal Aug.1971 Also Couve de Murville "Une politique Etrangère" 1958-1969 Paris 1971.

The Treaty foresees legal instruments to establish agreements with the Mediterranean countries, in particular art. 113 concerning Commercial Agreements and Art. 238 which authorizes the Community to conclude association agreements.

Therefore, extremely complex economic and political factors could only be translated through an essentially commercial language which constituted the only means of expressing the Community's Common will, the motivations of which were frequently divergent.

A few years ago, the concept of a unified Mediterranean enjoyed a revival and the Mediterraean policy became one of the subjects for internal discussions, most often on the agenda of the EEC Council of Ministers. The development of certain events in the region and the enlargement (1) of the Community resulted in the adoption by the Council in November 1972 a global approach towards the Mediterranean countries. The essence of this global policy is to allow the Mediterranean countries to improve their relations in order to meet the specific economic needs of their countries. Agreements concluded on the basis of the new policy can be characterised by the following aspects. (2)

1. The enlargement of trade sector, so as to create a free exchange area (3) for industrial goods (4) and to grant balanced reciprocal concessions in the agricultural products.
2. Cooperation in other fields such as the economic, technical and financial areas (5).
3. Cooperation in the field of employment (6).
4. Cooperation in the field of environment.
5. No time limit to the agreements, but the possibility of review.

(1) See A.Rossi "Rapport sur les Conséquences de l'élargissement de la Communauté Européenne pour ses relations avec les pays du bassin Méditérannéen" Parlement Européen Fév. 1973.
(2) See "Doc. of European Commission on the relations between the Community and the Mediterranean Basin". See (72) 3111 Final Sept. 27, 1972.
(3) This solution was not foreseen for Greece and Turkey whose relations were based on permanent commitments. Malta and Cyprus also will have a custome Union with the Community in a later stage.
(4) The form of establishing the free trade area is to be adopted according to time tables and the elimination of trade obstacles varies according to the level of development in order to maintain the equilibrium
(5) Basically, financial aids are excluded for rich Mediterranean countries.
(6) This aspect was included mainly for those countries who export labour to the EEC.

A. MEDITERRANEAN AGREEMENTS IMPLEMENTING THE COMMUNITY'S POLICY IN THE MEDITERRANEAN

The Community has developed its policy towards the Mediterranean (1) During the different stages of the Community's own development without any predefined doctrine. Agreements concluded (2) according to this policy have developed in three distinguished stages :

1. The first stage was characterized by the pre-accession agreements with Greece and Turkey which were based on permanent commitments and concluded in the years 1961-1963.

2. The second, a period of proliferation, concluded several agreements with the Mediterranean states. Association agreements were concluded with Morocco, Tunisia, Malta and Cyprus. Preferential agreements were concluded with Spain, Israel, Egypt and Lebanon. A non-preferential agreement was also concluded with Yogoslavia in 1970.

3. The third, concluded cooperation agreements based on the Community global approach. On the basis of this new policy, agreements were concluded with Israel in 1975 and with Algeria, Morocco and Tunisia in April 1976. Other agreements were also concluded with Egypt, Syria, Lebanon and Jordan in 1977.

The analysis demonstrates that the Mediterranean agreements of the first generation, the first and second stages, except those with Greece and Turkey had limited substance and were restricted only to trade. They assumed a great variety of forms and were based fundamentally on endeavours to take suitable account of the requirements of the individual countries in a pragmatic way. These agreements which were based fundamentally on the concept of equilibrium in the agricultural sector, are adjusted around the principle of reciprocal concessions. This principle was the subject of violent criticism mainly across the Atlantic, since it gives rise to reverse preferences. Experience proves that these agreements fall short of the aspirations of the Mediterranean countries and did not favourably affect their relations with the Community. (3)

(1) See J. Rey "The European Community's Role in the Mediterranean Europe" Journal of International Affairs 1965.

(2) See J. Attali "Les relations Commerciales entre la CEE et la Méditerranée" Options Méditerranéennes, Oct. 1972.

(3) A part of these shortages was due to these countries themselves because of internal problems concerning their production & systems of exports. See M. Boussoufara "La Tunisie souhaite des relations plus équilibrées avec l'Europe" Marchés Tropicaux et Méditerannées 14 Dec. 1973 Also P. Uri, Israel and EEC new Middle East March/April 1972 and tables Appendix 1.

B. IMPLEMENTATION OF THE GLOBAL APPROACH

On the other hand the new Mediterranean agreements concluded on an extensive basis, prove the real implementation of the Community's global approach. These agreements include all the aspects of this approach, large trade concessions, economic, technical and financial cooperation. The new policy, in fact, demonstrates a considerable effort made by the Community to meet the economic needs of these countries. Since external trade earnings represent an important element in the economic growth of developing countries, the Community recognising the need to encourage expansion of the exports from these Mediterranean countries granted for the first time a full exemption to industrial products and enlarged concessions for agricultural products.

The Community also realised that the Mediterranean countries need to not only increase but diversify their exports. This diversification would help these countries to make better use of and increase their exports earnings. To achieve this objective regulatory measures were, for the first time, included in the new agreements, with these countries, giving progressively better access to the Community Market. The Community also participated for the first time through various measures including financial participation in the promotion of production, economic structures and industrialisation within these countries. These measures which were absent in the previous Mediterranean agreements, would certainly have favourable effects on the future relations between the parties.

Diversity in the application of the global approach

In applying the global approach, the Community did not adopt identical solutions for all the countries in the Mediterranean for both geographical and economic reasons. Geographical factors imposed a distinction between the European Mediterranean countries which have a natural ability for accession and the Southern Mediterranean countries whose integration with the Community was not even foreseen by the Treaty. Their relations with the Community are possible through only one option, that of cooperation. In the Southern Mediterranean the Community was required to adopt different solutions. The inequality of development levels in the region persuaded the Community to apply different solutions for the elements of the global approach. In the trade sector the Community granted immediate tariff exemptions for industrial products imported from the Maghreb countries, while the full exemption for the Machrek countries and Israel takes place only on July 1, 1977.

The Community insisted on the principle of reciprocal concessions with Israel, while it was satisfied to be granted the most favoured nation-treatment as a counter concession from the Maghreb and Machrek countries.

On the other hand, Israel is the first Southern Mediterranean country to establish free trade area with the Community for industrial products according to a fixed time table and in conformity with Art. XXIV of the GATT.

The Maghreb and Machrek countries' agreements did not include time tables for the creation of a free trade area for industrial products. But the preambles of these agreements reflect current developments in the relationship between developed and developing countries, compatible with the aspirations of the international Community towards a more just and balanced economic order.

The agricultural sector of this global approach was included in the new agreements but was not the subject of a free trade area. Particular considerations concerning the production of certain agricultural products were taken for every country, such as rice for Egypt, citrus, fruit for Israel, olive oil and wine for the Maghreb countries.

Also for financial cooperation, the application of the global approach varied according to the level of development. Initially, financial cooperation was foreseen only for the Maghreb countries and Malta (1). But for political and economic reasons the Community extended financial aid to the Machrek countries, Israel and Yogoslavia. Certain economic particularities have been taken into consideration, while applying the conditions for these different treatments. For the less developed countries in the region, such as the Maghreb and Machrek countries and Malta, the Community's financial aid was comprised at ordinary loans, loans with special conditions and grants. Israel and Yogoslavia only received normal loans from the European Investment Bank. The level of development for each country was also reflected in the quantity of loans and grants given to each

(1) Relations with Malta are based on the creation of a customs union the second stage will start this year 1977.But Malta concluded additional protocols with the Community in 1976 in which it was granted concessions on agricultural products and financial aid.

country in the region (1).

Labour cooperation was included only for the Maghreb countries among the other Southern Mediterranean countries. The Community was only concerned with the present problems of the Maghreb workers while it did not regard the potential problems in this respect for other Southern countries such as Egypt which is a potential exporter of labour to the EEC.

A further point to consider is that the development in the substance of the new agreements was accompanied by a parallel development in the composition of and the powers confered upon the institutions provided by the new agreements. In the first generation agreements, institutions (2) had limited powers and their functions were mostly administrative. But through the new agreements institutions have a larger area of competence and more extensive decision-making powers. Moreover, the new Maghreb agreements adopted a system of arbitration for settling disputes which may arise from the application of these agreements. This proves that the more substance the agreements contain, the more powers the institutions have.

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(1) Yugoslavia did not conclude any agreement with the Community on the basis of its global approach. Preferential treatment was not foreseen for Yogoslavia until now. But in accordance with the spirit of this global approach, the Community granted Yogoslavia an ordinary loan of 50 Million Units of account from the European Investment Bank.

(2) Among the first stage agreements, only agreements with Greece and Turkey overlap the purely commercial level, extending to other fields of cooperation. They are also characterized by an enlarged power of decision-making for the institutional bodies responsible for the application of the agreements. This power is not found in the agreements with other countries in the region.

C. THE EVOLUTION OF THE CONCEPT OF THE TREATY ARTICLES AS A LEGAL BASIS FOR THE NEW AGREEMENTS BASED ON THE GLOBAL APPROACH

As it was previously mentioned, the concept of the Mediterranean as such, did not exist. Thus the relations between the Community and the Mediterranean countries were based on Treaty articles of general meaning which constitute the legal basis of the Community's external relations. In the first generation of Mediterranean agreements, the Community used article 113 of the Treaty for the conclusion of preferential and non-preferential agreements. Article 238 of the Treaty was also used for the conclusion of association agreements (1). In applying both articles 113 and 238, the Community took into account political and economic considerations for every country in the region (2). The development of the Mediterranean policy and the inclusion of other sectors than trade in the new agreements require either an evolution in the concept of these articles or the use of new legal instruments to meet the needs of this new policy. For example, financial cooperation is not expressly foreseen by any article in the Treaty of Rome and therefore it requires a particular decision by the Member States.

Article 235 of the Treaty of Rome authorizes the Community to take action, if it is necessary to attain, in the course of the operation of the Common Market, one of the objectives of the Community when the Treaty has not provided the necessary powers. In this respect the Council shall acting unanimously on a proposal from the Commission and after consulting with the Assembly, take the appropriate measures (3).

(1) See "Seminar on the relations between the EEC and Greece and Turkey" Europa Institute Amsterdam 1976 p. 23

(2) Association took a political significance with the European Mediterranean countries whose institutions did not seem at the time, compatible with the effective functioning of democracy. This justified concept resulted from the refusal to conclude agreements based on Article 238 with Spain and Portugal. Although these concepts correspond to reasonable, political categories that are justified, nothing in the Treaty imposed this interpretation of article 238. See Ph. Petit-Laurent "Les Fondements politiques des engagements de la Communauté Européenne en Méditérannée" Presses Universitaires de France Paris 1976

(3) See article 235 of the Treaty of Rome.

n applying the global approcah, the Community did not resort to article 35 of the Treaty (1) but it used both articles 113 and 238 as the legal asis of the new agreements. The Community used article 113 for the conlusion of the agreement of May 1975 with Israel and article 238 for the dditional protocols concluded with Israel for economic, technical and inancial cooperation in November 1976. Article 238 was used as the egal basis for Maghreb agreements and also proposed for Machrek agreements

he evolution of the concept of articles 113 and 238 has helped the Commuity in implementing the global approach without resorting to the use of ew legal instruments.

rticle 238 foresees the possibility of the Community concluding associaion agreements, but nothing determines either the characteristics or ne contents of those agreements. In this respect, the evolution of cerain concepts can be noted. One of them is political and concerns article 38. As previously mentioned, association is not well defined in the reaty of Rome and at the beginning the only existing association was with ne African and Madagascar countries. There was a period during which the ord, association, encountered a kind of prejudice. Some saw in it an instruent of colonial or post-colonial policy. Therefore, certain countries eared, at the time, to establish relations with the Community based on nis article. Now, this concept has changed and both the Community and nird Countries have agreed to conclude agreements based on this article. nother evolution took place concerning both articles 238 and 113.

ne contents of article 238 are not precisely defined in the Treaty. The bsence of a well defined substance for this article helped the Community o enlarge the contents of new agreements based on this flexibility of rticle 238.

reviously Mediterranean agreements based on this art. such as Morocco & unisia agreements of 1969,had limited contents and were restricted to rade.Now the Community has used the same art. for concluding agreements egarding trade; economic,technical and financial cooperation. Similarly, may be stated at the time of signature of the Treaty of Rome, that few urists would have dared to assert that art.113 permitted the conclusion of referential agreements. But this interpretation has developed since 1969, nd it has been agreed that art.113 used until then in the framework of erga omnes" measures, could also serve as the basis for granting preferenial conditions.

1) The Community avoided resorting to art.235 because it might be difficult to reach a consensus among Member States in this respect.

The absence of a precise definition of the contents of this article permitted the Community to enlarge these contents when it appeared necessary. Thus, the evolutionary character of the existing legal instruments in the Treaty of Rome enabled the Community to develop its policy towards the Mediterranean, without resorting to new legal instruments (1).

Despite the fact that the Community used article 238 as the legal basis of the recent Mediterranean agreements, it is difficult to agree that all elements of the global approach fall within the scope of this article. For example, cooperation in the domain of labour was not included before in any agreement based on article 238. Moreover, the Community has not yet established Common rules in this domain as it has done in the field of environment. Furthermore, an association agreement based on article 238 is generaly characterized by two essential elements, limited duration and reciprocity which were not maintained in the new Mediterranean agreements.

Therefore, these agreements could also be based on article 235 of the Treaty for the domains which are not usually covered by article 238, such as cooperation in the field of labour (2).

Finally, despite the Community practised its powers in this domain, Member States remain competent to conclude individually, agreements with third countries in the field of labour.

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(1) See J. Raux et C. Flasch - Mougin "Les accords externes" RTDE N° 2, 1975, p. 228.

(2) G. Peeters "L'article 235 du Traité CEE et les relations extérieures de la CEE" - RMC n° 164, April 1973, pp. 141-144.

D. THE EVOLUTION OF THE COMMUNITY'S ATTITUDE WITHIN THE GATT

The evolution of the Community's relations with GATT demonstrates how over a decade, the EEC's attitude has changed within GATT. At an early stage, no agreement for preferential arrangements could be contemplated outside the context of a customs union or free trade area in conformity with article XXIV of GATT. Thus, the Community was not prepared at that time to grant the third countries preferential treatment outside this context. During this period the Community was feeling its way in internal trade and allowed the rules of GATT to help its external policy. In a later stage, the Community felt its economic strenght and concluded preferential agreements with Mediterranean countries which are hardly in accord with the letter much less the spirit of GATT. The Community faced difficulties and strong attacks from GATT Members particularly the United States, as a result of strict adherence to GATT rules. Recently, especially after the Community adoption of the system of generalized preferences for the developing countries, the climate in GATT has improved towards the Community agreements. The Community's policy was more appreciated by developing countries after the conclusion of the LOME Convention in 1975, which includes 46 developing countries, in Africa, the Pacific and Carribean. This Convention was regarded as a progressive development in the Community's policy towards the developing countries (1). Consequently, the attitude of these countries has changed and they have refrained from criticising the Community agreements concluded with Mediterranean countries. Moreover, the new Mediterranean agreements included more eliminations of trade barriers and some of them such as the agreement with Israel include fixed time tables at a reasonable period compatible with article XXIV of GATT. Only the U.S., Japan, Canada and certain developing countries, in Asia and Latin America are still hostile to the Community's Mediterranean policy.

(1) See "L'Eurafrique ou le rôle de la Mediterranée" par L. Sedar Senghor - Communication devant l'Assemblée Consultative du Conseil de l'Europe, le 20 octobre 1972.

E. APPRECIATION OF THE MEDITERRANEAN POLICY

Although the Community's global approach represents an effort made by the Community to meet the aspirations of the Mediterranean countries, especially the developing one: the Community's policy is still unsufficient to meet the economic development requirements in these countries and does not exactly respond to the current tendances to establish a more just and balanced economic order (1). It should be born in mind that the relations between the Community and the Mediterranean, especially with the South represent a kind of relationship between a group of highly developed industrialised countries, and developing countries. Thus, in establishing this relationship current development in the international economic order should be taken into account. In considering these developments in the international Community, one can see the shortages of the Communit Mediterranean policy through the following :

1. In the trade fields, the EEC approach in both the first and recent agreements has until now been comprised of duty free entry to the EEC. In fact, customs duties are increasingly losing their protective function, and it has become clear that the duty-free entry is unsufficient to assist Mediterranean exports to the EEC. Liberalisation of trade, abolishment or reduction of tariffs all over the world means that the preferential margin becomes less and less.

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(1) The new international economic order could be based according to the current conception on the following four objectives :

1. Equilibrium of exchanges : This objective implies a system of stabilizing exports earnings of the developing countries,
2. Equilibrium of activities : The particular efforts necessary for developing countries to modernize their agricultural production and facilitate their access to an industrial development and transfer of technology,
3. Equilibrium of currencies : The return to stabilised parities,
4. Equilibrium of revenues : This presupposes an effort of financial solidarity for developing countries.

See Claude Delmas "L'Europe et le Tiers Monde", Institut Universitaire International Luxembourg. See also African Development "Step by Step Progress of the new international Economic Order", London, Feb. 1976, p. 124-126.

The concentration of innovations in the North and the absence of technology in the South, means that products from the North are at a great advantage in the Market (1). The South must improve the efficiency of its products in order to compete with similar products of the North. Even with concession from the Community, Southern products still remain non competitive. Moreover, important agricultural products for the Mediterranean countries were given modest concessions while other products were restricted by time tables, only where the interests of the Community producers were not affected. This position may produce unfavourable effects, especially since the Mediterranean countries are not net exporters for all agricultural products. On the contrary most of the Mediterranean countries are net importers of cereals and meat, and major exporters of fruits and vegetables which are subject to these same restrictions or time tables (2). Furthermore, the restrictive concept of originating products does not help in developing regional cooperation between the Mediterranean countries. According to this concept fish processed in Morocco with Tunisian olive oil and canned in Egyptian tins do not enjoy the status of an originating product and consequently do not benefit from the Community concessions.

Therefore, the EEC should seek other types of measures with the Southern Mediterranean countries, in order to promote their trade and increase production for export. These measures should go far beyond the simple duty free system. The fact is that there has been a deterioration in the terms of trade for almost all the Mediterranean countries, since they have to produce more and more to pay for their imports. The problem of these countries is to stabilise their export earnings. The Mediterranean countries should have a regular nominal increase in exports earnings in terms of purchasing power. The Community has already realised this reality and has adopted such measures within the framework of the LOME Convention (3). Thus, the Community should adopt in the future a type of guarantee for stabilising export earnings of the Mediterranean countries.

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(1) G.K. Helleiner "perspective on development - A world divided the less developed countries in the International Economy" - Cambridge University Press 1976, p. 97.

(2) See "The Economist" - September 11, 1976, p. 63-64.

(3) See "La CEE et le Tiers Monde, Les Grands Problèmes Européens" - Bureau d'Informations des Communautés Européennes - Paris, juin 1976 ; Eberhard Rhein "The LOME agreement - political and juridical aspects of the Community policy towards LDC's" CML review, Vol. 12 n° 3, August 1975, pp. 285-297.

2) Industrial and Economic cooperation is included for the first time in the new agreem based on this global approach. But these agreements remained silent about the transf of any industrial activities to the Mediterranean countries. The fact is that a numb of Mediterranean countries produce raw materials and hope to see manufacturing indus partially and progressively transferred from the EEC to these countries. Such indust cooperation is extremely important for the future relations between the two parties.

Many raw materials are being transformed in the EEC countries where these countries f the resulting problems of pollution and sometimes high economic costs (1). These indu trial activities, especially basic industries, could easily be transformed or at leas partially transformed in the less developed countries in the region where there exist primary materials and low labour costs. This kind of cooperation would create a real interdependence between the EEC and these countries. It also guarantees a better divi sion for international labour. Certain countries in the Mediterranean (2) expressly asked for this kind of cooperation and some eminent personalities in the European Com· mission are in favour of this concept (3).

3) Financial cooperation is also included for the first time in the new agreements as an aspect of the global approach. Although this financial aid granted to the Mediterranea countries represents a sacrifice from the EEC Member States, this aid is unsufficient in comparison with the economic needs of these countries and does not respond to the official commitments taken by the Community Member States in the United Nations conferences (4).

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(1) See Mahbub Ul Hag "Un point de vue du Tiers Monde" Finance & Development, Dec. 1972

(2) During the negociations between the EEC and Algeria, the Algerian delegation invoke the idea of transferring certain basic industries from the EEC and in return Algeri undertook to provide regularly the EEC with Petrol. This idea was also discussed in a Conference organised by OCIPE (Office Catholique d'Information sur les Problèmes Européens) "Communauté Européenne et Bassin Méditerranéen", Bruxelles 29-30 nov. et ler déc. 1972.

(3) Such as M. Cheysson Commissioner for cooperation and development. See Europe "La crise et le Tiers Monde" par Claude Cheysson in Défense Nationale, Paris 1974, pp. 11-32. See also "The Community and Third World" European Community, May 1974.

(4) In 1974 during the extraordinary sessions of the General Assembly of the United Nations, the industrialised countries promissed to allocate 0,7 % of their gross national product as development aid for the developing countries. Among the EEC Member States only the Netherlands and France have nearly reached this target. See table 2 Appendix 4. See also C. Delmas "L'Europe et le Tiers Monde", Institut Universitaire International Luxembourg. Cours 1975, p. 259. See also Cl. Cheysson "La crise et le Tiers Monde", Défence Nationale, Paris mai 1974, p. 15.

The EEC has a moral duty in participating in the process of peace and stability in the Mediterranean region, through strenghtening the economic relations and helping the economic development of these Mediterranean countries. The Community should encourage the formation of an area of economic cooperation embracing the countries to its South as has already been done, while using different means in the North.

A further point to be considered is that the procedures of negotiating Community's agreements have become long and complicated. The Community might find a solution for this problem in order to meet the requirements of its future policy.

Finally one can conclude that for the time being the Mediterranean policy exists in the form of bilateral negotiations conducted with individual countries on a case by case basis without any clear reference, to the overall approach which the Community declared to be its guiding principle.

Despite its appearance as a global conception, the application of the global approach is actually diversified and the Community has remained pragmatic as before (1). The global approach has not yet resulted in a common operational policies, but points as an ouverture to the future. The new Mediterranean policy corresponds to the current phase of Community development and therefore is thus transitional, a compromise between the current interests of the Community and the pressing economic needs of the Mediterranean countries.

A really effective Mediterranean policy in fact, depends on the development of other policies of the Community and on the progress of European integration.

The enlargement of the Community towards the North and the possibility of enlargement towards the South may bring a well defined and realistic Mediterranean policy for the future.

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(1) See Ph. Petit-Laurent "Les Fondements Politiques des Engagements de la Communauté Européenne en Méditerranée", Travaux de Recherches de l'Université de Droit, d'Economie et de Science Sociale, Paris 1976, p. 112-122.

F. THE MEDITERRANEAN POLICY AND COOPERATION WITHIN THE FRAMEWORK OF THE EURO-ARAB DIALOGUE (1)

Cooperation on the basis of the Mediterranean policy, as previously mentioned, does not go beyond the countries bordering the Mediterranean sea. But, cooperation within the framework of the Euro-Arab dialogue embraces all Arab countries members of the

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(1) The Euro-Arab dialogue was, in fact, an entirely novel concept. The idea was born few years ago as the product of a joint political will that emerged at the highest level with a view of establishing a special relationship between the Arab world and the nine Member States of the European Community. At the meeting held in Copenhagen on 14 and 15 December 1973 between the foreign ministers of several Arab States representing the entire Arab Community, and representatives of the Member States of the European Community, both sides agreed on the desirability of long-term cooperation. This would be politically important in view of the economic, technical and cultural benefits which would yield for both regions. The European concept considers that the economic and cultural aspects of the dialogue remain of essential importance while the Arab view point considers the political aspects of the dialogue of prime priority. To achieve the goals of the Euro-Arab dialogue, seven working groups were established for agriculture and rural development, trade, basic infrastructure, industrialization, financial cooperation, science and technology, cultural, social and labour questions. Sub-specialized groups were also established. A General Committee was created to supervise the work of the dialogue. The General Committee has the primary task of coordinating, guiding and stimulating the Euro-Arab dialogue. It is responsible for deciding on the policies to be followed, setting the necessary technical and administrative bodies and coordinating and supervising them, taking financial decisions on the implementation of specific projects. The General Committee may convene a conference of the foreign ministers of the Community and of the Arab countries if the results achieved by the dialogue justify this meeting. The works of the working groups have progressed, especially in certain fields such as agriculture and rural cooperation. The General Committe has also held two meetings, the first in Luxembourg in May 1976 and the second in Tunis in February 1977.

Arab League, including the Arab Mediterranean countries, and the nine Member States of the Community.

The general character and principle of the dialogue as delineated in various jointly agreed documents and declarations, is to boast cooperation in economic and cultural fields and strengthen the ties of friendship between the two communities of peoples. The joint political will clearly reveal the aim of the two parties to establish a special relationship between the Arab world and the nine Member States of the Community. The aspects of the dialogue obviously exceeds trade and economic cooperation. It includes other fields of cooperation such as political, financial, social and cultural relations. These aspects are clearly more larger than of those of the Community Mediterranean Policy.

Thus, Arab countries bordering the Mediterranean have the possibility of benefiting from the results which may yield from the dialogue. At present, a multilateral trade agreement between the Community and all Arab countries is foreseen. This collective agreement could serve as complementary to the bilateral agreements concluded by the Arab Mediterranean countries and the Community.

A possibility of triangle cooperation comprising European Know-How and Arab financing could also be realized for these countries within the framework of the dialogue.

Finally, the Mediterranean policy and the Euro-Arab dialogue could serve as strong basis of a coherent policy for the Community towards the region. This kind of cooperation will create closer relations between the two Communities and also affirm the presence of the European Community in the region. The establishment of institutional links with the Mediterranean and Arab countries constitutes an equilibrium in the region and will give the European Community an

important role to play for establishing prosperity and peace in the region. (1)

(1) ABU NIML (H.), En marge du dialogue euro-arabe : l'Europe occidentale, les Arabes et Israël, in Affaires palestiniennes (Beirut), n° 46, 1975, p. 57-74 (in Arabic) ; CASADIO (J.P.), Europe and the Middle East, Bologna, 1976, 32 p.; ID., The Economic Challenge of the Arabs, Lexington Books, 1976 ; DAJANI (A.S. Al-), The Euro-Arab Dialogue. Cairo, 1976, 250 p.; ID., Le dialogue euro-arabe et la coopération dans le domaine de la culture, du travail et du social, in L'Actuel (Brussels) (not yet published) ; FRESCOBALDI (D.), Il dialogo euro arabo, in Affari Esteri, April 1976, p. 302-313 ; KHADER (B.), Les relations CEE/Israël et l'avenir du dialogue euro-arabe, in Situations Moyen-Orient (Brussels), Sept.-Oct. 1975, p. 11-14 ; ID., Quelques réflexions critiques sur le dialogue euro-arabe, in Liban Palestine, Paris, 1976, p. 197-215 ; KHADER (B. & H.), Le difficile dialogue euro-arabe, in La Revue Nouvelle, 11/1975, p. 427-435 ; ID., Un dialogue difficile mais nécessaire, in Durabia, 2/1975, p. 12-14 ; ID., Réflexions sur le dialogue euro-arabe, in Situations Moyen-Orient, Nov.-Dec. 1975, p. 10-14 ; ID., Dialogue euro-arabe et crise énergétique, Louvain, Institut des pays en voie de développement, 1975, 118 and 210 p. ; ID., Introduccion al dialogo euroarabe : la crisis energetica, in Almenara (Madrid), 9/1976, p. 1-28 ; LAU (R.), Le dialogue euro-arabe et sa place dans la politique méditerranéenne des Neuf, in RMC, 1976, p. 69-74 ; RABIE (M.), Prospects for the Euro-Arab Dialogue, 1977, 17 p. (unpublished) ; VOLKER (S.), The Euro-Arab Cooperation, Leyden, Sijthoff, 1976.

ANNEX I

ANNEXE

TRADE AGREEMENTS WITH CENTRAL AND NORTH EUROPEAN COUNTRIES

	Date Effective	Duration	Legal basis (Treaty of Rome)	Notes
Austria	1.1.73	Unlimited	Art. 113	Preferential trade agreement setting up an industrial free trade area. The trade clauses were effective as from 1.1.72.
	1.1.74	Unlimited	Art. 113	Agreement on Community goods in transit through Austria.
	1.5.76	Unlimited	Art. 113	Agreement on goods in transit between the E.E.C. and Greece and Turkey.
Finland	1.1.74	Unlimited	Art. 113	Preferential trade agreement setting up an industrial free trade area.
Iceland	1.4.73	Unlimited	Art. 113	Preferential trade agreement setting up an industrial free trade area. Additional agricultural concessions operative since 1.7.76
Norway	1.7.73	Unlimited	Art. 113	Preferential trade agreement setting up an industrial free trade area.
Sweden	1.1.73	Unlimited	Art. 113	Preferential trade agreement setting up an industrial free trade area.
Switzerland	1.1.73	Unlimited	Art. 113	Preferential trade agreement setting up an industrial free trade area.
	30.11.72	Unlimited	Art. 113	Agreement on E.E.C. goods in transit through Switzerland.

TRADE AGREEMENT WITH STATE-TRADING COUNTRIES

Rumania	Retroactive to 1.1.76	to 31.12.77	Art. 113	Agreement on trade in textiles.

2.

AGREEMENT WITH MEDITERRANEAN COUNTRIES IN EUROPE.

Association agreements.

	Date Effective	Duration	Legal basis (Treaty of Rome)	Notes
Greece	1.1.62	Unlimited	Art. 238	Association agreement setting up customs union. On 12.6.75 Greece officially requested full EEC membership; negotiations opened 27.7.76.
Turkey	1.12.64	Unlimited	Art. 238	Association agreement setting up customs union and providing for ultimate full membership.
Malta	1.4.71	Stage I : 5 years to 31.3.76 extended till 30.6.77	Art. 238	Association agreement providing, in its second stage, setting up of customs union over a period limited in principle to five years. Finance protocol signed 4.3./6. Protocol in force from 1.6.76, extending agreement to agriculture and cooperation.
Cyprus	1.6.73	Stage I : 4 years to 30.6.77	Art. 238	Association agreement, of which stage two, running from 1.7.77 provides gradual setting up of customs union over a period limited in principle to five years.

AGREEMENTS WITH MEDITERRANEAN COUNTRIES IN EUROPE (continued)

Trade agreements.

Spain	1.10.70	Stage I : not less than 6 years	Art. 113	Preferential trade agreement (free trade) but limited to trade with the original EEC members. Extension to the new EEC members is under consideration.
Portugal	1.1.73	Unlimited	Art. 113	Preferential trade agreement setting up a free trade area. Trade provisions of additional protocol came into force 1.11.76, under interim agreement signed 20.9.76. This protocol provides industrial, technical and social cooperation. Finance aid is also provided.
Yugoslavia	1.9.73 retroactive to 1.1.76	5 years (renewable) to 31.12.77	Art. 113 Art. 113	Non-preferential trade agreement, enabling extension of cooperation. Agreement on the trade in textiles

AGREEMENTS WITH SOUTH MEDITERRANEAN COUNTRIES.

	Date Effective	Duration	Legal basis (Treaty of Rome)	Notes
Algeria	signed 26.4.76	Unlimited evolutionary clause denunciation clause	Art. 238	Cooperation agreement (commercial, industrial, technical, social and financial). Provisions include, free access for industrial goods to EEC market and preferences for agricultural goods. Trade provisions operative from 1.7.76 by interim agreement.
Morocco	1.9.69 signed 27.4.76	5 years Unlimited evolutionary clause denunciation clause	Art. 238 Art. 238	Association agreement. Cooperation agreement (commercial, industrial, technical, social and financial). Provisions include, free access for industrial goods to EEC market and preferences for agricultural goods. Trade provisions operative from 1.7.76 by interim agreement.
Tunisia	1.9.69 signed 25.4.76	5 years Unlimited evolutionary clause denunciation clause	Art. 238 Art. 238	Association agreement. Cooperation agreement (commercial, industrial, technical, social and financial). Provisions include, free access for industrial goods to EEC market and preferences for agricultural goods. Trade provisions operative from 1.7.76 by interim agreement.
Arab Republic of Egypt	1.11.73 signed 18.1.77 retroactive to 1.1.76	1.11.78 Unlimited evolutionary clause denunciation clause to 31.12.77	Art. 113 Art. 238 Art. 113	Preferential trade agreement. Cooperation, agreement (commercial, industrial, technical, and financial). Provisions include free access for industrial goods to EEC market and preferences for agricultural goods. Intended for substitution for earlier agreement. Agreement on the trade in textiles.
Lebanon	1.7.65 signed 18.12.72 initialled 16.12.77	renewable 5 years Unlimited evolutionary clause denunciation clause	Art. 113 Art. 113	Agreement on trade and technical cooperation. Preferencial trade agreement (not yet ratified by Lebanon). Cooperation agreement (commercial, industrial, technical, social and financial. Provisions include free access for industrial goods to EEC market and preferences for agricultural goods.

AGREEMENTS WITH SOUTH MEDITERRANEAN COUNTRIES (continued)

	Date Effective	Duration	Legal basis (Treaty of Rome)	Notes
Jordan	signed 18.1.77	Unlimited evolutionary clause denunciation clause	Art. 238	Cooperation agreement (commercia industrial, technical and financial). Provisions include, free access for industrial goods to E market and preferences for agricultural goods.
Syria	signed 18.1.77	Unlimited evolutionary clause denunciation clause	Art. 238	Cooperation agreement (commercia industrial, technical and financial). Provisions include free access for industrial goods to E market and preferences for agricultural goods.
Israel	1.7.75 signed 8.1.77	Unlimited Unlimited evolutionary clause denunciation clause	Art. 113 Art. 238	Agreement setting up an area of free-trade and cooperation. Additional protocols on industri technical and financial cooperation.

CONVENTION WITH AFRICAN, CARIBBEAN AND PACIFIC COUNTRIES (A.C.P.).

Lome Convention.

49 States : Bahamas, Barbados, Benin Botswana, Burundi, Cameroon, Central African Rep. Chad, Congo, Equatorial Guinea, Ethiopia, Fiji, Gabon, the Gambia, Ghana, Granada, Guinea, Guinea-Bissau, Guyaha, Ivory Coast, Jamaica, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Niger, Nigeria, Rwanda, Senegal, Sierre Leone, Somalia, Sudan, Swaziland, Tanzania, Togo, Tonga, Trinidad and Tobago, Uganda Upper Volta, Western Samoa, Zaïre, Zambia.	signed 28.2.75	Expires 1.3.80	Art. 238	General convention signed at Lomé covering, essentially : - trade cooperation : free access for ACP goods to EEC market (operative in advance from 1.7.75); - stabilisation of export receipts; - industrial, technical and financial cooperation. An annexed protocol guarantees the sugar exports from the following countries : Barbados, Congo, Fiji, Guyana, Jamaica, Kenya, Madagascar, Malawi, Mauritius, Swaziland, Tanzania, Trinidad and Tobago, Uganda.
	1.4.76			Countries in course of accession to the Convention are : Cap Verde, New-Guinea-Papua, St. Tomé and Principe.
Surinam	16.7.76			Two protocols for banana and rum
Seychelles	27.8.76			
Comores	13.9.76			

TRADE AGREEMENTS WITH ASIAN COUNTRIES.

Countries with which cooperation agreements have been signed.

	Date effective	Duration	Legal basis (Treaty of Rome)	Notes
Bangladesh	1.12.76	5 years (renewable)	Art. 113	Non-preferential trade cooperation
	retroactive to 1.1.76	to 31.12.79	Art. 113	Agreement on trade in jute products
	1.11.74	Unlimited	Art. 113	Agreement on silk fabrics and handloom-woven cotton goods (1)
	1.11.74	Unlimited	Art. 113	Agreement on trade in handicraft products (1).
India	1.4.74	5 years (renewable)	Art. 113	Non-preferential trade cooperation agreement.
	18.7.75	Unlimited	Art. 113	Agreement guaranteeing Indian sugar exports (as in ACP protocol).
	retroactive to 1.1.76 Initialled	to 31.12.79	Art. 113	Agreement on trade in jute products
	7.4.76	to 31.12.79	Art. 113	Agreement on trade in coir products
	retroactive to 1.1.75	to 31.12.77	Art. 113	Agreement on trade in textiles
	1.7.68	Unlimited	Art. 113	Agreement on silk fabrics and handloom-woven cotton fabrics (1)
	1.9.69	Unlimited	Art. 113	Agreement on trade in handicraft products.
Pakistan	1.7.76	5 years (renewable)	Art. 113	Non-preferential trade cooperation agreement
	retroactive to 1.1.75	to 31.12.77	Art. 113	Agreement on trade in textiles.
	exchange of letters of 13.5.70	Unlimited	Art. 113	Agreement on trade in silk fabrics and handloom woven cotton fabrics (1)
	1.9.69	Unlimited	Art. 113	Agreement on trade in handicraft products (1).
Sri Lanka	1.12.75	5 years (renewable)	Art. 113	Non-preferential trade cooperation agreement.
	October 74	Unlimited	Art. 113	Exchange of letters on trade in coir products
	1.6.75	Unlimited	Art. 113	Agreement on trade in silk fabrics and handloom woven cotton fabrics (1)
	1.9.71	Unlimited	Art. 113	Agreement on trade in handicraft products (1).

6. TRADE AGREEMENTS WITH ASIAN COUNTRIES (contd.)

Countries with which cooperation agreements have been signed.

	Date effective	Duration	Legal basis (Treaty of Rome)	Notes
Iran	1.9.71	Unlimited	Art. 113	Economic and commercial coop tion agreement in course of negotiation. Agreement on trade in handic products (1).
South Korea	retroactive to 1.1.76	to 31.12.77	Art. 113	Agreement on trade in textile
Hong Kong	1.6.76 retroactive to 18.7.75	to 31.12.77	Art. 113	Agreement on trade in textile
Indonesia	1.9.71	Unlimited	Art. 113	Agreement on trade in handicr products (1).
Japan	1.8.76 retroactive to 1.1.75	to 31.12.77	Art. 113	Agreement on trade in textile
Laos	1.6.75	Unlimited	Art. 113	Agreement on trade in silk fa grics and handloom-woven cott fabrics (1).
	1.6.75	Unlimited	Art. 113	Agreement on trade in handicra products (1).
Macao	retroactive to 1.10.75	to 31.12.77	Art. 113	Agreement on trade in textiles
Malaysia	retroactive to 1.11.75	to 31.12.77	Art. 113	Agreement on trade in textiles
Philippines	1.9.71	Unlimited	Art. 113	Agreement on trade in handicra products (1).
Singapore	retroactive to 1.1.75	to 31.12.77	Art. 113	Agreement on trade in textiles
Thailand	1.1.75	Unlimited	Art. 113	Exchange of letters on trade i jute products.
	1.1.73	Unlimited	Art. 113	Agreement on trade in silk fa- brics and handloom-woven cotton fabrics (1).
	1.9.71	Unlimited	Art. 113	Agreement on trade in handicra products (1).

(1) The annual independent quota was doubled by regulation of 28.12.73

TRADE AGREEMENTS WITH LATIN-AMERICAN COUNTRIES.

	Date effective	Duration	Legal basis (Treaty of Rome)	Notes
Argentina	1.1.72	3 years (renewable)	Art. 113	Non-preferential trade agreement -- annual renewal by exchange of letters.
Brazil	1.8.74 retroactive to 1.1.76	3 years to 31.12.77	Art. 113 Art. 113	Non-preferential trade agreement Agreement on trade in textiles
Colombia	retroactive to 1.1.76	to 31.12.77	Art. 113	Agreement on trade in textiles
Mexico	1.11.75	5 years	Art. 113	Non-preferential agreement on economic and commercial cooperation.
Uruguay	1.8.74	3 years	Art. 113	Non-preferential trade agreement.

TRADE AGREEMENTS WITH NORTHERN AMERICAN COUNTRIES.

Canada	1.10.76	Unlimited	Art. 113	Non-preferential framework agreement for economic and commercial cooperation.

APPENDIX I

TABLE N° 1 APPENDIX I

EXPORTS OF THE EEC (9) TO THE MEDITERRANEAN COUNTRIES BORDERING THE SEA IN COMPARISON WITH OTHER AREAS IN THE WORLD - 1973

DESTINATION	EXPORTS OF THE EEC	
	VALUE	%
WORLD	84.563	100
NORTH AMERICA	15.696	18.3
SOUTH AMERICA	5.156	6.0
DEVELOPING COUNTRIES	24.136	28.2
EAST EUROPE	7.413	8.6
NORTH MEDITERRANEAN	8.309	9.7
SOUTH MEDITERRANEAN	6.745	7.9
TOTAL MEDITERRANEAN	15.054	17.6

Source : Marchés Tropicaux of 5 June 1975

TABLE N° 2 - APPENDIX I TRADE BETWEEN THE EEC AND THE MEDITERRANEAN COUNTRIES 1973 IN MILLION DOLLARS

	EEC IMPORTS FROM THE MEDITERRANEAN					EEC EXPORTS TO THE MEDITERRANEAN						
	EEC 6	U.K.	DK	IRL	NINE	% MED/CEE	U.K.	DK	IRL	EEC 9	% MED/EEC	
WORLD (extra)	67.390	25.586	3.335	771	89.506	100	71.397	20.223	2691	498	84.563	100
GREECE	673	112	5	2	793	0.9	1.416	238	39	6	1.699	2.0
PORTUGAL	340	457	52	11	860	1.9	897	361	24	5	1.286	1.4
SPAIN	1.842	489	50	19	2.401	2.7	2.751	478	40	18	3.287	4.0
TURKEY	497	81	23	4	605	0.7	790	196	7	-	994	1.2
ALBANIA	11	-	-	-	12	-	15	-	-	-	15	-
YOGOSLAVIA	1.143	59	19	1	1.222	1.3	1.688	135	24	1	1.848	2.1
GIBRALTAR	-	2	-	-	2	-	15	20	1	-	36	-
MALTA	26	27	3	-	56	0.1	74	60	3	1	138	0.2
MOROCCO	524	55	6	8	593	0.7	486	39	3	-	510	0.6
TUNISIA	189	9	-	1	200	0.2	326	18	3	2	349	0.4
LIBYA	1.724	395	3	-	2.122	2.4	815	147	5	2	969	1.0
EGYPT	146	57	4	-	207	0.2	336	65	9	-	410	0.5
CYPRUS	30	69	2	2	103	0.1	117	97	6	1	221	0.3
SYRIA	109	3	2	2	116	0.1	191	28	3	-	222	0.3
LEBANON	63	19	2	2	88	0.1	396	101	8	1	506	0.6
JORDAN	1	1	-	-	2	-	54	32	2	-	88	0.1
ALGERIA	971	110	8	1	1.090	1.2	1.154	91	12	-	1.257	1.5
ISRAEL	309	168	7	7	490	0.5	748	479	10	11	1.218	1.4
TOTAL MEDITERRANEAN	8.598	2.113	188	60	10.958	12.2	12.251	2.555	199	48	15.054	17.6

Source : O E C D

Table nr. 3, appendix I

THE EEC IN THE INTERNATIONAL TRADE (in million $; %)

Year		World (1)	E.E.C.		E.F.T.A.			U.K.	U.S.A.	Latin America	Japan	USSR
			Extra-EEC	Intra-EEC	Total	Extra-EFTA	Intra-EFTA					
1958	Imports	94.600	16.156	6.790	18.784	15.741	3.043	10.488	13.203	8.510	3.033	4.230
	Exports	89.000	15.911	6.864	16.128	13.289	2.840	9.276	17.751	8.190	2.877	4.298
	Balance of trade		- 245		-2.656	-2.452		-1.212	+4.543	- 320	- 156	- 52
	Imports (in %)	100	17,1	7,2	19,8	16,6	3,2	11,0	14,0	9,0	3,2	4,6
	Exports (in %)	100	17,8	7,7	18,1	14,9	3,2	10,4	19,9	9,2	3,2	4,8
1971	Imports (mil.$)	276.300	49.188	49.290	53.038	41.253	11.785	23.465	45.602	20.520	19.704	12.479
	Exports (mil.$)	262.700	50.676	49.352	49.352	34.681	11.376	22.354	44.137	17.950	24.012	13.806
	Balance of trade		+1.488		-6.981	-6.572		-1.111	-1.465	-2.570	+4.308	+1.327
	Imports (in %)	100	17,8	17,8	19,2	14,9	4,3	8,5	16,5	7,4	7,1	4,5
	Exports (in %)	100	19,5	18,9	17,7	13,3	4,4	8,6	17,0	6,5	9,2	5,2

(1) Not included intra-EEC Commerce and trade with Eastern block

Source : Directorate-General of External relations - EEC Commission.

Table nr.4 , appendix 1

WESTERN EUROPE : PRIMARY ENERGY CONSUMPTION

(Million t.o.e.)

1973

Countries/area	Oil	Natural gas	Solid Fuels	Water Power	Nuclear	Total
Belgium & Luxembourg	31,5	8,2	11,0	0,1	-	50,8
Netherlands	41,3	32,2	3,1	-	0,3	76,9
France	127,3	15,7	26,3	10,6	3,0	182,9
W. Germany	149,7	27,0	87,9	3,0	2,9	270,5
Italy	103,6	14,4	7,6	10,1	0,8	136,5
U.K.	113,4	26,1	78,5	1,2	5,9	225,1
Scandinavia	55,9	-	7,0	32,6	0,5	96,0
Spain	36,3	1,0	11,7	7,5	1,7	58,2
Other Western Europe	90,0	5,2	38,7	23,6	1,6	159,1
Total Western Europe	749,0	129,8	271,8	88,7	16,7	1.256,0
Percentage share	59,6	10,3	21,7	7,1	7,1	100,0

1974

Belgium & Luxembourg	27,5	10,0	11,6	0,1	-	49,2
Netherlands	35,4	32,9	3,3	-	0,8	72,4
France	120,1	17,0	27,0	12,6	3,0	179,7
W. Germany	134,4	32,1	82,9	5,0	2,7	257,1
Italy	100,7	15,9	9,2	11,0	0,9	137,7
U.K.	105,8	30,8	68,9	1,3	7,3	214,1
Scandinavia	51,1	-	7,3	36,7	0,4	95,5
Spain	38,2	1,0	12,3	8,2	1,9	61,6
Other Western Europe	86,0	6,4	39,4	25,4	1,5	158,7
Total Western Europe	699,2	146,1	261,9	100,3	18,5	1.226,0
Percentage share	57,0	11,9	21,4	8,2	1,5	100,0

Source : BP Statistical Review of the World Oil Industry 1974.

	POPULATION		GROSS NATIONAL PRODUCT			TOTAL IMPORTS (Source : OECD 1969 1000 %)					
	1969	Rate of growth 1960/1969	1969	Per capita	Rate of growth 1960/1969	EEC	Which % agricultural products	EEC New members includ Norway	Which % agricultural products	Enlarged EEC includ Norway	Which % agricultural products
	Source : WORLD BANK										
	Thousands		Millions of %								
Portugal	9.560	0,9	4,876	510	4,9	174.163	35 %	226.051	19 %	400.214	26 %
Spain	32.949	0,9	27,018	820	6,5	700.252	52 %	332.705	64 %	1.032.957	55 %
Jugoslavia	20.351	1,1	11,804	580	4,6	546.092	36 %	76.138	42 %	622.230	37 %
Albania	2.075	2,9	0,892	430	4,9	5.645	37 %	26		5.671	37 %
Greece	8.835	0,7	7,421	840	6,2	299.568	53 %	46.214	51 %	345.782	52 %
Turkey	34.450	2,5	12,058	350	3,4	242.224	81 %	57.058	82 %	299.182	82 %
Malta	323	-0,2	0,229	710	4,1	8.946	10 %	13.976	24 %	22.912	18 %
Chyprus	630	1,1	0,611	970	5,8	35.953	20 %	47.803	86 %	83.751	58 %
Syria	5.866	2,8	1,525	260	4,7	64.113	32 %	4.959	69 %	69.072	36 %
Libanon	2.645	2,5	1,534	580	2,1	67.386	18 %	20.463	43 %	87.849	24 %
Israel	2.822	3,3	4,431	1.570	5,3	186.604	41 %	109.968	59 %	296.572	80 %
A.R. of Egypt	32.501	2,5	5,200	160	1,2	132.990	57 %	25.009	59 %	157.999	57 %
Libyia	1.869	3,7	2,822	1.510	21,7	1.584.445		416.326		2.000.771	
Tunisia	4.919	3	1,131	230	2,1	94.454	40 %	9.212	32 %	103.646	39 %
Algeria	13.349	2,4	3,471	260	...	816.655	18 %	59.068	8 %	875.713	10 %
Morocco	15.050	2,9	2,860	190	3,4	330.176	65 %	53.210	40 %	383.386	48 %

PRODUCTION OF CRUDE OIL OF ARAB AND MEDITERRANEAN COUNTRIES (in million T.)

Table 6, annex nr. 1

	1950	1955	1960	1965	1967	1968	1972
Abu-Dhabi	-	-	-	13,5	18,3	24,0	50,0
Saodia Arabia	25,9	46,8	61,1	99,6	129,8	140,0	285,5
Bahrein	1,5	1,5	2,2	2,8	3,5	3,7	7,2
Iran	31,7	16,0	51,8	92,4	129,8	141,8	254,0
Irak	6,5	33,1	46,7	64,5	59,5	74,0	67,0
Israel	-	-	0,1	0,2	0,1	0,1	4,0
Koweit	17,0	53,9	80,6	107,3	115,0	120,0	152,0
Oman	-	-	-	-	2,8	11,7	13,6
Qatar	1,6	5,3	8,1	10,9	15,4	16,5	23,3
Egypt	2,3	1,7	3,1	6,5	7,0	11,3	15,0
Turquey	0,01	0,2	0,3	1,5	2,4	3,0	6,0
Other zones	-	1,3	7,0	19,5	21,8	23,5	30,3
Syria	-	-	-	-	-	1,0	3,5
TOTAL MIDDLE EAST	86,6	159,8	261,0	418,7	505,4	570,6	911,4
Libya	-	-	-	58,8	83,5	125,0	105,0
Algeria					38,376	42,904	50,048
TOTAL WORLD	518,0	763,0	1.079,0	1.503,0	1.757,0	2.020,0	2.599,0
Share Middle East, %	17,7%	20,9%	24,2%	27,8%	27,8%	28,5%	35,0%
Share Middle East + Libya, %	-	-	-	31,8%	33,5%	34,7%	39,0%
+ Algeria					35,7%	36,8%	40,0%

Source : The Middle East and North Africa 1973-1974, Europa Publication.

APPENDIX II

Table nr. 1, appendix 2

EVOLUTION OF TRADE BETWEEN GREECE AND THE E.E.C. (in million $)

Year	Evolution of balance of trade	IMPORTS					EXPORTS				
		World	Index 1958=100	Eur 9	Index 1958=100	Eur 9/ World, %	World	Index 1958=100	Eur 9	Index 1958=100	Eur 9/ World, %
1958	- 333	565	100	301	100	53,0	232	100	116	100	50,0
1959	- 360	564	100	288	96	51,0	204	88	100	86	42,0
1960	- 497	700	124	313	104	43,0	203	88	87	75	43,0
1961	- 491	714	126	354	118	49,0	223	96	87	75	39,0
1962	- 453	701	124	396	132	56,0	248	107	114	98	46,0
1963	- 514	804	142	414	138	51,0	290	125	120	103	41,0
1964	- 576	885	157	479	159	54,0	309	133	140	121	45,0
1965	- 806	1.134	201	585	194	52,0	328	141	149	128	45,0
1966	- 817	1.223	216	638	212	52,0	406	175	170	147	42,0
1967	- 692	1.187	210	652	217	55,0	495	213	226	195	46,0
1968	- 922	1.390	246	753	250	54,0	468	202	243	209	52,0
1969	- 1.040	1.594	282	826	274	52,0	554	239	277	239	50,0
1970	- 1.314	1.958	347	976	324	50,0	644	278	335	289	52,0
1971	- 1.435	2.098	371	1.067	354	51,0	663	286	350	302	53,0
1972	- 1.479	2.350	416	1.287	428	55,0	871	375	457	394	52,0
1973	- 2.019	3.473	632	1.739	578	49,0	1.454	627	799	689	55,0
1974	- 2.348	4.386	776	1.897	630	43,0	2.038	878	1.025	884	50,0
1975	- 3.024	5.317	941	2.261	751	43,0	2.293	988	1.139	982	50,0

Source : EEC-Commission (directorate general of external relations).

Table nr. 2, appendix 2

EVOLUTION OF TRADE BETWEEN TURKEY AND THE E.E.C. (in million $)

Year	Evolution of balance of trade	I M P O R T S					E X P O R T S				
		World	Index 1958=100	Eur 9	Index 1958=100	Eur 9/ World, %	World	Index 1958=100	Eur 9	Index 1958=100	Eur 9/ World, %
1958	- 68	315		126		40,0	247		107		43,3
1959	- 88	442	140	212	168	48,0	354	143	179	167	50,6
1960	- 149	468	148	222	176	47,4	319	129	145	135	45,4
1961	- 163	509	161	234	186	46,0	346	140	165	154	47,7
1962	- 241	622	197	251	207	42,0	381	154	199	186	52,2
1963	- 323	691	219	278	221	40,2	368	149	196	183	53,3
1964	- 131	542	172	215	171	39,7	411	166	191	178	46,5
1965	- 123	577	183	226	179	39,2	454	184	203	190	44,7
1966	- 233	724	230	321	255	44,3	491	199	227	212	46,2
1967	- 168	691	219	333	264	48,2	523	212	221	206	42,3
1968	- 274	770	244	390	309	50,6	496	201	206	192	41,5
1969	- 219	756	240	369	293	48,8	537	217	251	234	46,7
1970	- 301	889	282	398	316	44,8	588	238	283	264	48,1
1971	- 409	1.086	345	543	431	50,0	677	274	309	289	45,6
1972	- 620	1.512	480	795	631	52,6	892	361	405	378	45,4
1973	- 780	2.096	665	1.115	885	53,2	1.316	533	611	571	46,4
1974	- 2.204	3.740	1.187	1.673	1.328	44,7	1.536	622	719	672	46,8
1975	- 3.242	4.644	1.474	2.258	1.792	48,6	1.402	568	615	575	43,9

Source : EEC-Commission (directorate general of external relations).

TABLE 3 APPENDIX II EVOLUTION OF TRADE BETWEEN MALTA AND THE EEC

MILL. EUR.

	1968	1969	1970	1971	1972	1973	1974	1975		
IMPORTS	-	-	109	107	106	122	172	181		
EXPORTS	-	-	24	28	39	50	64	70		
BALANCE OF TRADE	-	-	- 85	- 79	- 67	- 72	- 168	- 111		
INDEX EXPORTS	-	-	100	117	163	208	267	292		
INDEX IMPORTS	-	-	100	98	97	112	158	166		
EXPORTS	-	-	100	100	100	100	100	100		
PROD. IND.	-	-	91,3	91,3	91,9	89,7	91,5	93,5		
PROD. ANNEX I	-	-	8,7	8,7	8,1	10,3	8,5	6,5		

Source : EEC Commission (Directorate General of External Relations)

TABLE 4 APPENDIX II EVOLUTION OF TRADE BETWEEN CYPRUS AND THE EEC

MIL. EUR.

	1968	1969	1970	1971	1972	1973	1974	1975		
IMPORTS	-	-	126	150	174	198	209	143		
EXPORTS	-	-	87	88	84	89	80	68		
BALANCE OF TRADE	-	-	- 39	- 62	- 90	-109	- 129	- 75		
INDEX EXPORTS	-	-	100	119	138	157	166	113		
INDEX IMPORTS	-	-	100	101	96	102	92	78		
EXPORTS	-	-	100	100	100	100	100	100		
PROD. IND.	-	-	44.2	32,5	39,4	26,5	27,3	21,5		
PROD. ANNEX II	-	-	55,8	67,5	60,6	73,5	72,8	78,5		

Source : EEC Commission (Directorate General of External Relations).

Table nr. 5, appendix 2

EVOLUTION OF TRADE BETWEEN SPAIN AND THE E.E.C. (in million $)

Year	Evolution of balance of trade	I M P O R T S					E X P O R T S				
		World	Index 1958=100	Eur 9	Index 1958=100	Eur 9/ World, %	World	Index 1958=100	Eur 9	Index 1958=100	Eur 9/ World, %
1958	- 387	872		273		31,3	485		223		46,0
1959	- 294	793	91	239	88	30,1	499	103	228	102	45,7
1960	4	722	83	252	92	34,9	726	150	417	187	57,4
1961	- 382	1.092	125	376	138	34,4	710	146	400	179	56,3
1962	- 835	1.570	180	637	233	40,6	735	152	407	183	55,4
1963	- 1.219	1.956	224	871	319	44,5	737	152	409	183	55,5
1964	- 1.305	2.260	259	1.058	388	46,8	955	197	525	235	55,0
1965	- 2.080	3.025	347	1.445	529	47,8	945	195	490	220	51,8
1966	- 2.337	3.592	412	1.716	629	47,8	1.255	259	573	257	45,7
1967	- 2.102	3.485	400	1.619	593	46,5	1.383	285	604	271	43,7
1968	- 1.923	3.511	403	1.514	555	43,1	1.588	327	641	287	40,4
1969	- 2.332	4.228	485	1.828	670	43,2	1.896	391	797	357	42,0
1970	- 2.359	4.748	544	1.930	707	40,6	2.389	493	1.106	496	46,3
1971	- 2.026	4.965	569	2.061	755	41,5	2.939	606	1.371	615	46,6
1972	- 2.993,	6.796	779	2.870	1.051	42,2	3.803	784	1.721	772	45,2
1973	- 4.432	9,380	1.100	4.112	1.506	42,9	5.158	1.064	2.463	1.104	47,7
1974	- 8.349	15.436	1.770	5.548	2.032	35,9	7.087	1.461	3.360	1.507	47,4
1975	- 8.578	16.261	1.865	5.641	2.066	34,7	7.683	1.584	3.432	1.539	44,3

Source : EEC-Commission (directorate general of external relations).

Table nr. 6, appendix 2

EVOLUTION OF TRADE BETWEEN JUGOSLAVIA AND THE E.E.C. (in million $)

Year	Evolution of balance of trade	I M P O R T S					E X P O R T S				
		World	Index 1958=100	Eur 9	Index 1958=100	Eur 9/ World, %	World	Index 1958=100	Eur 9	Index 1958=100	Eur 9/ World, %
1958	- 243	684		226		33,0	441		161		36,5
1959	- 211	688	101	232	103	33,7	477	108	160	99	33,5
1960	- 263	828	121	320	142	38,6	565	128	190	118	33,6
1961	- 346	899	131	376	166	41,8	553	125	195	121	35,3
1962	- 199	886	129	302	134	34,1	687	156	240	149	34,9
1963	- 269	1.055	154	342	151	32,4	786	178	315	196	40,1
1964	- 427	1.315	192	446	197	33,9	888	201	305	189	34,3
1965	- 198	1.289	188	402	178	31,2	1.091	247	316	196	29,0
1966	- 354	1.576	230	501	222	31,8	1.222	277	390	242	31,9
1967	- 454	1.706	249	754	334	44,2	1.252	284	422	262	33,7
1968	- 537	1.794	262	774	342	43,1	1.257	285	418	260	33,2
1969	- 661	2.133	312	964	427	45,2	1.472	334	563	350	38,2
1970	- 1.192	2.875	420	1.334	590	46,4	1.683	362	659	409	39,2
1971	- 1.433	3.253	476	1.435	635	44,1	1.820	413	653	406	35,9
1972	- 990	3.228	472	1.423	630	44,1	2.238	507	809	502	36,1
1973	- 1.660	4.513	660	1.908	844	42,3	2.853	647	1.022	635	35,0
1974	- 3.999	8.070	1.180	3.227	1.428	40,0	4.071	923	1.116	693	27,4
1975	- 3.544	7.526	1.100				3.982	903			

Source : EEC-Commission (directorate general of external relations).

EVOLUTION OF EEC - ISRAEL TRADE

Table 7 - Appendix 2

	IMPORTS OF ISRAEL FROM THE EEC					EXPORTS OF ISRAEL TOWARDS THE EEC					
	1968	1969	1970	1971	1972		1968	1969	1970	1971	1972
GERMANY	114	155	175	238	228	GERMANY	58	63	67	91	103
ITALY	55	70	76	86	166	NETHERLANDS	32	31	46	58	65
FRANCE	53	52	61	85	95	E.U.B.L.	40	45	38	44	46
NETHERLANDS	51	71	72	79	82	FRANCE	31	37	40	42	55
E.U.B.L.	41	48	63	74	123	ITALY	8	11	15	23	29
TOTAL EEC - SIX	314	396	447	561	694	TOTAL EEC- SIX	169	187	206	258	298
U.K.	216	245	228	277	365	U.K.	71	75	81	98	113
DANEMANK	5	7	9	9.7	8.8	DANEMARK	5	6	4	4	6.9
TOTAL EEC (9)	535	648	685	847.7	1.067,8	TOTAL EEC (9)	245	268	291	360	417.9

Source : Information Mediterranean ASBL 1974

THE EVOLUTION OF TRADE RELATIONS BETWEEN TUNISIA AND THE EEC

		1970	1971	1972	1973	1974	1975
Balance of trade		- 65,5	- 75,4	- 83,4	-148,4	-119,5	-331,4
IMPORTS from the EEC	Mio EUR	186,4	215,9	281,8	336,8	523,7	667,2
EXPORTS to the EEC		120,9	140,5	198,4	188,4	404,2	335,8
of which							
Agricultural Prod.		-	-	63.149	91.626	127.150	-
Raw Materials		-	-	80.026	36.941	174.359	-
Industrial Products		-	-	55.216	59.768	102.732	-
INDEX							
IMPORTS		100	116	151	181	281	358
EXPORTS		100	116	164	156	334	278
Changement in comparison with the precedent year							
IMPORTS	%	-	+ 15,8	+ 30,5	+ 19,5	+ 55,5	+ 27,4
EXPORTS	%	-	+ 16,2	+ 41,2	- 5,0	+ 114,5	- 16,9
Share of the country in the total trade of the EEC							
EXPORTS Extra 9	Mio EUR	55.712	62.580	67.357	79.366	109.155	113.980
	%	0,3	0,3	0,4	0,4	0,5	0,6
IMPORTS Extra 9	Mio EUR	59.367	63.506	67.187	82.933	124.942	117.800
	%	0,2	0,2	0,3	0,2	0,3	0,3

Source : Department of Development and Cooperation - EEC Commission

TABLE 8 APPENDIX II

THE EVOLUTION OF TRADE RELATIONS BETWEEN MOROCCO AND THE EEC

		1970	1971	1972	1973	1974	1975
Balance of Trade		+ 32,2	+ 9,6	+106,0	+ 81,6	+117,9	-224,8
IMPORTS from the EEC	Mio EUR	375,4	390,2	377,0	491,6	751,3	982,3
EXPORTS to the EEC		407,6	399,8	483,0	573,2	869,2	757,5
of which							
Agricultural Prod.		-	227.369	262.259	348.145	308.687	
Raw Materials		-	106.449	120.781	145.130	379.362	
Industrial Products		-	65.940	100.112	79.629	181.176	
INDEX							
IMPORTS	%	100	104	100	131	200	262
EXPORTS	%	100	98	109	141	213	186
Changement in comparison with the precedent year							
IMPORTS	%	-	+ 3,9	+ 3,4	+ 30,4	+ 52,8	+ 30,8
EXPORTS	%	-	- 1,9	+ 11,3	+ 28,8	+ 51,6	- 12,9
Share of the country in the total trade of the EEC							
EXPORTS Extra 9	Mio EUR	55.712	62.580	57.357	79.366	109.155	113.980
	%	0,7	0,6	0,6	0,6	0,7	0,9
IMPORTS Extra 9	Mio EUR	59.367	63.506	67.187	82.933	124.942	117.800
	%	0,7	0,6	0,7	0,7	0,7	0,6

Source : Department of Development and Cooperation - EEC Commission

TABLE 9 APPENDIX II

THE EVOLUTION OF TRADE RELATIONS BETWEEN ALGERIA AND THE EEC

		1970	1971	1972	1973	1974	1975
Balance of Trade	Mio EUR	+ 57,0	-167,1	-184,5	-161,9	+ 70,2	-723,7
IMPORTS from the EEC		856,6	864,8	973,7	1.215,4	1.960,8	2.650,4
EXPORTS to the EEC		913,6	697,7	789,2	1.053,5	2.031,0	1.926,7
of which							
Agricultural Prod.		-	45.221	49.463	86.047	52.271	-
Raw Materials		-	588.424	677.799	838.459	1.845.666	-
Industrial Products		-	64.033	127.583	127.026	132.100	-
INDEX							
IMPORTS	%	100	101	114	142	229	309
EXPORTS	%	100	76	86	115	222	211
Changement in comparison with the precedent year							
IMPORTS	%	-	+ 1,0	+ 12,6	+ 24,8	+ 61,3	+ 35,2
EXPORTS	%	-	- 23,6	+ 13,1	+ 33,5	+ 92,8	- 5,1
Share of the country in the total trade of the EEC							
EXPORTS Extra 9	Mio EUR	55.712	62.580	67.357	79.366	109.155	113.980
IMPORTS	%	1,5	1,4	1,5	1,5	1,8	2,3
IMPORTS Extra 9	Mio EUR	59.367	63.506	67.187	82.933	124.942	117.800
	%	1,5	1,1	1,2	1,3	1,6	1,6

Source : Department of Development and Cooperation - EEC Commission

TABLE 10 APPENDIX II

THE EVOLUTION OF TRADE RELATIONS BETWEEN LEBANON AND THE EEC

		1970	1971	1972	1973	1974	1975
Balance of Trade		-197,2	-241,0	-317,8	-387,3	-552,7	-498,8
IMPORTS from the EEC	Mio EUR	262,0	333,5	396,5	469,3	743,9	576,3
EXPORTS to the EEC		64,8	92,5	78,7	82,0	191,2	77,5
of which							
Agricultural prod.							
Raw Materials							
Industrial products							
INDEX							
IMPORTS		100	127	151	179	284	220
EXPORTS		100	143	121	127	295	120
Changement in comparison with the precedent year							
IMPORTS	%	-	+ 27,3	+ 18,9	+ 18,4	+ 58,5	- 22,5
EXPORTS	%	-	+ 42,8	- 14,9	+ 4,2	+ 133,2	- 59,5
Share of the country in the total trade of the EEC							
EXPORTS Extra 9	Mio EUR	55.712	62.580	67.357	79.366	109.155	113.980
	%	0,5	0,5	0,6	0,6	0,7	0,5
EXPORTS Extra 9	Mio EUR	59.367	63.506	67.187	82.933	124.942	117.800
	%	0,1	0,2	0,1	0,1	0,2	0,1

• Source : Department of Development and Cooperation - EEC Commission

TABLE 11 APPENDIX II

THE EVOLUTION OF TRADE RELATIONS BETWEEN JORDAN and the EEC

		1970	1971	1972	1973	1974	1975
Balance of trade	Mio	- 48,1	- 56,1	-66,2	-74,5	-129,9	-197,8
IMPORTS from the EEC	EUR	49,0	57,7	68,8	76,3	132,4	205,5
EXPORTS to the EEC		0,9	1,6	2,6	1,8	2,5	7,7
of which							
Agricultural prod.		-	-	0.199	0.175	0.326	0.187
Raw materials		-	-	0.343	0.339	0.349	5.470
Industrial products		-	-	2.106	1.284	1.813	2.057
INDEX							
IMPORTS	%	100	118	140	156	270	419
EXPORTS	%	100	178	289	200	278	856
Changement in comparison with the precedent year							
IMPORTS	%	-	+ 17,8	+ 19,2	+ 10,9	+ 73,5	+ 55,2
EXPORTS	%	-	+ 77,8	+ 62,5	- 30,8	+ 38,9	+208,0
Share of the country in the total trade of the EEC							
EXPORTS Extra 9	Mio EUR	55.712	62.580	67.357	79.366	109.155	113.980
	%	0,1	0,1	0,1	0,1	0,2	0,2
IMPORTS Extra 9	Mio EUR	59.367	63.506	67.187	82.933	124.942	117.800
	%	-	-	-	-	-	-

Source : Department of Development and Cooperation - EEC Commission

TABLE 12 APPENDIX II

THE EVOLUTION OF TRADE RELATIONS BETWEEN SYRIA and the EEC

		1970	1971	1972	1973	1974	1975
Balance of trade		+ 3,7	- 14,6	- 76,0	-106,2	-220,5	-112,6
IMPORTS from the EEC	Mio EUR	91,5	127,7	156,4	210,5	454,9	548,8
EXPORTS to the EEC		92,5	113,1	80,4	104,3	234,4	436,2
of which							
Agricultural prod.							2,2
Petroleum products							413,6
Other raw materials							16,3
Industrial products							3,9
INDEX							
IMPORTS	%	100,-	140,-	171,-	230,-	497,-	600,-
EXPORTS	%	100,-	119,-	84,-	110,-	246,-	458,-
Changement in comparison with the precedent year							
IMPORTS	%	-	+ 39,6	+ 22,5	+ 34,6	+116,1	+ 20,6
EXPORTS	%	-	+ 18,8	- 28.9	+ 29,7	+124,7	+ 86,1
Share of the country in the total trade of the EEC							
EXPORTS Extra 9	Mio EUR	55.712	62.580	67.357	79.366	109.155	113.980
	%	0,2	0,2	0,2	0,3	0,4	0,5
IMPORTS Extra 9	Mio EUR	59.367	63.506	67.187	82.933	124.942	117.800
	%	0,2	0,2	0,1	0,1	0,2	0,4

Source : Department of Development and Cooperation - EEC Commission

TABLE 13 APPENDIX II

APPENDIX III

TABLE N° 1. Appendix 3 THE STRUCTURE AND GROWTH OF GDP BY SECTOR

	SHARE OF GDP 11				AVERAGE ANNUAL GROWTH RATE 12			
	1955/56	1965/66	1970/71	1973	1956/61 %	1961/66 %	1966/71 %	1972/77 %
AGRICULTURE	31	28	29	31	3,5	4.0	2.0	2.0
INDUSTRY/MINING	17	21	23	22	8,0	7,0	5,0	10,0
ELECTRICITY	-	1	2	1	-	14,0	15,0	-
CONSTRUCTION	3	4	5	3	9,0	17,0	3,0	4,0
TRANSPORT/COMMUNICATION	6	9	6	5	9,0	11,0	6,0	5,0
TRADE/FINANCE	9	8	9	9	4,0	2,0	3,0	3.0
OTHER SERVICES	34	29	26	29	4,0	6,0	5,0	6,0
TOTAL	100	100	100	100	5,5	6,0	3,0	4,0

Source : World Bank Report n° 931 - EGT - November 21, 1975

Table 2. Gross National Product at Current Prices by Kind of Economic Activity[1/] Appendix 3.

(In millions of Egyptian pounds)

Split years ended June 30	1969/70	1970/71	1971/72	1972	1973	1974
Commodity sectors	1,479.4	1,546.7	1,656.2	1,736.5	1,849.7	2,182.7
Agriculture	771.9	774.1	854.6	932.9	1,062.4	1,244.9
Industry and mining	542.0	611.2	636.5	640.6	635.0	754.9
Electricity	41.8	40.0	47.8	45.0	44.8	48.0
Construction	123.7	121.4	117.3	118.0	107.5	134.9
Distribution sectors	359.9	383.1	410.9	430.2	470.0	528.2
Transport, communications and storage	130.9	143.6	147.8	151.0	158.6	167.4
Trade and finance	229.0	239.5	263.1	279.2	311.4	360.8
Service sectors	713.5	770.7	816.9	835.2	897.2	933.2
Housing	118.2	120.2	121.1	122.0	124.0	127.1
Public utilities	11.7	13.3	13.8	12.2	13.8	14.2
Other services	583.6	637.2	682.0	701.0	759.4	791.9
GDP at factor cost	2,552.8	2,700.5	2,884.0	3,001.9	3,216.9	3,644.1
Net indirect taxes	418.5	445.0	452.7	388.0	446.0	312.0
GDP at market prices	2,971.3	3,145.5	3,336.7	3,389.9	3,633.9	3,956.1
Net factor income	-44.5	-59.2	-62.2	-9.8	-29.0	-7.0
GNP at market prices	2,926.8	3,086.3	3,274.5	3,380.1	3,663.9	3,949.1

Source: Ministry of Planning.

1/ Calendar year data for some sectors are evidently not on a consistent basis with the earlier fiscal year data (e.g., agriculture, industry and mining, electricity and public utilities, as well as net indirect taxes and net factor income).

Appendix 3.

Table 3.

LAND RECLAMATION (FEDDANS)

Category of land	Zones	Till 1975	During expanded phase of the project					Total
			1976	1977	1978	1979	Sub-total	
1. Sandy soils	S. Tahrir	73 300	3 000	4 000	-	-	7 000	80 300
	S.W. Tahrir	37 200	-	-	-	-	-	37 200
2. Clay soils	N.W. Delta	105 812	10 000	6 000	-	-	16 000	121 812
	East Delta	130 473	14 000	19 500	23 000	23 000	79 500	209 973
	El Mansour	73 549	-	-	-	-	-	73 549
	El Zawia	62 160	-	-	-	3 000	3 000	65 160
	East N.Delta	72 100	-	4 500	4 000	-	8 500	80 600
3. Calcarious soils	N. Tahrir	64 445	-	-	-	-	-	64 445
	Mariut	68 000	-	-	-	-	-	68 000
	Middle Egypt	58 000	-	-	-	-	-	58 000
	Upper Egypt	81 905	-	-	3 000	4 000	7 000	88 905
	Nubaria	151 500	20 000	19 000	25 000	25 000	89 000	240 500
	Total:	978 444	47 000	53 000	55 000	55 000	88,200	1 118 444

Source: WFP/ICC: 27/7, March 1975, p. 15.

Appendix 3.

Table 4.

EGYPT

Quantity and Value of Agricultural Exports

(Value in LE 1000)

Product	Unit	1965 Quantity	1965 Value	1970 Quantity	1970 Value	1972 Quantity	1972 Value	1973 Quantity	1973 Value
Cotton	Thou.Kantors	6595	146214	5705	147869	5900	161959	5696	191937
Rice	Tons	297072	-	256982	-	265766	-	256576	-
		330406	19805	654456	34162	456435	-	297804	-
Oranges	"	3416	-	102223	6793	82223	4751	246148	15798
Fresh Onion	"	159166	5594	90828	5580	105066	4561	89422	9279
Potatoes	"	44076	1187	90281	3711	76689	3211	107921	6644
Fresh Garlic	"	3729	372	15432	2215	13520	2195	20365	3255
Others	"	-	4545	-	5270	-	5151	-	4938
Sub-Total		-	177717	-	205600	-	203886	-	258036
Weaved Cotton	"	41156	31092	43441	35629	46664	42646	25252	44206
Cotton Textile	"	14496	11677	22744	18132	20557	17463	17504	16664
Clothes	"	-	-	4027	6214	6232	11134	6106	13663
Processed Sugar	"	14824	572	82437	3781	18689	1385	36108	4144
Alcohol	Litre	861	36	10131000	2556	16422147	4329	20942115	5199
Other Goods		-	6344	-	15942	-	19089	-	25976
Sub-Total		-	49721	-	82254	-	96046	-	109852
Total raw & manufactured goods (A)		-	227438	-	287854	-	299932	-	367888
Total value of exports (B)			261287	-	331045	-	358618	-	444064
A/B (%)			87		87		83.6	-	82.8

Source : Central Agency for public Mobilization and statistics Cairo.

Appendix 3. Table 5.

EGYPT

MINISTRY OF AGRICULTURE (TENTATIVE I/) PLANNED INVESTMENTS 1976-1980

Project	1975 Budget	1976	1977	1978	1979	1980	Total
		(- - - - - - - - - - - - - -	- - -000. L.E.- - -				- - - - - - - -)
Agricultural Research Center	700	2,966	2,214	1,942	1,861	1,441	10,424
Ministry of Agriculture Programs		4,010	3,599	4,026	4,676	4,846	21,157
Soil Development	1,300	2,200	2,800	3,200	3,200	3,200	14,600
Cotton Improvement Fund		65	36	43	62	35	241
Egyptian Agricultural Auth.		90	132	118	86	118	544
Public Auth. for Agric. Production		271	287	284	279	295	1,416
E.P.O. for Agricultural Cooperation		50	50	45	45	45	235
E.P.O. for Agrarian Reform		2,503	2,249	2,510	2,813	3,040	13,115
General Auth. for Price Stabilization		50	45	35	35	35	200
E.P.O. for Agricultural Credit		240	120	400	400	400	1,560
E.P.O. for Meat	200	4,950	4,214	[illegible]	[illegible]	[illegible]	22,466
E.P.O. for Poultry	19,800	10,949	5,434	6,000	5,437	5,120	32,940
E.P.O. for Aquatic Wealth	500	1,794	1,712	1,772	1,774	1,641	8,693
TOTAL	22,500	30,138	22,892	25,569	24,872	24,120	127,591

Source: Ministry of Agriculture
Note: E.P.O. stands for Egyptian Permanent Organization
I/ Formulated within the Ministry of Agriculture, not yet reconciled with other agricultural, irrigation and land reclamation presentations nor as yet submitted to the Ministry of Planning.

Table 6.

EGYPT

VALUE OF AGRICULTURAL OUTPUT IN 1970 (IN CURRENT PRICES) Appendix 3.

Crop	Total	Lower Egypt	Middle Egypt	Upper Egypt
	- - - - - - - - LE Thousand- - - - - - - -			
Field Crops (Total	616367	400963	107745	107659
Wheat (G.)	59535	32806	10686	16043
(St.)	19048	12803	2654	3591
Clover	108847	81570	18741	8536
Beans	13155	4068	5977	3110
Barley	2858	2242	247	369
Onions	6317	2009	1236	3072
Cotton	162191	116935	28980	16276
Rice	74015	72688	1318	9
Maize	79968	52910	20773	6285
Millet/Sorghum	26219	-	5539	20680
Peanuts	3306	1559	1185	562
Sesame	2487	258	361	1886
Sugarcane	20230	851	2410	16769
Other field crops	38191	20264	7438	10489
Vegetables(Total)	110132	71115	32524	6493
Tomatoes	48568	30587	14679	3299
Potatoes	12755	10591	2144	20
Watermelons	9016	6756	1721	539
Melons, other	1545	256	1152	137
Cucumbers	3950	2201	1587	162
Marrow	7891	5740	1837	314
Cabbage	3395	2001	1242	152
Eggplant	3498	2178	1013	307
Garlic	2209	483	1680	46
Green Peppers	2414	1469	765	180
Other vegetables	14894	8853	4704	1337
Fruits (Total)	40400	27156	8315	4929
Dates	7348	2818	2642	1888
Oranges	14240	12448	861	931
Lemons	1272	691	400	181
Mangos	3915	2274	1375	266
Grapes	2999	1653	953	393
Bananas	3274	2148	752	374
Other Fruits	7352	5124	1332	896
Aromatic and medical Seeds and Plants(Total)	1474	58	502	914
Animal Production (Total)	271253	170997	47655	52601
Meat	129945	81986	21689	26270
Milk	91094	57935	16393	16766
Wool	1073	674	153	246
Poultry Meat	34601	21626	6333	6642
Eggs	13132	7791	2762	2579
Honey	1408	985	325	98
Total	1039626	670289	196741	172596

Notes: 1. Value of cotton includes the Liberation Province (LE 10000)
2. Other field crops includes the value of stalks of cottong, maize, millet, sesame, peanut, and the straw of beans, barley and rice, in addition to the value of other crops not mentioned in the table.
3. Value of animal production includes the Liberation Province (LE 527000) and does not include the New and Natron Valleys (LE 960000).

Source: Ministry of Agriculture

Appendix 3.

Table 7.

EGYPT

PRODUCTION OF MAJOR CROPS AND LIVESTOCK PRODUCTS 1960-1974

Crops	1959/60 (1960)	60/61	61/62	62/63	63/64	64/65	65/66 (1966)	66/67	67/68	68/69 (1969)	69/70 (1970)	70/71 (1971)	71/72 (1972)	72/73 (1973)	73/74 (1974)
	Thousand Metric Tons														
Cotton, unginned	1,380	999	1,385	1,312	1,436	1,501	1,289	1,208	1,210	1,480	1,404	1,417	1,422	1,368	1,285 1/
Maize	1,691	1,617	2,004	1,867	1,934	2,141	2,376	2,163	2,297	2,366	2,393	2,342	2,417	2,507	2,750
Sorghum	603	631	659	628	740	806	859	881	906	813	874	854	831	853	860
Beans	290	161	328	263	366	344	381	188	283	297	277	256	361	273	290
Rice, paddy	1,486	1,142	2,039	2,219	2,036	1,788	1,678	2,278	2,586	2,556	2,604	2,533	2,509	2,274	2,501
Wheat	1,499	1,436	1,593	1,493	1,500	1,272	1,465	1,291	1,518	1,269	1,516	1,731	1,616	1,838	1,884
Lentils	50	34	56	47	52	61	44	34	35	24	33	50	54	61	53
Fenugreek	43	24	44	42	42	37	30	21	19	22	-	24	21	23	
Lupins	13	9	12	13	13	12	7	7	7	6	-	6	6	6	
Chick Peas	11	5	7	8	10	9	6	6	7	4	-	7	7	6	
Barley	156	133	146	135	142	130	102	100	121	105	83	76	106	96	95
Onions	504	469	600	659	646	670	701	587	479	445	437	490	403	435	550
Vegetables	-	3,424	-	-	-	4,636	-	-	-	5,326	5,222	5,278	5,472	5,778	5,800
Sugarcane	4,555	4,195	4,819	5,164	4,848	4,747	5,200	5,269	6,083	6,878	6,945	7,498	7,713	7,349	7,350
Citrus Fruit	313	-	-	-	-	482	629	697	622	785	706	883	825	923	950
Dates	424	-	-	-	-	386	317	319	264	355	294	340	390	380	375
Other Fruit	322	-	-	-	-	352	388	370	378	383	384	462	522	515	525
Livestock Products															
Meat		215										272			300
Milk		1,115										1,587			1,600
Poultry Meat		71										96			110
Eggs		32										50			55
Livestock Numbers	Thousand Head														
Cows		1,502					1,608				2,036				
Buffaloes		1,472					1,617				2,015				
Sheep		1,492					1,855				1,906				
Goats		769					787				1,119				
Camels		172					175				136				
Pigs		15					11				-				
Chickens		21,502					23,013				24,236				

Source: Ministry of Agriculture

1/ Estimated

Appendix 3.

Tablee 8.

EGYPT

AREA OF MAJOR CROPS 1960-73

CROP	1959/60 (1960)	1960/61 (1961)	1961/62 (1962)	1962/63 (1963)	1963/64 (1964)	1964/65 (1965)	1965/66 (1966)	1966/67 (1967)	1967/68 (1968)	1968/69 (1969)	1969/70 (1970)	1970/71 (1971)	1971/72 (1972)	1972/73 (1973)
	thousand feddans													
Cotton	1,873	1,986	1,657	1,627	1,611	1,900	1,859	1,626	1,464	1,622	1,627	1,525	1,552	1,655
Maize	1,821	1,601	1,812	1,721	1,660	1,450	1,575	1,485	1,554	1,484	1,504	1,522	1,501	1,511
Sorghum	453	457	455 /1	484	495 /1	501	518	523	533	474	500	494	481	487
Beans	377	328 /1	369 /1	360 /1	409 /1	433	398	300	306	338	330	288	365	302
Rice	706	537	810	959	962	848	844	1,075	1,204	1,191	1,142	1,137	1,146	997
Wheat	1,456	1,384	1,455	1,345	1,295	1,144	1,297	1,245	1,413	1,246	1,104	1,149	1,229	1,248
Lentils	85	63	79	78	78	88	75	66	51	40	47	65	67	74
Fenugreek	43	26	44	42	42	37	30	21	19	22	--	33	28	30
Lupins	13	9	12	13	13	12	7	7	7	6	--	10	10	9
Chickpeas	11	5	7	8	10	9	6	6	7	4	--	10	10	8
Barley /1	148	121	131	112	126	125	98	107	117	103	83	70	91	84
Onions /1	49	(50)	--	--	--	51	58	42	39	56	33	37	12	27
Vegetables	484	(509)	(534)	(559)	(584)	608	634	628	696	715	705	707	740	799
Berseem	2,413	2,448	2,442	2,434	2,497	2,493	2,532	2,716	2,679	2,726	2,747	2,770	2,819	2,874
Sugar cane	111	111	121	133	134	129	133	137	156	170	186	193	202	198
Fruit	131	137	145	152	167	178	195	207	225	233	244	249	(250)	(255)
TOTAL NET /2	10,174	9,772	10,163	10,087	10,135	10,006	10,259	10,191	10,470	10,430	10,485	10,419	10,535	10,578

/1 Winter Onion only, probably 50% of total.
/2 Simple sum of indicated area.

Source: Ministry of Agriculture

Appendix 3. Table 9

EGYPT

Quantity And Value Of Agricultural Imports

(Value in LE 1000)

Product	Unit	1965		1970		1972		1973	
		Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
Wheat	Ton	1230000	39036	850754	20582	1386114	41806	1489897	55102
Flour	"	610267	22643	274794	7953	215807	7583	226987	10613
Frozen And Dried Meat	"	12717	3104	5653	1313	11881	2312	11784	3703
Raw Wool	"	2623	1871	8400	4888	9327	5318	3656	4368
Vegetable Products	"	38532	5023	399594	13012	161314	26489	78040	11286
Animal Grease And Oil	"	51554	4943	45380	3572	48103	4201	52539	5223
Tea	"	28729	13081	29884	10426	13786	5220	9802	3800
Tobacco	"	14633	8126	13941	7370	18201	9823	10840	11034
Paper & Raw Material for Industry	"	111569	8315	117936	10555	119947.	11041	94630	9853
Paper/Wood	"	315521	14519	248136	10953	429362	21535	233798	11225
Others	"	---	17513	---	17322	---	14597	---	15489
Total (A)		---	138174	---	107946	---	149925	---	141696
Total Value of Imports (B)		---	405875	---	342012	---	390763	---	361117
A/B (%)		---	34	---	31.56	---	38.37	---	39.24

Source : Central Agency for public Mobilization and statistics Cairo.

TABLE 10

Gross Value of Industrial Production[1/]

(In millions of Egyptian pounds at current prices)

Split years ended June 30	1969/70	1970/71	1971/72	1972	1973	1974 Target	1974 Actual[2/]	1975 Target
Spinning and weaving products	468.2	490.9	511.3	525.4	546.9	598.8	595.1	648.9
Public sector	352.8	367.0	380.0	395.9	411.1	439.7	450.2	462.7
Private sector	115.4	123.9	131.3	129.5	135.8	159.1	144.9	186.2
Foodstuffs	438.5	479.0	504.3	518.5[3/]	561.0[3/]	590.9[3/]	611.1[3/]	634.6[3/]
Public sector	336.6	376.0	398.3	410.0	445.5	451.0	484.1	483.0
Private sector	101.9	103.0	106.0	108.5	115.5	139.9	127.0	151.6
Chemicals	114.4	127.6	131.9	135.1[3/]	139.7[3/]	167.5[3/]	193.3[3/]	247.6[3/]
Public sector	89.3	96.3	100.0	102.3	101.4	132.0	151.2	206.6
Private sector	25.1	31.3	31.9	32.8	38.3	35.5	42.1	41.0
Engineering products[4/]	100.0	117.7	129.0	145.2	141.4	171.0	170.2	194.6
Public sector	76.9	93.1	103.8	118.6	111.4	133.9	135.9	155.0
Private sector	23.1	24.6	25.2	26.6	30.0	37.1	34.3	39.6
Metallurgical products	59.8	82.3	92.3	105.1	102.7	124.9	132.8	208.8
Public sector	54.0	76.0	84.7	98.5	92.7	117.1	120.3	196.8
Private sector	5.8	6.3	7.6	6.6	10.0	7.8	12.5	12.0
Building materials	49.4	54.9	58.3	58.5[3/]	62.6[3/]	68.4[3/]	69.1[3/]	85.6[3/]
Public sector	40.9	45.6	48.7	49.3	51.6	57.0	56.9	72.0
Private sector	8.5	9.3	9.6	9.2	11.0	11.4	12.2	13.6
Mining products (public sector)	6.0	6.0	6.2	7.1[3/]	7.2[3/]	7.1[3/]	9.1[3/]	8.7[3/]
Woodworking products (private sector)	32.4	33.6	34.7	36.0	38.6	43.3	41.2	53.8
Leather products (private sector)	19.4	25.4	32.7	39.0	56.8	41.3	61.0	90.5
Total	1,288.1	1,417.4	1,500.7	1,569.9	1,656.9	1,813.2	1,882.9	2,173.1
Public sector	956.5	1,060.0	1,121.7	1,181.7	1,220.9	1,337.8	1,407.7	1,584.8
Private sector	331.6	357.4	379.0	388.2	436.0	475.4	475.2	588.3

Source: Ministry of Industry and Mining.

1/ Covers only industries under the supervision of the Ministry of Industry and Mining. Industrial classification is according to supervising organization. Does not cover national defense production, cotton ginning, flour milling, bakery production, tea packing, printing, pharmaceutical production, iron ore mining, or production of rural industries and handicrafts.

2/ Preliminary figures.

3/ Mining products, shown separately here, are included with foodstuffs (e.g., salt), chemicals (e.g., phosphate) and building materials (e.g., lime) in usual classification according to supervising organization (see Appendix III, Table 23).

4/ Includes transportation equipment and other machinery and equipment.

Table 11 Egypt: Output of Selected Industrial Products

(In thousands of metric tons unless otherwise stated)

Split years ended June 30	Previous peak output (and year)	1969/70	1970/71	1971/72	1972	1973	1974 1/
Spinning and weaving							
Cotton yarn	163 (1968/69)	163	169	175	179	182	179
Cotton textiles	104 (1966/67)	110	112	113	115	118	120
Foodstuffs, etc.							
Sugar	495 (1968/69)	531	581	600	610	633	577
Cheese	125 (1968/69)	132	132	134	135	135	135
Preserved fruits and vegetables	14 (1963/64)	18	20	26	25	24	18
Cottonseed oil	152 (1965/66)	139	150	158	145	160	170
Oilseed cakes	733 (1965/66)	565	643	644	607	600	540
Soft drinks (millions of bottles)	751 (1964/65)	565	614	620	660	600	660
Beer (millions of litres)	26 (1965/66)	23	13	29	30	32	29
Cigarettes	18 (1966/67)	17	19	20	23	23	23
Chemicals, etc.							
Sulphuric acid	227 (1967/68)	23	35	28	28	23	30
Paper	124 (1968/69)	119	131	148	149	146	120
Superphospate	323 (1968/69)	354	447	522	518	419	465
Ammonium nitrate	438 (1967/68)	377	381	345	392	210	320
Tires (thousands)	813 (1968/69)	711	770	924	927	860	814
Engineering products							
Cars (units)	5,406 (1963/64)	2,800	4,241	5,610	6,130	5,590	8,169
Trucks (units)	1,361 (1963/64)	1,117	1,201	1,679	1,709	1,518	1,082
Tractors (units)	984 (1965/66)	1,071	1,078	937	1,247	1,243	1,260
Buses (units)	1,155 (1965/66)	336	407	305	373	413	360
Refrigerators (thousands)	61 (1965/66)	68	54	52	55	39	55
Televisions (thousands)	84 (1966/67)	54	58	70	76	49	68
Metallurgical products							
Reinforcing iron	205 (1968/69)	251	230	230	239	226	232
Steel sections	135 (1968/69)	126	108	84	81	87	81
Steel sheets	45 (1968/69)	43	40	152	179	167	125
Cast iron products	54 (1962/63)	48	48	49	46	53	55
Building materials							
Cement	3,486 (1968/69)	3,760	3,830	3,642	3,868	3,617	3,264
Building bricks	1,137 (1964/65)	782	782	782	810	797	764
Gypsum and plaster	308 (1966/67)	271	294	260	205	320	305
Mining products							
Phosphate	748 (1967/68)	537	539	561	563	540	499
Iron ore	553 (1965/66)	499	...	472	427	...	1,033

Source: Ministry of Industry and Mining.

1/ Preliminary estimates.

Table 12. Egypt: Production and Distribution of Manufactured Goods[1/]

(In millions of Egyptian pounds at current prices)[2/]

	1972	1973	1974 Target	1974 Actual[3/]	1975 Target
Total production	1,569.9	1,656.9	1,813.2	1,882.9	2,173.1
Public sector	1,181.7	1,220.9	1,337.8	1,407.7	1,584.8
Spinning and weaving products	395.9	411.1	439.7	450.2	462.7
Foodstuffs	411.0	446.8	452.8	485.5	484.7
Chemicals	105.1	104.7	135.0	155.9	211.8
Engineering products	118.6	111.4	133.9	135.9	155.0
Metallurgical products	98.5	92.7	117.1	120.3	196.8
Building materials	52.6	54.2	59.3	59.9	73.8
Private sector	388.2	436.0	475.4	475.2	588.3
Total exports	135.5	148.4	163.1	226.1	185.2
Public sector	114.0	118.2	142.2	171.8	152.4
Spinning and weaving products	70.7	73.3	100.9	105.7	90.9
Foodstuffs	16.3	21.5	16.9	33.0	17.5
Chemicals	3.7	3.2	2.7	5.4	7.5
Engineering products	12.6	8.9	12.9	14.4	12.8
Metallurgical products	6.2	5.2	7.0	9.8	21.9
Building materials	4.5	6.1	1.8	3.5	1.8
Private sector	21.5	30.2	20.9	54.3	32.8
Total public sector domestic sales[4/]	938.4	977.5	1,111.6	1,133.8	1,311.5
Spinning and weaving products	227.3	243.0	260.2	272.8	281.0
Foodstuffs	375.1	404.5	424.2	437.0	457.0
Chemicals	101.0	100.1	133.5	145.2	204.5
Engineering products	101.6	93.8	117.4	114.0	122.0
Metallurgical products	80.5	82.8	117.9	104.8	175.0
Building materials	52.9	53.3	58.4	60.0	72.0

Source: Ministry of Industry and Mining.

1/ Covers only industries under the supervision of the Ministry of Industry and Mining. Industrial classification is according to supervising organization. Does not cover national defense production, cotton ginning, flour milling, bakery production, tea packing, printing, pharmaceutical production, iron ore mining, or production of rural industries and handicrafts.

2/ Targets are expressed in prices of previous year.

3/ Preliminary figures.

4/ Data on domestic sales of private sector are not available.

Table 13 Egypt: Production and Distribution of Petroleum and Petroleum Products

(In thousands of metric tons)

Split years ended June 30	1969/70	1970/71	1971/72	1972	1973[1]	1974[1/2]
Crude petroleum						
Total production	14,344	16,365	15,550	10,720	8,411	7,453
By location:						
El Morgan	11,284	13,695	12,877	7,978	4,951	4,289
Other Red Sea	1,157	1,363	1,498	1,445	1,435	1,577
Western Desert	1,903	1,307	1,175	1,297	2,025	1,587
By share:						
Egyptian, of which:	9,022	10,330	8,100	5,533	5,570	5,063
Exports	(6,326)	(8,263)	(4,491)	(2,262)	(2,082)	(1,342)
Less: Imports[3]	(-1,304)	(-2,038)	(-2,445)	(-2,851)	(-3,714)	(-3,871)
Refined products	(2,586)	(4,186)	(5,449)	(6,264)	(6,577)	(6,883)
Residual item[4]	(1,414)	(-81)	(605)	(-142)	(625)	(--)
Partner companies, of which:	5,322	6,035	7,450	5,187	2,841	2,390
Exports	(4,962)	(5,474)	(6,189)	(3,724)	(670)	(1,009)
Sales to Egypt	(360)	(561)	(1,271)	(1,463)	(2,171)	(1,381)
Residual item[4]	(--)	(--)	(-10)	(--)	(--)	(--)
Refined products						
Total production[5]	2,586	4,186	5,449	6,264	6,577	6,883
Fuel oil	1,262	2,129	2,890	3,212	3,050	2,851
Diesel and gas oil	441	679	883	1,069	1,199	1,331
Benzine	423	614	757	859	925	1,187
Kerosine and jet fuel	410	653	817	976	1,135	1,328
Asphalt	16	81	81	113	143	67
Butane gas	10	9	9	18	43	60
Other[6]	24	21	12	17	82	59
Exports	156	189	583	739	802	852
Imports	2,827	2,174	1,261	1,165	605	910
Domestic consumption[7]	5,257	6,171	6,127	6,690	6,380	6,941

Source: Based on data provided by the Egyptian General Petroleum Corporation.

1/ Figures were affected by the shutdown of the Red Sea fields from October 1973 to March 1975.
2/ Preliminary figures.
3/ Includes purchases from partner companies.
4/ Includes changes in stocks, refining losses and statistical discrepancies.
5/ Sum of listed products, which may not be comprehensive.
6/ Includes lubricants.
7/ Derived as a residual item and includes changes in stocks.

Table 14 Oil and Gas Production, Official Forecasts, 1975-1980

(In Millions of Metric Tons)

	1974	1975	1976	1977	1978	1979	1980
Present Fields:							
Morgan	3.3	3.6	3.8	5.0	6.5	6.8	7.5
July	1.0	2.5	3.8	5.0	6.5	7.5	7.0
Ramadan	0.02	1.8	3.7	5.0	6.2	7.5	7.0
G.P.C.	1.6	1.8	1.7	1.5	1.3	1.2	1.0
COPE (Sinai)	-	-	-	3.6	3.1	2.7	2.3
NIPCO	0.8	0.5	0.5	0.4	0.3	0.3	0.2
FAPCO	0.1	0.1	0.4	0.4	0.3	0.3	0.2
WIPCO	0.6	0.5	0.2	0.1	0.1	-	-
Gas 1/	-	0.1	1.0	1.9	2.9	3.4	3.3
TOTAL	7.6	10.9	15.1	21.5	25.6	28.0	27.5
(Of which State share:	(5.1)	(7.2)	(12.4)	(18.7)	(22.4)	(24.0)	(22.9)
Expected Discoveries:							
Oil	-	-	1.5	4.2	9.9	15.3	22.5
Gas	-	-	-	-	-	-	-
TOTAL	-	-	1.5	4.2	9.9	15.3	22.5
(Of which State share:	-	-	(1.3)	(2.3)	(5.9)	(9.3)	(14.0)
Total Present Fields and Expected Discoveries							
Production	7.6	10.9	16.6	25.7	35.5	43.3	50.0
State Share	5.1	7.2	13.7	21.0	28.3	33.3	36.9
Surplus of Oil and Gas for Export	1.3	1.6	4.3	5.6	10.0	14.9	18.2
Surplus of Refined Products for Export	0.9	2.0	2.1	5.6	6.4	4.6	3.6

1/ Abu Madi, Abu Kir, Abu Gharadik

Source: Egyptian General Petroleum Organisation, May 1975

Table 15 Egypt: Summary Balance of Payments, 1950-74

(In millions of Egyptian pounds)[1/]

	Exports[2/] (f.o.b.)	Imports (c.i.f.)	Trade Balance	Services, Net	Trade and Services, Net	Transfers, Net	Capital Inflow, Net[3/]	Transfers and Capital, Net[3/]	Overall Balance
1950	190.2	-208.9	-18.7	8.3	-10.4	--	-1.5	-1.5	-11.9
1951	204.5	-233.8	-29.3	12.9	-16.4	--	-1.4	-1.4	-17.8
1952	148.8	-208.2	-59.4	6.0	-53.4	--	-3.8	-3.8	-57.2
1953	137.7	-166.7	-29.0	21.1	-7.9	--	-1.4	-1.4	-9.3
1954	144.2	-156.2	-12.0	14.2	2.2	--	-2.8	-2.8	-0.6
1955	139.1	-201.3	-62.2	18.1	-44.1	--	12.3	12.3	-31.8
1956	132.5	-206.3	-73.8	24.2	-49.6	10.5	2.2	12.7	-36.9
1957	167.0	-218.9	-51.9	18.3	-33.6	3.7	-19.8	-16.1	-49.7
1958	163.1	-215.8	-52.7	31.6	-21.1	0.1	-1.3	-1.2	-22.3
1959	167.3	-240.6	-73.3	26.2	-47.1	4.8	19.6	24.4	-22.7
1960	203.7	-269.0	-65.3	30.7	-34.6	4.4	10.8	15.2	-19.4
1961	164.9	-248.6	-83.7	22.3	-61.4	4.5	31.6	36.3	-25.3
1962	145.2	-308.5	-163.3	30.8	-132.5	12.8	78.8	91.6	-40.9
1963	228.8	-405.8	-177.0	50.2	-126.8	-0.4	97.2	96.8	-30.0
1964	227.6	-402.8	-175.2	47.5	-127.7	5.4	113.0	118.4	-9.3
1965	246.8	-417.0	-170.2	56.5	-113.7	8.7	67.9	76.6	-37.1
1966	259.5	-414.3	-154.8	74.3	-80.5	5.2	50.4	50.6	-24.9
1967	258.7	-415.2	-156.5	26.9	-129.6	58.3	39.6	97.9	-31.7
1968	288.7	-369.1	-80.4	-27.4	-107.8	110.4	6.1	116.5	8.7
1969	319.7	-418.4	-98.7	-33.6	-132.3	128.8	-37.0	91.8	-40.5
1970	355.4	-517.8	-162.4	-38.3	-200.7	134.0	4.4	138.4	-62.4
1971	369.7	-540.8	-171.1	-40.0	-211.1	121.3	23.2	144.5	-66.6
1972	353.7	-559.2	-205.5	3.0	-202.5	128.2	62.6	190.8	-11.7
1973	396.3	-656.0	-259.7	2.7	-257.0	287.4	-28.1	259.3	2.3
1974	653.9	-1339.2	-685.3	66.2	-619.1	491.6	-71.9	419.7	-199.4

Sources: International Monetary Fund, Balance of Payments Yearbook and Central Bank of Egypt.

1/ LE 1 = SDR 2.87156 before 1963, SDR 2.30000 between 1963 and 1971, SDR 2.11843 in 1972 and 1973, and SDR 2.12523 in 1974.

2/ From 1962 exports include transit trade; before 1962 transit trade was included in services.

3/ Includes net errors and omissions and SDR allocations.

Table 16 Egypt: Detailed Balance of Payments, 1970-74[1/]

(In millions of Egyptian pounds)

	1970	1971	1972	1973	Prelim. 1974
A. Trade balance	-162.4	-171.1	-205.5	-259.7	-685.3
Exports, f.o.b.	355.4	369.7	353.7	396.3	653.9
Imports, c.i.f.	-517.8	-540.8	-559.2	-656.0[2/]	-1,339.2[2/]
B. Services (net)	-38.3	-40.0	3.0	2.7	66.2
Receipts	76.4	79.2	134.1	166.4	277.6
Shipping	(4.2)	(5.3)	(5.5)	(5.7)	(7.9)
Nonmerchandise insurance	(0.2)	(0.4)	(0.2)	(0.3)	(0.2)
Interest, dividends and other revenues	(14.1)	(12.6)	(46.3)	(47.5)	(107.9)
Travel and other receipts	(57.9)	(60.9)	(82.1)	(112.9)	(161.6)
Payments	-114.7	-119.2	-131.1	-163.7	-211.4
Shipping	(-8.2)	(-8.3)	(-7.3)	(-6.5)	(-9.3)
Nonmerchandise insurance	(-2.4)	(-3.4)	(-1.6)	(-1.5)	(-3.5)
Interest, dividends and other revenues	(-29.4)	(-32.5)	(-30.4)	(-50.5)	(-61.1)
Travel and maintenance expenses	(-9.0)	(-8.1)	(-18.5)	(-24.0)	(-41.1)
Other commercial payments	(-11.7)	(-13.8)	(-13.9)	(-20.0)	(-36.1)
Government, n.i.e.	(-33.4)	(-35.7)	(-27.3)	(-22.7)	(-30.3)
Other payments	(-20.6)	(-17.4)	(-32.1)	(-38.5)	(-30.0)
C. Unrequited transfers	134.0	121.3	128.2	287.4	491.6
Private	1.7	4.8	2.5	2.4	16.3
Government	132.3	116.5	125.7	285.0[2/]	475.3[2/]
D. Current balance (A+B+C)	-66.7	-89.8	-74.3	30.4	-127.5
E. Capital transactions (net)	2.0	11.3	56.4	-24.2	-67.0
Long-term loans	10.6	-11.3	34.4	23.2	-59.9
Drawings	(79.7)	(65.4)	(81.6)	(79.6)	(97.3)
Repayments	(-69.1)	(-76.7)	(-47.2)	(-56.4)	(-157.2)
Suppliers' credits	-4.8	26.0	19.2	-46.2	8.4
Drawings	(61.9)	(91.3)	(99.8)	(63.3)	(106.8)
Repayments	(-66.7)	(-65.3)	(-80.6)	(-109.5)	(-98.4)
Others (net)	-3.8	-3.4	2.8	-1.2	-15.5
U.S. Government LE holdings	(0.1)	(4.3)	(5.1)	(--)	(-9.2)
Other official	(0.4)	(-2.1)	(1.9)	(1.8)	(-2.9)
Compensation for nationalization	(-4.7)	(-5.9)	(-4.4)	(-3.0)	(-4.4)
Other private	(0.4)	(0.3)	(0.2)	(--)	(1.0)
F. Errors and omissions (net)	-8.6	3.3	-3.2	-3.9	-4.9
G. Allocation of SDRs	10.9	8.7	9.4	--	--
H. Overall balance	-62.4	-66.5	-11.7	2.3	-199.4
I. Monetary movements (increase in assets -)	62.4	66.5	11.7	-2.3	199.4
Commercial banks (net)	13.9	-15.3	-6.4	88.7	136.5
Liabilities	(6.6)	(-12.7)	(9.4)	(107.5)	(227.9)
Assets	(7.3)	(-2.6)	(-15.8)	(-18.8)	(-91.4)
Payments agreements and credit facilities (net)	26.3	50.0	34.0	-44.7	-0.6
Central Bank subscription to Arab International Bank	--	-2.7	--	--	-4.1
Reserves and related items	22.2	34.6	-15.9	-46.3	67.6
Use of Fund credit[2/]	(-0.4)	(8.7)	(-21.2)	(17.9)	(14.5)
Foreign institutions' deposits	(24.3)	(21.3)	(-0.4)	(21.2)	(1.0)
Monetary gold[2/]	(3.5)	(--)	(--)	(--)	(--)
SDRs[2/]	(--)	(-3.0)	(1.1)	(-12.3)	(0.2)
Foreign exchange and other claims	(-5.2)	(7.6)	(4.6)	(-73.1)	(51.9)

Sources: Central Bank of Egypt and International Monetary Fund, Balance of Payments Yearbook.

1/ Except where otherwise noted, data are based on the Central Bank's exchange control records. Note that import data do not include own exchange imports.

2/ Includes the market value of petroleum grants (LE 33.7 million in 1973, LE 86.4 million in 1974).

3/ IMF record.

Appendix 3.

Table 17. Transactions in the Parallel Market 1/
(In millions of Egyptian Pounds)

	1973	1974					1975	
	Sept.-Dec.	Jan.-Mar.	April-June	July-Sept.	Oct.-Dec.	Total	Jan.-Mar.	April-June
Receipts during period:								
Exports	2.2	4.9	7.3	10.1	9.5	31.8	12.5	10.6
Tourism	8.2	7.5	11.8	12.9	10.7	42.9	7.8	8.5
Remittances	14.8	13.2	22.9	24.0	23.2	83.3	22.2	24.4
Other invisibles	4.6	1.1	1.9	3.2	9.1	15.3	6.9	7.3
Payments during period:								
Imports	1.8	7.1	15.1	29.8	48.0	100.0	38.8	26.7
Invisibles	5.6	5.4	5.6	9.5	14.5	35.0	14.0	10.1
Balances at end of period:								
Amounts under settlement		0.9	-3.0	-1.8	-7.4	-11.3	-5.5	-1.1
Commercial bank holding	39.2	52.5	69.0	75.9	56.7	56.7	48.2	49.9
Export accounts			5.8	8.0	9.8	9.8	9.4	12.1
Tourism accounts	0.6	2.4	0.3	0.3	0.3	0.3	0.3	0.3

1/ Figures include transactions carried out through tourism and export accounts.

Source: Ministry of Finance/Central Bank of Egypt.

Table 18 Egypt: Commodity Composition of Exports[1/]

(In millions of Egyptian pounds)

	1970	1971	1972	1973	1974
Fuels	15.8	2.9	23.3	44.7	50.4
Crude petroleum	15.3	2.0	20.3	36.9	23.9
Petroleum products	0.5	0.9	3.0	7.8	26.5
Primary products	208.9	224.2	207.1	263.6	357.8
Raw cotton	147.9	175.0	162.0	191.9	279.1
Rice	34.2	24.5	22.0	26.1	39.7
Fresh onion and garlic	7.8	6.1	6.8	12.5	10.7
Dehydrated onion and garlic	1.9	1.4	0.5	1.5	2.4
Oranges	6.8	9.0	4.8	15.8	11.1
Potatoes	3.7	2.0	3.2	6.6	5.9
Groundnuts	2.3	2.4	1.7	1.5	2.5
Others	4.3	3.8	6.1	7.7	6.4
Semifinished products	46.0	45.2	52.6	60.0	85.7
Cotton yarn	35.6	35.6	42.6	44.2	65.1
Others	10.4	9.6	10.0	15.8	20.6
Finished products	60.3	70.8	75.6	75.8	99.4
Textiles	26.3	28.0	30.8	31.8	25.9
Sugar	3.8	6.2	1.4	4.1	9.3
Footwear	3.9	3.7	4.0	5.8	8.2
Other leather goods	1.0	2.0	2.8	2.2	2.8
Chemicals	4.7	5.1	10.3	4.6	4.7
Alcoholic drinks	2.6	3.6	4.3	5.2	4.3
Furniture	2.4	2.9	2.3	2.5	3.8
Books and periodicals	2.0	1.5	2.7	1.6	4.7
Cement	1.7	5.9	3.7	4.6	2.4
Other	11.9	11.9	13.3	13.4	33.3
Total	331.0	343.1	358.6	444.1	593.3

Source: Central Agency for Public Mobilization and Statistics.

1/ These data are based on customs records and hence differ from the balance of payments figures which are based on exchange control records. In most years the differences are slight; in 1973, however, customs figures exceed exchange control figures by LE 47.8 million, while in 1974 they are lower by LE 60.6 million; this discrepancy presumably results from timing factors, perhaps involving the large cotton exports which occurred at the end of 1973 and the beginning of 1974.

Table nr. 19, appendix 3

THE GEOGRAPHICAL DISTRIBUTION OF EGYTP'EXTERNAL TRADE, 1973-1975 (*)

Countries	E X P O R T S			I M P O R T S			B A L A N C E		
	1973	1974	1975	1973	1974	1975	1973	1974	1975
Arabs countries	26,8	36,4	38,7	29,1	61,2	88,3	- 2,3	- 24,8	- 49,6
Total EEC	60,9	106,9	90,9	150,4	345,0	583,1	- 89,5	- 238,1	- 492,2
U.K.	13,6	24,3	22	20,3	64,8	125,8	- 6,7	- 40,5	- 103,8
France	10	15,9	11	61,6	103,1	178,6	- 57,6	- 87,2	- 167,6
Germany	13,2	23,1	9,8	32,3	87,1	153,2	- 19,1	- 64	- 143,4
Italy	14,9	24,9	33,8	15,4	41,7	76,3	- 0,5	- 16,8	- 42,5
Other EEC States	8,2	18,7	14,3	20,8	48,3	49,2	- 11,6	- 29,6	- 34,9
Comecon	217,1	352,4	398,4	194,7	279,6	300,2	+ 22,4	+ 72,8	+ 98,2
U.S.S.R.	140,1	221,9	248,7	96,1	131,3	137,7	+ 44	+ 90,6	+ 111
Czechoslovakia	23,8	44,8	43,3	23,4	35,3	39,5	+ 0,4	+ 9,5	+ 3,8
D. Germany	15,4	26,4	34	23,8	35,6	39	- 8,4	- 9,2	- 5
Poland	15,8	15	22,1	16	16,4	17,5	- 0,2	- 1,4	+ 4,6
Romania	9,0	17,3	27,5	15,4	37,1	36,1	- 0,4	- 19,8	- 8,6
Other Comeco countries	13	27	22,8	20	23,9	30,4	- 7	+ 3,1	- 7,6
U.S.A.	8,6	14	16,2	109,1	270,6	301,7	- 100,5	- 256,6	- 285,5
Canada	0,1	0,3	0,2	0,8	2,6	3	- 0,7	- 2,3	- 2,8
Switerland	6,3	7	4,1	56,4	73,1	94,6	- 50,1	- 66,1	- 90,5
Australia	0,1	0,1	0,1	16,8	73,0	70,6	- 16,7	- 72,9	- 70,5
China	8,4	15,9	21	11,9	12,2	21,6	- 3,5	+ 3,7	- 0,6
Japan	18,8	60,6	6,6	4,7	22,6	35,1	+ 14,1	+ 38,0	- 28,5
Other countries	49,2	60,3	36,6	48,4	112,9	192,9	+ 0,8	- 52,6	- 156,3
TOTAL	396,3	653,9	612,8	622,3	1.252,8	1.691,1	- 226	- 598,9	-1078,3

(*) According to Exchange Control Statistics.

Source : Central Bank of Egypt. Annual Report, July 1976.

Table 20 Egypt: Commodity Composition of Imports[1/]

(In millions of Egyptian pounds)

	1970	1971	1972	1973	1974
Fuels	28.2	28.0	21.1	7.0	23.5
Crude petroleum	7.2	13.0	11.1	3.6	1.2
Petroleum products	17.4	11.0	9.7	3.1	9.0
Coke and coal	3.6	4.0	0.3	0.3	13.3
Primary commodities	45.8	79.9	66.6	80.6	294.5
Wheat	20.6	58.6	41.8	55.1	232.8
Tobacco	7.4	8.0	9.8	11.0	11.3
Wool	4.9	3.2	5.2	4.4	6.7
Jute	2.3	1.9	1.2	1.1	2.3
Sesame	3.3	1.1	1.7	1.5	5.1
Maize	1.9	1.1	2.4	2.5	26.7
Hides and skins	2.3	2.7	1.3	2.7	2.5
Other	3.1	3.3	3.2	2.3	7.2
Intermediate commodities	128.6	150.0	169.5	131.8	315.8
Animal fats and vegetable oils	16.6	23.0	30.7	16.5	46.3
Chemicals, organic and inorganic	15.6	20.3	23.4	19.5	47.7
Unwrought, waste and scrap metals	7.0	9.9	6.3	4.5	10.4
Iron and steel products	19.2	21.1	23.5	20.3	46.3
Dyestuffs and coloring	6.1	5.2	5.2	3.9	9.5
Wood	11.0	10.3	21.7	11.3	29.0
Paper and paper products	10.3	11.1	11.8	10.2	30.9
Fertilizers	3.6	5.7	3.8	9.1	29.3
Electrical products	2.2	3.0	3.1	2.6	9.0
Rubber and rubber products	2.6	4.4	5.8	4.5	5.7
Oils and wax	4.2	3.0	4.8	2.2	1.8
Wadding and textile fabrics	2.9	3.6	2.9	2.0	2.6
Pig and cast iron	1.4	1.8	2.9	1.3	0.6
Other	25.9	27.6	23.6	23.0	46.7
Capital commodities	79.9	81.7	77.8	79.2	124.5
Automobiles and parts	20.7	26.8	27.1	19.8	56.7
Other transportation	10.2	7.9	6.9	16.2	27.7
Textile machinery	10.6	8.9	10.9	11.5	11.8
Electrical products	8.5	8.9	7.8	8.2	11.5
Liquid and air pumps	3.4	2.5	3.1	2.7	3.6
Other	26.5	26.7	22.0	20.8	13.2
Consumer commodities	59.5	60.4	55.8	62.5	161.8
Durables	10.8	15.2	9.2	11.7	38.5
Automobiles	(5.3)	(8.3)	(3.3)	(6.2)	(28.8)
Radio and television	(2.5)	(3.4)	(2.8)	(2.4)	(4.7)
Other	(3.0)	(3.5)	(3.1)	(3.1)	(5.0)
Nondurables	48.7	45.2	46.6	50.8	123.3
Wheat flour	(8.0)	(11.0)	(7.6)	(10.6)	(29.1)
Tea	(10.4)	(4.4)	(5.2)	(3.8)	(6.5)
Coffee and cocoa	(1.1)	(1.8)	(0.5)	(0.8)	(2.0)
Meat, fish and poultry	(4.6)	(5.3)	(6.9)	(6.7)	(10.9)
Medicines	(4.1)	(2.7)	(3.6)	(2.7)	(3.4)
Disinfectants and insecticides	(6.4)	(7.3)	(10.2)	(12.4)	(21.6)
Jute products	(4.0)	(2.8)	(2.3)	(4.2)	(2.3)
Lentils	(1.8)	(0.5)	(1.0)	(0.7)	(2.5)
Other	(8.3)	(9.4)	(9.3)	(8.9)	(45.0)
Total	342.0	399.9	390.8	361.1	920.1

Source: Central Agency for Public Mobilization and Statistics.

1/ These data are based on customs records, and hence differ from the balance of payments figures which are based on exchange control records. Because of the temporary admissions procedure these data seriously under-record imports (see Chapter V, section 3); on the other hand, exchange control figures do not include "own exchange" imports, which include most consumer durables as well as many other final products.

Table 21 Egypt: Direction of Trade

(In millions of Egyptian pounds)

	Exports					Imports				
	1970	1971	1972	1973	1974	1970	1971	1972	1973	1974
Convertible currency countries[1]	85.1	87.7	96.4	157.5	214.6	173.4	228.3	219.6	217.7	655.6
Arab League countries	10.9	13.2	15.7	20.4	23.7	9.0	17.4	14.2	11.7	43.5
Lebanon	1.6	1.7	2.8	3.5	4.9	3.9	8.5	9.2	7.8	31.8
Libyan Arab Republic	1.9	3.3	6.4	8.7	9.8	0.1	3.6	0.4	1.1	0.6
Saudi Arabia	1.6	1.6	1.9	3.2	5.6	0.6	0.5	0.4	0.2	4.1
Syrian Arab Republic[2]	4.7	5.8	3.5	3.8	2.4	3.7	3.1	2.9	2.1	5.4
Other	1.1	0.8	1.1	1.2	1.0	0.7	1.7	1.3	0.5	1.6
Europe	49.8	47.8	54.4	89.9	113.1	121.3	121.2	118.8	122.0	331.8
Belgium	2.9	1.3	2.7	4.6	10.3	1.6	1.8	2.0	4.0	12.5
France	6.5	5.6	7.9	10.7	14.4	25.3	20.7	28.5	30.7	137.9
Germany, Federal Republic of	8.9	9.6	10.7	14.0	21.6	26.6	28.1	25.8	28.3	56.9
Italy	11.0	9.7	11.2	19.5	26.4	22.6	22.2	13.9	17.0	35.1
Netherlands	2.5	1.7	2.1	5.1	6.2	6.2	5.5	8.6	10.9	22.4
Sweden	0.8	1.1	0.8	1.0	0.9	4.3	4.6	3.7	4.5	5.1
Switzerland	2.5	3.1	2.5	7.7	5.2	7.3	10.4	8.1	6.1	20.5
United Kingdom	6.2	7.1	8.0	14.9	22.0	13.5	14.1	15.4	13.6	25.6
Yugoslavia	8.2	4.1	3.7	4.6	4.3	8.9	6.2	4.7	2.2	13.3
Other	0.3	4.5	4.8	7.8	1.8	5.0	7.6	8.1	4.7	2.5
Asia and Africa (non-Arab)	18.7	21.0	18.4	29.6	68.4	12.5	12.8	9.1	11.5	24.8
Japan	10.6	13.3	15.3	22.8	59.7	5.2	5.1	4.8	5.5	10.0
Other	8.1	7.7	3.1	6.8	8.7	7.3	7.7	4.3	5.8	14.8
Western Hemisphere, Oceania, and other	5.7	5.7	7.9	17.6	9.4	30.6	76.9	77.5	72.7	255.5
United States	2.7	2.9	5.2	6.7	4.5	20.9	22.2	33.9	45.2	152.2
Other[3]	3.0	2.8	2.7	10.9	4.9	9.7	54.7	43.6	27.5	103.3
Payments agreement countries[1]	243.5	256.0	261.5	287.7	373.3	168.8	173.6	171.2	143.4	254.0
Arab League countries	16.3	16.1	11.0	10.6	19.6	11.8	10.7	20.3	12.2	13.1
Iraq	4.1	3.2	3.7	2.2	3.7	2.5	4.3	6.1	4.3	2.3
Sudan	7.3	7.4	4.3	3.0	5.2	7.5	4.5	9.6	6.8	7.1
Other	4.9	5.5	3.0	5.4	10.7	1.8	1.9	4.6	1.1	3.7
Europe	197.1	201.8	214.5	249.4	323.9	116.8	131.6	123.6	108.8	221.7
Bulgaria	5.0	4.3	7.7	8.1	10.3	3.5	5.1	5.0	7.5	15.5
Czechoslovakia	15.8	17.7	21.0	26.2	38.8	13.6	17.7	13.0	11.9	18.1
Germany, Democratic Republic of	19.7	11.2	15.4	17.4	23.8	15.5	15.8	16.5	18.0	23.8
Hungary	7.5	5.2	7.4	7.1	11.5	4.7	5.5	4.6	5.7	5.0
Poland	7.5	12.5	17.4	15.1	16.6	9.9	8.6	6.6	9.3	11.2
Romania	8.1	7.6	9.3	11.3	14.8	11.3	9.9	12.9	16.4	47.1
Spain	5.3	2.2	4.8	13.3	5.4	12.2	8.1	4.1	3.5	7.2
U.S.S.R.	122.4	136.2	126.0	146.0	194.9	41.5	54.0	51.9	25.6	80.9
Other	5.8	4.9	5.5	4.9	7.8	4.6	6.9	9.0	10.9	12.9
Asia and Africa (non-Arab)	30.1	38.1	36.0	27.7	29.8	40.2	31.3	27.3	22.4	19.2
China, People's Republic of	7.7	11.5	11.0	7.6	13.5	6.7	7.7	11.2	10.2	7.2
India	18.0	20.9	18.9	13.3	10.3	27.2	19.2	12.8	10.0	8.3
Other	4.4	5.7	6.1	6.8	6.0	6.3	4.4	3.3	2.2	3.7
Grand total[4]	331.0	343.1	358.0	445.2	587.9	342.0	399.9	390.8	361.1	909.6

Source: Central Agency for Public Mobilization and Statistics.

1/ As of January 1, 1975.

2/ Bilateral payments agreement in effect until the end of 1974.

3/ Includes sales to ships and airplanes, passengers' dutiable luggage, and duty-free markets.

4/ Includes rounding errors.

Table 22 Egypt: Direction of Cotton Exports

(Volume in thousands of metric tons)

Marketing Year (September-August)	1970/71	1971/72	1972/73	1973/74	1974/75 1/
Convertible currency sales	86.9	88.7	115.6	121.0	17.1
Austria	2.2	3.8	3.4	4.4	--
Belgium	1.4	1.4	3.2	3.6	0.3
France	8.5	9.9	10.3	11.4	5.7
Germany (Federal Rep.)	12.7	14.8	13.5	11.0	0.1
Italy	14.5	11.9	16.0	13.5	5.3
Japan	28.9	24.5	44.0	56.5	0.1
Switzerland	3.9	4.7	7.6	4.8	0.9
United Kingdom	5.1	4.7	5.8	5.2	1.1
Yugoslavia	4.1	4.7	1.0	4.8	2.7
Other	5.7	8.4	10.8	5.8	0.9
Clearing currency sales	216.8	206.6	187.9	139.8	80.9
Bulgaria	3.0	3.8	3.6	4.8	1.3
China (People's Rep.)	14.8	14.3	11.3	7.3	3.3
Czechoslovakia	21.4	21.3	16.7	19.8	12.0
Germany (Democratic Rep.)	3.7	3.1	2.3	4.0	2.3
Greece	7.9	5.7	5.7	4.0	0.5
Hungary	3.3	5.3	4.7	4.0	1.7
India	32.4	24.7	22.9	10.1	--
Poland	11.2	8.3	8.2	3.4	5.2
Romania	12.3	16.7	12.3	12.4	12.1
Spain	5.6	7.5	11.4	6.0	0.8
Sri Lanka	1.1	6.5	6.4	0.7	--
U.S.S.R.	97.3	88.7	81.0	61.6	41.7
Other	2.8	0.7	1.4	1.7	--
Total	303.7	295.3	303.5	260.8	98.0
Total value (In millions of LE)	156.1	163.8	161.5	312.6	108.1
Unit value (In LE per ton)	514	554	532	1,120	1,104

Source: Egyptian Cotton General Organization.
1/ Commitments up to March 15, 1975.

TABLE 23

Total external trade of the A.R.E.(1) in million Egyptian pounds

YEARS	With the EEC countries			With the world			Percentage		
	Exp.	Imp.	Volume of trade	Exp.	Imp.	Volume of trade	Exports %	Imports %	Volume of trade %
1952	48,6	55,6	104,2	150,2	227,2	377,4	32,3	24,4	27,6
1959/1960	27,4	57,1	84,5	190,0	225,9	415,9	14,4	25,2	20,3
1960/1961	19,5	47,1	66,6	189,0	224,7	413,7	10,3	20,9	16,0
1964/1965	39,3	88,9	128,2	265,2	400,8	666,0	14,8	22,1	19,2
1966/1967	29,6	62,3	91,9	261,3	376,5	637,8	11,3	16,5	14,4
1968	29,2	72,7	101,9	270,3	289,7	560,0	10,8	25,1	35,9

1) source: central agency for public mobilization and statistics (in arabic) Cairo, U.A.R.

Appendix 3

TABLE 24

Trade between the A.R.E. and EEC member states (1) (in thousands Egyptian pounds).

EEC states	1952			1959/1960			1960/1961			1964/1965			1966/1967			1968		
	Exp.	Imp.	trade vol.	Exp.	Imp.	trade vol.	Exp.	Imp.	trade vol.	Exp.	Imp.	trade vol.	Exp.	Imp.	trade vol.	Exp.	Imp.	trade vol.
Italy	15655	12326	27981	8732	10336	19068	6395	7209	13604	12708	23750	36458	10950	14341	25291	9081	14469	23550
W. Germany	11649	12244	23893	10227	30122	40349	6317	25173	31490	14477	44166	58643	8265	27711	35976	10561	19141	29702
France	18443	14103	32546	4335	8828	13163	3304	7712	11516	6101	14281	20382	5594	13040	18634	5449	33195	38644
Netherlands	1955	10793	12748	2439	4472	6911	1921	5339	7260	3783	5414	9197	2954	5288	8242	2197	4876	7073
Belgium	934	6148	7082	1698	3304	5002	1004	1631	2641	2215	1314	3529	1832	1870	3702	1929	1010	2939
Luxemburg	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Source: Agence centrale de la Mobilisation publique et des statistiques (in arabic) U.A.R.

TABLE 25

Appendix 3

The main exports of A.R.E. to EEC compared with total exports to the world (in thousands of Egyptian pounds)

Commodity	1964			1965			1966			1967			1968		
	EEC	World	%	EEC	World	%	EEC	World	%	EEC	World	%	EEC	World	%
Raw Cotton	18245	117432	15.0	20260	148272	13.6	18058	144518	12.4	15247	121562	12.0	18128	120080	15.0
Cotton Yarns	2786	20970	13.3	3015	23510	12.5	208	30918	-	933	30167	3.0	1913	29855	6.1
Cotton Textiles	115	9050	1.3	202	10408	-	392	10262	3.5	628	12620	5.0	794	14487	5.0
Crude petrol	5063	14822	34.1	3535	10516	33.6	863	5015	17.2	729	2013	36.0	215	3278	6.0
Benzine	336	2288	36.6	942	3923	20.0	335	3029	11.1	715	2894	25.0	568	3009	20.0
Mazzatte (solar)	921	4132	22.3	2027	6554	30.9	494	5531	8.9	-	2174	-	-	630	-
Onions	1678	5067	33.0	2382	5594	42.0	2310	5122	45.0	4009	8124	49.0	2329	4910	47.0
Rice	1824	30356	6.0	715	19805	3.6	1664	21202	7.8	598	29797	2.0	634	44935	1.4
Potatoes	148	1566	9.0	365	1187	30.0	349	2508	13.8	347	1429	24.0	80	917	8.7
Groundnuts	80	517	15.0	166	704	23.0	148	1242	11.6	142	1299	10.9	244	1012	24.0
Citrus fruits	43	572	7.0	3	346	0.9	59	510	10.9	10	826	1.2	188	2032	9.0
Vegetables	-	79	-	-	85	-	-	84	-	-	28	-	4	17	23.5
Medicine plants	214	422	50.0	168	359	47.0	118	328	36.0	247	287	86.0	338	404	83.0

Source: Department of imports and exports. Ministry of Economy, Cairo U.A.R.

THE EVOLUTION OF TRADE RELATIONS BETWEEN EGYPT AND THE EEC

		1970	1971	1972	1973	1974	1975
Balance of Trade	Mio EUR	-129,3	-104,7	-146,9	-207,0	-524,3	-968,3
IMPORTS from the EEC		330,9	308,8	287,8	390,5	775,7	1.268,6
EXPORTS to the EEC		201,6	204,1	140,9	183,5	251,4	299,3
of which							
Agricultiral Prod.		-	-	32,6	46,2	35,7	21,6
Raw Materials		-	-	85,7	110,3	183,8	257,6
Industrial Products		-	-	22.6	27.0	30.9	20.1
INDEX							
IMPORTS		100	93	87	118	234	383
EXPORTS		100	101	70	91	125	148
Changement in comparison with the precedent year							
IMPORTS	%	-	- 6,7	- 6,8	+ 35,7	+ 98,6	+ 63,5
EXPORTS	%	-	+ 1,2	- 31,0	+ 30,2	+ 37,0	+ 19,1
Share of the country in the total trade of the EEC							
EXPORTS Extra 9	Mio EUR	55.712	62.580	67.357	79.366	109.155	113.980
	%	0,6	0,5	0,4	0,5	0,7	1,1
IMPORTS Extra 9	Mio EUR	59.367	63.506	67.187	82.933	124.942	117.800
	%	0,3	0,3	0,2	0,2	0,2	0,3

Source : Statistical Office of the European Communities

TABLE 26 APPENDIX III

APPENDIX IV

TABLE 1 APPENDIX IX

COMMUNITY FOOD AID

TABLE OF COMMITMENTS TAKEN AND DELIVERIES MADE IN 1974

	QUANTITIES (metric tons)	VALUE (u.a.)
TOTAL COMMITMENTS IN 1974		227.935.301
of which :		
1. Cereals	728.000	142.950.394
2. Milk powder	27.000	22.810.108
3. Butteroil	39.000	54.479.960
4. Sugar	6.094	3.710.017
5. Cash (UNWRA) (1)		2.172.000
(HONDURAS) (3)		150.000
(SAHEL) (4)		1.662.822
TOTAL DELIVERIES IN 1974		217.146.684
of which :		
1. Cereals	740.331	140.069.551
2. Milk powder	46.945,7	39.285.187
3. Butteroil	26.153	36.041.946
4. Sugar		-
5. Cash (UNWRA) (2)		1.600.000
(HONDURAS) (3)		150.000

(1) Figure not included in the annexed Tables. It is the payment provided for in Table II of the 1974/75 Convention (2.161.000 u.a. + 11.000 u.a.).
(2) Total payment in the second implementing year of the Convention 1973/1974 (805.000 u.a.) and 795.000 u.a. of the 2.172.000 u.a. scheduled for 1974/1975.
(3) Financial contribution to cover costs of air transport.
(4) Exceptionnal transport costs (article 9041 of the budget).

Reference : EC - Commission DG for Agriculture.

TABLE 2

Net contributions of public aid for development from C.A.D. countries to developing countries and multilateral agencies, 1970-1974

in millions $

Countries	Average 1964-1966		1970		1971		1972		1973		1974	
	mil. $	in % of GNP	mil. $	in % of GNP	mil. $	in % of GNP	mil. $	in % of GNP	mil. $	in % of GNP	mil. $	in % of GNP
Australia	114,9	0,51	202,4	0,59	202,2	0,53	266,9	0,59	285,9	0,44	430,3	0,55
Austria	10,0	0,11	10,6	0,07	12,3	0,07	17,8	0,09	40,1	0,15	59,9	0,18
Belgium	83,0	0,49	119,7	0,46	146,1	0,50	193,2	0,55	234,7	0,51	263,4	0,49
Canada	120,5	0,23	346,3	0,42	391,1	0,42	492,0	0,47	514,9	0,43	713,4	0,50
Denmark	14,7	0,15	59,1	0,38	74,4	0,43	95,6	0,45	131,6	0,48	168,3	0,54
Finland	—	—	6,8	0,07	13,3	0,12	20,4	0,15	28,0	0,16	37,9	0,18
France	775,1	0,78	971,0	0,66	1.075,3	0,66	1.320,3	0,67	1.488,4	0,58	1.638,4	0,60
Germany	444,7	0,39	599,0	0,32	734,2	0,34	808,3	0,31	1.102,0	0,32	1.434,6	0,37
Italy	62,0	0,10	147,2	0,16	182,7	0,18	101,8	0,09	192,0	0,14	204,4	0,14
Japan	214,9	0,24	458,0	0,23	510,7	0,23	611,1	0,21	1.011,0	0,25	1.126,2	0,25
Netherlands	70,9	0,37	196,4	0,61	216,1	0,58	306,7	0,67	322,1	0,54	428,8	0,62
New Zeeland	—	—	13,7	0,23	16,7	0,23	20,6	0,25	29,1	0,27	37,2	0,30
Norway	11,7	0,17	36,7	0,32	42,3	0,33	63,3	0,43	84,6	0,42	131,4	0,57
Sweden	42,6	0,21	117,0	0,38	158,9	0,44	197,7	0,48	275,3	0,56	401,7	0,72
Switzerland	11,3	0,08	30,2	0,15	28,4	0,12	64,8	0,21	65,3	0,16	67,3	0,14
United Kingdom	483,8	0,48	446,9	0,37	561,8	0,41	608,7	0,39	602,9	0,34	721,8	0,38
United States	3.453,0	0,49	3.050,0	0,31	3.324,0	0,32	3.349,0	0,29	2.968,0	0,23	3.439,0	0,33
Total of C.A.D. countries	5.913,1	0,44	6.811,0	0,34	7.690,5	0,35	8.538,2	0,33	9.375,9	0,30	11.304,0	0,25

Source : OECD ; Claude Delmas "L'Europe et le Tiers Monde", 1975.

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