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European Community Politics and Policies in 1992 A Review

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The Danish vote against the Maastricht Treaty on European Union, with a margin of only 46,269 votes, exposed a wider unease among large segments of the population with the course of European integration. On 2 June 1992 the European Community was thrown in a deep crisis.

The rapidly deteriorating economy added to the malaise, but was not the only cause. The European Community, and even collaboration between European states, reached rock bottom between 16 September and 16 October. The first date refers to the height of the currency crisis in the European Exchange Rate Mechanism, capped by the unilateral withdrawal of the British pound from the ERM: Black Wednesday. The crisis was fed by unprecedented capital movements, which were out of reach of national central banks in a liberalised capital market. Sixteen October was the start of the emergency European Council of Birmingham. The Top itself was not a success. It was however proof of the willingness of almost all member states, not in the least Denmark, to safeguard the sort of European integration embodied by the Treaty of Rome: cooperation between European states which adds up to more than pure intergovernmentalism. The Birmingham Council was unable to agree on a definition of this 'added value'. However, the concepts of subsidiarity and transparency seemed to imply a less centralising, less uniform and less complicated decision making structure and process. The European Council instructed the various institutions to go back to the drawing board and come up with some workable suggestions by the next top.

The December European Council of Edinborough put the European Community back on track. It agreed on a financial framework and the main policy choices for the remainder of the century. However, the crisis is likely to leave profound traces. Subsidiarity and transparency have already crept into the power game within various policy areas. Relations between the institutions have shifted. The Commission has in general been on the retreat. It had to concede most often and most significantly on its financial claims. There is however also another side to it: it has been able to shrug off some responsibility for implementation to the member states, which might find this soon uncomfortable.

The changing agenda was most obvious in the internal market. Immigration and asylum issues provided the arena for a power struggle between supranationalist and intergovernmental tendencies in European cooperation. On the implementation side, the Peter Sutherland report assessed how the Single Market should function after 1992. The report placed much emphasis on openness, predictability and subsidiarity.

The weaker position of the Commission was very clear in the negotiations of the Delors II package, which sets the financial perspectives for the next years. The Commission accepted a cutback on its original proposals of 11%.

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As far as external relations is concerned, 1992 was a year of setbacks. The Yugoslavian crisis exposed again that the European Community, or European Political Cooperation, lacks effective decision making power. This lack of unity tied also the Commission's hands in the Uruguay Round. However, the chances for a Gatt deal have risen significantly thanks to the reform of the Common Agricultural Policy.

Commission, Parliament and Council passed further important decisions in environment, transport and energy. The Commission published a number of strategic policy documents. Research and development became a victim of the budgetary austerity in the new financial perspectives. Two important discussions in the telecommunications sector could not be concluded in 1992. The final compromises in 1993 would be much less bold than the original commission proposals. Social affairs was also characterised by watered-down proposals.

I. European Political and Monetary Union

The Treaty on European Union was signed in Maastricht on 7 February 1992. It was scheduled to become in effect on 1 January 1993, provided that it was ratified on time by the twelve national parliaments and the European Parliament. The Dutch prime minister Mr.Lubbers reportedly declared that '*we have now passed the point of no return*' [1].

Very soon after the ceremony, the movement to European Union experienced a number of setbacks. The sceptical voices on the economic as well as the political ambitions of the Maastricht Treaty were not any longer confined to traditionally reluctant UK and Danish corners. In February, the German Bundesbank cast doubts about the plans for a single currency. What is more, German disappointment with the political framework became clear. The social-democratic party initially threatened to block ratification if the European Union was not made more democratic, but changed its position in March. The German Länder however did not give in so easily. In March they demanded constitutional changes to augment their role in European policymaking, in return for their yes vote in the ratification procedure of the *Bundesrat*. The Belgian, Italian and Greek parliaments had also shown to be displeased with the outcome of political union. As a mild form of protest, they had made approval by the European Parliament a precondition of their assent.

The ratification of the Schengen agreement ran also into difficulties in the Netherlands and Germany. The Dutch parliament requested its government to reopen negotiations to rectify the lack of democratic control in the Schengen agreement. In Germany, the christian-democratic party would only vote for the Schengen agreement if the Social-Democrats helped to pass a constitutional amendment to change the unconditional right of asylum.

Despite the warning signs, the narrow Danish no-vote in the referendum on the Treaty of Maastricht on 2 June caused disarray among EC observers and policy makers. Partly in an attempt to rekindle the European spirit and partly for domestic political reasons, the French President Mitterrand announced on 3 June that France would hold a referendum on 20 September to ratify the Treaty [2].

(1) *Keesing's Record of World Events* (Feb 1992), p.38785.

(2) Actually, president Mitterrand decided the exact date only on 1 July.

The Irish referendum on 18 June delivered a resounding 'yes' to European Union, but the result was hardly registered [3].

The Lisbon European Summit of June 26-27 declared the leaders' '*determination to press ahead with European construction*' and underlined '*the importance of respecting the timetable laid down for ratification*' [4]. The real constraint was not the timetable, but the political impossibility to reopen the negotiations. The political elite feared that a second negotiation round would not be able to cope with emerging and reemerging conflicts of interests between member states, doubts about costs and benefits of economic and monetary union, questions about democracy, and growing public unease with the loss of national sovereignty.

The EC partners were confronted with a dilemma. Without Danish ratification the Treaty on European Union seemed legally dead. Yet, it was unlikely that the Danish people would turn their vote into a positive one if the terms of the agreement remained the same. Some might have been inclined to press ahead without Denmark, and possibly without the United Kingdom. However, the UK took over the presidency from Portugal on 1 July. It was determined to open the way for a second referendum in Denmark on the Maastricht Treaty. The British Conservative government had compelling domestic reasons for this course. If Denmark stayed out of the European Union, ratification of the Treaty in the UK seemed highly unlikely. Britain could also use its presidency and the crisis of EC confidence following the Danish result, to push back supranational tendencies in the European integration process. Hence subsidiarity became discussed vividly in the second half of the year in the UK, Denmark but also in traditionally less reluctant member states.

RATIFICATION TABLE	
7 April	European Parliament
2 June	Denmark (referendum : *no* 50.7%)
18 June	Ireland (referendum : *yes* 68.7%)
2 July	Luxembourg
31 July	Greece
20 September	France (referendum : *yes* 51.05%)
26 October	Italy
4 November	Belgium
25 November	Spain
11 December	Portugal
15 December	The Netherlands
18 December	Germany
Source: Keesing's Record of World Events, 1992	

The political difficulties were amplified by the rapid deterioration of the European economy over the summer. The acute problem was the heavy public bor-

(3) The Maastricht debate became confounded with the highly divisive abortion issue. See B.WILKINSON (1992), *National Sovereignty and Constitutional Choices: Abortion, Ireland, and the European Community*, Oxford, Nuffield College : Centre for European Studies, Discussion Paper No.14.

(4) See conclusions of the Lisbon European Council in (CEC), *Bulletin*, 6/1992.

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rowing by the German government to finance the economic restructuring in the new Länder. The Bundesbank, committed to keep inflation low, held to a strict monetary policy by way of high interest rates. The other European countries, in- and outside the European Exchange Rate mechanism, were compelled to raise their rates at least as high or even above that level to prevent a plunge of their currencies. High German interest rates combined on top of that with unusually low American rates. These factors caused a massive stream of capital into Germany and away from the struggling economies in Europe such as the British and Scandinavian ones, or the most vulnerable ones like the southern European countries. The countries defended their exchange rate by raising their interest rates higher than the German rate, which pulled their economies even further down. In addition, by mid-August the outcome of the French referendum had become all but certain.

Enormous economic pressures, political uncertainty and currency speculation in anticipation of the French vote culminated in a major crisis in the European Monetary System in September. The UK£ was suspended from the ERM without prior consultation on 16 September. The Italian *lira* followed, after negotiations within the European Monetary Committee, the coordinating body of central bank officials. The Spanish *peseta* was devalued. The crisis led to acrimony between Britain and Germany. Outside the ERM, the tensions caused even greater havoc. Between 8 September and 10 December, the currencies of the once strong Scandinavian economies let go their link with the Ecu one after the other, often after heavy losses in the exchange markets [5].

The French vote finally came on 20 September. But the result, a narrow victory for the yes-side, did at first little to calm down the markets. French and German central banks fought off successfully speculation against the French *franc*. Then the markets settled down until the second crisis at the end of November.

The Heads of State and Government met for a special European Council in Birmingham on 16 October to restore shaken confidence. The main topics of the Top were the lack of transparency of European decision making and subsidiarity. These were also the two main Danish concerns about Maastricht [6]. But the Twelve were unable to take concrete decisions.

The disarray in high politics and economics since June was also affecting the ongoing work in the European Community. The Internal Market programme slowed down. The budgetary framework for the next five or seven years was still under discussion. That blocked other multi-annual programmes like the review and renewal of the Structural Funds and the next generation of Research and Technological Development programmes.

(5) The Swedish *krone* was left to float on 19 November. The central bank had reportedly spent 158bn *kronor* in the preceding week, which added to the 80bn spent in the September crisis, represented virtually all Swedish foreign reserves. (*Keesing's Record of World Events, 1992*, p.39206.)

(6) Denmark produced a 251p White Paper on 9 October where it explained its options.

EUROPEAN CURRENCY CRISIS	
second half August	*sharp fall of US dollar*
25 August	*dollar on record low: 1$ = 1.4DM* *UK pound and It.lira under pressure*
Sept 3	*UK announces to borrow 10bn Ecu worth in currencies to defend pound*
Sept 4	*Italy raises borrowing rates; massive interventions*
Sept 5	*Ecofin meeting in Bath: no realignment, Germany refuses to cut interest rates*
Sept 8	*Finland floats Markka (effective depreciation of 13%)*
Sept 8-9	*Sweden raises marginal intervention rate from 16 to 75%; currency loan worth 16bn Ecu*
Sept 13	*realignment: Italy devalues lira (effectively 7%)*
Sept 14	*small interest rate cut in Germany, Benelux, Austria, Switzerland, Sweden*
Sept 16	*monetary crisis; UK£, Spanish peseta and It.lira through ERM floor; UK£ leaves ERM (effectively devaluation of 10%); Sweden raises marginal intervention rate to 500%*
Sept 17	*realignment: temporary suspension of It.lira from ERM; Spanish peseta devalues by 5%*
Sept 23	*concerted German-French intervention to secure French franc; Spain reintroduces capital controls*
Sept 24	*Ireland and Portugal reintroduce capital controls*
Sept 28	*UK plea for fundamental reform of ERM rejected by others*
Source: Keesing's Record of World Events, 1992.	

EUROPEAN CURRENCY CRISIS	
Oct-early Nov	*interest rate cuts in most countries*
Nov 19	*Sweden floats krona*
Nov 23	*Denmark, Ireland, Portugal, Spain raise short-term money market rates; Greece and Norway raise borrowing rates; Iceland devalues krona by 6%*
Nov 23	*realignment: devaluation of Spanish peseta and Portuguese escudo by 6%; Spain lifts capital controls*
Nov 24	*Malta devalues lira by 10%*
late Nov	*French franc under continuous pressure*
Dec 10	*Norway floats krone; effectively devaluation by 5%*
Source: Keesing's Record of World Events, 1992.	

All important issues were saved up for the Edinborough Summit on 11-12 December. The Danish issue was the most sensitive. On 27 October, seven of the eight parliamentary parties in Denmark had reached a national compromise around four opt-outs: introduction of single currency (no third stage), no participation in common defence policy, non-participation in EC wide legal and police cooperation on immigration, no citizenship of the European Union. The European Council gave full satisfaction on the single currency and common defen-

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ce policy. The provisions on immigration policy and citizenship of the Union were less clear. Hence Denmark was allowed to attach two unilateral declarations to the European Council decisions. In the first, it specified that EC citizenship is a totally different concept from citizenship of a nation-state. As far as active and passive voting rights is concerned, nationals of other member states already enjoy full rights in municipal elections, and that would now be extended to European elections. The second unilateral declaration reiterated the Danish right to make each transfer of sovereignty in justice and home affairs dependent on its strict constitutional rules. In addition, the European Council stressed that each member state remains free to set higher social standards than EC standards in areas of social policy, consumers, environment and income distribution [7]. The Danish government promised it would go back to the Danish people and ask them to endorse the Maastricht Treaty in a second referendum.

The European Council adopted also guidelines (with examples) to implement subsidiarity and measures to increase transparency in European decision making. Furthermore, it agreed on the budgetary framework for the rest of the decade, the so-called Delors II package. It gave the go-ahead for the enlargement negotiations with a number of EFTA countries. Finally, it established a plan of action to promote growth and combat unemployment in a deepening European economic crisis. The European Council of Edinborough seemed, after a year of deep crisis, to close 1992 on a positive note.

II. Internal Market

According to Art 8a of the Single European Act, '*the internal market shall comprise an area without internal frontiers in which the free movement of goods, people, services and capital is ensured*'. That area accounts for about one quarter of world economic output and encompasses 344m people. The programme fulfils the goal set out in the 1957 Treaty of Rome. Europe without internal frontiers started formally at midnight 31 December.

The twelve member states reached agreement on all major economic packages of the Single Market programme, even though some were watered down or transition periods were built in. The one single failure was the inability to abolish border checks on persons. That was visible on 1 January 1993. Although nearly all control posts on the land borders disappeared, there had been virtually no improvement in the elimination of border controls in airports and ports. People were still checked systematically, especially in Germany, the UK and Italy, and Brussels national airport of Zaventem did still carry out its much debated computer coding. Border controls between Gibraltar and Spain control had even been stepped up. People from third countries resident in the Community still need a visa for each member state they visit [8]. The political and legal battle was centred around the interpretation of Article 8a.

The Community institutions did not make much progress in the preparation of the post-1992 stage until autumn. A group of senior advisers chaired by former EC Commissioner for Competition Mr. Peter Sutherland produced a 60-page report at the end of October. Its impact is likely to reach beyond the admi-

(7) Conclusions of the Edinborough European Council, CEC, *Bulletin*, 12/1992.

(8) A report by the private organisation *Euro Citizen Action Service* (ECAS), sent to the Commission after three weeks of full internal market. (*Agence Europe*, N.5903, 1/93)

nistering of the internal market. It will have a significant influence on a general rethinking of the relations between European Commission, member state administrations, and the public. The document and the first concrete Commission proposals or Council actions were inspired by the subsidiarity principle.

A. *State of Affairs*

Portugal presided the Council in the first half of the year. 82 measures aimed at removing barriers to trade within the Community were adopted, agreed in principle or reached common positions for submission to Parliament. The UK took over in July and added another 92. Since 1985 over 500 Internal Market measures had been adopted, including nearly 95% of the 282 White Paper proposals. By 1 January 1993, 77% of the approved White Paper had entered into force. The more important (or politically sensitive) measures were usually agreed by the Internal Market Council, while the specialised measures were taken care of by specialist Councils, e.g. Agriculture, Environment, Health and Social Affairs etc.

By early February 1993, on average more than 80% of the White Paper measures had been transposed into national law. Denmark was leading the pack as usual (92%). Italy, which had traditionally displayed one of the poorest records, made extraordinary progress during 1992 ; in February 1993 it came second with 87%. The UK (86%), Belgium (85.5%) and the Netherlands (82%) followed closely. The two Benelux countries had started the year at the lower end of the performance list. France and Germany (79% each) came just under the EC average. The five remaining countries climbed well beyond the 70% threshold : Spain (77%), Portugal (76%), Luxembourg (75%), Ireland (74%), and Greece (72%). The biggest delays occurred in the veterinary, insurance and public procurement sectors [9].

B. *A people's Europe*

Advocates of a people's Europe had not much cause to cheer in 1992. The member states were very slow in implementing some core directives in the programme of free movement of people. Problems arose with respect to measures extending the right of residence to non-workers (students, retired persons etc.). Most member states held off transposition after a Court ruling had annulled one of the directives, even though it had stipulated that the effects of the directive were to be maintained. There was even greater opposition against the First Directive for the recognition of higher-education diplomas of longer than three years duration, which was adopted in January 1991. It stipulates that qualifications obtained by a Community national in another member state will be recognized by the host member state. Only three members had transposed the directive in full by September 1992. In its report on the state of the internal market the Commission blamed the diverse organisation of the professions, the federal or non-federal institutional structure, and the broad discretion allowed to the competent authorities in each member state. It has now set up a coordinating working group and a network of contact points to avoid differences in interpretation. The working group will exchange information and serve as a think tank

(9) *Agence Europe*, N.5916, 10/2/93, p.7.

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(interpretation of the directive), a review body (solution of specific problems) and a point of contact between member states [10].

In June, the Council adopted the Second Directive on the recognition of professional education and training. It regulates higher or post-secondary diplomas obtained after less than three years, secondary education diplomas, and certain persons with professional experience. The First and Second Directive provide cross-over links between the two systems to cover professions which are part of the first system in one member state but part of the second in another.

The internal market has triggered off unprecedented efforts of information gathering, computerisation and information exchange. The Commission soon realised that this massive process posed severe problems of security. It tabled its first proposals in 1990 to ensure the protection of personal data and information security, while allowing for information to move freely within the single market. On 31 March the Council set up a Senior Officials Group on Information Security, which would advise the Commission to ensure security in the use of information in electronic form. The Council wants e.g. a standardised classification system identifying possible needs for users and providers and relating them to appropriate measures of information security. The member states should also harmonise their rules and procedures dealing with abuse of information technology. The Council released twelve million Ecu for the first two years. This decision is one of a package of six.

The tension between intergovernmentalism and supranationalism was very salient in issues of law and order. The topics were drug use, and especially immigration and asylum. Some aspects fall under Justice and Home affairs, which are matters for intergovernmental cooperation or even international agreement. The Maastricht Treaty will bring most facets under the umbrella of the European Union, but in a separate pillar. They remain outside the Community, which means that the rules on the exclusive right of initiative of the Commission, the consultation, cooperation or codecision procedures with Parliament, and scrutiny by the European Court of Justice do not apply. Other aspects of drug use, immigration and asylum fall under social provisions and health, or the free movement of people. Both are European Community competences, but with different roles for the Commission. Many battles evolve around the proper legal basis of an initiative. The outcome is an indicator of the balance of power between member states and Community and, within the latter, between Council and Commission. This power balance determines in its turn which policy areas are drawn into the EC sphere of influence and it restricts the range of policy options.

Most European governments found immigration and asylum high on their domestic agenda in 1992. Some form of cooperation seemed warrant, but the parties were not all convinced that the European Community would be the proper venue. The saliency of the issues in 1992 could be attributed to three major factors. The first is a rapid increase in immigrants and refugees. Immigration is an old issue. At the time of the Treaty of Rome in 1957, three quarters of the migrant workers in the EC member states came from other member states. The largest single group were Italian immigrants in Germany. Thirty years later, just before the internal market, the situation was reversed despite the fact that traditional emigration countries like Spain, Portugal and Greece had joined the EC

(10) *State of completion of the Single Market: Latest Commission Report to the Council and Parliament, Agence Europe Documents*, N.1796/97.

by then. Immigration became contested in France and Germany from the summer of 1991 onwards. Asylum is a much more recent problem. The world has a record number of refugees. EC countries house only 5% of the world total, of which 60% in Germany and 20% in France. Most refugees come from the civil war in ex-Yugoslavia, some parts of the ex-Soviet Union, and from Africa.

Two political factors increased the saliency. The first was the Maastricht Treaty, which placed immigration and asylum squarely on the European scene. It became a separate pillar in the European Union confirming the member states not only as the gatekeepers but also as the only players in the house. The protective cordon has however a few weak spots, which could potentially lead to a gradual europeanisation. The accompanying declaration on asylum calls for the harmonisation of certain aspects by the beginning of 1993. Furthermore, a Maastricht provision states that the member states may decide at any time to transfer immigration and asylum to the EC pillar. The Treaty had already placed one aspect, visa policy, inside the EC.

The other relevant political factor was the completion of the internal market. The Commission could use the issue of abolition of internal border controls to strengthen the case for a European approach to immigration and asylum [11].

The Commission has gradually crafted a role for the Community and for itself into the two areas traditionally preserved for international cooperation or intergovernmental decisionmaking. In the 1970s it based its actions on Art 117, which obliges the *Member States* to improve working conditions and the standard of living of workers. In response, the Council decided in 1974 to promote consultation on immigration policies, while the European Council advocated harmonisation of national legislation on foreigners. However, very little changed. In 1985, the Commission presented a framework plan to bring the member states consult one another on entry, residence and employment of migrants, but it got nowhere. It changed strategy in July of 1985. Relying on Article 118 of the Treaty, the Commission set up a prior communication and consultation procedure on migration policies. Unlike Art 117, which calls upon the member states, Art 118 authorises the *Commission* to promote close cooperation between member states in the social field, e.g. by arranging consultations. However, the provision contains a detailed list of social items falling under the arrangement, and migration is not one of them. Several countries took the Commission to the European Court of Justice for having overstepped its competence. The ECJ upheld the Commission's position in principle, but limited the scope of Commission activity and its binding force. The Commission was competent for aspects of immigration that fall inside the social field, i.e. issues with respect to the employment market or working conditions, but not e.g. cultural integration of immigrants. For those limited matters, the Commission had the right to require information and consultations, but it could not prevent member states from implementing measures that went against the EC line. The Single European Act did not add immigration or asylum to the list of EC competences, but it incorporated the goal of a single market which requires a.o. free movement of persons (Article 8a). A smooth operation of this provision would arguably call for some cooperation between the member states. Article 8a seemed a logical lever for the Commission to lift immigration and asylum on to the European agenda.

(11) The Commission had presented in 1991 a communication on immigration and one on asylum.

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Partly challenged by the activities of the Commission and partly in anticipation of the abolition of border controls, an Ad Hoc Working Group on Immigration was created in 1986. This intergovernmental group of national officials worked parallel to other bodies like the TREVI-group. From 1989, their activities have been supervised by the coordinators group for the free movement of individuals (Rhodes group).

This process has produced two intergovernmental alternatives to the Commission's EC approach. The first one is international cooperation, which depends on ratification by all participating countries and their continuing commitment not to withdraw. The EC member states crafted two agreements. Under the Dublin Convention on Asylum of 1990 one state would be responsible for examining asylum applications; it assumes the mutual recognition of national visas for non-EC nationals, and the abolition of visas for non-EC nationals resident in a member state. The Convention on the crossing of external frontiers of 1991 would establish common standards at the external borders of the EC once control at the internal borders is relaxed. The other outcome is the Schengen agreement, which differs from the former in two respects. It is first of all much more centralised, as it is made binding by a convention of 1990. Second, it was to lead by 1 January 1993 to a complete *elimination* of internal border checks among the participating countries. This would be compensated by harmonised visa and strengthened external frontier controls, common asylum rules, police and customs cooperation for in-land control and an information exchange system. Schengen was promoted heavily by Germany and the Benelux, with France a somewhat reluctant partner. Spain and Portugal joined in 1991, Greece in 1992.

The decentralised and centralised path want both to adapt frontier control on individuals to the internal market. Hence immigration and asylum became associated with the internal market programme, and in particular with Article 8a. In practical terms, either option would have to put in place an extensive machinery for regular cooperation, data gathering, and consultation to monitor migratory movements. In 1989, the Rhodes group drew up the Palma document, which sets out the measures essential for the abolition of frontier controls on individuals.

At the same time, the Commission and a majority of member states, led by Germany, stepped up their efforts for (i) more intensive collaboration, (ii) an integrated approach, (iii) and a greater role for EC institutions as an alternative to the intergovernmental path. In two communications in October 1991 the Commission called for action at three levels. It recommended the inclusion of migration in the Community's external policy, the control of migratory movements and harmonisation of asylum rules, and the integration of immigrants in the host country. Hence the matter was extracted from the narrow arena of home affairs and justice, and it became linked to EC competencies like external policy, internal market, and social and health matters.

The ministers of immigration, convening in their intergovernmental capacity, concentrated on the middle part to make it compatible with the freedom of movement for persons. The work programme and timetables were approved by the European Council of Maastricht. The two Conventions were accepted as the core instruments with respect to immigration. Hence the internal market became a vehicle to speed up progress in immigration and asylum, first of all in the intergovernmental arena.

However, the two intergovernmental channels have been rather slow in producing results. Ratification of the two Conventions was delayed again during

1992. The Schengen agreement on the other hand is unacceptable to the UK, which is unwilling to exchange its frontier based system of immigration control for in-land control. It carries Ireland and Denmark with it. On top of that, the participating countries were unable to have the machinery in place for the take-off of Schengen on 1 January 1993.

The rift between the Schengen countries and the UK on border controls reflects two different interpretations of Article 8a. The UK maintained that freedom of movement for persons in the internal market does not require the complete lifting of control on persons, including non-EC nationals; on a more practical note, Britain claimed that for an island border controls are the simplest and most effective way of controlling migratory movements.

President Jacques Delors spotted two disputes behind the border control issue. The explicit conflict was about the interpretation of Article 8a. For the UK (and Ireland) '*the SEA was merely a text of an economic nature; anything that is related to the free movement of persons that is not directly economic is not in the Treaty*.' [12] The implicit conflict results from the absence of a proper debate on immigration and asylum, and that while it would be '*dishonest*' to ensure free movement of persons '*until the philosophies of these two points have drawn closer together*'.

The stalemate gave the Commission the opportunity to force its interpretation of Article 8a on the agenda. It argued that free movement of persons is an essential part of the internal market, that goods and persons must be equally free to move within the internal market as within national markets, i.e. border controls and different rules for non-EC citizens and EC citizens are incompatible with Art 8a, and that therefore a common approach to immigration and asylum is necessary. Commissioner Martin Bangemann, responsible for the internal market, gave a first stern warning in February 1992. The Commission backed this up in its *Communication on the lifting of internal border controls'* of May 1992 with a legal analysis stating that the objective of Art 8a is directly applicable. That has several implications. Firstly, member states may choose intergovernmental instruments, i.e. the two international conventions, rather than Community instruments [13], but they cannot water down the objective. Secondly, the Community institutions have the obligation of taking all necessary measures in achieving the objective of Article 8a. Thirdly, the Commission, 'as guardian of the Treaty', intends to use all legal and political means, including bringing failing countries before the European Court of Justice. The Commission repeated its firm position in September. The European Parliament gave its support to the Commission in three resolutions in November, but the tide had by then turned against strong central solutions. The Commission and its supranational allies accepted retreat.

The two intergovernmental tracks began to produce results. The stalemate on internal controls was released when UK officials settled for the so-called Bangemann wave, meaning that people are asked to wave their Community passport, although they wished to continue controls on non-Community nationals. On im-

(12) Cited in *Agence Europe*, N.5726, 9/5/92, p.11.

(13) The elimination of border controls could probably be achieved by a qualified majority under Article 8a. The opponents (UK, Ireland, Denmark) only represent 16 votes instead of the blocking minority of 23, which means that the other nine countries could legally impose their position on the minority.

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migration and asylum, the two intergovernmental conventions were left on the shelf. However, the intergovernmental meeting on immigration and asylum of 30 November-1 December agreed to tighten the asylum procedure, which prepared the ground for a possible solution in 1993. The Twelve would process 'manifestly unfounded applications for asylum' within one month and reduce rights of appeal. They would be able to turn away asylum seekers who had passed through a safe third country on their way to the EC. Germany unsuccessfully pressed for an EC list with 'persecution-safe' countries. Schengen too seemed to come alive anew. The nine members agreed in principle on 15 December on a common visa procedure for citizens of some 120 countries. Schengen would start on 1 July 1993 instead of 1 January, although checks on the airports would not be abolished before 1 January 1994. This delay was largely due to technical reasons. The European Parliament condemned the excessively intergovernmental character of the Schengen agreement and called for provision to be made for monitoring by the Court of Justice. It set up a Committee on Civil Liberties and Internal Affairs to keep a close eye on intergovernmental discussions on the free movement of individuals.

It is difficult to tell whether the retreat of Europeanist voices is permanent, strategic or merely tactical. However, immigration and asylum seem to have transcended the narrow area of justice and home affairs and entered into the wider field of social and economic affairs. A recent report of the British House of Lords on Immigration policy in the EC concluded : *'Given an absence of internal barriers to free movement, and an expressed commitment of the great majority of member states of the EC to closer cooperation in the social policy field, it seems entirely appropriate that the EC should seek a common approach to questions of immigration policy. In due course, social insurance or similar data might become more effective means to trace immigrant population.'* (#83) The evolution of immigration policy suggests that a spillover effect exists. How this will be governed is less clear.

C. *Removal of fiscal, physical, technical and legal frontiers*

The last tax frontiers in the internal market programme came down (or were at least lowered) in 1992. This exercise requires measures of four kinds. Regulation will cover rules for tax collection (to avoid double taxation), harmonisation of tax structures, approximation of rates (i.e to limit differences in tax rates among the countries), and administrative management and control.

The Council built upon the breakthrough reached in 1991 ; it rounded off the package for value added tax (VAT) and excise duties (fuel, spirits, tobacco). As far as VAT is concerned, a Council Regulation of January set up a computerised network for the exchange of information on intra-EC trade statistics, a central instrument for reinforced cooperation between the tax authorities. Whereas previously this information was collected by the customs, the new rules require the companies to provide the statistics. The core batch of directives on value added tax structure and rates was agreed in October after British, French and Spanish reservations had been overcome. Essentially, the political agreement of December 1991 (see overview of 1991) was turned into a legally binding directive. A British concession paved the way for the directive : it accepted the principle that a minimum rate was necessary in the EC to avoid fiscal dumping. The common VAT structure stipulates that the standard VAT rate will be at least 15%; the high VAT rates (applied to cars, stereo installations etc.) will be abolished from 1 January 1993 onwards ; each member state will be allowed to apply one or two

reduced rates at least equal to 5% on a specified list of cultural or social products or services; the UK will be able to maintain its zero rates until 1997. Comparable agreements were reached for excise goods in February and October. The excise tax structure is a definitive settlement, while the VAT structure expires at the beginning of 1997.

The Council was unable to agree on the VAT tax rate structures for works of art, passenger transport, second hand goods and gold. Nevertheless, the package of 19 October was greeted as a major success. It would also make a difference to individual consumers from 1993 onwards, as they would be able to buy whatever they wanted throughout the Community paying tax in the country of purchase. The one significant exception are car taxes, which still have to be paid in the country of registration. The emphasis will now shift to implementation and monitoring of the agreed common structure. The Commission has already begun to examine whether national legislation on indirect taxes is compatible with the EC rules. The European Court of Justice has ruled over a few cases.

A priority of the internal market programme was an open public procurement market. All seven directives are in place. The rules of publicity, competitive tendering and review apply not only to works (e.g. road works), but also to services. The so-called excluded sectors (energy, water, telecommunications, and water), which are mainly run by private bodies, fall under a more flexible regime. It is clear, however, that resistance still runs high in many corners of the European Community. That is exemplified by a slow transposition rate. Effective implementation will require a change of mind with public buyers and tendering firms. This a long-term learning process. The Commission pressed ahead with its training measures for buyers or tenderers, published a communication on the participation of small and medium enterprises and one on tendering by industries in less developed regions, proposed to codify procurement legislation, and set up supervisory mechanisms to request specific information. Others have proposed to appoint an ombudsman for public procurement in each member state (see Sutherland Report below).

Liberalisation in the insurance and financial (banks, investment) market is expected to bring major benefits to the economy. How could those three powerful and highly diverse sectors be enticed to open up? The EC actors have chosen to take a bottom-up approach based on mutual recognition of national standards rather than to harmonise top-down. However, mutual recognition depends on mutual trust. It can therefore only work if the parties are confident that all participants can guarantee certain minimum standards or essential procedures.

The Council had still two major directives in the insurance market on its agenda. They were part of the so-called third package of liberalisation. The coordination directives on non-life and life insurance were adopted in June and November. They stipulate that member states will recognize one another's authorizations of life insurance firms and control systems. Furthermore, firms may sell their products throughout the Community on the basis of a single authorisation, in which case they will be supervised by their home state.

Similar concepts of basic standards, mutual recognition, a single licence, and overall control by the home state were applied in the banking and investment sector. Most directives and regulations that were agreed in 1992 regulate aspects of solvency risks. The Council adopted a common position on the Investment Services Directive in December. It would set key minimum standards for the authorisation of investment firms such as securities houses, stockbrokers and portfolio managers and establish the basis for mutual recognition of authorisa-

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tion and supervision. It would come into force by 1996. Its twin directive on the banking sector (Second Banking Directive) had been approved in 1991.

Only in 1991 did a timid thaw set in in the transport sector. By the end of 1992 almost all the measures of the White Paper had been adopted. It concerns cabotage on inland waterways, maritime transport and road transport (passengers and goods), and the third package of measures for liberalising air transport. Most dossiers lay down complex liberalisation procedures; various parts of the regulation enter into force at various times, for different publics or for different countries. The third aviation package e.g. consists of three regulations. The previous liberalisation packages were based on bilateral agreements between member states. The third one aims to create a full European market by 1997. Air tariffs on regular routes will be left free from 1 January 1993, but airline companies must notify them to the Commission. The system of licenses will change completely. Under the old system, airlines were licensed for certain routes; with the new system, airlines that meet harmonised safety and financial fitness criteria will get an EC licence, which will give them the right to fly nearly all routes in the EC. Free prices and licences will only carry their full liberalising weight once the last obstacle has disappeared. Air cabotage allocates shares of the market to airlines (or countries), and that remains partly in force until 1997. Countries with the larger state airlines (France, Germany, Italy) wanted to postpone the abolition of cabotage until 1997. The UK and the smaller countries (Benelux, Spain, Ireland) on the other hand pressed for total liberalisation in 1994 or 1995. In the end, the former won. This agreement was complemented by a new regulation on slot allocation at Community airports. It applies a.o. preferential treatment to new entrants in order to promote competition.

The 'new approach' was continued in tedious areas such as motor vehicle standards, foodstuffs, pharmaceuticals or chemical products [14]. As the internal market programme drew to a close, the last measures moved increasingly into sensitive matters such as culture and identity, safety and health matters, or security issues. There were many major and minor disharmonies. Some of them were carried over to 1993. The UK remained opposed against the free entrance of house animals into Britain ('pets directive'). The Council adopted a directive on copyright, rental and lending rights to artists, which some countries considered too protective. Southern countries, especially Greece, called for a strict regulation of the restitution of illegally acquired art objects. The regulation on the export of art out of the Community was approved in November. The art issue became confounded with attempts to harmonise the value added tax on art sales, which is having an impact on e.g. the international art market of London. The Council reached an agreement on the shipment of waste in October (see environment). Several measures were agreed to control internal and external trade in chemicals most commonly used in illicit drugs production. Finally, the

(14) The Commission explained in a recent document the four inseparable components of the 'new approach': notification of national technical regulations, effective transposition of directives, policy on standardisation, policy on certification. Nearly every initiative in the internal market programme has to address these four elements. (CEC, *State of Completion of the Single Market*, September 1992; published in *Agence Europe*, N.1796/97, 11/9/92).

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Council was not able to reach an agreement on the export of dual purpose goods and technologies (civil and military use) [15].

	FINANCIAL TIMES SINGLE MARKET CHECKLIST
1 Jan 1993	*No border checks for goods as the frontier-controlled VAT and excise system is abolished, together with 60m tax forms*
Later	*Single Market extended to EFTA states in second half of 1993*
	Passport checks for internal EC flights should end in December, but UK, Denmark and Ireland may resist
1994	*Higher education diplomas recognised throughout EC*
	Open competition for all public authority contracts, including utilities
	Insurance companies free to set up and sell policies across frontiers ('single licence')
1996	*Stockbrokers get 'single passport' to operate anywhere in EC*
	Banks able to deal on EC stock exchanges except in Greece, Spain and Portugal
1997	*Single VAT system applied to traders and consumers, if member states agree to a permanent change*
	Airlines can fly any route within EC
1999	*Duty-free sales end on internal flights*
2000	*Free internal market in cars; deadline for removing all controls on Japanese imports*

Source: Financial Times Survey: The European Single Market (FT, 19/01/93)

D. *The Single Market after 1992: preparing implementation*

Attention shifted from decision making to implementation. A high level Advisory Group chaired by Mr. Peter Sutherland was set up in March 1992 to assess how the Single Market should be sustained after 1992. The Sutherland report was submitted to the Commission in October [16]. It concluded that the Single market should be fairer, more consumer-friendly, more open and more efficient in terms of streamlining its laws. It placed much emphasis on openness (transparency), predictability and subsidiarity. The proposals brought to the fore the inherent tension between the first two principles and the latter.

(15) The European Parliament asked the Council of Ministers to hand them the list of goods and technologies in question, and the list of countries to which exports would be banned. The Council has so far refused to supply this list to EP. (*Agence Europe*, 2/93)

(16) CEC (1992), *The Single Market after 1992. Meeting the Challenge. Report to the EEC Commission by the High Level Group on the Operation of the Internal Market (Group Sutherland)*. The group was composed of Peter Sutherland (former Commissioner for Competition Policy), Ernst Albrecht, Christian Babusiaux, Brian Corby, Pauline Green and Giuseppe Tramontana. It invited opinions from several organisations (BEUC, Chambers of Commerce, UNICE etc.). The report was presented in a joint press conference of Peter Sutherland and the EC Commissioner for the Internal Market Martin Bangemann on 28 October 1992.

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As far as new decisions were concerned, the Sutherland Group sought to put a break on the logic of invisible regulatory expansion [17] by building various consecutive hurdles. The Commission should assess the political, social and economic impact of a new measure. It should also compare pro and con of intervention and non-intervention. This assessment should use five criteria: need, effectiveness, proportionality, consistency and communication. In more concrete terms, the Sutherland report pleaded for the systematic organisation of wide consultation rounds. The Commission will have to make public as early as possible all new intentions regarding legislation, make available analyses which serve as reference to these initiatives and arrange hearings. Also, the Commission must have a clear policy about which market regulation techniques are most appropriate for particular objectives. That would make it easier for business to predict the impact of potential new regulation on their activities. Furthermore, the Commission should set up a legislative coordination unit to prevent overlap or inconsistencies with existing legislation. Lack of coordination is an old sore in highly sectoralised EC policy making [18].

The Sutherland Group was critical of the two procedural innovations that made it possible to meet the tight timetable of the internal market: directives instead of regulations, and mutual recognition instead of harmonisation. With directives, the Council lays down common objectives, but the member state keeps its hands free to choose the means; regulations list objectives and means, and are directly applicable in the member states. Under mutual recognition, a member state accepts standards of another member state on a par with its own standards; harmonisation sets a single EC standard, which then replaces the divergent national standards across the Community. The two new devices tend to make the process less transparent. Moreover, diverse applications across member states might create unfair situations. The Sutherland Group suggested to replace directives by regulations as soon as national laws had converged sufficiently. In the meantime, the member states should coordinate their procedures of transposition. The Report warned also against a too enthusiastic use of mutual recognition. It could be used against the internal market to the extent that it threatens to maintain certain barriers. The Commission should therefore make periodic evaluations of its real impact.

The Report pleaded on the enforcement side for a 'deeper administrative partnership' between the Commission and the member states. Those contacts should be kept as informal as possible, which does not exclude a permanent administrative structure to support this partnership and make it binding. That should be based on groups of contact points, dealing with the application of internal market rules, and a set of operational guidelines. In addition, the Commission should establish a coordination unit acting as a mediator between the interested parties.

Several steps could be taken to make EC regulatory activity more transparent and to involve the public (or consumers), business, and national courts in monitoring implementation. A crucial first step is the systematic codification of EC law. Next, EC citizens should be made more aware of their rights, a task for

(17) MAJONE, Giandomenico (1989), 'Regulating Europe: Problems and Prospects', *Jahrbuch zur Staats- und Verwaltungswissenschaft*, Nomos: 159-177.

(18) See e.g. PETERS, B.Guy (1992), 'Bureaucratic Politics and the Institutions of the European Community', *Euro-Politics. Institutions and Policy-Making in the 'New' European Community*, A.M.Sbragia (ed.), Brookings Institution, 89-122.

the Commission as well as the member states. The Commission especially should communicate in clear terms its interpretation of certain rules. The EC should put a greater effort in the training of national judges and legal experts; legal treatments in the various countries should be better understood. This should pave the way for a greater involvement of the national courts in monitoring EC implementation, which would relieve the European Court of Justice. Lastly, the EC citizens should be encouraged to seek redress in the Community. In the highly sensitive area of public procurement e.g. the report proposed to appoint an ombudsman in each member state.

The panel rejected a central clearing house for data collection on infringement of the single market. Instead, it suggested to compile '*national and Community enforcement guides for the contact groups, and only a summary of them should be made public. They should cover, at the minimum, all directives not yet in force.*' Some commentators guessed that the caution of Sutherland and his collaborators may reflect fears of a new Brussels bureaucracy policing cross-border trade. At a time when subsidiarity was dominating the debate, an autonomous and powerful central body did not seem feasible. However, it is doubtful whether the contact points will be able to deliver effective monitoring.

The tension between subsidiarity (or control by the member states) and effectiveness has turned into a dilemma for the UK and Denmark especially. The two countries are the staunchest supporters of subsidarity. However, they are also keen on having an effective control system, if need be with the Commission as umpire. Denmark and the UK can put forward an excellent compliance record on EC measures. Hence they stand to lose most when other countries drag their feet. The UK presidency submitted proposals to improve enforcement. One of them suggested permanent Commission inspectorates to monitor selectively member states' performance [19]. Similarly, in a reaction to the Sutherland report, Danish industry called for Community legislation to be implemented as uniformly as possible. It argued furthermore that the Community, and in particular the Commission, have a duty to take initiatives in all areas where the Single Market has not been realized or where there is a danger of fragmentation through new national legal initiatives. It also wanted to keep the main surveillance competences with the Commission rather than delegating them to an external agency [20].

The Council and the Commission replied favourably to the report in December. Both institutions pleaded for a strengthening of the machinery for cooperation between Brussels and national administrations.

Commission and Council have taken various initiatives to prepare the post-1992 period. They range from starting up a machinery of administrative cooperation, informatisation, harmonisation of administrative procedures or training of personnel to the 'sweetening' of losers in the internal market. The Community, and especially the Commission, opted for a light-handed approach. It did not seek to impose conditions or to centralise, but rather to mollify resistance against the internal market, to involve actors in the operation, to devolve responsibility, or to pool relevant information and make it widely available.

Only in December was a 'Coordination Advisory Committee for the Internal Market' set up consisting of national officials and presided by the Commission.

(19) *Financial Times*, 19.1.1993.

(20) *Agence Europe*, N.5828, 26/2/93.

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It will define the guidelines for managing the Internal Market in accordance with the Sutherland report, discuss the transposition of directives, and deal with particular cases connected with the lifting of border controls. The Commission adapted also its internal organisation. DG III, which had until then coordinated the internal market programme, would concentrate on industrial policy. The management of the internal market came under a separate Commissioner.

The Commission has taken advantage of the internal market programme to press for more comparable statistics on various issues. It has not always been very successful. Member states are not too keen on sharing information. Or they find it costly to organise the required data collection. The Commission's proposal for environmental statistics e.g. dates back to the summer of 1990; the Commission submitted its latest amended version in November 1992. Several proposals on the operation of the internal market have been tabled in 1992. Examples include statistics on transit and storage, classification of products by activity, statistical units for the observation and analysis of the production system in the European Community, or coordination in drawing-up business registers.

The successful operation of the internal market depends on an efficient management of the customs union. In line with the recommendations of the Sutherland report (but actually preceding its publication) Commission and Council decided to codify existing Community customs legislation (Regulation of October). The *Community Customs Code* brings together all the laws governing Community trade with third countries. It is divided in three sections. It starts with the rules on treatment and presentation of goods entering the customs territory and lays down the rules on valuation and the definition of origin. The next section covers procedures with economic significance such as inward and outward processing, warehousing etc. Finally, it lays down the rules on duty relief, on customs debt, and it establishes the trader's right of appeal in customs matters. Most provisions will come into effect on 1 January 1994. It is designed to make the legislation more transparent and to avoid conflicting interpretations. The Community Customs Code will be used as a model for codification in other areas. A lot of effort was put in further computerisation of the administration of Community customs [21]. These measures included a VAT (Value Added Tax) information exchange system, a data system for veterinary and plant health controls, and, tabled by the Commission in December, plans for a central data base (Customs Information System, CIS) on external trade and agricultural matters to combat fraud.

A decentralised approach to the monitoring of the internal market requires a greater awareness in the national administrations of rules and procedures in other member states. The Council approved the exchange programme KAROLUS with this in mind. The five-year action plan is modelled after MATTHEUS, which is targetted at customs officials (see overview of 1991), but it is extended to the internal market field as a whole. KAROLUS will exchange national officials invol-

(21) According to the 1991 General Report, the Community intended to set up 'systems for centralised electronic data transmission'. In the 1992 General Report, the language has been toned down: 'In the interests of fostering cooperation between customs administrations and ensuring the uniform application of common customs rules, the Commission continued with its programme of measures to promote the exchange of information among the Member States' customs administrations and between them and its own departments.' (*General Report on the Activities of the European Communities, 1991, 1992*, CEC.)

ved in the implementation of EC internal market legislation. An overall figure of 1,900 participants is anticipated. The EC will pay 75% of the cost.

The introduction of the internal market incurs not only costs on national administrations, but also on private actors. The abolition of internal frontier controls will affect many private enterprises in the border areas. The Council decided in December to use structural funds money (especially the European Social Fund and the Interreg programme) to finance retraining measures for unemployed private customs agents. The measure had been under discussion since February. Several countries had originally been opposed to the use of structural funds.

E. *Evaluation and evolution*

1. Process

In its seventh and last report on the *State of Completion of the Single Market* of September 1993, the Commission was critical about the lack of cooperation by the Member States. They seem unwilling to prepare the economic agents for the internal market either through information campaigns or through training. The Commission claims it is often forced to step in, but lacks the specific information to link up effectively with local economic agents [22].

The Commission seeks to share the responsibility for the management of the internal market with the member states. This could be formalised in a multiannual programme setting management priorities and designating responsibilities to the Community and the Member States. The Commission has in mind a fairly extensive cooperative framework with structured and permanent common working methods. It proposes e.g. European Agencies to monitor the impact of new legislation on consumer protection or environment, common control structures at external frontiers, computer networking for data transmission or consulting (e.g. indirect taxation, customs, agricultural controls), an overall training policy for the administrations in charge of single market rules, codification of legislation [23]. However, some member states want to keep shared rule to a minimum and to advance bilateral cooperation. Hence as an alternative to an overall training policy, the UK supported bilateral contact between enforcement officials. As an alternative to centralised control structures, it set up a Single Market Compliance Unit which deals with breaches of law by other member states. It proposed a network of similar contacts in other member states to facilitate bilateral resolution of such problems [24]. The UK presidency was persistently arguing for a more decentralised approach to the operation of the Single Market, usually supported by Denmark, Ireland and occasionally the Netherlands. However, a front of France, Belgium, Spain, Italy and Greece contested the philosophy of the British proposals, because it was favouring intergovernmental cooperation to the detriment of the Community approach [25].

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(22) *State of completion of the Single Market: Latest Commission Report to the Council and Parliament*, *Agence Europe Documents*, N.1796/97, Sept. 1992.

(23) *Ibidem*.

(24) British Foreign Office, *Developments in the European Community, January-June 1992*, London: HMSO, p.6.

(25) *Agence Europe*, N.5856, 13/11/92.

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2. Outcome

Some gaps in the single market will take many years to fill [26]. First of all, there are delays in practically all areas. Reportedly less than 50% of all White Paper measures have been transferred into the national law of all twelve member states. Strictly speaking, poor transposition does not hamper the market as all adopted measures come into force anyway; they have direct effect. But consumers or traders might find this only a meagre consolation, as they will have to take their sluggish national authority to the courts for redress. Potentially more disturbing, 'diligent' member states could theoretically block the import of goods from countries which have not yet complied to relevant single market rules.

Not only delays, but also deferrals (derogations) make the single market look rather patchy. They apply usually only to one or two member states. There are important derogations in the VAT collection system, insurance market, entrance to the exchange market, competition for airlines.

Some matters have been omitted, usually in areas which proved to be so sensitive that the member states were unable to agree. Certain public utilities had simply been left out of the White Paper such as energy, telecommunications (telephone), and postal services. For each of them, the Commission sent around communications containing a plan for opening up the sectors. It took usually a pragmatic approach. In the postal services e.g., the Commission did not object in principle against monopolies by national administrations [27]. The member states discussed the paper on the telecommunications council of November and asked the Commission to come back with the conclusions of the consultations in 1993. For measures that did get through the Council of Ministers, such as public procurement procedures in energy, water, electricity and transport, transposition is lagging. Free movement of persons was central to the internal market programme, but still waits for implemention. Progress in company law, an integral part of the White Paper, has been extremely modest. Member states seem to have decided that such legislation is not essential.

American and Japanese business fear that the Single European Market is simply an institutional framework for a 'fortress Europe'. The organisation of a common banana market, a heavily contested issue in 1992, seems to prove that the realisation of a single internal market is sometimes paid by higher external barriers. The issue set the UK and France against Germany and the Benelux. The former wanted to protect access to the EC market for the ACP countries, most of them former British or French colonies. Germany and the Benelux supported the cheaper 'dollar bananas' from the Latinamerican countries. After months of politicking, the December EC compromise decided to revert to import quotas plus a 20% customs duty on all bananas except for the ACP ones. Hence internal unity seemed to be achieved, but some openness to trade partners to be lost.

The still patchy nature of the single market was brought home in a recent sector-by-sector assessment by the Bureau of European Consumers' Unions (BEUC). The consumer organisation concluded that '*the single market will not exist for European consumers on 1 January 1993 and will not be implemented*

(26) See Andrew Hill, 'Deferrals and Omissions make progress patchy', *Financial Times*, 19/1/93.

(27) CEC(1992), *Green Paper on the development of the single market for postal services*, COM(91) 476 (approved by Commission in May).

for many years yet'. With respect to cars e.g. it greeted the compulsory catalytic converter from 1 January and the single and harmonised European type-approval system, although member states have until 1997 to start using the latter system. On the other hand, cars remain exempted from competition rules until 1995, car taxation is exempted from the agreed new VAT structure, and some countries have negotiated special quota in Japanese cars for several years to come. These terms restrict consumer choice. Moreover, the reduction of VAT on cars was compensated for in several member states by increases in the base price or by a new tax. Another example is free movement of persons. The main hurdle for workers is the existence of great variations in social security systems. Although Europeans are free to work in another member state, the conditions of such employment vary considerably. The Community directive aimed at equality of treatment for social security matters has not made much progress [28].

	FINANCIAL PERSPECTIVE 1993-99							
	Commission proposal				*Edinborough*			
	1987	1992	1994	1997	1993	1994	1997	1999
1. Common Agricultural policy	32.7	35.3	37.5	39.6	35.2	35.1	37.0	38.4
2. Structural operations (including cohesion fund)	9.1	18.6	22.7	29.3	21.3	21.9	26.5	30.0
3. Internal policies	1.9	4.0	5.0	6.9	3.9	4.1	4.7	5.1
4. External action	1.4	3.6	4.5	6.3	3.9	4.0	4.8	5.6
5. Administration	5.9	4.0	3.5	4.0	3.3	3.4	3.8	3.9
6. Reserves	0.0	1.0	1.6	1.4	1.5	1.5	1.1	1.1
Total commitments	51.0	66.5	74.9	87.5	69.2	69.9	78.0	84.1
Total payments	49.4	63.2	71.6	83.2	65.9	67.0	74.5	80.1
Payments (%GDP)	1.05	1.15	1.24	1.34	1.20	1.19	1.23	1.26
Own resources ceiling (%GDP)	-	1.20	1.27	1.37	1.20	1.20	1.24	1.27

Source: CEC Bulletin of the European Communities,Suppl. 1/92 and No. 12/1992.

III. Public finance

Parliament, Council and Commission were involved in protracted negotiations on the 1993 budget and the policy choices and finances for the 1990s. The Commission opened the discussion with its publication *From the Single Act to Maas-*

(28) BEUC, *Agence Europe*, 6/1/93, p.15-16.

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tricht and Beyond: The Means to Match Our Ambitions[29]. Although it formally intended to engage the parties in a substantive discussion about medium-term policies, the debate was first and last about money. This message was brought home more unequivocally in the five supplementary Commission documents, which each dealt with one aspect of the budget dossier. The discussions continued throughout over the year. As has become common practice in the European Community, the whole package was finally decided at a meeting of the Heads of State and Government (attended by the Commission). It happened this time at the European Council of Edinborough on 11-12 December.

A. *Implementation of the 1992 budget*

The budget for 1992, which had been adopted in December 1991, was revised four times during the year. Large payment allocations went to assistance for the CIS (200m), food aid to Africa (220m), help to former Yugoslavia (140m), and structural funds (German Länder, 560m). About one-third of the increase was recovered through cuts in other budgetary posts, predominantly in agriculture, administration costs, and multiannual programmes (mainly R&D). The net result was an upward adjustment of EC payments with 1.3%, or a net total of 840m Ecu.

B. *The 1993 budget and the Delors II package*

The Commission presented a draft budget for 1993 in May. It expressed in budgetary terms the priorities in the Maastricht Treaty: strengthening of economic and social cohesion, creation of an environment to promote competitiveness of European industry, and development of external action. That required a significant increase in structural funds, more money for research and development, transeuropean networks, industry, and more support for the new democracies in the East. The final 1993 budget underlined these three priorities at the expense of other policy sectors.

The budget voted on 17 December totalled 69,058m Ecu in commitment appropriations and 65,523m Ecu in payment appropriations, an increase in market prices of 8% and 7.2% respectively compared to 1992. It represents an estimated 1.11% of the EC's GDP, well below the 1.20% ceiling (payments). The EC budget was rearranged in six headings: common agricultural policy, structural operations, internal policies, external action, administration, and monetary reserves.

Agricultural policy fell below 50% of total commitments (49.3%). This relative drop is partly due to the agricultural reform and partly to a transfer of structural support for the fisheries industries to the next budgetary heading: structural operations. The latter was increased by 19.5% (in market prices) compared to 1992; the 22 billion Ecu budget now represents 32% of all commitments. That comprises the newly set up Cohesion Fund (1,565m Ecu). Heading 3, internal

(29) COM(92) 2000. The supplementary documents are: *The Community's Finances between Now and 1997*, COM(92) 2001 (March); *The System of Own Resources*, COM(92) 81 (March); *Application of the Interinstitutional Agreement of 29 June 1988 on Budgetary Discipline and Improvement of the Budgetary Procedure*, COM(92) 82 (March); *The Correction in Favour of the UK*, COM(92) 83 (July); *Community Structural Policies: Assessment and Outlook*, COM(92) 84 (March).

policies, has been redefined to include the previously separate category of multiannual programmes related to R&D and transeuropean networks. Of the 4,108m Ecu reserved for internal policies, more than 60% goes to Research and Development (2,555m ; +3.5%). Trans-European networks, a priority for all institutions, received 5% (209m ; +38.6%). The remaining 1,243m is divided among culture (367m), energy (214m), agricultural operations (206m), social matters (169m), internal market (119m) and minor amounts for consumer protection, regional operations, industry, statistical information, and aid for reconstruction. About 6% of the EC budget was taken up by external action, which emerges for the first time as a separate heading. The largest single post concerns support to the CIS countries and Central- and Eastern Europe (1,573m), although the greatest increases were booked by the Latin American and Asian developing countries (634m ; + 14%) and by food aid (574m ; + 18%). Administrative expenditure (all institutions) was again significantly cut back with 17% from 4,099m Ecu in 1992 to 3,401m Ecu.

The negotiations of the 1993 budget were tied up with the Delors II package, which sets out the revenues and expenditures of the European Union in the next few years. The previous package ran from 1988 to 1992. Delors I had been linked with the reform of the structural funds (1989-1993), and the Interinstitutional Agreement regulating the relations between Commission, Parliament and Council on budgetary matters. Delors II repeated that scenario.

The Commission proposed originally a second five-year framework from 1993 to 1997, in which the Community budget ceiling would raise from 1.2 to 1.37% of GNP. According to the European Parliament, this was the absolute minimum [30]. However, the increased ceiling was contested by the six northern countries. On the other hand, the southern countries, led by Spain, would not accept anything less in structural operations than what was promised in Maastricht. The Council instructed the European Court of Auditors to assess the financial management of the big spenders in EC policy : structural funds, agricultural policy, research and development, and aid to development. The highly critical report provoked different reactions from the member states, while the Commission rejected most criticisms.

Not only the ceiling of expenditure, but also the structure of the revenues was under discussion. The four resources are customs duties (about 20% in 1992), agricultural levies (4%), a proportion of Value Added Tax (VAT) on a notional, harmonised assessment base (55%), and a residual category of national contributions based on GDP/capita (20%). The latter two resources thus accounted for more than 75% in 1992 as against only 50% in 1980. The Commission showed that less prosperous countries tend to pay more than their share in GNP, as do Germany, France and the UK. The reason lies in their high VAT bases. Belgium, Italy and Denmark paid less than their GNP weight. The Commission therefore suggested to reduce the share of VAT in the total package to about 35% in two ways. One was to lower the proportion of VAT transferred to the EC from 1.4% to 1%; the other was to cap the VAT base applicable for EC contribution at 50% of GNP instead of the existing 55%. The national contribution based on GDP/capita would then make up the difference. Under the new rules, Italy, Belgium, Denmark and to a lesser extent the Netherlands would pay more, but only half of their additional contribution would go to the four poorer countries. Some

(30) The European Parliament set up a special *ad hoc* committee to monitor the Delors II package.

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countries, led by Belgium, and the European Parliament argued instead for a fifth resource, the base of which should be defined at the European level. A genuine EC tax would halt further renationalisation of the resources, and might bring a better sense of budgetary responsibility to the European institutions. Belgium proposed a tax on energy consumption or CO_2 emissions (ecotax), or a tax on savings income [31]. The UK managed to keep the UK rebate, i.e. the correction of the UK's budget imbalance negotiated by Mrs.Thatcher, nearly completely off the agenda. Since 1988 the UK has been reimbursed between 2bn and 3.5bn Ecu annually [32].

The Commission changed gears from September onwards. It presented a more modest package in November. The increase would be spread over seven years instead of five, and the total rise would remain below the original 1.37% proposal. The budgetary plans were scaled down for all categories. This paved the way for the settlement at the top of Edinborough. The new financial perspectives would commit the institutions for seven years, instead of five, to a strict financial framework. The ceiling would climb slowly to 1.27% by 1999, but it would remain flat in the first two years. That required savings in nearly all categories, except the cohesion effort. The European Council called for a tough budgetary line on agricultural spending, but declared itself nevertheless prepared to take 'appropriate steps to increase the EAGGF Guarantee' if required by the circumstances. Spanish pressure made it politically difficult to cut back significantly on structural operations. The package of 1993-99 represents cumulatively some 176bn Ecu ; this is on average 25bn a year compared to 13bn a year in 1988-92. The four cohesion fund countries (Spain, Portugal, Greece, Ireland) will share about 85bn among themselves. The budget for internal policies remained more than 30% below the figure in the original Commission proposal. Research and Development should not rise faster than the general increase in internal policies, and Community support should continue to focus on pre-competitive research like Eureka. Another victim of the European Council's budgetary *rigueur* was external action, where the member states settled for about 75% of the original Commission proposal. Two additional budgets are kept in reserve, one for emergency aid and one for loan guarantees to non-EC countries.

The European Council largely took over the Commission's proposals on the structure of own resources, but at a slow pace. The ceiling on the VAT rate would be reduced in gradual steps to 1%. Furthermore, the assessment base for VAT would be limited to 50% of the member state's GNP, rather than 55%, as from 1995. Only countries with a per capita GDP of less than 90% of the Community average would be able to benefit from this system. The UK would retain its rebate. And there would not come a fifth resource before the end of the century. Finally, the European Council urged Commission, Council and Parliament to reach a new Interinstitutional Agreement for the new financial perspective period [33].

(31) *See Europe,* N. 5724, 7/5/92.

(32) Various preparatory Commission documents (US definition of 1 billion = thousand millions).

(33) The 1993 budget was adopted under the rules of the Treaty of Rome.

IV. Competition and industrial policy

The dynamic Directorate General for competition in the European Commission had a rapidly increasing number of collisions with member states during 1992. By the time the socialist Mr.Van Miert took over from the conservative Mr.Brittan on 1 Jan 1993, pressure to freeze, or even to reverse, EC competition policy was growing. This is partly the result of the single market, which has opened previously protected industries to competition--often shaking them up considerably. Part of the apprehension is related to the recession, which was starting to bite on the European continent in the course of 1992. That spurred some governments to try out more interventionist industrial policies [34].

Under the EC Merger Control Regulation, the Commission looks into large-scale cross-border mergers within set deadlines, and is able to outlaw or amend deals. It is the strongest competition instrument in the hands of the Commission. The Commission received 59 notifications in 1992 and adopted 61 decisions. Only in five cases did it open a detailed investigation. A full investigation may only take four months [35]. Arguably the most important ruling of the Commission was the Nestlé/Perrier case of 22 July, in which the Commission applied the Merger Control Regulation for the first time to an oligopolistic dominant position. Hence not only the impact of monopolies, but also of duopolies and oligopolies will be taken into account in the future. Nestlé was finally allowed to merge with Perrier provided that it gave up some brands to a third market force.

Article 85 and 86 of the EC Treaty aim at preventing cartels, price-fixing and abuse of a dominant position. In 1992, 399 new cases were submitted to the Commission. The Commission imposed fines worth 22.5m Ecu on 28 Dutch construction industry organisations for having operated an illegal cartel for more than 10 years. A couple of weeks later, on 27 February, however, the Commission had an embarrassing setback, when the European Court of First Instance of the ECJ annulled fines imposed by the Commission in a similar case of 1988 on procedural grounds. The Commission's president had not signed the Commission's decision in all its various language forms.

A Court ruling in the COFI Cases T68/89, T77/89 and T78/89 accepted, very much like for Merger Control, the principle of collective dominance in relation to Article 86. This opens the way to the use of Article 86 against oligopolies [36].

With Article 90, the Commission moves into the most sensitive areas of national policies. It authorises the Commission to apply competition rules to public sector enterprises. A ECJ ruling of 1991 had confirmed the Commission's right to break up public monopolies without first having to gain the member state's approval. The Commission hinted in various Communications and Reports on the single market in postal services, telecommunications and energy that it might actually do that, but tended to suggest in the end a more conciliatory course. A

(34) See Andrew Hill (1993), 'A socialist's dilemma', *Financial Times, Survey*, 19/2/93.

(35) An evaluation of two years merger control: Rachel Brandenburger (1992), 'EC merger regime defies expectations of critics', *Financial Times*, 3/9/92; Guy de Jonquières, Andrew Hill (1992), 'Shaken Europe's pillar of strength', *Financial Times*, 28/9/92.

(36) *COFI Cases T68/89, T77/89 and T78/89: Societa Italiana Vetro Spa, Fabrica Pisana and Vernante Pennitalia v Commission*, see HMSO (1992), *Developments in the European Community January-June 1992*, p.53.

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case in point was voice telephony, a much debated issue in 1992. The Commission published a communication on making the organisation of standard phone calls more competitive. It outlined various strategies, some of which unilateral, but proposed finally to open a round of discussions on the reduction of costs of cross-border calls. Yet, a ECJ ruling of 17 November on telecommunications confirmed the Commission's right. It rejected applications by the Belgian, French, Italian and Spanish governments contesting a 1990 Commission decision. That had required EC governments to allow private operators to compete on an equal basis with state-controlled corporations in certain telecom services (fax, data transmission).

Article 92 and 93 define the Commission's competences on state aids. The legal scene was dominated by the British Aerospace case. The Commission had ruled in 1990 that it should repay to the UK government £44m of 'sweeteners' which it had received in connection with its acquisition of the Rover group in 1988. The ECJ rejected in February the Commission ruling on procedural grounds. The Commission announced that it would pursue the case.

In its Third Survey on State aid in the Community, adopted on 31 July, it highlighted first of all the persistently high level of state aid. The overall amount still reached an annual average of 89bn Ecu over the period 1988-90, against 92bn over 1986-88. Next, it pointed at the disparities between member states. The level of aid remained very low in the less-favoured member states such as Portugal, Greece, Ireland and Spain compared to the more developed economies. About 40% of total aid went to manufacturing industry, 13% to agricultural and fisheries industry, 29% to transport, and 18% to coalmining. Within the category of manufacturing, 79% of the aid was concentrated in the four largest economies (Germany, France, Italy and Britain) [37].

Subsidiarity and transparency concerns have also started to trickle down into competition dealings. The Commission is eager to shrugg off some competition cases under Art 85 and 86 to the national courts. In December, it adopted a directive clarifying the division of responsibilities between Commission and national courts [38]. It has also updated or clarified state aid guidelines in various sectors. On 20 May it adopted guidelines for aid to small and medium enterprises. Other state aid schemes or extensions of state aid were adopted such as for environmental investments, synthetic fibres industry, shipbuilding, or coal industry.

At that stage, Commission state aid policy gradually becomes undistinguishable from industrial policy. The recession hit severely in steel and car industry. The Commission announced a new restructuring plan for the steel industry in November, for which 240m Ecu has been earmarked in the ECSC budget [39]. The Commission presented simultaneously a communication on the ECSC treaty, which will expire in 2002. It does not seem to foresee that the termination of the ECSC Treaty will also end subsidies to the ailing coal and steel industries. On the contrary, the communication lists in considerable detail how expenditures may be 'phased in' into the EEC Treaty. Redeployment aid could be covered by the European Social Fund, research integrated into the next Research Framework Programmes, and interest subsidies could be taken over by the European Regional

(37) See (CEC), *Bulletin*, 7-8/1992.

(38) See *Agence Europe*, 24/12/92 ; CEC (1992), *Bulletin*, 12/1992.

(39) See CEC (1992), *Bulletin*, 11/92.

Development Fund. Finally, the reserves could be used to create a Guarantee Fund for coal and steel industries. The Council reacted favourably to the suggestions [40].

V. External relations

1992 was a year of setbacks. The EC was forced to call in the United Nations and the United States to help control the Yugoslavian crisis, but by the end of 1992 peace had never seemed further away. The Uruguay Round, which was supposed to have been concluded in 1990, seemed doomed in December due to continuing French opposition against the deal for agriculture. On the eve of the inauguration of the democratic president Bill Clinton into the White House, a trade war was a real possibility. News was only slightly better at the European front. The European Economic Area was signed at last. However, here too the year ended on a sour note : the Swiss rejected the EEA in December. That forced the remaining partners to renegotiate some financial aspects of the agreement. Political and economic relations with Central- and Eastern Europe and the CIS were strengthened, but the situation in the CIS was worrying. The EC made also genuine efforts to develop contacts with other regional organisations [41].

A. *Peace keeping and peace making*

Media and public became increasingly impatient with the European Community's foreign policy in the unstable post-communist world. EC deeds seemed indecisive, timid and ineffective. The foreign policy agenda was dominated by the crisis in Bosnia-Hercegovina. The year started off badly when in January five EC monitors were killed in ex-Yugoslavia.

While the United Nations was more concerned with peace keeping, the European Community focused on peace making. One part of the strategy, mainly German-inspired, was to isolate Serbia diplomatically. In December 1991 the EC had agreed on a set of criteria for EC recognition (especially human rights and minority rights) which break-away republics had to satisfy. Croatia and Slovenia were recognised in January, while Bosnia was added to the list in April. However, Greece vetoed recognition of Macedonia throughout the year. The other part of the strategy were peace talks under EC auspices. Once a truce was negotiated, the EC would bring in a Monitor Mission to keep the peace. It worked in Croatia, but the conflict was shifting rapidly to Bosnia-Hercegovina degenerating from a limited interstate battle to full-scale civil warfare. In the month of May, the situation in and around Sarajevo deteriorated very quickly. The EC Monitor Mission pulled out of Sarajevo on May 12. The EC blamed Serbia, called back its ambassadors from Belgrade and imposed stiff economic sanctions. The Western European Union sent in July an air-sea force on a sanctions patrol against Serbia. It became the first WEU action in Europe.

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(40) SEC(92) 1889, *Commission communication on the future of the ECSC Treaty--financial activities.*

(41) Multiple contacts with the Magreb countries, contacts too with the Central- and Southamerican countries, the Asean countries. The Commission published a document for a new Mediterranean Policy. On development, the Council released an important document on *Development cooperation in the run-up to 2000*. It was endorsed by the Council in November.

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Reports of ethnic cleansing and mass rape dominated the headlines over the second half of the year. The European Parliament held an emergency hearing on 10 August. By that time the EC peacemaking initiative was dead. The EC negotiator, Lord Carrington, resigned. On August 25, an International Conference on the future of the former Yugoslavia was opened in London. It was convened jointly by former American State Secretary Cyrus Vance for the United Nations and former British Secretary of State Lord Owen for the European Community. The negotiations produced little before the end of the year. The European Council of Edinborough condemned in firm terms the Serbian aggression but stopped short of threatening with military intervention.

B. *Trade relations*

Trade policy was dominated in 1992 by the difficult birth of the European Economic Area and prolonged GATT negotiations.

The agreement on the European Economic Area would extend the single market to the European Free Trade Association countries. The first accord was struck down by the European Court of Justice in December 1991, which objected against an EEA Court of Justice. The revised draft scrapped the EEA Court. An EFTA Court would be responsible for internal EFTA affairs, while a joint EC-EFTA political Committee could arbitrate between the two legal orders. Neither of them would affect the jurisprudence of the European Court of Justice. The new version was cleared by the ECJ in April, although the European Parliament remained critical. The agreement was signed on 2 May. It would enter into force on 1 January 1993 after ratification by the European parliament and the nineteen national parliaments. However, the Swiss voted down the EEA in December. That left the remaining partners to find a new arrangement for the cohesion fund set up by the EFTA countries for the four poorer EC members. The withdrawal of Switzerland threatened to reduce the fund by one quarter, which the four beneficiaries found unacceptable.

Most EFTA countries consider EEA as a stepping stone to full EC membership. After applications of Austria (1990) and Sweden (1991), Finland (March), Switzerland (May) and Norway (November) followed in 1992. Some EC members, the Commission and the European Parliament were reluctant to open negotiations before the European Community had ratified Maastricht and its implementation was well under way. The proponents of widening wanted to go ahead quickly. The European Council of Edinborough stood midway between the two points of view. It decided to open accession negotiations with Austria, Sweden and Finland on 1 January 1993 (irrespective of ratification), but stipulated that new entrants would have to accept in full the Treaty of Maastricht and the *acquis communautaire*.

The Third Round of Gatt-negotiations, or Uruguay Round, started in 1986 with four objectives. It wanted to achieve a further liberalisation of trade by reducing tariff and non-tariff barriers (including abolition of the Multifibre Agreement). Secondly, it attempted to bring back into GATT agriculture and textiles ('two lost sheep') and to extend GATT-rules to services and intellectual property (GATS : General Agreement for Trade in Services). Furthermore, it would update rules on anti-dumping and subsidies. Finally, it intended to found a proper international organisation in charge of the implementation of GATT-agreements.

An agreement would stand or fall with a deal on agriculture, or more accurately with the EC's willingness to push through a fundamental reform of its

Common Agricultural Policy. Director-General Mr Arthur Dunkel proposed a deal on agriculture as part of the whole package, but the agricultural proposals were rejected. His final multilateral plan (Dunkel paper) of December 1991 by and large reflected the consensus among the 108 participants, but it was based on a number of trade-offs on politically sensitive issues. The participants had agreed on a procedure to manage rule-change in this complex negotiating context, where each participant is in a position to stall an agreement. If a party wished an amendment it would try to shape a general consensus through prior negotiations (bilateral, or at least among a smaller number of directly interested parties) before tabling the amendment. Such a procedure would not necessarily jeopardise the whole package. However, all countries awaited a settlement of the agriculture package before they considered concessions on other issues. And an agricultural deal depended first and foremost on the USA and the EC. Hence 1992 was to a large extent taken up by bilateral negotiations between the two trade blocks. A specific dispute on EC subsidies for oilseed production became embroiled with the general negotiations on agriculture. Other trade disputes such as the aircraft subsidy dispute (compromise in April), public procurement in the excluded sectors, intellectual property rights, tuna, steel sector, or the banana regime added extra spice to the interactions.

Talks resulted in a tentative agreement on 11-12 October, but it came under high pressure on 21 October. France objected strongly, while an apparent power struggle between the Agriculture Commissioner Mr McSharry and Mr Jacques Delors paralysed the Commission negotiating delegation [42]. A swift personal intervention of Mr John Major and Mr Helmut Kohl avoided total collapse, but was not able to close EC ranks convincingly. The United States therefore used the oilseed dispute to force the EC to make up its mind. It announced retaliation measures against certain EC imports on 3-4 November, which according to GATT-rules would become effective within 30 days. The talks were suspended.

The impasse on oilseeds was resolved on 20 November, after which a compromise on the whole package was announced. It was quickly confirmed by a Commission report of 23 November which showed the compatibility of the outcome of the EC-US agricultural negotiations with the CAP. The political agreement provided for a 21% reduction in the volume of total subsidised exports. That would necessitate the EC to decrease the value of its internal support measures by 20%, to lower its levies on import by 36%, and to bring its export restitutions (i.e. subsidies to exports) down with 36%. Hence the agreement allowed the continuation of two core CAP instruments, i.e. internal support and export refunds, though at a lower level. France spoke out strongly against the deal.

Neither the United States nor the European Community approved the agricultural package. Hence it was not formally presented to the EC Council of Ministers. A separate vote on agriculture would almost certainly have been vetoed by France. The EC as well as the USA (through its fast-track procedure in the Congress) will present only the whole GATT-deal to their legislatures, thus raising the stakes of agreement or disagreement significantly.

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(42) There was considerable press coverage of disagreements within the Commission in the British newspapers. It was claimed that Delors had intervened personally at the eleventh hour, undercutting McSharry's negotiating position. The Commission denied the rift, while EC-friendly sources (e.g. *Europe*) played it down. It seems nevertheless beyond doubt that the Commission was deeply divided over the October deal.

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Despite its provisional character, the bilateral agricultural deal seemed sufficiently sound to the other GATT-participants...for the time being. Hence multilateral negotiations were resumed in late November. The Gatt textiles committee decided on 9 December to extend the Multifibre Arrangement (MFA) for another year, which regulates the import of textiles from developing countries to the developed world. The negotiators in the Uruguay round had not yet been able to find a satisfactory deal for the textile package. It meant another delay for the textile-exporting countries.

C. *Central and Eastern Europe*

Building relations with the new democracies in Central and Eastern Europe and the CIS progressed slowly but steadily. They are most intensive with Poland, Hungary, the Czech and the Slovak republics (Visegrad countries), which have become Associate countries to the Community with the entry into force of the 1991 Europa-agreements. The Community intends to phase out all trade restrictions within the next couple of years without demanding full reciprocity. The market was not yet so open in 1992. Duties are still levied on nearly half of the goods, and quantitative restrictions have been lifted for all but two of the most important products, textile and coal. Moreover, trade barriers in agriculture are likely to remain in place for many years to come.

Bulgaria and Romania will soon join the four frontrunners. The EC concluded Europa-agreements with them in November and Romania respectively. Europa-agreements cover not only commercial aspects, but also political and cultural matters. In fact, they create a framework, which should allow (or steer) these countries to converge their economic and administrative organisation, legislation and practices to EC rules. The Commission presented a report on the necessary steps to be taken to acquire full EC membership and the role of the Europa-agreements in that process [43]. The European Council of December endorsed for the first time EC membership for associate countries. The European Council of Copenhagen in June 1993 will 'reach decisions on the various components of the Commission's report in order to prepare the associate countries for accession to the Union.'

Albania and the Baltic states are in the third orbit; the EC signed trade and cooperation agreements with them in May. The CIS republics constitute the fourth circle. The EC initiated negotiations for trade and cooperation agreements in November.

Most support to the Central- and Easteuropean countries [44] is channelled through the Group of 24 Western countries (G24), which is coordinated by the Commission. By the end of 1992, overall economic aid from the G24 had reached a total of 33.95bn Ecu (of which 13.9bn in grants), while international financial institutions (EBRD, World Bank, EIB etc.) had contributed a further 13bn Ecu. Although the aim of G24 is to assist the long-term restructuring of the economies, a great deal of this money was in fact used to cut short-term balance of payments deficits.

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(43) See CEC (1992), *Towards a New Association with the Countries of Central and Eastern Europe,* (summary in: CEC, *Bulletin*, 12-1992, 1.4.5).

(44) Yugoslavia was ousted in 1991, but Slovenia was admitted in 1992.

The Community's particular contribution to long-term restructuring within G24 is the Phare-programme [45]. Commitments amounted to about 1bn Ecu in 1992. Support is programme-based. The updated Commission guidelines payed special attention to institutional developments, human resources and social policy. The emphasis was on the privatisation and restructuring of state enterprises, the promotion of the private sector, the development of financial and labour markets. Phare put also 5m Ecu into the development of non-governmental organisations; the programme was called ambitiously *Aid for civil society, Phare democratisation programme*. The largest beneficiaries were in 1992 Poland (200m) and Romania (152m).

Aid to the Independent states of the former Soviet Union runs through separate channels. The Community granted e.g. for 400m Ecu on food aid. It also provided a 1.750bn loan or credit guarantee to enable the CIS to purchase food and drugs. Part of the loans were organised as triangular operations, which means that EC money was used by CIS countries to buy products in Central and Eastern European countries. To channel the expertise of military scientists into non-military applications, an International Science and Technology Centre was set up in Moscow. It was signed by the US, Japan, the Russian Federation and the EC. A last example is the Tacis programme (created in 1991), the Community programme of technical assistance for CIS and Georgia. The purpose is to finance technical assistance in key areas of the economy. The sectors include energy, transport, food distribution, public and private sector management training, financial services, telecommunications and nuclear safety. The programmes are conceived and carried out in a decentralised way, closely involving the recipients of aid throughout the programme process. For that purpose, national Tacis coordinating units were set up to manage the day-to-day running of the programme. These national coordinators met for the first time in Brussels, at ministerial level, in the month of September. 450m Ecu was allocated in 1992. Approximately 260 projects and schemes were under way [46].

VI. Agriculture

The Portuguese presidency successfully steered the twelve member states towards the biggest overhaul in agricultural policy over the last thirty years. On 21 May, the Council reached an agreement in principle, in which the Commission was able to maintain the essentials of the McSharry plan launched in July 1991.

The new CAP shifts the emphasis on support from product to producer, thus from price support towards direct payments to farmers. The link between production and productivity on the one hand and farmer's income on the other hand is severed. The operation aims to get down agricultural overproduction (currently about 20% over consumption) and to reduce international trade tensions resulting from the distorting effects of EC farm exports, and that without a reduction of farmers' income.

(45) It covers the four Visegrad countries, the three Baltic republics, Bulgaria, Romania, Albania and Slovenia.

(46) (CEC), *Bulletin*, 9-1992, 1.3.3.

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Contrary to previous rounds (the last major one in 1988), the changes in this reform are of a structural nature. The new set of decisions is based on the four following principles [47]:

(i) a general reduction in guaranteed farm prices; the core being a reduction in cereal prices of on average 29% and of beef prices by 15% over three years from 1993;

(ii) compensation for the price reductions granted in the form of compensatory payments or premiums; it is no longer granted directly on the basis of production, but on the basis of production factors (hectare/ head of livestock);

(iii) measures to reduce produced quantities: quotas (e.g. in the milk sector), set-aside of arable land, restrictions on the grant of premiums;

(iv) accompanying measures to encourage the restructuring of farms: early retirement scheme, afforestation of farmland, more extensive farming methods.

The central element in the package is the intervention price for cereal (=grain). Under the new CAP rules, the price is slightly above the world market price, but below the average EC production costs. The Commission had pressed for a 35% cut, secretly hoping to get 30%. The final compromise of 29% came close. The new price will help to melt away an overproduction of 20m tonnes (as well as similar amounts in intervention stocks). The new prices will be competitive on the world market, so there will be no further need to dump abroad. The cereal export subsidies, together with the quantities, are the real stumbling block in the Uruguay round. Furthermore, cheap cereal will enable significant savings in lifestock and dairy sectors, thus inducing price cuts in those sectors as well.

Hence the reform is expected to bring benefits to various groups. Lower food prices should please the consumers. The new direct income support system tends to favour small and low-productive farmers in the poorer countries. So it would correct to some extent the traditional bias in the CAP towards large, productive farms in the richer northern countries. It would also make farm incomes more stable. Finally, the reform signifies a shift from productivity-oriented farming to land conservation and environmentally-sensitive farming.

The deal did not come easy, although the groundwork had been laid in the previous year. Germany, the EC's most important inefficient agricultural producer, had spoken out in favour of the McSharry plans in October 1991; the pro-liberal industrial lobby, which feared that the CAP might cause the Uruguay Round to collapse, prevailed (temporarily) over the conservative farmers lobby. One week later, France, the EC's most efficient farming producer and largest exporter, seemed also prepared to compromise. Most member states accepted McSharry's plan as a basis for negotiations in November 1991. However, several delegations got second thoughts when political life resumed in January. One issue was the timing of the CAP reform in relation to the Uruguay-round. The UK, Denmark and the Netherlands (and to a lesser extent Ireland) preferred to wait for a con-

(47) (CEC)(1993) *XXVIth General Report on the Activities of the European Communities, 1992*, p.169.

clusion of the GATT negotiations. Others, especially France, claimed that the new CAP would give the EC a stronger negotiating hand [48].

Some members began to question the principles of the reform anew. The most persistent criticism came from Belgium, which warned that the new reform would lead to a renationalisation of agriculture [49]. Renationalisation, so it seems, would occur in two forms. One is a series of country- or region-specific exemptions, which often allow for additional financial support by national governments. The other is the integrative approach supporting the new CAP as opposed to a narrowly sectoral mechanism of price support. The new CAP combines agricultural measures with a range of social, economic and environmental measures which require elaborate implementation structures and are bound to be country-specific. Early retirement schemes will have to be integrated into the various pension systems ; environmentally sensitive farming will be encouraged through programmes to be drawn up by member states etc. Within the parameters set by the institutional structure and power relations in the EC polity, the shift from price support to direct income support is likely to lead to a move from centralised to decentralised management of agricultural reform policy.

However, Germany and France backed a reform all along. April and May were spent on crafting various concessions to appease specific national interests. E.g. Germany was allowed to pay a one-off national subsidy to its farmers, and was granted special treatment for the Eastern Länder ; Ireland and France obtained a special arrangement for their beef sector ; Spain and Greece received additional milk quotas [50]. The agreement also included support prices for agricultural products for the marketing year 1992/93. Prices were frozen for most commodities.

The Common Fisheries Policy was also thoroughly reviewed. The industry was in full crisis in 1992. The European fishing fleet struggled with overcapacity, while the stocks fished by Community vessels were depleted. The Council Regulation on the revised CFP was adopted on 20 December. The key element to the CFP remains the TAC (Total Allowable Catches) system. It sets a limit on the total annual amount of fish harvest, which is determined annually by the Council. This total amount is divided among the member states according to fixed percentages, which were decided in 1983. Member states will also maintain exclusive fishing rights in their 0-6 mile zones and restricted access for other nationalities within the 6-12 mile zone. The Fisheries Guarantee Fund was allocated 29m Ecu in 1992 out of a total of 33.38bn Ecu for the total Agricultural Guarantee Fund. The crisis of the European fisheries industry is structural. Moreover, its decline can sometimes have a devastating impact on local economies. The Commission has therefore been working on a new objective 6 within the structural funds, which would co-finance restructuring in areas affected by the crisis in the fisheries industry.

VII. Environment

The two major events in EC environmental policy in 1992 were the adoption of the Fifth environmental action programme in December and the United Na-

(48) See *Agence Europe*, N.5657, 30/1/92.

(49) See *Agence Europe*, N.5702, 1/4/92.

(50) *Financial Times*, 21, 22, 23-24 May 1992.

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tions Conference on Environment and Development (Unced) in Rio de Janeiro in June.

The Fifth environmental action programme '*Towards Sustainability*' sets the framework for Community environmental action from 1993 to 2000. The approach seeks integration and coordination. Environmental concerns will be better integrated into other areas of Community policy through a mixture of measures : legislation, market-based instruments, fiscal mechanisms, improved data and research. As in other areas, the policy pays tribute to subsidiarity under the concept of shared responsibility between Community, national and regional or local authorities, private and public enterprise and the citizens. The framework contains also performance targets [51].

Integration works horizontally and vertically. Horizontal integration requires that environmental concerns are taken into account in sectoral policies. In a recent assessment, the British House of Lords identified the compartmentalised structure of the Commission administration in highly autonomous Directorates General as a key obstacle to horizontal integration. The Fifth Programme does not seem to address that problem. It seeks mainly non-organisational remedies. One instrument is the 'green cost-benefit analysis', which would quantify the effect of environmental policies on other areas. The common language of the money terms should promote an integrated approach.

The best guarantee for an integrative approach might currently be the collegial nature of the Commission. As each decision is taken collectively, a commissioner is forced to lobby his/ her fellow-Commissioners to get a proposal accepted. The cabinets play a crucial role in this process, as was apparent in the case of the Fifth Action Programme [52]. There are however few similar systematic processes of policy integration at lower levels of decision making.

More attention goes to vertical integration between national policies or administrations and the EC. The Fifth Programme will seek to systematise Environmental Impact Assessments on national policies, and extend them to individual projects. Furthermore, two new consultative bodies will be created. A Consultative Forum would enable the Commission to consult more widely on environmental policy. An Environmental Policy Review Group would permit regular joint meetings of senior officials from member states and Commission to discuss common problems. These two bodies are expected to complement the European Environment Agency, which was formally created in 1991 but is still waiting to take off. It will be in charge of data collection on the environment and on monitoring and evaluation of the environmental effects of Community policies.

The Environmental Agency and the two other bodies express an opposite logic. The former is intended to be an embryonic American-style regulatory agency, manned by independent experts who would collect information, supervise and sanction private or governmental compliance with EC environmental rules. Control would be centralised, and decisions would be taken out the hands of

(51) A critical, but albeit positive assessment of the new Action programme was carried out by the Select Committee on the European Communities of the British House of Lords (Session 1992-93, 8th Report, HL Paper 27).

(52) See *Ibidem.*

politicians or bureaucrats [53]. It would be concerned with data gathering, an up-stream activity in the policy making chain, and possibly down-stream activities of control and sanctioning. The current European Agency does not (yet) have the latter powers. The two other bodies are situated earlier in the policy-making cycle. They seek to involve interested parties--national bureaucracies, environmental groups, industry--in policy generating. They do not (yet) involve these groups into decision making.

The 'Earth Summit' was a disappointment for the EC. It hastened the resignation of the EC Commissioner for Environment, Mr.Carlo Ripo di Meana, who returned to Italy. The conference adopted Agenda 21, an action programme which lays down conditions for sustainable development. The EC signed the international Conventions on Global Climate Change and Biological Diversity. The European Council of Lisbon approved an eight-point programme to implement the conclusions of the Earth Summit. That includes a.o. the creation of a fund to finance environment-friendly development in poorer countries.

The EC's participation in the Earth Summit is not exceptional. In fact, quite a few EC measures stem from international agreements or anticipate them. Hence the Commission proposed a regulation on supervision and control of shipments of waste within, into and out of the European Community. This regulation is meant to set the conditions for ratification of the Basel Convention on the Transfrontier movements of Hazardous Wastes and their Disposal. The regulation, approved in October, is scheduled to enter into force in September 1994. The agreement is based on the principle of 'self-sufficiency'. Waste should be disposed of as close as possible to the point of production. It should not be shipped to or from Third World countries. The regulation was put to the Council two years ago. Discussions were speeded up after a 1992 ECJ ruling, which had declared that waste was not necessarily a 'commercial good'.

Similarly, the revised regulation on ozone depletion, agreed in December, formulated a negotiating position for the Community on the Montreal Protocol on ozone depletion. The Community will phase out CFCs (chlorofluorocarbons) by the end of 1994, and other ozone depleting substances by the end of 1995.

The EC regulatory activity in the area of environment has often shown to be innovative [54]. The Commission adopted in the course of 1992 farreaching new proposals on e.g. an energy/CO_2 tax, an eco-audit scheme for industry, or the reuse of packaging waste. [55]

Environmental regulation can be very costly, as UK firms discovered in 1992. The UK was convicted by the ECJ for failing to comply with the EC law on drinking water purity. This judgement was bad news for the nine water companies in the UK. They would have to invest about £350m in advanced water treatment works to make their operations conform with EC drinking water directives [56].

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(53) However, certain member states have resisted this development. The debate about the effectiveness of implementation is well documented in a report by the House of Lords Select Committee on the EC : *Implementation and Enforcement of Environmental Legislation*, (Session 1991-92, HL Paper 55-I,II).

(54) See G.MAJONE (1993), 'Deregulation or Re-Regulation? Policy-Making in the European Community since the Single European Act', *mimeo*.

(55) See British House of Lords Select Committee on the European Communities, *A Community Eco-Audit Scheme*, (Session 1992-93, HL Paper 42).

(56) Financial Times, 16/1/92.

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VIII. Transport and energy

Transport and energy have been common policies since the Treaty of Rome. However, the interests in the two sectors are typically national-oriented, either because important sections (railways, airways, electricity & gas, nuclear power) have traditionally been national public monopolies or because they have been heavily regulated (shipping, heavy road transport). Commission initiatives ran up time and again against powerful vested interests. Not surprisingly, the internal market measures in these sectors were among the last to be adopted.

Changes seem now possible in the two sectors. The internal market gave one impetus. The other were broad concerns of sustainability. For transport, increasing mobility created growing congestion problems. Rising energy consumption has made Europe dependent on external energy sources and it has quickly depleted traditional sources. Both sectors are also heavy polluters, and therefore crucial targets for environmental policy.

A. *Transport*

The internal market in transport is now largely complete, at least as far as the adoption of the measures is concerned. Most significant were the Third Aviation package and road passenger cabotage. The Commission prepared the ground for the post-1992 era with two papers. The Green paper on the impact of transport and environment was published in February. The more important White Paper on the development of the common transport policy over the next ten years came out in December. It is designed to reduce the disparities between modes of transport, in particular through a fairer distribution of costs.

The EC attempts to take on congestion and environmental burdens by using a strategy of charging certain users for transport infrastructure cost or of promoting diversification of transport modes. In September the Commission put forward arrangements to charge heavy lorries for the infrastructure and environmental costs when using the motorway. Contrary to a proposal of 1990, this scheme would be temporary, optional to the member states and less detailed. It is based on the principle of territoriality, meaning that the duties are paid in the country where motorways are used. The member states may levy a periodic tax on vehicles. They are free to use their own tax structure, but the EC will set the minimum amount for specific vehicles. They could also introduce road tax discs or tolls on motorways. The Council was unable to find an agreement.

The core instrument for the management and diversification of transport in the EC is since 1990 the Action Programme for Transport Infrastructure. It defines a framework to balance 'master plans' for the various transport modes (combined transport, road, inland waterways etc.). Master plans identify missing links between national networks, make them technically compatible and open up to isolated regions. The plans do not contain financial commitments for member state or Community. Yet, in 1992 the Commission spent more than 140m Ecu to support 27 transport infrastructure projects of Community interest.

The new proposals of the Commission build upon the Maastricht decisions on Transeuropean Networks. In its second Action Programme, it incorporates efficiency, safety and environmental concerns, and new priority projects among which traffic management. The cost of implementing the road plan only (e.g. the building or upgrading of 12,000km motorways over the next 10 years) is estimated at 120bn Ecu. Another proposal dealt with combined transport such as road/rail

operations, aimed at diverting traffic away from congested major roads. The series of proposals were discussed in the Council, but not yet adopted. The Council agreed however to prolong the existing arrangements for state aid relating to investment in combined transport until 1996. In December, the Commission adopted a Decision on combined transport pilot projects (PACT). The main purpose was to study whether Community technical standards are necessary to ensure consistency between combined transport regulations, specifications and standards [57].

B. *Energy*

Liberalisation of the energy sector was not included in the internal market programme. The Commission is now trying to capitalise on the success of 1992 to extend liberalisation to energy. On 22 January 1992, the Commission adopted two proposals to end exclusive rights to generate electricity and construct electricity lines and gas pipelines. Companies would be required to separate management & accounting for the three activities of production, transmission and distribution. Other large users should be able to use the networks of transmission and production companies (Third Party Access) from 1 January 1993 onwards, and possibly small users from 1996. It should have been the second stage of the programme, after three directives in 1990 and 1991 had been adopted on the transit of electricity and gas and on price transparency. The UK was a staunch supporter of the Commission's proposals, but ran up against stauncher resistance by several other member states. The Commission tabled a comparable blueprint for oil and gas prospecting, exploration and extraction in March. It aims to secure equal access for all firms to exploit oil and gas resources and the free movement of these products within the Community.

The other main target of EC energy policy is the securement of a safe and sustainable energy supply. As in transport, one strategy is to let the consumer pay back some costs. On 27 May, the Commission proposed a Community energy/CO_2 tax to help achieve the Community's target of stabilising CO_2 levels at the 1990 level by 2000. The tax would apply to all fossil fuels and to electricity generated by large hydroelectric or nuclear plants, but not to renewable sources. The tax would probably raise the price of petrol by 6%, and of diesel by 11%. Domestic natural gas would go up by 14%, and light fuel by 16%. There would be a reduced rate for companies which carry out investment aimed at energy saving or reduction of CO_2 emissions. The tax would be determined at Community level, but the receipts would go to the member states [58]. In its conclusions in December, the Council granted that 'recourse to fiscal instruments would probably be required', but that further study was necessary. It also reminded the Commission to take into account the principle of subsidiarity in designing a tax [59].

Commission and Council took several measures to promote energy efficiency. Hence, in May the Council adopted efficiency requirements for hot water boilers. It approved in September a directive on labelling of household appliances to make it easier for consumers to choose energy-efficient equipment. The label will indicate the consumption of energy and other resources. The Commission

(57) See CEC (1992), *Bulletin,* 6/1992 and 12/1992.

(58) Some countries then proposed to use the energy tax as a fifth revenue source for the Community (see discussion on public finances).

(59) See *Agence Europe*, N.5880, 16/12/92.

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also introduced proposals for measures on building certification, heat metering, buildings' insulation etc. All these actions form part of the SAVE programme which was adopted in 1991 and seeks to reduce energy intensity per unit of GNP by 20% by 1997.

Several initiatives attempt to diversify energy sources. In 1992 the EC spent 104m Ecu to projects to promote alternative energy sources as part of the *Thermie* programme. Thermie has also set up twelve energy promotion centres in Central and Eastern Europe and the CIS, which have started 80 projects on technology transfer and enhancement of the energy situation. Diversification and ecology are combined in a new proposal of the Commission of May 1992, the *Altener* programme. The five-year programme would be concerned with regulation, and not with funding of projects. The aim is to legislate and standardise the disparate market in renewable energy sources.

EC energy policy tries also to secure energy supply. A cornerstone is the European Energy Charter, which was signed in December 1991 between all the European countries, the eleven independent states of the former Soviet Union, Canada, Australia and Japan. It should give the West access to the rich energy resources of the former Soviet Union. Negotiations on a binding Basic Agreement progressed slowly. A final aspect of EC energy policy is to monitor the dismantlement of old energy industries such as coal. It basically comes down to authorisations for state aid and Community financial support through the ECSC Treaty. On 25 November the Commission adopted a draft Decision concerning new EC rules for state aid to the coal industry. State aid is acceptable if the aid systems are transparent, in particular by including them in public budgets, and if aid is being phased out on the basis of certain cost factors [60].

IX. R&TD and telecommunications

A. *Research and technological development*

Research and technological development was discussed at length by all institutions. This was sparked off by the Commission's communication '*Research after Maastricht: An Assessment, A Strategy*' [61]. It was submitted to the Council and the Parliament early April. Starting from the viewpoint that the European industry needs to become more competitive [62], the Commission proposed more applied research and more resources. The proposals, submitted directly by firms, must address technological problems corresponding to industrial priorities. They are channelled through priority projects, which would be selected within the multi-annual Framework Programmes. Hence European R&D would become more an instrument of industrial policy. The Commission proposed to increase the

(60) See CEC(1992), *Bulletin*, 11/1992.

(61) CEC(1992), *Bulletin*, Supplement 2/92.

(62) The Commission underlined this with statistics on R&TD expenditure, human capital, and share of patents of the EC, USA and Japan. The results show that there is a clear gap between, on the one hand, the efforts of Europe in basic research and investment in R&TD, and, on the other hand, its performance in innovation and competitiveness.

budget for R&D from 3.8% of the total EC budget in 1992 (2,448m Ecu) to about 5% in 1997 (4,200m Ecu) [63].

The main instrument for EC R&D are the Framework Programmes, which set guidelines for the selection of specific programmes. The Commission submitted the fourth Framework Programme (1994-98) to the Council in October. For the first time, it brings all research activities under one umbrella, i.e. not only pre-competitive research but also activities relating to other common policies (CAP, transport etc.). The draft framework took over the ambitious figures of the communication and demanded a budget of 14.7bn Ecu for the four years. 11.7bn would go to research programmes, 1.4bn to international cooperation, 0.7bn to SMEs, and 1bn to training and mobility of researchers [64]. The Framework will probably be adopted under the provisions of the Maastricht Treaty, in which case the co-decision procedure applies.

Council discussions on the two documents in October and December and the outcome of Edinborough have curtailed the ambitious plans of the Commission. According to the Edinborough guidelines, R&D should be between 2.3bn and 3.1bn Ecu by 1997, which is significantly lower than the 4.2bn in the Commission proposal. The opinions on the reorientation of Community research towards activities nearer to the market are more divided. France and Italy particularly are strongly in favour of the reorientation, while the UK and Germany are wary of any approach which could lead to specific industries being subsidised [65]. The discussions will probably continue throughout 1993.

The third important decision was the approval of extra-funding (900m Ecu) for the ongoing Third Framework programme 1990-94 by the Council in December (after the opinion of the European Parliament). That should guarantee continuity in the research programmes until the next Framework programme enters into force. The original figure of the Commission was nearly twice as much. The Council adopted also the three remaining specific programmes (out of fifteen) under the Framework, which were on human capital (56.5m), biotechnology (162m), and measurement and testing (47.5m). The total budget of 5.7bn Ecu for the four years has now been allocated. Within them, most projects have been selected. The Commission's R&TD management was strongly criticised by Parliament (April) and Court of Auditors (June).

The Community concluded cooperation agreements with a wide range of countries. One of them was a 55m Ecu programme with Central and Eastern Europe. The programme covered mobility of scientists, intra-European scientific networks, joint research projects and conferences and seminars, participation in EC specific programmes under the Framework on a project by project basis, participation in COST (European Cooperation on Science and Technology programmes). More than 3,000 projects were selected for funding.

B. *Telecommunications*

If the Commission's reorientation of R&TD towards more market-prone technologies survives the debates in Council and Parliament, prime candidates for

(63) See Supplement; see also *Agence Europe*, N.5707, 9/4/92.

(64) CEC(1992), *Bulletin*, 9/1992.

(65) See the ambivalent statement on R&TD in the Edinborough conclusions. See also on discussions in the Council: *Agence Europe*, N.5876, 11/12/92.

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more support will be areas related to information technology and telecommunications. Commission communications of 1991 had assigned to the two industries a central place in EC industrial policy.

Nearly 40% of R&TD resources under the Third Framework programme are reserved for information (*Esprit* : 315 projects) and communication (*Race* : 95 projects) technologies, and telematic systems[66]. Telematics, involving over a thousand organisations in 172 projects, is designed to set up transeuropean networks between administrations and develop data communications systems on various topics like transport, health care, flexible and distance learning, linguistic engineering, libraries and rural areas. The latter category e.g. consists of sixteen projects. They will first of all analyse the experience with data communications in rural areas. Then they will draft the common specifications which are required to run data systems supporting rural tourism, local and regional administration and small businesses.

Separate from the R&TD budget, the Community is busy computerizing the communication between Community institutions and between the Community and member states. The main area of application is the internal market.

According to the 1992 White Paper, the telecommunications market must be open, but tempered with a certain amount of harmonisation. Six Council directives of 1992 added further to the emerging EC regulatory framework. Among them were a directive on technical standards for satellite broadcasting and one on Open Network provision to leased lines.

However, telecom discussions in 1992 were monopolised by two controversial issues, i.e. the opening up of voice telephony, and an action plan for the promotion of HDTV using MAC transmission technology. Voice telephony refers to the market of standard telephone calls, especially international calls. It has escaped the liberalisation drive thus far. The Commission adopted a proposal on 15 July that aimed at liberalisation of cross-border calls by 1996 and full competition by 1998, arguing that more competition would get prices down. However, it has not yet made much progress. One issue is the price argument. According to the Commission, calls between member states are surcharged. They cost on average 2.5 to 3 times more than national long-distance calls over a comparable geographical distance (5 to 6 times more in off-peak periods), and a call in one direction within the Community can be up to twice as expensive as in the opposite direction. PTT companies however protest that they will be forced to make national calls more expensive if they have to reduce international calls. Another issue is the unequal state of modernisation of the PTTs. If there is no level playing field, the companies in the poorer and smaller countries risk to be wiped out. The final compromise will therefore probably be less radical and allow derogations for certain countries [67].

The second major argument was around the Action Plan for the Introduction of Advanced Television Services using MAC technology (HDTV), adopted by the

(66) Esprit stands for *European Strategic Programme for Research and development in Information Technology*; Race is *Research and development in Advanced Communications technologies for Europe*.

(67) See *Agence Europe* (various issues), starting from N.5774, 17/7/92. An agreement was reached in June 1993.

Commission on 14 April [68]. It proposed to pump 850m Ecu over five years into helping broadcasters and programme makers upgrade their equipment, convert existing programmes into wide-screen format, and produce new programmes according to the HDTV format. The plan is one element out of a three-legged strategy. The first was the formal adoption of exclusive D2-MAC (Multiplex Analogue Components) transmission standards for HDTV in May, which should bring equipment manufacturers in Europe into line. The two main manufacturers Philips and Thomson have come up with a HDTV system based on the MAC standards backed by the EC. However, there is no mass market for this system, because broadcasters have been reluctant to invest in the expensive equipment. The action plan is supposed to help them. The third element is a memorandum of understanding (MOU) between broadcasters, cable distribution companies, manufacturers of television equipment and producers.

HDTV was designed to be 'the flagship' of European industrial policy. The first EC proposals date from 1986. The effort to set exclusive satellite transmission standards in Europe was an attempt to gain a lead over the USA and Japan. However, the decision fell only at the end of 1991. By that time, consumer electronics had entered into a crisis. Moreover, the American market is on the verge of producing a much cheaper standard based on digital instead of analogue technology. Philips and Thomson, early supporters of the Commission's strategy, have even joined forces to develop a US digital standard. Given this confused situation, the UK and several other member states are reluctant to support the Commission's expensive Action, especially because the long-term viability of the analogue standard looks increasingly doubtful. France and the Netherlands back the Commission [69].

X. Other policies

A. *Economic and social cohesion*

The first five-year period under the reformed structural funds is drawing to a close. 1992 was a year of assessment, intensive discussion within (rather than between) the EC institutions and positioning for the next programming period starting from 1 January 1994. The core document was the Commission's mid-term review of March 1992 [70].

The Commission proposed a further doubling of the funds for the lagging regions, which received more than 10bn Ecu in 1992. It suggested to make no

(68) HDTV stands for High Definition TeleVision, which assures enhanced-definition pictures on wide screens. HDTV would give the customer cinema quality. It requires however two elements: television and transmission equipment which meets the enhanced standards *plus* programming with the new technology. The technology is however very expensive.

(69) See *Financial Times*, 17/6/93 ; CEC(1992), *Bulletin*, 4/1992 ; various issues of *Agence Europe*.

The Council agreed in June 1993 to set 228m Ecu aside for four years, which is much lower than the original proposal. Moreover, support would not be limited to HDTV technology according to the 'exclusive' analogue standards but American digital standards would also be eligible.

(70) CEC (1992), *Structural Policies-Assessment and Outlook*, COM(92) 84 final, 18 March 1992.

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fundamental changes to the principles and operational framework of the structural funds. Rather, it would simplify administration and further decentralise the implementation, balanced by a stronger assessment and monitoring. More fine-tuning than major changes in policy objectives too. A Delors-led strand in the Commission pushed for stronger links with policies of industrial conversion; objective 4 should become the instrument for '*mutation industrielle*'. The Commission proposed also to introduce an objective 6 to deal with the ailing fisheries industries. The European Commission held its draft regulations back until after the Edinborough Summit. The one exception was the cohesion fund, a Maastricht promise to the four poorest member states to finance major projects on environmental and transport infrastructure. The Commission announced details of funding on 31 July.

B. *Social and cultural affairs*

The social policy record was modest in 1992 as in most years. The main achievement was the adoption by the Council of the Directive on the Protection of Pregnant Workers, better known as the Maternity Directive, in October. The text was watered down significantly to overcome British objections. A woman would get a minimum of fourteen weeks of maternity leave to be paid at a rate at least as high as statutory sick pay. This should apply regardless of how long a pregnant woman had worked for her employer. Only the UK would have to upgrade its provisions.

The Council continued to debate the controversial organisation of working time Directive. On 24 June the EC Social Affairs Council reached an agreement in principle on a maximum working week of 48 hours. All EC states would have three years time to implement the directive, but the UK which had strongly opposed the proposal was given ten years. Several other concessions had turned the directive into an exercise of *à la carte* legislative work. Employees would have the right to work more than 48 hours a week; Sunday would not be a compulsory rest day; or local level collective bargaining should be allowed to derogate from the terms in the directive. Several member states were having second thoughts on this compromise in the second half of the year.

Culture and to a lesser extent education are relatively novel areas for the European Community. Culture still lacks an entry in the *General Report on the Activities of the European Communities*. In April the Commission released a communication *New prospects for Community cultural action* 'with a view to implementing Article 128 of the Treaty of European Union'. It emphasises that other Community policies and programmes should make allowance for cultural aspects. On 12 November the Council and the Ministers for Culture meeting in the Council [71] adopted guidelines for Community cultural action. The Commission published also in December a Green Paper on *Pluralism and Media Concentration in the Single Market: An Assessment of the Need for Community Action*. The documents treads with the greatest care in this highly sensitive area.

(71) Culture belongs formally to the intergovernmental arena. Hence the elaborate description. The Maastricht Treaty will change this, as it gives some cultural competences to the European Community.