

**LOOKING TO THE FUTURE OF EU's EXTERNAL ECONOMIC  
RELATIONS POLICY**

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## **PART I: INTRODUCTION AND BACKGROUND**

### **1.- A policy linked to its institutional context**

#### **1.1.- Introduction**

It is impossible to understand the European Union's external economic policy without a clear understanding of its institutional framework.

The European Union (EU) does not act as a single entity in political and economic spheres<sup>1</sup>. It is a conglomerate of sixteen different entities: a) the European Community, that continues to exist and has not been replaced by the EU (not to be confused with the European Commission, which is only one of its institutions); and b) the fifteen member states. Where the EU has exclusive competency (and where member states have accordingly lost theirs), this conglomerate has a single policy. In those other areas where member states have influence, there are still fifteen different national policies with very little coordination. That is why the EU is not a member of the WTO or a party to the agreement with Mercosur and its member states, although the European Community and the fifteen member states are. So, if we want to continue using the term "European Union" in the field of economic relations, we should interpret it as meaning "the-European-Community-and-the-fifteen-member-states-acting-jointly." Although we know that neither the European Community nor its member states act jointly in all areas.

The European Community has exclusive competence in three main areas: trade, monetary policy,<sup>2</sup> (three member states – the United Kingdom, Sweden and Denmark- continue to keep their competence and are not yet included in the Monetary Union of the European Community) and those aspects where internal community legislation and external obligations overlap (standards, for example, where they have been harmonised by the Community)<sup>3</sup>.

As regards foreign investment, there is no Community policy or legal framework (although member states continue to sign and sometimes finalize bilateral agreements on investment with third countries.) There are no policies for audiovisual services (on which very substantial differences continue to exist between the fifteen national legal systems), nor on external financial policies. As a result, any member state can actively participate on its

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<sup>1</sup> One could use P. Defraigne's terminology, head of cabinet of Commissioner Lamy, and talk about the EU as an "emerging coalition" (intervention in the Symposium "Les défis de la globalisation", Louvain-la-Neuve, 5<sup>th</sup> Mars 2001). He describes an emerging coalition with policies that range from no coordination to complete unification.

<sup>2</sup> According to the European Community Treaty, the definition of the internal aspects of monetary policy (including the determination of interest rates) is attributed to the European Central Bank (ECB). Exchange rate policies are attributed to the Council (formed by the representatives of member states governments – see below -). But the Council has not yet defined such a policy nor designed an adequate mechanism for presenting a unified position on exchange rate policy in the international arena. So, the ECB tends to fill this gap. This institutional failure should not be forgotten when analysing the extremely poor performance of the euro in the international arena.

<sup>3</sup> See Appendix for the changes introduced by the Treaty of Nice.

own in a lending operation organised by the IMF while another member state may disagree with it and try to block it in within the Fund).

In the majority of areas in which member states continue to exert influence, some coordination of national policies is possible. This possibility has been strengthened in practice as well as by the “European Union” concept, and the establishment of specific procedures to facilitate unified action on the part of member states (even if these procedures are more applicable in the fields of “classical” diplomacy and judicial and police co-operation than in the economic area). This possibility also depends on the context: it is greater in the context of WTO, FAO or “horizontal” relations with third countries than in other contexts (IMF or OECD).

## **1.2.- Some practical examples**

These following are examples of the above concepts in practice:

- The famous legislation on bananas condemned by the WTO was adopted by the Council. Germany, Holland and Belgium voted against it. The Council approved agreements resulting from GATT’s article XXIV negotiations, following the extension of the Community to include Austria, Finland and Sweden. Greece, Italy and Spain all voted against these agreements. Both agreements were subject to qualified majority voting within the Council.
- France and Portugal could have blocked the conclusion of the Uruguay Round agreements (if, respectively, the Blair House pre-agreement on agriculture had not been modified or there had not been a financial internal subsidy for Portugal to “compensate” for the harmful effects of the textiles agreement). This is because those agreements constituted a “single undertaking” covering not only Community competencies (on agricultural trade or textiles) but also member states’ (in matters related to services and intellectual property). As a consequence, they had to be approved not only by the Community but also by each individual member state.
- In general, trade agreements are approved by the Community by a qualified majority in the Council. “Horizontal” agreements that also cover matters falling under member states’ competence, must also be approved (or can be rejected) by each individual member state<sup>4</sup>. As a consequence, the question arises as to who is favoured by the idea of the “single undertaking” which seems to preside over ongoing negotiations between Mercosur and its four member states on one side, and the European Community and the fifteen member states, on the other. The answer is clear. It benefits those EU member states that could be outvoted in a decision on trade liberalisation.

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<sup>4</sup> One of the many misunderstandings about the European Community is the the view that the rule of qualified majority voting (QMV) within the Council is a “formality,” since member states maintain a type of “veto power”. This thesis is completely erroneous, as examples on sensitive issues such as bananas and many others prove. This thesis is sometimes argued on the basis that, in practice, the great majority of Council decisions (even when QMV applies) are taken without any votes of opposition. Those who argue this fail to understand that the QMV is a very powerful form of leverage for unanimities: governments that are going to be outvoted try to obtain “something” (very often a mere “face-saving” device) in exchange for their favourable vote (so, the Spanish slogan applies: “de lo perdido saca lo que puedas” “get what you can out of what you have lost.” This thinking explains why the QMV system tends to encourage unanimity).

### **1.3.- Impact of the institutional context**

The institutional context explained above has resulted in two decisive characteristics of the EU's external economic policy.

The first is the systematic absence of certain issues, in particular those related to international financial institutions and their policies. The problem is mainly political, as a comparison with the United States shows. It is true that NAFTA does not include provisions applicable on this question. However, the United States still has had a policy to apply if one of the parties to the agreement is affected by a serious financial crisis. The European Union (European Community + member states) has not had such a policy when a partner to their agreement with Mercosur has had financial difficulties: fifteen different national policies (defined and implemented outside the framework of the Union) have been applied. This all-important characteristic makes it very difficult, if not impossible, for the Union to react efficiently to a reality that will be discussed in the final section: that the evolution of trade flows seems to depend more on general economic conditions and on adequate availability of international liquidity (and the possibility it offers of financing current account deficits) than on a tiny reduction of tariffs.

The second characteristic is the tendency to privilege the WTO as the main forum for discussing any economic and social issue, with the risk of implosion that this tendency might create. In the WTO, the relative weight of the Community and the member states favours the Community (and the role of its institutions and of the Commission in particular). It is the very same logic that has created the historical tendency to tackle all aspects of economic and social reality as "trade related" (and not as "interdependent").

### **1.4.- Impact of the internal decision-making process**

When the Community exercises its competencies--and also when member states coordinate their action within the framework of the Union in fields in which they continue to be competent to a lesser degree--there is a clear division of labour between the Commission and the Council (formed by representatives of member States at ministerial level – or officials in the dozens or even hundreds of working groups existing within the Council.)

The Commission has a monopoly on proposing initiatives, as it is the only body that can propose to adopt legislation. The Council gets to decide, and it normally attributes implementing powers to the Commission. These powers are subject to control by committees composed of representatives of the fifteen governments. In the case of international negotiations, the "back-and-forth" between the Commission and the Council increases. The Commission proposes the opening of negotiations, while the Council approves or disapproves, and provides a "mandate" for negotiation. The Commission negotiates and initials the resulting agreement, and sends it to the Council for signing and finalizing. The European Parliament intervenes in the procedure –more, less or nothing at all depending on the cases- between the two acts of the Council: signing the agreement and finalization.

This mechanism seems extremely cumbersome to an outsider. Experience has proved, on the contrary, that it lubricates the political machine and functions in terms of achievements. The Community has a nearly unparalleled network of agreements worldwide. Nevertheless, this productivity in terms of quantity of agreements sometimes compromises the quality of content. There are six areas that are lacking (at least as a risk) because of these practices. They can be seen in the field of internal legislation but are even more noticeable in external relations.

- 1.- Through its monopoly on initiatives, the Commission has a very high degree of control of the European Community's agenda. From the standpoint of third countries, this makes it nearly impossible to bring issues to the table that the Commission is not interested in.
- 2.- When the issues are particularly difficult, this mechanism creates a tendency to take the content out of the Commission's proposal, in order to get Council approval. This tendency which can be seen in internal legislation, is even more exacerbated in external economic policy. This is an area where a member state may find difficult to oppose an initiative of the Commission because of diplomacy. It is much easier to move towards an agreement that can be presented as "a new step forward in relations," even if it is devoid of content.
- 3.- It facilitates the transformation of purely political acts into legal acts in the form of international agreements empty of content.
- 4.- During the first 25 years of the Community's existence, it has motivated the negotiation and finalization of international agreements just for the sake of consolidating the international legal personality of the Community and strengthening its international presence and visibility (as they say in Brussels' jargon. This also the establishment of Commission delegations with the formal status of Embassies<sup>5</sup>.
- 5.- The mechanism is inherently conservative: any change of policy becomes much more difficult than when governments and parliamentary majorities switch in national systems. A change of policy requires both the Commission's approval to propose it, and the necessary majority of the governments represented in the Council to approve it.
- 6.- As a result of the five previous weaknesses, it is easier to "react" to a change in the external environment that already has a dynamic of its own, than to be proactive.

##### **5.- Positive and negative consequences of the European Council's increasingly prominent role**

The European Council (the meeting of Heads of Government of the 15 member States plus the president of the European Commission) is a radically different body from the Council of the European Union (or the Council *tout court*), which is, together with the Commission and to a lesser degree the European Parliament, an essential element of the day-to-day life of the European Community. The main goal of the European Council is to provide political guidelines and promote the activities of the Union (Community + member states), through one - and at present two - meetings per semester<sup>6</sup>. In the past, the European Council retained this role, leaving the task of translating guidelines into policy and legislation to the

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<sup>5</sup> As it will be commented below, these weaknesses have been particularly present in the case of relations with Latin America.

<sup>6</sup> Whereas the meetings of the Council and its working groups count for thousands (sic) in a year.

Commission and the Council. Lately, it has become the centre of decision-making for the most important and/or conflictive decisions. This is not the the place to discuss whether or not this evolution is functional. (Latin American specialists are well aware that “presidential diplomacy” has its limits.) However, it should be emphasized that it is difficult at the present time to conceive of an important decision being taken by the European Union without the intervention of the European Council. This reality has quite obvious implications as regards relations with Latin America and the Caribbean.

## **2.- The content of EU’s trade policy: An overview**

The content of the EU’s trade policy in the recent past can be analysed from two perspectives: its sectoral orientation and its relationship to the bilateral/multilateral approach.

A comparison between the EU and the United States is useful to understand the first perspective. After the conclusion of the Uruguay Round, the US has taken clearly defined actions within the multilateral/plurilateral framework: the Information Technology Agreement to reduce duties on electronic materials and discussions on e-commerce, as well as in the bilateral “open skies” agreements<sup>7</sup> and pressure to strengthen intellectual property rights. The European Union has taken no such comparable actions and is behind the United States in this sense. Its role has been more active in the “pending negotiations” within the WTO on financial services and telecommunications, but here again the United States have defined the timing and general guidelines.

This comparison shows that the EU’s trade policy is better defined by its protective content in sectors like agriculture (also textiles or steel) than by its offensive orientation. This characteristic is deeply affected by the institutional context analysed in the previous section. The European Community has an agricultural policy (we should never forget that it was created as – and continues to be- a Customs Union with a Common Agricultural Policy –CAP-) but has no industrial policy. It is not surprising that trade policy is more affected by this CAP than by a non-existent sectoral industrial policy.

There have not been major contradictions between bilateral and multilateral relations within the sectoral approach. In most cases, bilateral agreements were designed to avoid effects on “sensitive” sectors rather than to change trade patterns or increase volume.

Within the second perspective, the Community (alone or with member states) has been extremely active in negotiating bilateral agreements. Even if their sectoral content has been more or less compatible with multilateral commitments, there is no doubt that the multiplication of bilateral agreements with partners all over the world was utterly incompatible with public declarations that emphasized the strengthening of multilateralism. This factor helps to explain the reaction that will be discussed below in section 5.

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<sup>7</sup> In Europe, these agreements have been finalized by individual member states and not by the European Community.

### **3.- EU's trade policy in relation to Latin America and the Caribbean**

As is well known, the EU's trade policy in relation to Latin America and the Caribbean has followed two completely different paths.

Relations with most Caribbean countries have fallen within the framework of the successive "ACP Conventions," which consists in asymmetric liberalisation with specific provisions for bananas, sugar and beef.

Relations with Latin American countries have been regulated by successive tides of agreements. There is a good deal of literature that compares and distinguishes between different "generations" of agreements. For the purposes of this paper, we want to emphasize one common characteristic: they lack content and precise economic commitments<sup>8</sup>.

This characteristic also applies to the agreements with Mercosur and its four member states, and with Chile. When negotiations began in 1994, the EU had no strategy or desire to really change policy. This was just a personal idea of Commissioner Marin that was discussed and passed through the Commission. The Council only approved it in 1995, once it had been stripped of all economic content.<sup>9</sup> At least the agreement strengthened the institutional framework set in place by integrating the Community –as in the agreement with the Andean Community and as proposed by the Commission – and also member states.

In essence, the EU's bilateral relations with Latin America are practically meaningless. The only content has come from the Community unilateral actions, either in the field of cooperation (though in this specific geographic area the EC's budget for development is much smaller than the fifteen member states's budget) or in trade, in particular within the framework of the Generalised System of Preferences. And here again, the specific regime for Andean and Central American countries was adopted after a US initiative.

Recent changes in relations between the EU and Mexico are an exception. The framework agreement signed in 1997 between Mexico and the European Community and the member states was quite similar to those signed in 1995 and 1996 with Mercosur and its four member states and with Chile (and equally lacking in economic content). But while the two latter agreements will have to be "filled in" by separate agreements, the agreement with Mexico empowered the Joint Council to perform this function (a difference in procedure that already foreshadowed a much better disposition on the European side to advance in a reciprocal liberalisation). In matters that are the exclusive domain of the European Community (basically trade in goods), such a liberalisation that leads to a Free Trade Area has become a reality through the Joint Council's in March 2000<sup>10</sup>. A second decision,

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<sup>8</sup> This fact would justify the criticism directed at experts and officials on both sides of the Atlantic for triumphalism in presenting each agreement as "a decisive new step in the relations...". As nearly always, the excess of political rhetoric only generates frustration.

<sup>9</sup> See above, section 1.4.2.

<sup>10</sup> See R. Bouzas and H. Stoltz "Building a trade and investment 'hub': Mexico and preferential trade negotiations. A report on Nafta, FTAA and the Mexico – UE FTA", mimeo, for an analysis of economic content.

already negotiated, is to complete the first one in areas where member states maintain influence. This is primarily in the area of services. Its content, nonetheless, is much less ambitious and does not go much further than what has already been agreed in the GATS framework.

Successful negotiations with Mexico can be explained by a combination of three factors: the aggressive stance and the professional skills of Mexican negotiators, strong pressure from Spanish representatives within the Council from the very beginning of the negotiation of the framework agreement, and above all, the non-conflictive agenda for bilateral trade relations.

## **PART II: THE IMMEDIATE FUTURE**

### **4.- The Union's Expansion**

The EU's expansion process is indicative of the two characteristics mentioned above to describe its policy and its decision-making process: a reactive attitude to external events and developments (more than a proactive strategy to shape them) and the increasing role played by the European Council.

At the end of the 1980's, the European Economic Area (EEA) appears as an initiative launched by Commission President Delors designed to create a "waiting room" for EFTA countries (possible candidates), in order to avoid a hasty process of expansion that would interfere with the process of "deepening," particularly given the perspective on economic and monetary union. As a matter of fact, the EEA had the opposite effect. It accelerated Sweden, Finland and Austria's entry (and Norway, even if its citizens finally rejected membership in a referendum).

A similar phenomenon occurred with the "European agreements" with Central and Eastern European countries negotiated in the first half of the 1990s. Contrary to common belief, these agreements are not "pre-adhesion" agreements. When the expansion process really starts, a new partnership mechanism has to be utilized. Expansion appeared as a strategic idea after the fall of the Berlin wall and it was first seen as a "trap" (designed by the British Tory government) that would slow up the Union's formation and possibly divide it. With the disorderly disintegration of the Soviet empire and the spillover chaos created in Europe, this idea was finally accepted for lack of an alternative, not because it resulted from a thoughtful collective strategy.

As far as decision-making is concerned, the expansion process has progressed exclusively on the basis of European Council decisions, with gradual acceptance the definition of a timetable. In principle, negotiations for the first round should be finalized by the end of 2002. However, negotiations are still behind. Even if final results are predetermined (full acceptance and application of the *acquis*, the whole body of existing legislation at the Union's level), negotiations have not yet entered the decisive phase of the transitory periods

(not only for new members to apply the *acquis*, but also for old members to apply it to the new ones, on the free movement of workers across borders, for example.)<sup>11</sup>.

Expansion also creates considerable uncertainties for the Union's budgetary situation. Economic consequences have been analysed thus far in order to prove that they *could* fit in the present budgetary framework. However, no one is convinced that this actually *is* the case.

The process leading to Monetary Union was also launched and guided by the European Council based on a strategy of predetermined dates where any halt would have been considered a major crisis and as such, "impossible." Without this precedent, one might seriously doubt the Union's capacity to expand satisfactorily. Nevertheless, it should not be forgotten that the timetable for the Monetary Union was very strict and stipulated in a treaty ratified by all member states. The expansion process is much less precise and has only been recorded in political declarations.

In any case, the expansion process entails the acceptance of the *acquis*, particularly with such a tight timetable, and becomes a process that discourages changes in policy rather than promoting them. In principle, its role should be to favour continuity in relations between the AL and the Caribbean, especially given that as the European Council is likely to become more and more involved in solving the *imbroglio* of expansion, it will have less and less time and capacity to redefine trade policy or bilateral relations with third countries.

## **5.- New orientations in trade policy**

A thorough reexamination of external economic policy is going on internally in the European Commission. Its potential effects are important if one takes into account the Commission's monopoly on initiatives mentioned above. However, it is not yet clear what will be the outcome of the internal discussions nor how the Council will react<sup>12</sup>. The debate centers on three main themes: a) bilateralism/multilateralism; b) liberalisation vs. agreements on rules; c) the increased relevance of development.

### **5.1.- Critical revision of bilateral relations and recognition of the renewed importance of the multilateral system.**

The complex institutional machinery of the Union and the absence of a single governing body have always made it difficult to establish coherence among the different policies developed (either Community policies or coordinated policies of member states). The risk of incoherence increases when administration services are involved (in the Commission, in the Council and in member states), and become increasingly diversified. The Commission's power to initiate is diluted as it is divided between different Commissioners. In the 1990s, this risk became a reality, reinforced by the division of responsibilities in the

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<sup>11</sup> And, for the moment, there has been virtually no consideration of its indirect effects through the GATT's art. XXIV negotiations that in all probability will have to follow expansion.

<sup>12</sup> The best available method for getting inside this internal debate is through some of Commissioner Lamy's recent speeches and declarations. See the Commission's D.G. Trade website.

area of external economic relations between three Commissioners<sup>13</sup> (two of whom dealt exclusively with bilateral relations).

In 1995-1996, during the discussion of the negotiating mandate for a free trade agreement with South Africa, France led a wave of reactions to this situation.<sup>14</sup> Representatives were not particularly concerned about the content of the many bilateral agreements (even if it was pointed out that agricultural trade followed a different logic in each case, making it more difficult to coherently justify conformity to GATT's rules). The main criticism was levelled at the attitude of "promising" bilateral agreements to any third country. The objective was to reestablish confidence in the importance of the multilateral system.

The WTO's creation and its strengthened mechanism to settle disputes which was used in the "banana war," also fueled this reaction. The contradiction between bilateralism and multilateralism was no longer a hypothesis but proven in practice as dangerous.

There is no doubt that the Commission and Commissioner Lamy in particular, are now much more cautious in the field of bilateral relations and take the primacy of the multilateral system much more seriously. There have been three significant developments in this respect: a) the official burial by Commissioner Lamy of any concept of a EU-US free trade area; b) the decision (not formally taken but still effective) to introduce a moratorium on the opening of new negotiations of bilateral agreements; c) the fact that trade negotiations with Mercosur, for example, are the responsibility of an official of D.G. Trade instead of an official from the "geographic" services, as was always the case in the past.

## **5.2.- Critical revision of the effects of bilateral trade agreements: liberalisation vs. rules agreements**

Bilateral trade agreements can be critically examined not only because of their possible incompatibility (legal and/or political) with the multilateral system, but because their effectiveness in promoting trade is also questionable. In the last two years, the Commission's services have studied this aspect and reached the conclusion that they have been ineffective as stated clearly in the EU's official explanation of the new ACP Convention. The only exception seems to be the "European" agreements with Central and Eastern European countries. But these agreements are not a measure of success. Given the very deep geopolitical, economic and regulatory changes experienced by these countries, how could trade with the Union go anywhere but up? (apart from the fact that these agreements also go far beyond trade liberalisation.)

These results have bolstered arguments in favour of a much more cautious attitude in bilateral relations. At the same time they have stimulated the appearance of a new approach on the possible content of these relations: to put more emphasis on common rules than on trade liberalisation.

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<sup>13</sup> Plus a fourth one for "political" external relations.

<sup>14</sup> It is no coincidence that, in the renewal of the Commission, France insisted so much (and succeeded) in attributing the responsibilities for trade to Pascal Lamy.

This approach is not new. In the multilateral framework, the new WTO agreements issued during the Uruguay Round were already “agreements on rules” (the TRIPs agreement is the best example). Within the bilateral framework, relations with industrialised countries (US, Australia) already followed that direction (if we leave aside the quite groundless ideas of Commissioner Brittan and some Commission services that tried to push the transatlantic UE-US Free Trade Area project): agreements on standards and, in particular, on mutual recognition of certificates of conformity to standards.

This approach could be generalized in the future and also linked to initiatives to facilitate trade. The possibilities it can offer are not clear but it would be worthwhile for Latin America and the Caribbean countries to explore them.

### **5.3.- Greater consideration on the development implications of trade policy**

In the past, development policy fell within a self-contained department in the Commission’s and national administrations’ specialised services. Its influence on trade policy was limited to the definition and implementation of the GSP (to give only an example, it would have been nearly comical to imagine Commissioner Brittan talking about development). Here again, there have been meaningful changes in the last two years, in particular in Commissioner Lamy’s inner circles and the services under his authority.

From this perspective, the recent decision to unilaterally liberalise imports from the LLDC is really important, quite apart from the argument that it tends to “redistribute” preferences that already existed in the framework of the ACP Convention or that it creates additional difficulties for exports from other developing countries. Politically, it would be a mistake not to interpret it (and the efforts of the Commission in pushing it forward) as proof of the prioritizing of development goals in the definition of trade policy.

### **6.- Consequences of the recent agricultural crisis**

The “Agenda 2000” and the conclusions of the Berlin European Council in 1999 on the budget for agricultural policy seemed to have created a relatively clear framework for the evolution of the Common Agricultural Policy (CAP). The recent “mad-cow” crisis and of food-and-mouth disease have substantially modified the situation for four main reasons: a) a much greater public perception (but also among politicians) that “something is going wrong” with the CAP; b) an important change in the conditions of production (decrease in the number of cattle) and commercialisation (change in the patterns of consumption); c) the appearance of new budgetary expenses; d) a change in the international position of the Community, seen as somehow responsible for this public health crisis.

It is too early to predict the consequences of these changes. It is interesting to note that in the fisheries area, the framework of the Community is dealt with on the basis of the same treaty provisions for agriculture. The policy seems to go in the direction of drastically reducing catches and vessels. It is possible that the present situation could provoke a debate

that questions some structural aspects of the PAC (it is again interesting to note that the new German minister of agriculture is from the Green party).

It is still more difficult to predict how the viewpoint of third countries will evolve. “Defensive” reactions could arise based on simplistic arguments such as “if we have two additional bills to pay, we cannot ‘pay’ for a trade liberalisation in the area of agriculture” (bills that will very probably result from the excess cost of expansion plus the costs resulting from measures adopted to fight the present health crisis). This possibility would warrant some kind of proactive response from third countries in the opposite direction, in which they would clearly state, at the highest levels, that they should not be the ones to bear the cost of the Union’s internal problems.

## **7.- The policy of the European Union in relation to the WTO**

The EU’s policy in relation to WTO and the forthcoming Round was established by the Council in its Conclusions of October 25, 1999. Its content is well known. The Community and the member states are in favour of a very broad WTO agenda oriented towards four main objectives: “a) strengthening the WTO rules-based system; b) promoting the further liberalisation of trade; c) improving the integration of developing countries into the multilateral system; d) addressing the interface between trade and related issues and policies.”

As regards some specific points:

- on agriculture, the Union continues to defend its position as “a major food exporter...(who) must act with a view to sharing in the expansion of world trade” while at the same time taking “forward the multifunctional role of agriculture”;
- on services, “negotiations should be comprehensive and bring about a deeper and broader package of improved commitments from all WTO members to market access and national treatment”, but at the same time it should be insured that “the Community and its member States maintain the possibility to preserve and develop their capacity to define and implement their cultural and audiovisual policies for the purpose of preserving their cultural diversity”;
- on trade and investment, “the WTO should begin negotiations aiming at establishing a multilateral framework of rules governing international investment ... (focusing) on foreign direct investment to the exclusion of short-term capital movements”.

This policy statement has not yet been updated. A working document of the Commission’s services of December 2000, prepared for discussion in the corresponding Council committee (internal but widely circulated) points to some adaptations, mainly in order to respond to the “interests and needs” of developing countries. In the document, deep concern is expressed regarding the “real risk of the WTO becoming sclerotic or regarded as irrelevant or, worse, an obstacle to legitimate national action in the ‘trade and...’ areas, unless negotiations encompassing both market areas and rule-making can be launched soon”, but no substantial policy changes are being suggested at the moment.

## **8.- The relations of the EU – Latin America and the Caribbean, and the FTAA process**

The European Union views the FTAA process with a “wait and see” attitude. Two scenarios could result from this attitude:

- If the FTAA process stagnates, it is very probable that EU – LA&C relations will follow the same pattern of stagnation, unless the WTO is “officially” declared as in a very deep crisis and a completely new approach to external economic relations is adopted (something that is improbable as well as extremely dangerous.)
- But even if the FTAA process continues to move forward and becomes a success, it is not at all certain that this will trigger a relaunching of UE – LA&C relations. Everything might continue to be much the same, either because bilateral difficulties are too significant to be overcome and/or because some kind of idea of “America for the Americans” gains definitive acceptance (provided that the idea of “Europe for the Europeans” is also accepted)<sup>15</sup>.

## **PART III: SOME STRATEGIC IDEAS FOR THE FUTURE**

### **9.- Conclusion**

There are indications of movement towards change in the EU’s external economic policies. But they could be insufficient to modify it substantially either within the multilateral or bilateral framework. The risk that the status quo will simply continue is strong, and is exacerbated by the inefficiencies of the Union’s institutional system, as well as by the internal and external difficulties that could absorb the European Council’s policy-making capacity.

It could be useful to look at some of the strategic ideas on the content of the relations between the EU and Latin America and the Caribbean, particularly given the perspective of the May 2002 Summit of May 2002 (and in order to avoid a mere repetition of political rhetoric in the Summit’s Conclusions). Some of the main questions are listed below.

- 1.- What should be the main strategic objective of external economic policy in the next few years? *Further liberalisation* or “*the 3 Cs*”: *Completion* (in content: what to do with movements of capital –see below-; or geographically: to solve once and for all the entry of China in the WTO and its adequate integration in the world economy); *consolidation* (of the liberalisation achieved so far; of the multilateral system and WTO; of the processes of regional integration already in place); *coherence* (among policies; among international organisations; among regulatory levels and policy definition)? If one looks, on one hand, at the fast progress of the liberalisation process in the past fifteen years (multilateral, bilateral, unilateral and as a result of the transformations in Central and Eastern Europe as well as in China ) and, on the other, to the risks (and partly the reality) of global economic instability, the arguments in favour of the second

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<sup>15</sup> This is not the place to discuss the very dangerous implications of this approach nor its lack of realism if the idea is that the EU will become a “World power” like the US is and will probably continue to be as important economically as China and East Asia could become in the next 20 or 30 years.

answer seem quite powerful. The fact that the 3 Cs are rather ambiguous and can be interpreted rather differently only adds to their possible acceptability and usefulness. There is no doubt that they point towards a direction which is neither an obsession with further liberalisation nor that of leaving things as they stand.

- 2.- What should be the logic and the goal of bilateral relations like the ones between the European Union and Latin America: to continue to go on with an unsuccessful discussion on bilateral trade liberalisation or to find common ground on policies (internal as well as external) and to agree on common goals for the political and regulatory framework of globalisation? It is maybe easier and more fruitful to agree on problems related to the multilateral system as a whole rather than on bilateral problems. And it may also be easier and more beneficial to strengthen existing regional integration in Latin America than to pursue some kind of transatlantic integration.
- 3.- What should be done regarding the regulatory framework for movement of capital? Does it make sense to try to bring foreign direct investment (FDI) to the WTO –as the EU pretends- and ignoring what can (or does) really create deep instability in the global economy: the volatility of short-and-medium term capital movements that are not linked to FDI? Wouldn't it be better to face the fact that the stability and expansion of international trade depends more on the availability of international liquidity and the existence of adequate and stable means of financing current account deficits than on the incremental reductions of tariffs? Wouldn't it be better for the European Union, before insisting so much in bringing FDI to the WTO, analyse how and why all of its member states violate the provisions of the bilateral agreements they have signed with third countries<sup>16</sup>? Wouldn't it be more useful to recognise that there is somehow a “missing leg” (or alternatively “two wooden legs”) in the multilateral system as far as movements of capital are concerned instead of trying to bring it through the back door to a World *Trade* Organisation?
- 4.- What should be done about agriculture? On the one hand, is it acceptable for the EU to *simultaneously (and alternatively in the argumentation) play* the card of multifunctionality and the card of the great exporting power that must continue sharing in the possible expansion of international trade in agricultural goods? On the other hand, does it make sense that something as stabilising for the global economy and politics as the entry of China into the WTO be put at risk just because of agricultural policy?
- 5.- What to do with the relationship between trade, investment and the “new subjects”, in particular environment and social and labour standards? If the insistence of industrialised countries in bringing it (or bringing it in a stronger and broader sense) to the WTO is probably not correct (as well as unsuccessful and, as a consequence, unhelpful), isn't it, at least, equally wrong to refuse to seriously discuss it anywhere? Shouldn't a *serious* initiative be launched to discuss it *outside* the WTO?

## APPENDIX

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<sup>16</sup> A single idea will illustrate the point: why the Community and their member states are so careful not to make certain commitments concerning national treatment in multilateral fora while not introducing any exception on this question in the bilateral treaties. Marina Solé, from the Observatory of Globalisation, is writing a paper on this question.

The recently signed Treaty of Nice, to be ratified in 2001 and 2002, modifies art. 133 (former art. 113) of the European Community Treaty (ECT), that establishes the division of competencies between the European Community and member states in matters of trade and other related areas. The new provisions are different from the ones discussed in preparatory meetings and were improvised after midnight and after three uninterrupted days and nights of meetings of the European Council. It is thus no surprise that their drafting became so cumbersome, repetitive, confusing (not to say contradictory) and, in any case, so difficult to interpret and to apply.

The general idea seems to be to extend the Community's exclusive competency to all areas covered by the WTO, but member states would continue to predominate on foreign investment outside the services sectors as well as on audiovisual services (and they would not completely lose their ability to finalize bilateral agreements). Furthermore, a requirement of unanimity for Council decisions has been introduced in some cases, while in the past, the rule of qualified majority voting always applied, in all cases, to Community action on the basis of art. 133, former art.113, ECT.