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**Divided but United:  
European Trade Policy Integration and  
EC-U.S. Agricultural Negotiations  
in the Uruguay Round\***

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**Abstract**

How has the integration of trade policy and negotiating authority in Europe affected the external bargaining capabilities of the European Community (EC)? This paper analyzes the bargaining constraints and opportunities for the EC created by the obligation to negotiate as a single entity. The nature of demands in external negotiations, the voting rules at the EC level, and the amount of autonomy exercised by EC negotiators contribute to explaining, this paper argues, whether the EC gains some external bargaining clout from its internal divisions and whether the final international agreement reflects the position of the median or the extreme countries in the Community. The Uruguay Round agricultural negotiations illustrate the consequences of the EC's institutional structure on its external bargaining capabilities. Negotiations between the EC and the U.S. were deadlocked for six years because the wide gap among the positions of the member states at the start of the Uruguay Round had prevented the EC from making sufficient concessions. The combination of a weakened unanimity rule and greater autonomy seized by Commission negotiators after the May 1992 reform of the Common Agricultural Policy made possible the conclusion of an EC-U.S. agricultural agreement. Although the majority of member states supported the Blair House agreement, the reinstating of the veto power in the EC and the tighter member states' control over the Commission eventually resulted in a renegotiation of the U.S.-EC agreement tilted in favor of France, the most recalcitrant country.

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## **Divided but United: European Trade Policy Integration and EC-US Agricultural Negotiations in the Uruguay Round**

The European Community (EC)<sup>1</sup> has long displayed a powerful external personality in international trade negotiations, unlike its lack of an effective presence in the diplomacy and security realms. By joining the Community, the member states formally relinquish their power to negotiate as autonomous actors in international trading talks. Instead, they first have to agree on a common bargaining position, which Commission negotiators then carry out at the international level. In theory, Europe's international negotiating position could be expected to be as much weakened by the addition of a supplementary level of bargaining and the ensuing internal battles, as it is strengthened by the combination of forces of all member states. How has the integration of trade policy in Europe actually affected the external bargaining capabilities of the EC?

The behavior of the EC in international trade negotiations is characterized by a constant tension between the need to take into account the internal divergences among member states and the obligation to present a common front internationally --the EC is divided but united. How does the combined negotiating effort by the EC affect the final compromise reached at the international level? This chapter analyzes the bargaining constraints and opportunities for the EC created by the obligation to negotiate as a single entity and assesses which country has the most to gain or lose by negotiating as part of an indivisible whole when its interests diverge from those of its partners. It argues that the internal decision-making structure of the EC affects the process and outcome of its negotiations with third countries. The voting rules at the EC level and the amount of autonomy exercised by EC negotiators are central to determining whether the final international agreement reflects the position of the median or of the most extreme member state. Moreover, this chapter argues that the institutional structure of the EC determines its effectiveness as an international actor. The commonly held belief that unity brings strength suggests that the EC's institutional structure undermines its external negotiating position because it allows the expression of divergent interests. This chapter finds instead that, under certain conditions, internal divisions over the negotiating

mandate and the ratification requirements of the agreement can play to the advantage of the EC in international negotiations.

The EC-US negotiations on agricultural trade liberalization in the Uruguay Round of GATT (General Agreement on Tariffs and Trade) provide a good illustration of the impact of the EC institutional structure on its external bargaining capabilities, because the EC's international negotiating efforts took place through a series of formal and informal institutional changes in the Community. In this case, an agreement was negotiated in good faith between representatives of the US and the Commission acting as the EC's sole voice. The agreement was then reopened by the outlying member state because the European negotiating authority was contested. This debate triggered a crisis in the EC about the legitimacy of the Commission's representation and a questioning of Europe's trade policy practices. The final EC-US agricultural accord in the Uruguay Round was partly shaped by the most recalcitrant country reclaiming the veto right and tightening the member states' control over the Commission in the later stage of the negotiations.

The first section of this chapter analyses the rationale behind trade policy integration in the EC and retraces the evolution of the sharing of competences on trade issues between the member states and the Commission. Section two explores the impact of the EC institutional structure on its external bargaining capabilities and analyses how the Community being "divided but united" affects the outcomes of international trade negotiations. The third section explains the conclusion of the "Blair House agreement" in 1992 after years of unsuccessful negotiations by focusing on the bargaining autonomy seized by Commission negotiators, while the subsequent reinstating of veto power and limitation of the Commission's autonomy are used to explain the eventual renegotiation of the agreement. The Conclusion examines the institutional changes in EC trade policy making brought about by the experience of the Uruguay Round negotiations and suggests how these changes might affect EC bargaining capabilities in the future.

## **Section 1: Negotiating as One on Trade Issues**

External trade has been the longest integrated policy in the EC, and the competence to hold international trade negotiations has been granted to the Commission since the 1960s. Yet member states still contest this devolution of negotiating power to the supranational authority when it does not serve their immediate national interests, resulting in internal crises in the EC and in confusion for the negotiating partners.

### *The EC as an International Trading Actor*

The early integration of its trade policy enabled the EC to become not only a trade giant but also an effective actor in international trade negotiations. At its inception the EC was conceived primarily as a common trading area with external borders. The Common Market founders devised a common external tariff and a set of common rules to protect these external borders. Trade policy has always been the exclusive competence of the Community. It is carried out by the Directorate General for External Relations (DG I) of the Commission. Member states successively added new trade policy instruments to defend the Community against unfair trade practices and unilateral measures from other trading partners, mostly the US and Japan. The latest reform of EC trade policy, following the conclusion of the Uruguay Round in 1994, established that decisions on the use of trade policy instruments, such as anti-dumping rules, are now taken by the Commission unless a qualified majority of member states opposes it.

### *Reaching a Common EC Bargaining Position*

The member states of the EC also integrated their trade negotiating authority from the beginning. Under Article 111, the Council of Ministers was to take bargaining positions under unanimity until January 1966, the end of the transitional period. Qualified majority voting would have been automatically instituted after this date, had France's De Gaulle not paralyzed the functioning of Community institutions with the "empty chair" crisis during the Kennedy Round. The crisis resulted in the "Luxembourg Compromise," a gentleman's agreement according to which an individual member state could veto a decision otherwise taken according to qualified majority if vital national interests were at stake.

The subsequent addition of new member states since 1973 (including Great Britain and Denmark at the outset of the Tokyo Round and Spain and Portugal at the outset of the Uruguay Round) increased the divergence of interests within the EC and rendered even more difficult the task of reaching a common bargaining position for international trade negotiations.

Negotiating mandates for international trade negotiations are elaborated successively by the Commission and the Council. During the Uruguay Round negotiations, the EC bargaining proposals were first developed by the External Affairs (DG I) and Agriculture (DG VI) directorates of the Commission. They were then examined by the "113 Committee,"<sup>2</sup> composed of senior civil servants from the member states, including representatives from the ministries of agriculture and trade. Proposals, once approved by the committee on a consensual basis, were transmitted to the Committee of Permanent Representatives (COREPER) and subsequently to the General Affairs Council, which then handed out a negotiating mandate to the Commission.

Formally, the Council decides on the negotiating mandate under qualified majority, according to Article 113. In practice, however, the aggregation of the divergent interests of the member states into one single bargaining position still follows unanimity. Decisions are not adopted if a country, especially one of the three major countries, firmly opposes it. Even during the height of the crisis created by French demands for a renegotiation of the Uruguay Round agricultural agreement between the EC and the US in 1993, member states insisted that the tradition of unanimity be not broken.

#### *A European "Fast-Track" Procedure for International Trade Negotiations?*

While the Council agrees on the negotiating mandate, the actual conduct of the negotiations is carried out by members of the Commission.<sup>3</sup> In principle, as long as they remain within the directives set by the Council, Commission negotiators are free to conduct bargaining with third countries as they wish and to conclude agreements. In the end, the Council approves or rejects the trade agreement. Sir Leon Brittan, the Commissioner for External Affairs during the last year of the Uruguay Round, likes to compare this procedure to the American "fast track," under which Congress delegates full authority to negotiate international trade agreements to the Executive (within set

negotiating limits) and then votes the final agreement up or down without the possibility of amendments.<sup>4</sup>

Yet not everyone in the Community shares this interpretation of the division of competences between the national and supranational authorities. While the Commission promotes this "fast track" version in order to gain crucial flexibility during negotiations, several member states wish to exert tighter control over the EC negotiators' every move. In the last months of the Uruguay Round, for instance, Commission negotiators had to report to the member states about the progress of the negotiations every two weeks and the final agreement was presented to the Council before the Commission could conclude it. The negotiating autonomy of the Commission was in effect limited.

The practice differs once again from the letter with respect to the final adoption of trade agreements. While in theory the Council adopts trade agreements on a majority basis, unanimity is required in practice. One of the secret conclusions of the September 1993 Council was to approve the final Uruguay Round agreement unanimously. Even though the Community legally speaks with one voice, the customary member states' consensus and limited Commission autonomy have definite consequences on the EC's bargaining capabilities in international trade negotiations.

## **Section 2: Divided but United: Impact of EC Institutional Structure on International Negotiations**

Member states have committed to tie their trade policy fate to their EC partners and to transfer bargaining power to the supranational Commission in the hope of deriving some external negotiating benefits from combined action. Yet the institutional structure of the EC, which often necessitates consensus to aggregate the divergent interests of the member states into a coherent whole, is traditionally assumed to handicap the EC in international negotiations.<sup>5</sup> The internal EC divisions and the political process through which they are mediated are visible to the EC's negotiating opponents, which can sometimes use them to their advantage. This section explores the impact of the EC

institutional structure on its external bargaining capabilities and presents the various negotiating outcomes that can result from the Community being "divided but united."

### *EC Institutional Structure as Bargaining Handicap*

"Let's unite. And the world will listen to us" was an ad campaign used to mobilise the pro-European camp in France during the 1992 referendum on the Maastricht Treaty on European Union.<sup>6</sup> This slogan referred as much to foreign policy as it did to trade policy, recalling the traditional assumption that integration would enable the European Community to talk on an equal footing with the United States. The rationale is that unity brings strength, and therefore that European integration and Europe's external bargaining capabilities are positively correlated. In other words, the stronger the EC is internally, the stronger the EC gets externally.<sup>7</sup> Internal division is thus considered a bargaining handicap. When its unity is disrupted, it becomes difficult for the Community to be internationally credible and manage to prevail over its negotiating opponents. When the Community's division is apparent to the world, it becomes easier for third countries to drive a wedge between member states and exploit internal EC disagreements to the advantage of others.

Proponents of the view that internal unity brings external strength, found in media articles or in talks with Commission officials, suggest that the cumbersome EC institutional structure can ease the way for the negotiating opponents' gains. Their solutions for fixing these institutional handicaps involve further devolution of authority to the supranational institutions. Hugo Paemen, who was chief EC negotiator during the Uruguay Round, identified three "fundamental institutional flaws" of the EC in his own account of the negotiations.<sup>8</sup> First, the decision-making procedures tend to produce a bargaining position that is the lowest common denominator of all member states' positions. This prevents the Community from making innovative proposals and therefore from having a lot to offer to its negotiating opponent in order to extract concessions of a similar nature.

Second, the institutional design of the EC deprives Community negotiators of one crucial bargaining element: uncertainty. Because each member state reveals its position during Council meetings and a negotiating mandate setting the limits within which

Commission negotiators are allowed to proceed has to be agreed on, the Community cannot hide its bottom line. According to Paemen, this is a major handicap that seriously impairs the European Community's negotiating capability.

Every single handbook on the psychology of negotiation says that maintaining uncertainty about what constitutes one's acceptable minimum is crucial to success. Many tactics have been devised over the centuries to maintain or even augment this element of uncertainty. The room for manoeuvre available to the negotiator is exactly equal to the difference between the perceived acceptable minimum and the real acceptable minimum. But because the European Community has to debate its negotiating stance in the Council, it might as well discuss its tactics in the marketplace. The twists and turns of the procedure are plain for all to see. As for the documents, the "parallel distribution system" is so efficient that all the most important papers regularly come into the possession of those who really have no right to see them... Before long, the room for manoeuvre available to the Community negotiators dwindles to zero.<sup>9</sup>

Finally, the Community is ill-equipped to act swiftly in the final hours of a negotiation, when agreements are always hammered out. Between the necessity to shuttle the proposals back and forth between the Commission negotiators and the member states and the limited size of the EC negotiating staff, it is extremely difficult for the Community to negotiate effectively with a deadline pending. During the Uruguay Round Frans Andriessen, the Commissioner responsible for external relations, warned that "[the Community's partners] suspect our political determination, our resources, human or otherwise, or our decision-making capacity will be unable to deal at the same time with all the issues confronting the Community at that moment..."<sup>10</sup>

When the system works properly and divergences between member states are smoothly blended into a single negotiating position, the EC institutional framework is also expected to have positive effects. An integrated policy can indeed improve the odds of reaching an international agreement. The EC acts as a facilitator and makes international agreements possible when stalemate would have probably resulted otherwise because it allows internal divisions to be overcome before negotiations with third countries are conducted. This argument suggests that internal EC divisions serve only to stall international negotiations. As long as member states have not resolved their disagreements, the Community cannot make a negotiating offer. Only by enabling divisions to be overcome faster and more smoothly, for instance through majority voting, could the EC act as a facilitator of international agreements.

### *Impact of a "Divided but United" EC on International Trade Negotiations*

This chapter agrees that internal EC divisions inevitably result in paralysis of the international negotiations, since the unitary character of EC external bargaining makes any negotiating move impossible as long as the member states have not reached a prior internal agreement. The central argument is that instead of being a pure handicap, the institutional structure used to coalesce the divergent interests of the member states into a cohesive whole has a definite impact on the content of the final agreement reached with the third country. Moreover, contrary to the standard assumption propagated by the European press and the EC Commission, this chapter argues that, under the right conditions, the EC can use each of its "institutional flaws" strategically in order to gain concessions from its negotiating opponent. As Thomas Schelling suggested in *The Strategy of Conflict*, having one's hands tied internally can be useful for extracting concessions externally and the "power to bind oneself," for instance through inflexible negotiating instructions and divisions highly visible to the opposite party, can confer strength in negotiations<sup>11</sup>.

The well-known principle that one should pick good negotiators to represent him and then give them complete flexibility and authority --a principle commonly voiced by negotiators themselves-- is by no means as self-evident as its proponents suggest; the power of a negotiator often rests on a manifest inability to make concessions and to meet demands. Similarly, while prudence suggests leaving open a way of escape when one threatens an adversary with mutually painful reprisal, any visible means of escape may make the threat less credible. The very notion that it may be a strategic advantage to relinquish certain options deliberately, or even to give up all control over one's future actions and make his responses automatic, seems to be a hard one to swallow.<sup>12</sup>

The EC possesses a multilevel institutional set-up, shaped by the need to reconcile the conflicting demands of each member state, themselves determined by the conflicting demands of various domestic groups, before EC negotiators can reach international agreements. As Schelling's analysis suggests, the EC can use strategically its internal divisions over the negotiating mandate and the ratification requirement of the external agreement in international negotiations. I argue that when the Community is put in a "defensive" position where the negotiating opponent demands change in EC policy, the voting rules at the EC level and the amount of autonomy exercised by EC negotiators contribute to explaining whether the EC gains some external bargaining effectiveness from its internal divisions and whether the final international agreement reflects the

position of the median or deviant member states. This argument holds even if the majority of member states would prefer to depart from the status quo.

*Voting rules.* If the divergent interests of the member states are not mediated and each country possesses the power of veto, the terms of the final agreement are dictated by the most reluctant country. The practice of unanimity means that the negotiating position adopted is the lowest common denominator. In this case, it takes only one deviant country to block progress in the negotiations and the consensus can only occur around that country's position. The threat of having one outlying country eventually overturn the international agreement makes the other member states prefer to settle on this country's position, rather than being left with no agreement at all. Once the Community has adopted this position as its own, the institutional impossibility to alter it, also known to the negotiating opponent, makes the EC a very tough bargainer since it cannot deviate from its offer. Therefore, the negotiating opponent has to make concessions acceptable to the most reticent state in order to avoid complete failure of the negotiations. In that sense, unanimity reinforces the bargaining strength of the EC. By contrast, if majority rule is implemented, the terms of the final agreement satisfy the median rather than the deviant countries. The EC cannot use its institutional features (or "handicaps") as bargaining leverage. Internal divisions are more conducive to gains for the negotiating opponent, as it can use a "divide and rule" strategy or reward some member states for their positions.

*Commission autonomy.* The degree of autonomy granted to Commission negotiators also contributes to determining the process and outcomes of international trade negotiations. The Commission's negotiating autonomy can be limited by the requirement to constantly report to the member states and await further negotiating instructions. In this case, negotiators have very little room for manoeuvre, which enhances the credibility that the offer made is of a "take it or leave it" form, prompting the negotiating opponent to make concessions for fear of being left with no agreement at all. However, there are also cases where the Commission seizes more negotiating autonomy. Indeed, the authority of the Commission is a day-to-day struggle, where Commission representatives attempt the delicate balance of exercising as much autonomy as possible without ever asserting it so much that it provokes a backlash from the member states worried about their own sovereignty.<sup>13</sup> In this case EC negotiators work within the

limits set by the negotiating mandate agreed to by the Council of Ministers but are left free to conduct the bargaining as they wish until the final agreement is submitted to the member states for approval. This procedure is closer to the American "fast track" used as a model by Commission officials. Negotiations proceed faster and are more likely to lead to a final agreement, but the partial removal of the internal constraint (it is less plausible that a member state will veto the whole agreement instead of several individual elements of the agreement) deprives EC negotiators of some key leverage over their opponents.

In practice, Commission autonomy and voting rules are most often positively correlated. Commission negotiators have more autonomy when integration is deep and decisions are made according to the majority rule. When unanimity is used, the member state holding the extreme position tends to keep a tight leash on the Commission to ensure that the negotiating mandate is respected.

### *EC Negotiating Capabilities in Practice*

The behavior of the EC in international trade negotiations has been characterized by a constant tension between the need to take into account the internal divergences among member states and the obligation to present a common front internationally --the EC is divided but united.

In practice, the EC has successfully reached many international trade agreements on non-conflictual issues when its bargaining position easily converged with that of its negotiating opponent or when trade-offs between sectors were possible, such as the successive reductions of industrial tariffs since the 1960s and the agreement on services during the Uruguay Round. There have been a few conflictual cases in which the EC went on the offensive, trying to pry open the US or Japanese markets, such as with the reciprocity demands of the original Second Banking Directive in 1988 and the third-country provisions of the Utilities Directive on public procurement in 1990.<sup>14</sup> Except for these few often unsuccessful market-opening efforts, however, the vast majority of conflictual trade negotiations in which the EC participated has involved preserving the status quo while deciding on a unanimous basis. Agriculture has provided the bulk of EC-US trade disputes, but other issues such as broadcasting and civil aircraft have also been much publicized.

The EC-US agricultural negotiations in the Uruguay Round provide a particularly good illustration of the external consequences of the EC's institutional structure in a "defensive" situation. These negotiations were representative of EC behavior in most conflictual trade negotiations, with the defensive attitude combined with the "extremism" of one stubborn member state. As in the EC-US agricultural negotiations in the Kennedy and Tokyo Rounds of GATT, the EC position reluctantly crystallized around French demands for preserving the status quo in agriculture. At the same time, the Uruguay Round agricultural negotiations provide some unusual contrast between the apex of Commission autonomy versus the subsequent reining in of the Commission negotiators and between the institutional confusion following the Single European Act versus the subsequent reinstatement of veto power.

Of course many factors influenced the EC-US agricultural negotiations in the Uruguay Round, including domestic politics and interest group pressure, trade-offs between sectors, and side-payments. The following case-study shows, however, that the EC's institutional structure also influenced the Uruguay Round negotiations because it determined in part the bargaining position of the EC. The evolution of the autonomy exercised by EC negotiators and the practice of unanimity voting contributed first to the conclusion of the EC-US agricultural agreement and later to its exceptional renegotiation.

### **Section 3: EC-US Agricultural Negotiations in the Uruguay Round**

It took the European Community and the United States six years to reach the so-called "Blair House agreement" on agriculture because the wide gap between the positions of the member states at the start of the Uruguay Round had prevented the EC from making sufficient concessions. The decision to finally undertake a reform of the Common Agricultural Policy in 1992 paved the way for an agricultural agreement with the United States. The Blair House agreement on agriculture was really made possible, I argue, by the combination of a weakened unanimity rule and greater autonomy seized by Commission negotiators. Blair House represented a turning point for the delegation of negotiating authority to the supranational representatives, however. The subsequent limitation of the Commission's negotiating autonomy and reaffirmation of unanimity as

the mode of decision-making in the Community eventually resulted in a renegotiation of the US-EC agricultural agreement.

### *Deadlocked Negotiations*

Negotiations between the EC and the US on agriculture made no notable progress for six years because the wide divergences about agricultural liberalisation between the member states paralyzed the EC's bargaining potential and enabled only a perpetuation of the status quo.

*Initial negotiating demands.* The initial impetus for the Uruguay Round was American. The US wanted to bring trade in services within the multilateral system, strengthen GATT rules and disciplines, and once and for all tackle agricultural liberalization. Agricultural trade disputes between the US and the EC intensified in the early 1980s, while each side retaliated with the imposition of costly protectionist measures. Between 1981 and 1986 US agricultural exports declined in both volume and value, while the EC performed well, largely because of the Common Agricultural Policy (CAP)'s export subsidy program. In retaliation, the United States Department of Agriculture established in May 1985 the Export Enhancement Program, which distributed government subsidies to US exporters, while Congress provided for lower loan rates to US agricultural exporters. In response, the EC further increased its compensation to European producers. In 1986, US and EC domestic agricultural support programs were estimated at about \$25 billion each. The central US objective in the Uruguay Round was to get rid of the CAP because the US-EC "subsidy war" was becoming too expensive.

The EC first rejected the concept of a new round of multilateral trade negotiations when the US introduced the idea in 1982. The reopening of agricultural talks just four years after the conclusion of the Tokyo Round had the potential for being highly divisive within the Community. The ten, and then twelve EC countries had extremely divergent interests with respect to agriculture. Great Britain and the Netherlands, both net financial contributors to the CAP, hoped that the multilateral negotiations would provide an "external push" enabling the EC to slow the increasing costs of the CAP. Other member states, above all France but also to some extent Belgium, Ireland, Italy and Germany, wanted to keep a high degree of agricultural protection in Europe. As Europe's first and

the world's second agricultural exporter, France was particularly adamant about maintaining the current system of export subsidies and protected market access for agricultural products, especially given the importance of the rural vote in French domestic politics.<sup>15</sup> The breakthrough enabling the EC to finally accept the launching of a new round of multilateral trade negotiations occurred when France, a major services provider, agreed in March 1985 to discuss agriculture in exchange for the inclusion in GATT talks of its most important concerns, such as liberalisation of investment and services, the issue of exchange rate fluctuations, and the "rebalancing" of former privileges.<sup>16</sup>

Given these "centrifugal forces,"<sup>17</sup> the EC's position on agriculture was extremely defensive. Although several member states hoped for a major agricultural reform, the only common position on which the EC could initially agree was to demand a preservation of the status quo, thereby paralyzing the international negotiations, in the hope that an internal agreement would eventually be reached. Therefore, the EC entered the Uruguay Round with a very defensive agricultural position, whose central objectives were temporarily to preserve the status quo and ensure that the fundamental principles of the CAP would not be jeopardized.

The US was first to officially put up its negotiating proposal before the GATT group dealing with agriculture in July 1987. It called for a complete elimination of all subsidies in agriculture by the year 2000 --a negotiating position called the "zero option" by analogy to ongoing arms control negotiations.<sup>18</sup> It also demanded a phase-out over ten years of the quantities exported with the aid of export subsidies and a phase-out of all import barriers over ten years.<sup>19</sup> The EC was taken aback by the extreme nature of the American negotiating proposal and did not submit its own proposal until late October, reiterating its initial plea for short-term measures, non-negotiability of the CAP, and reduction of all forms of support. A divided Community was ready to make some concessions on the issue of domestic support, but was unable to offer anything on either market access or export subsidies.

*Negotiating stalemates.* The wide gap separating the US and EC positions and the inability of the EC to offer concessions going beyond its lowest common denominator led to a series of negotiating stalemates, which almost terminated the Uruguay Round

altogether. The December 1988 Montreal ministerial meeting, initially conceived as a mid-term review for the Uruguay Round, ended in failure because there was no room for compromise between two widely opposite positions. Some progress was made in early 1989 after a new US negotiating team, headed by Secretary for Agriculture Clayton Yeutter, gave a lot of ground in order to quickly reach an agreement on agriculture, but a series of crises throughout 1990 slowed down progress in the negotiations. It seemed that EC negotiators "evidently assumed that, as in past GATT rounds, agriculture would be taken off the table before the end of the negotiations."<sup>20</sup>

The Commission, however, was resolved to cut back agricultural support, which was costing up to 60% of the total EC budget. The Agriculture Council rejected the Commission's agriculture proposal in September 1990 for going too far. Most ministers vigorously defended their farmers' interests in Brussels, especially Germany which was in the midst of reunification. The Council adopted a much watered-down text in November, which proposed a 30 percent cut in domestic support over five years, to be calculated from 1986, as well as a correcting mechanism to take into account currency fluctuations and improved conditions for export competition.

The EC representatives' lack of negotiating autonomy prevented a successful conclusion of the Brussels ministerial meeting of December 1990, originally intended to close the Uruguay Round. After an initial crisis triggered by an American ultimatum, Renato Ruggiero, the Italian trade minister and president of the Council, asked the Commission to continue the negotiation while exercising "a degree of flexibility in keeping with the spirit of its mandate." "In the bustling microcosm of the Heysel, the news travelled fast. The Commission had been granted flexibility!"<sup>21</sup> The US and other countries agreed to a compromise by Swedish Agriculture minister Mats Hellström, which proposed a reduction of 30 percent in export subsidies, import restrictions, and domestic supports from 1990 levels to be implemented over five years. Ray MacSharry, the Agriculture Commissioner, tried to use up this flexibility, but in the end the Hellström proposal proved to be beyond the Commission's negotiating mandate. The Brussels meeting consequently collapsed and participants criticized the crucial lack of flexibility of EC negotiators.

Negotiations made no progress until December 1991 when Arthur Dunkel, the Director General of GATT, drafted a proposal providing specific terms for reductions in export subsidies, domestic support, and import restrictions. Most countries accepted the Dunkel Draft as a basis for the final agreement on agriculture, but the EC Council rejected the text for several reasons.<sup>22</sup> Dunkel also introduced the principle whereby no amendment to his draft would be taken into consideration unless the proposing country had held informal negotiations beforehand with the other parties and obtained their support. For the European Community, this meant that a bilateral pre-agreement on agriculture had to be concluded with the US.

*Capping the CAP: the 1992 reform.* The US-EC agricultural negotiations were put on hold while the EC, facing increasing isolation internationally and rising budgetary pressures, undertook an internal reform of its Common Agricultural Policy. By redefining the negotiating mandate, quieting internal divisions and granting more flexibility to Commission negotiators, this reform enabled the bilateral negotiations to move forward and eventually result in an agreement.

On May 21, 1992, after a year of intense debate, the EC Council of Ministers adopted a revolutionary reform of the CAP, which capped production, entailed a substantial reduction in support prices (to be compensated by aids) and set-aside land from production. Unlike the negotiations in GATT, however, the reform did not address the crucial issues of market access and export subsidies. Agriculture Commissioner Ray Mac Sharry played a very active role in setting the agenda for a CAP reform, designing the actual reform, and getting it approved by the Council. The Commission wanted a reform in order to avoid a budgetary crisis and diffuse internal criticism of the EC's wasteful and protectionist policies. The Commission also hoped to derive a more flexible negotiating mandate from the reform in order to successfully reach a deal with the US. Countries reluctant to change in the functioning of the CAP, such as France, eventually agreed to the reform because the combination of budget constraints, Commission agenda-setting and outside pressures made such a reform inevitable.<sup>23</sup> France could also use the strategic advantage of locking in the CAP reform now to avoid making further concessions to the US later.

European and American officials disagreed over the meaning of the CAP reform. European policy-makers argued that this reform represented the upper limit of changes that the EC could make to its agricultural policy. By contrast, the US argued that the reform was an internal EC matter, addressing only the issue of internal support. It was interpreted as the basis for a future US-EC agreement that would also include provisions on market access and export subsidies. Above all, the US wanted to avoid rigidity in the European position and therefore rejected EC attempts to "lock in" a negotiating position by reaching internal agreements first --that is, having its "hands tied" by a prior internal agreement, in Schelling's words. When EC negotiators first demanded reciprocal concessions as a result of the CAP reform, Carla Hills, the United States Trade Representative (USTR), suggested instead several ways in which the reform could be expanded to deal directly with the issues in the trade talks.<sup>24</sup>

US-EC agricultural negotiations were stalled for many years because divisions between the member states had prevented the EC from departing from its defensive bargaining position. The absence of a real institutional mechanism to settle internal differences and the lack of autonomy granted to EC negotiators resulted in paralysis of the negotiating process. The CAP reform broke the long deadlock in the negotiations because it forced the member states to reach an internal agreement and therefore define a common position. The reform delimited the Commission representatives' new negotiating mandate. The CAP reform also enabled the bilateral negotiations to move forward and eventually result in an agreement because in effect the vagueness of the new mandate granted more autonomy to Commission negotiators.

#### *Internal Divisions, Commission Autonomy and Conclusion of the Blair House Agreement*

Negotiations between the US and the EC accelerated after the adoption of the CAP reform, leading to the so-called "Blair House" agreement of November 20, 1992, which almost brought the Uruguay Round negotiations on agriculture to a successful end. The combination of a weakened unanimity rule and greater autonomy seized by Commission negotiators made the conclusion of the agreement really possible.

*Internal EC crisis.* A series of intense bilateral negotiations on agriculture at high political level started in Brussels in October 1992. It failed to produce results as France pressured the Community to make new demands and brandished its veto threat, suggesting that the Commission negotiators were going beyond their mandate as defined by the CAP reform.<sup>25</sup> The US responded to the failure of the negotiations by linking the oilseeds dispute to the ongoing discussions and menacing the EC with a full-blown trade war.<sup>26</sup> Carla Hills announced a retaliatory 200 percent punitive tariff on \$300 million of European food imports effective December 5 if the EC did not reduce its oilseeds production from 13 to 8 million tons. By targeting French, but also German and Italian products for retaliation, the US was trying to capitalize on internal divisions in the EC and hoped to increase the member states' pressure on France.

Negotiations resumed in Chicago on November 2 and 3 in this tense bilateral context, although the American administration was particularly eager for a deal that would come before the presidential election. The talks did not produce any progress in the bilateral negotiations but resulted in a major internal crisis in the Community. Before concluding a deal, American negotiators wanted to ensure that the agreement negotiated by the Commission representatives would be supported by the Council. In a surprise move, Agriculture Commissioner Ray MacSharry offered proof of the Council's likely support in the person of Mr. John Gummer, the British president of the Agriculture Council, who was secretly in Chicago to monitor the talks and assured US Agriculture Secretary Edward Madigan that the EC would back the deal.<sup>27</sup> This created a scandal in EC circles: "The Commission and the presidency were going behind the backs of their Community partners in order to stitch up the deal!"<sup>28</sup> That same evening, Commission President Jacques Delors told MacSharry that the agreement being negotiated would be voted down in Brussels because it was too costly for the Community and exceeded the Commission's negotiating mandate. Denouncing Delors' interference and infringement on the negotiators' autonomy, MacSharry presented his resignation from the Commission on his way back to Brussels.<sup>29</sup>

This internal EC crisis influenced the course of subsequent EC-US negotiations, even though Delors and MacSharry settled their differences a couple of days later (with MacSharry returning to his post as Agriculture Commissioner). Beyond a conflict of

personalities, the crisis revealed that the EC institutional system was not functioning properly. According to a Commission official, "the Commission does not meet anymore, leaving the Commissioner in charge of the negotiation to act as he wishes. In other words, it is a mess. We have been in free wheel for two years."<sup>30</sup> The crisis further revealed the extent of internal divisions in the EC, not only between the member states but also between and within the various EC institutions. As a French analyst wrote at the time,

[In Chicago] the Americans understood that their adversaries were at loggerheads. As long as the American offers were too remote from their own proposals, divergences between the Europeans were of no consequence. (...) But on November 2 and 3, the Americans witnessed the explosion of European divisions. (...) The Commission and its Commissioners are divided on the opportunity of counter-retaliatory measures. The Americans now have everything to gain from an immediate resumption of the negotiations."<sup>31</sup>

The US administration reinforced its pressures on the EC through vigorous threats of retaliatory sanctions, in the hope of exploiting the obvious lack of cohesiveness in the EC by forcing the member states favorable to its views to simply disregard the outliers and reach a bilateral agreement. The US attempted to obtain a favorable agreement by playing the "divide and rule" strategy.

Internal EC divisions appeared even more clearly in the following Council meetings. On November 9 EC foreign ministers denied French demands for European retaliation against US trade sanctions. At the Agriculture Council of November 16 expected to adopt a common position for the GATT negotiations to resume that week, an isolated France tried to convince the other member states that the proposed agreement with the US was going far beyond the CAP reform. MacSharry did not answer France's question about the compatibility with the reform and proceeded with a new round of bilateral talks.

*The Blair House agreement.* On 18 and 19 November 1992, MacSharry and External Affairs Commissioner Frans Andriessen met with Madigan and Hills in the Blair House residence in Washington. After a series of proposals and counterproposals, MacSharry enabled a breakthrough in the negotiations by offering a reduction of 21% in the volume of subsidised exports. "Frans Andriessen was surprised: he had had no advanced warning of this. Moreover, he knew that it would cause serious problems for some member states, not least 'the one he knew best'--the Netherlands. After a few

seconds' hesitation, he gave his support to MacSharry's proposal."<sup>32</sup> The talks later broke down when the US team needed to consult internally and the Community delegation went back to Brussels, but the agreement was concluded by phone the next day.

The Blair House compromise provided for a 20 percent reduction in internal price support over six years, with the years 1986-88 as reference, but with an exemption from these cuts for US deficiency payments and EU compensation payments. On the controversial issue of export competition, the compromise provided for a reduction of export subsidies in agriculture by 21 percent in volume (and not 24, as in the Dunkel Draft) and 36 percent in budget over six years, using 1986-1990 as the base period. Finally, European and American negotiators agreed to a "peace clause" that would exempt from trade actions those internal support measures and export subsidies that do not violate the terms of the agreement. A separate deal on oilseeds was also concluded, ending several years of EC-US disputes and GATT litigation and cancelling the promised US trade sanctions against the EC.

The increased autonomy seized by the EC negotiators, which made the Blair House compromise possible, was apparent from the beginning of the talks. When MacSharry agreed to return to the talks as Agriculture Commissioner, newspapers reported that he was given a "free hand."<sup>33</sup> As Andriessen was entering the actual negotiations, he told reporters that he was flexible in his position, shouting: "The message from Brussels? Go ahead and make a deal!"<sup>34</sup> American negotiators were also very self-conscious that the EC representatives had a fairly broad mandate and adequate flexibility to negotiate.<sup>35</sup> "Madigan, speaking with reporters as he entered the Blair House, where the talks were being held, said that the EC negotiators reportedly were coming to the talks with "enhanced flexibility."<sup>36</sup>

The autonomy of EC representatives during the Blair House negotiations, which took place in the absence of observers from the member states, gave rise to accusations that the Commission had negotiated the agreement in secret.<sup>37</sup> And, if we are to believe this Commission official, when pressed by representatives of the member states to give some explanation, "instead we would read the newspaper, we would leave to go to the bathroom. (...) The Commission tried to encourage secret diplomacy."<sup>38</sup> The member

states even ignored the exact content of the "ghost" compromise for several days after its negotiation.<sup>39</sup> The Commission argued that there was no formal text because the agreement was made in part by telephone and in part through exchange of notes. While the Commission held a meeting on November 20 to present the broad characteristics of the agreement, the only specific text that the member states had in hand for a week was a two-page, USTR press-release. Only a week later did the Commission finally send a ten-page document to the member states, including five pages confirming the compatibility of the agreement with the CAP reform.

The Blair House agreement was interpreted at the time as a relative negotiating success for the EC. The agreement was able to occur in spite of strong opposition from France, the most recalcitrant country, because the Commission representatives exercised a particularly high degree of autonomy during the Blair House negotiations. The combination of weakened unanimity and a greater Commission autonomy actually "freed the hands" of EC negotiators, thereby breaking the negotiation paralysis. The agreement reached reflected the US bargaining strength but served the interests of the majority of member states. The negotiating outcome would have been different, had France been able to control the EC decision-making process by a stricter unanimity rule and a tighter check kept on the Commission negotiators.

#### *Veto, Tied Hands and Renegotiation of the Blair House Agreement*

Since the vast majority of member states supported the Blair House agreement, why did the United States eventually agree to its renegotiation? This section argues that the reinstating of the veto power coupled with a tighter member states' control over the Commission led to a final bargaining outcome heavily influenced by France, the most recalcitrant country. Indeed, Blair House led to a rollback of EC supranational authority in international trade negotiations.

*French opposition to Blair House.* The French government opposed the Blair House agreement as soon as it was signed, on the grounds that it was not compatible with the CAP reform. Italy and Spain were also skeptical at first of Blair House, but only

Belgium seemed ready to support France in its demand for a renegotiation of the accord.<sup>40</sup> Fueled by violent domestic protests from angry farmers and by crucial national elections in March 1993, the French government embarked on a crusade to denounce the content of the agreement and contest the conditions under which it had been reached. Above all, French policy-makers blamed the EC negotiators who, they claimed, had exceeded their mandate. In private, French officials criticized the personalities of Andriessen and MacSharry, but they also denounced the EC institutions, which seemed to drift away from intergovernmentalism and allowed the overruling of fundamental objections by a member state.<sup>41</sup> The French goal thus became to reopen the agricultural negotiations and at the same time curb the erosion of “negotiating by consensus” and the growing autonomy of the EC negotiators.

A period of stagnation during which all the major actors changed followed the flurry of negotiating activity that preceded Blair House. Andriessen was replaced in January by René Steichen and MacSharry by Sir Leon Brittan. Mickey Kantor succeeded Hills and Mike Espy replaced Madigan when the new US administration came into office. In Germany Ignaz Kiechle, the long-time Christian Social Union (CSU) Agriculture minister known as a tireless defender of farming interests, was replaced by Jochen Borchert, a CDU member sympathetic to the Blair House agreement.<sup>42</sup> In France, after a long electoral campaign in which the protection of French farmers, the CAP reform and the opposition to the Blair House compromise were central issues, the Socialist government was overwhelmingly replaced on March 28 by a Center-Right government known for its loyalty to farmers. During the campaign, Jacques Chirac, the leader of the Gaullist party, went so far as to denounce the “foreign” EC commissioners who negotiated the deal.<sup>43</sup>

The successive French governments ardently tried to reassert the veto right in the EC in order to reject the agreement supposedly going against France’s interests. Starting in February, the socialist government officially threatened to invoke the Luxembourg Compromise against the Blair House agreement, which could provoke a major institutional crisis within the EC, not without resemblance to the “empty chair” crisis during the Kennedy Round.<sup>44</sup> Observers noted that France could have difficulty in vetoing the deal because other member states may not agree that France's vital interests

were at stake.<sup>45</sup> But the French threat to sabotage Blair House was plausible and the possibility of a veto was constantly in the minds of American negotiators, who were closely following the legal arguments in the EC about the constitutionality of a veto and the fact that the Luxembourg Compromise may no longer be applicable as a result of the 1986 Single European Act.<sup>46</sup> American officials took the threat of veto particularly seriously because the recent difficulties surrounding the Maastricht Treaty on European Union had created new uncertainties as to the future of European integration.

In April Agriculture Commissioner René Steichen tried to seek an accord on the separate oilseeds deal, which required EC endorsement independently from the rest of the Uruguay Round, but the vote was postponed until the newly elected French government had clarified its position on Blair House. The French stance was finally unveiled on May 12 in a memorandum accepting the oilseeds deal but vowing to fight the other parts of the agreement.<sup>47</sup> The memorandum disagreed primarily with the length of the "peace clause" and the concept of reducing the volume of agricultural exports; instead, France preferred to limit subsidies. The memorandum was well received in Ireland, which had hardened considerably its anti-Blair House stance throughout the spring of 1993 because it feared the consequences of the deal for the Irish beef industry.<sup>48</sup> The May 28 Agriculture Council bought off French objections to the oilseeds agreement by a generous increase in the set-aside payments for land that farmers take out of production and other concessions. On June 8 the EC foreign ministers endorsed the oilseeds deal with the US, which reduced subsidized exports by restricting the amount of land that EC farmers can sow with oilseeds.<sup>49</sup> Nevertheless, the strong opposition of the French government to the Blair House agreement dampened the celebratory mood of the oilseeds deal ratification.

*Institutional demands: new trade policy instruments.* France blamed the conclusion of the Blair House agreement on institutional flaws in the EC. French European Affairs Minister Alain Lamassoure said that EC decision-making was not working properly and the Commission's methods were unsatisfactory, ending up "with a certain confusion of responsibilities." Citing the Blair House accord, he complained about the unclear definition of competences in the Community and asked governments to ensure that the Commission stick to its negotiating mandate and that national parliaments be associated with the aims of that mandate.<sup>50</sup> The Balladur government was seeking to

regain more control over the Commission's conduct of the GATT talks. "It is necessary to recover a certain right to examine the way all this is going on so we don't find ourselves facing a fait accompli."<sup>51</sup>

The French memorandum also complained about the inadequacy of the EC's retaliatory trade policy instruments and argued that the EC decision-making process, which allows a minority of states to block use of such instruments, had to be reformed. The memorandum suggested a new commercial defense instrument that would speed up anti-dumping rules and pleaded for an improvement of the efficacy of the Community's existing trade instruments in order to match the "impressive arsenal of American unilateralism." The French goal was to change the institutional rules of the game in the EC by, on one hand, making it easier for one outlying member state to rally its reluctant Community partners to its defensive position and, on the other hand, making it more difficult for one outlying member states to resist launching a trade offensive or retaliatory action against a third country.

In June Belgium backed French demands for new trade instruments to fight unfair trade practices by third countries and for strengthening EC trade defense mechanisms. Ireland, Portugal and Spain also supported the French view, but Germany disagreed. External Affairs Commissioner Leon Brittan argued that the Community had all the instruments it needed, notably the "New Commercial Policy Instrument" introduced in 1984 and modelled after the US Section 301 procedure. What was required was the political will to use them.<sup>52</sup> From then on, limiting Commission autonomy, reinstating the veto right, and providing the EC with offensive trade instruments became intertwined with the French demands for renegotiating the Blair House agreement.

*From divided to united: France's rally for renegotiation.* The US administration made clear that it had no intention of reopening Blair House and treated the renegotiation issue as an internal EC matter. The Commission and all member states, with the exception of France and Ireland, also opposed the renegotiation of a deal that had been legitimately agreed to by the EC representatives. "Opening up Pandora's Box," in Commissioner Steichen's words, could also prove risky, because many American agricultural groups felt that the US had granted too many concessions to the EC. Finally, renegotiating Blair House could provoke a crisis in the EC about the legitimacy of the

Commission's representation, especially in the current atmosphere of mistrust of the EC created by the Maastricht debate.

France spent the next five months trying to find some allies to reopen the Blair House deal. In June Belgium offered France some welcome support by making the compatibility of the Blair House agreement with the 1992 CAP reform a priority of its upcoming presidency.<sup>53</sup> In July the French government formally requested a special "jumbo" meeting of EC foreign affairs, trade and agriculture ministers to discuss the reopening of Blair House. Despite the opposition of several member states, the Belgian government ultimately decided to organize the "jumbo Council" in order to reestablish Community coherence, fearing that France would have no remorse using its veto power if it felt isolated.<sup>54</sup> Belgium also hoped to improve confidence and communication between the Commission and the member states, in order to avoid a repeat of the crisis following the secrecy of the Blair House agreement negotiations.<sup>55</sup>

Germany played a crucial role in mediating the renegotiation crisis. The firm opposition of the German government to any reopening of the Blair House deal led to a strain in Franco-German relations, further aggravated by the currency crisis during the summer. In late August Chancellor Kohl surprised everyone, above all his own government, when he announced that Germany shared some French concerns about the Blair House compromise: "Europe should affirm its personality and identity in the trade negotiations and have the means to defend its essential interests.(...) That means the Blair House agreement in its present form is unacceptable for us (and) that Europe should have trade policy instruments that make it equal to the others."<sup>56</sup> Kohl's concessions to France were interpreted as either a trade-off for the financial crisis of the summer or as an extraordinary gesture of Franco-German solidarity.<sup>57</sup>

In a second memorandum sent to the Commission and the member states on September 1, the French government stated that the summer's monetary instability had rendered the Blair House agreement further incompatible with the CAP reform and it demanded the addition of firm protection against currency fluctuations.<sup>58</sup> France also presented a separate paper on trade policy, proposing that the Community adopt more aggressive trade tactics against unfair competition and be more efficient in the defense of

European trade interests.<sup>59</sup> More controversially, the French memorandum also called for changes in EC internal procedures to ensure national governments' closer control over the Commission during multilateral negotiations and to avoid the scarcely transparent conditions under which previous agreements, such as Blair House, were negotiated.<sup>60</sup>

The French government simultaneously revived its veto threat for the first time in months. At the same time France and Ireland engaged in heavy lobbying of their Community partners before the jumbo Council. On September 13 the Spanish government, concerned about its own fruit, rice, sugar and wine production, backed France in a memorandum arguing that several provisions of the Blair House accord had to be revised and calling for transparency in future negotiations. The Spanish paper said that the importance of the issues at hand made it crucial that the Council be kept informed at all times of the progress of negotiations, so as to avoid the Community presented with a "fait accompli."<sup>61</sup> Greece also sent a memorandum objecting to certain provisions of Blair House on September 15. The subject of the delegation of trade negotiating authority to the Commission came back to the forefront of institutional discussions in the EC, given the influence that the autonomy seized by Commission negotiators during the Blair House negotiations had on the final agreement with the US.

At the same time France attempted to pursue an alternative strategy. The French government tried to bypass the Community and negotiate directly with the United States in the hope of increasing its direct impact on the final outcome of the Uruguay Round. "We would not call this negotiations, but we believe we should speak directly with the United States either bilaterally or with the EC Commission," said a senior Balladur aide in September.<sup>62</sup> This strategy proved fruitless, however, as the US had no interest in negotiating with France directly when the EC compromise position was less extreme than the French. Indeed, American officials made clear to France that the EC Commission is the sole European negotiator; they were determined not to be sucked into a bilateral negotiation with France on revising Blair House.<sup>63</sup> When an outlying member state is in a defensive position, the negotiating opponent is better off if decisions in the Community are taken according to majority and if the supranational representatives have bargaining authority than if the outlier retains control of the decision-making and negotiating processes.

*The Jumbo Council and the reclaiming of unanimity and Commission control.* The exceptional "jumbo Council" of September 20 eventually enabled the EC to present a common front in the multilateral negotiations, at the expense of Commission autonomy and majority decision-making. After an intense session, thirty-five ministers of trade, agriculture and foreign affairs agreed on the need for "clarification," "interpretation" and "amplification" of the Blair House agreement and reaffirmed the fundamental principles of the CAP. This was a compromise solution, which achieved the objective of preventing France's isolation while not jeopardizing the results of the Uruguay Round.

The Commission's negotiating autonomy proved to be the dominant and most controversial issue during the Council. Complaining that a Franco-German proposal risked tying his hands in the negotiations, Brittan urged the ministers not to demand any new negotiating mandate.<sup>64</sup> French Foreign Minister Alain Juppé angrily retorted that Brittan, a "petty official who had exceeded his brief," had no right to oppose member states' negotiating instructions. This internal drama further strengthened suspicions of the Commission's excessive power.<sup>65</sup> Although in the end no new mandate was given to Brittan, only "certain general orientations" for maintaining the EC's export capabilities and ensuring that international commitments are compatible with the CAP reform, the Council decided to "monitor constantly the negotiations" on the basis of Commission reports during each session of the General Affairs Council.<sup>66</sup> This decision was the first step toward a return to strict intergovernmentalism in trade negotiating matters and a reining in of the Commission's negotiating powers.

Another result of the Jumbo Council was the clear reinstatement of unanimity as the basic decision-making principle in trade negotiations. The Council decided to approve the Uruguay Round results by consensus. This important decision was confirmed informally during the November General Affairs Council, which also discussed the issue of Commission autonomy and decision-making in external trade negotiations. In October, at France's demand, the member states agreed to ask the Commission for a written report on the trade talks every two weeks until the December deadline.<sup>67</sup>

*Renegotiation of Blair House.* The threat of a major crisis if the EC demands for "clarification" of Blair House were not met contributed to a reversal of the US position

on the renegotiation of the agreement. In November Kantor recognized that the French objections to Blair House had provoked an internal EC debate that somewhat hampered its ability to make a bigger offer.<sup>68</sup> The US administration ultimately agreed to renegotiate specific elements of the agreement, rather than confront a possible breakdown of the talks before the crucial ultimatum provided by the expiration of the US Fast Track Authority on December 15, 1993.

The Commission's negotiating autonomy was severely limited during the final days of the negotiations. Brittan shuttled "virtually directly from the negotiating room to the EU Council meeting to report --and presumably seek approval-- from EU foreign and trade ministers."<sup>69</sup> Negotiations had to be concluded ahead of the deadline, so EC foreign ministers could review the final text of a GATT agreement before authorizing Brittan to sign it on their behalf. "One French official boasted that ministers were keeping Sir Leon on such a tight leash that officials were 'practically following him into his bedroom.'"<sup>70</sup>

The EC-US agricultural agreement, finally concluded on December 6, changed several important elements of the original Blair House accord. The "peace clause" was extended from six to nine years, as well as the timetable for cutting subsidized farm exports (the bulk of the cuts were moved to the later years of the implementation period). Market access for imports was fixed according to the type of product (animal feed, meat, dairy products, etc.), instead of the more restrictive product-by-product curbs. Direct assistance to farmers provided under the 1992 CAP reform was not challenged. Finally, and most importantly, 1991-92 was taken as the reference period instead of 1986-88. This would allow the EC to export an additional 8 million tons of grain compared to the original Blair House agreement.

In exchange for accepting the agricultural agreement, France demanded a toughening of the way the EC handles unfair trading procedures and changes in the voting system within the EC on anti-dumping.<sup>71</sup> To avoid a French veto still plausible until the last day, Germany dropped on December 15 its longstanding opposition to a measure giving the Commission greater power to impose anti-dumping duties on unfairly priced imports. The French government had succeeded in making it easier for a defensive member state to capture the negotiating position of the EC, while at the same time

enhancing the EC's offensive capabilities by making it harder for reluctant member states to reject an offensive trade action.

The EC gained more than mere "clarification" in the final agreement on agriculture, while the US was forced to retreat during the last weeks of the negotiations. As a result of the constraints created by the EC obligation to negotiate as a whole while retaining the principle of unanimity and tight Commission control, the most recalcitrant country exerted a preponderant influence on the final outcome. When the Uruguay Round was concluded on December 15, 1993, the veto right had been reinstated, the Commission's autonomy was curtailed, and Juppé was able to "voice admiration for the way Brittan had obtained a better deal on subsidised farm exports than the 1992 Blair House accord..."<sup>72</sup>

### **Conclusion: From Single to Multiple Voices Again**

The obligation for member states to combine their external negotiating efforts into one single Community position influences the final outcome of international trade agreements. This chapter has highlighted the ambiguities of the Community's bargaining position in international negotiations when there is no firm consensus among the individual member states. The central argument was that voting rules at the EC level and the amount of autonomy exercised by EC negotiators contribute to explaining the shape of the final international agreement. In particular, when the EC is in a defensive position, decisions are made unanimously and the Commission has limited negotiating autonomy, the fact that no agreement is possible if it endangers the Community's consensus forces the negotiating opponent into making concessions acceptable to the most reluctant country. Contrary to the standard assumption according to which the cumbersome EC decision-making procedures have a negative impact on the EC bargaining capability, this chapter has also shown that the EC can use its institutional constraints strategically to reach its negotiating objectives. Before a common position is agreed on, the Community cannot act, which necessarily leads to paralysis in the international negotiations, unless the negotiating opponent can divide the member states and negotiate separately with the most favorable ones. Once the member states have been forced into accepting a common

position, however, even if under the threat of a veto, it becomes the Community position. In that case, the Community becomes a harder bargainer and can secure a final arrangement close to its bargaining position because of its institutional inflexibility.

From the perspective of the negotiating opponent, a Community where individual member states retain tight control over the negotiating process through unanimity voting and strict oversight of the Commission's negotiating activities is a much tougher adversary than a Community governed by majority rule and centralized Commission power. Had the EC member states not integrated their trade policy and trade negotiating authority, the US could have successfully negotiated bilateral agreements with the majority of these states, while remaining in disagreement with the outlier. It happened for instance in the case of the "open skies" agreements that the US was recently able to secure with several member states, because air traffic regulation does not fall under Community competence. But by joining the European Union, the member states have committed to a unitary external trade policy in the areas covered by the single market. The institutional structure of the EC, which obliges the member states to cohere their diverse trade interests into a single position, definitely affects the bargaining strength of its negotiating opponent. Whether internal EC decisions are made according to majority or unanimity rule produces different outcomes for the United States.

This case-study of the Uruguay Round agricultural negotiations is very useful because it traces the consequences of the EC's institutional structure on its external bargaining capabilities. A breakthrough was able to occur after six years of deadlock in the EC-US negotiations thanks to an internal agreement on agriculture finally entrusting the Commission with a bargaining mandate. The Blair House agreement, negotiated in good faith between representatives of the EC and the US, was renegotiated because the European negotiating authority was contested. By reinstating the veto right and tightening member states' control over Commission negotiators, France forced a divided EC to accept its point of view and cornered the US into partly renegotiating the Blair House deal. This case-study enlightened how the eventual capture of the EC voting rules and Commission latitude by the most recalcitrant member state resulted in the "lowest-common denominator" final agreement and diminished the bargaining strength of the EC's negotiating opponent.

Recent institutional developments in the European Union suggest that the member states will continue to gain tighter control over trade negotiations, except in offensive cases where a simple majority of states can entrust the Commission with investigative or retaliatory powers. The Blair House agreement represented indeed a turning point in the delegation of negotiating authority to the supranational representatives. The informal "flirtation" with majority rule and increased autonomy of Commission negotiators, which enabled the Blair House agreement to be concluded, were rapidly followed by a reaffirmation of the veto right and fundamentally intergovernmentalist nature of the EC decision-making process. The whole renegotiation debate triggered questions about the legitimacy of the Commission's representation both inside and outside the Community. By reneging on a deal negotiated by Commission officials on behalf of the EC, France may have weakened the credibility of the Commission and rendered its negotiating task more difficult in the future. Already during the Uruguay Round some of the EC's negotiating partners criticized those "who seek to unravel the mandate of the Commission once the deal is done" and questioned the credibility of the EC Commission if it "cannot deliver on the outcome of a negotiation."<sup>73</sup>

The experience of the Uruguay Round negotiations brought subsequent institutional changes to trade policy making in the EC, which might also affect EC bargaining capabilities in the future. The issue of the division of competences between the Commission and the member states was raised again before the signing and ratification of the Final Act concluding the Uruguay Round in April 1994. Whether the document would be signed by the member states individually or by the Commission on behalf of the EC was subject of heated political and legal debate. A compromise solution was eventually agreed on: both the Council President and Commissioner Leon Brittan signed the Final Act on 15 April 1994 in Marrakesh. Representatives of each of the member states also signed, in the name of their respective governments.

A major debate also arose as to EC representation and repartition of responsibilities in the new World Trade Organization.<sup>74</sup> Several member states insisted on being granted their own competences with respect to the "new issues" such as services and intellectual property. In the hope of maintaining the cohesion of the Community, the Commission asked the European Court of Justice for an opinion on the issue of

competence. In November 1994 the Court ruled that although the Community had sole competence to conclude international agreements on trade of goods, the member states and the Community shared joint competence to deal with non-goods trade.<sup>75</sup> This legal recognition of mixed competences in some cases departs from the founding principle that the Community has a single voice in international trade negotiations and from previous case-law on external relations. The Court's encouragement to a return to intergovernmentalism in the field of external trade is undoubtedly setting the stage for future disputes over competences and may affect the future effectiveness of the EC as an actor in international trade negotiations.

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<sup>1</sup>While the broader European institution is now called the "European Union," the EC, also called the Union's "first pillar," is still the body in charge of trade policy. "EC" is thus used throughout this paper.

<sup>2</sup>The "113 Committee" is named after Article 113 of the Treaty of Rome, which sets the rules for trade policy after the transitory period and states that international trade negotiations will be conducted by the Commission assisted by a special committee designated by the Council.

<sup>3</sup>During the Uruguay Round high-level political negotiations were led by the Commissioner for External Affairs (first Frans Andriessen, then Sir Leon Brittan in 1993) supplemented for the agricultural talks by the Commissioner for Agriculture (first Ray MacSharry, then René Steichen in 1993). The EC technical negotiating team was composed of officials from the Directorate General for External Affairs of the EC Commission (led by Hugo Paemen, who is the current EC ambassador to the US), supplemented for the agricultural negotiations by officials from the Directorate General on Agriculture (led by Guy Legras).

<sup>4</sup>See "European Community Commission Vice-President Sir Leon Brittan remarks at a National Press Club Morning Newsmaker session," *Reuter Transcript Report*, 12 February 1993.

<sup>5</sup>This view permeates the recent book written by Hugo Paemen, chief EC negotiator during the Uruguay Round, who often refers to the "cumbersome internal decision-making procedures and the effort involved in getting any kind of Community position adopted" which in his opinion rendered his negotiating task with the US much more difficult (Paemen and Bensch, *From the GATT to the WTO*, e.g. p. 147). Although Paemen and Bensch precise that his book reflect only their personal views and not the Commission's, it is safe to assert that it is a standard assumption at the Commission to consider the EC institutions as a handicap for the Community in international negotiations (personal interviews).

<sup>6</sup>"Qu'on s'unisse. Et le monde nous écoutera." September 1992. Author's translation.

<sup>7</sup>See Meunier, *Divided but United*, in progress.

<sup>8</sup>Paemen and Bensch, *From the GATT to the WTO*, p. 95.

<sup>9</sup>Paemen, *From the GATT to the WTO*, pp. 109-110.

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<sup>10</sup>Paemen, *From the GATT to the WTO*, p. 174.

<sup>11</sup>The more recent literature on two-level games addressed how the constraints imposed on the negotiator by the coexistence of the domestic and international levels could become a bargaining asset in certain circumstances (Putnam, "Two-Level Game"). Some scholars modelled the conditions under which division can be an asset or liability in international negotiations (for instance Mayer, "Managing Domestic Differences"), while others attempted to test empirically the interactions between domestic politics and international bargaining, including how internal divisions affect the success and distribution of gains in international negotiations (Evans et al., *Double-Edged Diplomacy*). They concluded that although logically plausible and potentially beneficial, the strategy of the divided bargainer has not been used much or effectively in practice. Yet these studies did not address directly the issue of European integration and international trade negotiations, where such an analysis seems promising to explain bargaining outcomes.

<sup>12</sup>Schelling, *The Strategy of Conflict*, p. 19. Emphasis added.

<sup>13</sup>I am grateful to a Commission official for pointing out to me the difference between practice and assertion of Commission autonomy.

<sup>14</sup>For an in-depth analysis of the EC-US conflicts over the Second Banking and the Utilities directives, see Meunier, *Divided but United*.

<sup>15</sup>See Keeler, "Agricultural Power in the European Community."

<sup>16</sup>Paemen, *From the GATT to the WTO*, p. 36; pp. 46-48.

<sup>17</sup>Paemen, *From the GATT to the WTO*, p. 46.

<sup>18</sup>See Paarlberg, "Why Agriculture Blocked the Uruguay Round."

<sup>19</sup>In his own account of the negotiations, Paemen wrote: "The European Community immediately claimed that the Americans were bluffing. Proposals like these would cause problems even for US agriculture, because the Americans too used subsidies, even to support their exports. But no matter how loudly the European Community yelled, there was no changing the facts. If they were really serious about liberalising, the Americans had the resources to get by without aid. The same could not be said of the Community."

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There were good reasons for thinking the Americans' proposal might be a bluff. Then again, no one could be certain." Paemen, *From the GATT to the WTO*, p. 106.

<sup>20</sup>Schott, *The Uruguay Round: An Assessment*.

<sup>21</sup>For a detailed account of the 1990 Heysel negotiations, see Paemen, *From the GATT to the WTO*, pp. 185-186.

<sup>22</sup>Including the absence of a "rebalancing" agreement and the non-exemption of the EC's compensation payments from GATT discipline. Schott, *The Uruguay Round*, p. 46.

<sup>23</sup>See John Keeler, "Agricultural Power."

<sup>24</sup>Stuart Auerbach, "No Concessions Offered to Europeans in Washington Trade Talks, US Says", *Washington Post*, 28 May 1992.

<sup>25</sup>Pascal Riché, "GATT: Bruxelles négocie, Paris agite son veto," *Libération*, 12 October 1992.

<sup>26</sup>In the 1961-1962 Dillon Round negotiations, the EC granted zero-duty access to oilseeds and cereal substitutes, which at the time were not used much. Since then, the EC started to provide internal support to European production of oilseeds in order to limit oilseeds imports. The dispute erupted when the US challenged the EC oilseeds subsidy program in GATT. Successive GATT panels found against the EC, which refused to comply.

<sup>27</sup>Sean Flynn, "Sutherland, MacSharry played key roles in complex agreement," *Irish Times*, 15 December 1993.

<sup>28</sup>Paemen, *From the GATT to the WTO*, p. 214.

<sup>29</sup>"During that evening Mr. Delors called Mr. MacSharry from Brussels. He told him that his offer would require more cuts in output than those planned under the latest reform of the common agricultural policy, and that the gesture therefore went beyond the Commission's negotiating mandate. Mr. Delors also said, apparently, that he would oppose such a deal; that the Commission would vote it down; and that if it went to the Council two countries would invoke the "Luxembourg Compromise." (...) Mr. Delors maintains that, as one of four commissioners charged with the GATT talks, he has every right to call a commissioner if he believes he is exceeding his mandate. Furthermore, Mr. Delors believes that the Commission president has

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a duty to try to prevent any country becoming isolated in the defense of its essential interests. In the past he has protected Germany on coal subsidies. This time the country happened to be France. Many view Mr. Delors' efforts to block a deal less charitably, putting them down to his ambitions for the French presidency." In *The Economist*, "Blood is thicker than rape oil," 14 November 1992.

<sup>30</sup>Jean Quatremer and Pascal Riché, "GATT: Le vin blanc européen trinque pour le colza," *Libération*, 6 November 1992. Author's translation.

<sup>31</sup>François Wenz-Dumas, "GATT: une manche aux Etats-Unis," *Libération*, 12 November 1992. Author's translation.

<sup>32</sup>Paemen, *From the GATT to the WTO*, p. 216.

<sup>33</sup>Keith Bradsher, "The anatomy of a trade agreement: US gamble pays off in deal with EC," *New York Times News Service*, 23 November 1992.

<sup>34</sup>*Reuters*, "US, EC Trade Talks Adjourn, to Resume Later," 19 November 1992. Also David Osborne, "Struggle continues for GATT formula," *The Independent*, 20 November 1992.

<sup>35</sup>Personal interview with senior USDA official, January 1995.

<sup>36</sup>*The Bureau of National Affairs*, "US, EC begin talks on farm subsidies as officials claim agreement is near," 19 November 1992.

<sup>37</sup>*Agra Europe*, "Obfuscation by the Commission on EC-US GATT deal," 4 December 1992.

<sup>38</sup>Jean Quatremer and Pascal Riché, "Comment Paris s'est pris au piège agricole," *Libération*, 14 May 1993. Author's translation.

<sup>39</sup>Pascal Riché, "Accord de Washington, le texte fantôme," *Libération*, 26 November 1992.

<sup>40</sup>Pascal Riché, "GATT: la France retrouve ses amis latins," *Libération*, 28-29 November 1992.

<sup>41</sup>Private interviews with French officials, 1994.

<sup>42</sup>*Agra Europe*, "Borchert signals change of direction in German policy," 12 February 1993.

<sup>43</sup>Julie Wolf, "Putting CAP on and making sure it fits," *The Guardian*, 27 March 1993.

<sup>44</sup>On the parallels between the Kennedy and Uruguay Rounds, see Sophie Meunier, *Divided but United*.

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<sup>45</sup>"The first two attempts to invoke the Compromise --by Denmark in 1981 over fisheries and by Britain the following year over farm prices-- were overruled. The other countries simply went ahead and voted the measures through. Since then the use of the veto has been formally accepted four times on farm disputes. France used it over farm exchange rates in 1982, Germany over cereals prices in 1985, Ireland over beef in 1986 and Greece over farm exchange rates in 1988." Peter Blackburn, "Luxembourg Compromise reappears to haunt EC GATT talks," *Reuters*, 15 September 1993.

<sup>46</sup>Personal interviews with senior USDA official and USTR official, January 1995.

<sup>47</sup>*Reuters*, "France spells out GATT position," 13 May 1993.

<sup>48</sup>Sean Flynn, "Sutherland's appointment presents the government with a dilemma," *Irish Times*, 10 June 1993. See also Sean Flynn, "Renegotiated GATT deal is not on, Steichen says," *Irish Times*, 15 June 1993.

<sup>49</sup>*The Bureau of National Affairs*, "EC officials see farm price aiding oilseed, corn gluten agreements," 2 June 1993. See also *Reuters*, "France wins some support for GATT stance," 8 June 1993. *The Bureau of National Affairs*, "EC ministers approve oilseeds accord after France lifts its opposition," 9 June 1993.

<sup>50</sup>"EC decision-making is not working--French minister," *Reuters*, 22 April 1993.

<sup>51</sup>"France to regain control over GATT talks," *Reuters*, 14 May 1993.

<sup>52</sup>"France wins some support for GATT stance," op. cit. See also "French government releases official position on GATT talks," *International Trade Reporter*, 19 May 1993.

<sup>53</sup>"Belgium to seek changes to Blair House deal," *Reuters*, 23 June 1993.

<sup>54</sup>"The prime objective of the [Belgian] Presidency was therefore to get France out of its corner." Devuyt, "*The EC and the Conclusion of the Uruguay Round*," CHECK PAGE NUMBER.

<sup>55</sup>Belgium could achieve such an objective because "as a federalist oriented Member State, Belgium was in a position to request greater Member States scrutiny over the Commission without being suspected of trying to restrict the Commission's treaty powers." Devuyt, "*The European Community*."

<sup>56</sup>Tom Heneghan, "Kohl leans toward France in GATT farm dispute," *Reuters*, 26 August 1993. Indeed, two days earlier, Foreign Minister Klaus Kinkel said after meeting Alain Juppé that Bonn was against any

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changes in the Blair House agreement. Kohl's statement caused major confusion in several German ministries. The following day, the German government tried to deny Germany's backing of France in the Blair House matter and pull back from its apparent readiness to make key concessions to France. The government spokesman made clear that "the Chancellor did not speak of renegotiating the accord." A spokesman for the free-trade oriented Economics ministry said: "We are not aware of having any problems with the accord." But apparently reflecting Bonn's difficulties in taking a unified line on Kohl's statement, he conceded the EC might yet seek talks with the United States. See *Reuters*, "Bonn says not seeking to renegotiate Blair House," 27 August 1993; Kevin Liffey, "Germany wavers on farm concessions to France," *Reuters*, 27 August 1993; *Reuters*, "Kohl says Germany shares some French GATT concerns," 26 August 1993.

<sup>57</sup>*Agra Europe*, "Franco-German alliance sought over GATT/ERM issues," 27 August 1993.

<sup>58</sup>*Reuters*, "Senior farm officials prepare for jumbo GATT council," 14 September 1993.

<sup>59</sup>*Reuters*, "France calls for tougher EC trade stance," 1 September 1993.

<sup>60</sup>*Agra Europe*, "France calls for sweeping changes to Blair House," 3 September 1993.

<sup>61</sup>*Reuters*, "Spain backs French demand for revised farm trade accord," 13 September 1993. Nancy Dunne and David Gardner, "Spain backs France on farm trade," *Financial Times*, 14 September 1993. *Agra Europe*, "France aiming for GATT buy-off," 17 September 1993.

<sup>62</sup>*Bureau of National Affairs*, "France urges reopening dialogue on Blair House accord," 9 September 1993.

<sup>63</sup>Interview with senior USDA official, January 1995. See also *Reuters*, "Brittan says US moves on GATT cultural position," 29 September 1993.

<sup>64</sup>Tom Buerkle, "Rift hits EC as Germany backs France on farm pact," *International Herald Tribune*, 21 September 1993. Stephen Nisbet, "Vague EC plan defuses French trade row," *Reuters*, 21 September 1993. *International Trade Reporter*, "EC ministers instruct negotiators to clarify Blair House accord with US," 22 September 1993.

<sup>65</sup>*European Insight*, "Leap of solidarity," 24 September 1993.

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<sup>66</sup>Devuyst, "The European Community," CHECK PAGE NUMBER. See also Lionel Barber, "French coaxed back into farm trade fold," *Financial Times*, 22 September 1993.

<sup>67</sup>Emmanuel Jarry, "Balladur says trade jockeying to go down to wire," *Reuters*, 15 October 1993. *European Report*, "European Council: Franco-German stratagem sets hare running in Brussels," 30 October 1993.

<sup>68</sup>*Agence France Presse*, "Airbus, agriculture trade-off on GATT not impossible," 2 November 1993.

<sup>69</sup>David Dodwell, "Hopes run high for tariff cutting deal," *Financial Times*, 1 December 1993.

<sup>70</sup>Tom Buerkle, "France's trump: US wanted pact," *International Herald Tribune*, 16 December 1993.

<sup>71</sup>Jeremy Gaunt, "EC-US close to framework trade pact, problems remain," *Reuters*, 6 December 1993.

<sup>72</sup>Paul Taylor, "France could back Brittan for EC president," *Reuters*, 14 December 1993.

<sup>73</sup>Peter Cook, Australian Trade Minister, quoted in *Bureau of National Affairs*, "US position on Uruguay Round talks needs to be less rigid, French official says," 21 October 1993.

<sup>74</sup>See Devuyst, "*The European Community*."

<sup>75</sup>Court of Justice of the European Communities, *Opinion 1/94*, 15 November 1994, I-123. On the Court's advisory opinion, see Bourgeois, "The EC in the WTO."



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