European Journal of Political Research 15: 437–457 (1987)

The EC as an international corporate actor: Two case studies in economic diplomacy

PATRICK KENIS[1] & VOLKER SCHNEIDER[2]
[1] European University Institute, Florence, Italy; [2] Max-Planck-Institut für Gesellschaftsforschung, Cologne, Federal Republic of Germany

Abstract. Within the arena of international politics the European Community sometimes acts as an actor, but sometimes it does not. As is shown in this article: 'traditional' European-integration approaches fail to explain this. The authors introduce an actor concept which seems to overcome such shortcomings. This approach is applied to a study of two action domains of the EC: one on chemicals control policies and non-tariff trade barriers, and the other on the Multi-Fibre Agreements.

1. Introduction

In present-day international politics the EC has become an important political factor. It has permanent offices in third-world countries, official delegations to the OECD, the UN and its specialized agencies, GATT, and other international organizations. More than 110 countries have diplomatic missions accredited to the Community. Thus, at first glance, its external relations do not seem to differ very much from those of nation states.

However, the EC does not have the exclusive right to represent its members in external relations. In almost every policy domain of international politics the individual member states participate directly in the political arena, although they are often at the same time represented through the EC channels. The situation becomes still more complex when the member states are represented at the same time by other international organizations (such as OECD, GATT, NATO, etc.).

Given such a system, how can the complex relationship between the EC and its sub-units, the member states, be specified, so that its different roles and capacities in different policy domains can be adequately described without oversimplification? What gives the EC within such an international comunity sometimes the status of an actor and sometimes not? In this article we attempt to discuss the weakness of 'traditional' European-integration approaches when dealing with this basic question and we shall accordingly introduce an actor concept which seems to overcome such shortcomings. We will then apply this approach to a study of two action domains of the EC.

2. The EC as an 'actor'

Conceptualizing the EC as an 'actor' for a better understanding of regional integration and the role of the EC in politics at the European and international level hardly does more than apply a new fashionable label to old and well-known empirical evidence when this conceptualization is not accompanied by a theory which is explicit about how this actor relates to its constituent parts. Unforunately, the mere use of the term 'actor' in political inquiry does not necessarily imply the existence of an actor theory. Many studies use the notion of 'actor' merely in a metaphorical way. Its exact significance and theoretical range is rather unclear and can only be guessed at. Taylor (1982), for instance, focuses on the question of the actor capacity of the EC in international society, i.e. that capacity to act in a unified way. Interestingly enough, what he understands by 'actor' is never explicitly defined or stated. The context in which the expression is used, however, suggests that he sees an actor as a collectivity of individual nation states which are bound to each other by similar interests or shared goals. Consequently, he has been forced to conclude that the EC is incapable of producing more than 'occasional examples of actor behaviour' (Taylor 1982: 9).

Another example of a rather vague use of the notion 'actor' is given by the transnational approach of world politics: in this approach, too, it is hard to find explicit definitions of what is meant by the notion 'actor' (an exception being Mansbach et al. 1981). However, it seems that this approach uses the actor-concept as a synonym for 'organization'. Consequently, to be considered an actor only requires evidence of being an organized unit with capacities for carrying on more or less independent activities. In this view world politics is conceived as a panoply of multiple and varying actors, and the EC is simply treated as one organization among othes in a complex and conglomerate international pluralist system with overlapping memberships (Young 1982, Keohane and Nye 1974/75, Huntington 1973). This conception, however, creates the very subtle analytical problem of how to weigh the different organizations in their capacity to carry out independent action, or in other words how to specify the relationship between the organization, 'EC', and its constitutive member states.

One way to solve this problem is provided by the 'international regime' approach which sees the constituent member states as the primary actors in world politics and conceives the EC and other international organizations as merely an institutional arrangement which creates facilities for inter-governmental coordination or policy harmonization. The EC, therefore, is seen here more as a 'system of actors' than as an 'action system'. This, at first glance, seems to be a compelling solution and it is therefore not astonishing that the regime approach is gaining popularity in some 'schools' of political science.

The regime approach seems to explain what traditional integration is its still see as the basic contradiction of European integration: the paradox that although the EC accumulates more and more powers within its decision-making structure, it is still the individual nation state and its national interest which play the primary role in determining European politics (cf. Hoffman 1982: 35).

Although this concept is undoubtedly helpful in specifying some dimension to the relationship between the EC and its member states, it underestimates the EC as an organization with its own resources and its own institutional self-interests. In criticizing this defect of the regime approach, some scholars have recently introduced the well-known federation/confederation typology. Impressed by the amount of direct powers and authorities concentrated within the EC with regard to its member states, Hallstein (1974) conceived of the EC as an 'Unfinished Federation'. In this tradition, Forsyth (1981) and Wallace (1983) have tried to find this institutional 'interbetweenness' in a similar fashion, locating the EC as somewhere 'between a federal state and a mere confederation of nations/unions of nation' (Forsyth 1981, Wallace 1983).

Although most scholars in this discipline are aware of the shortcomings of both the regime concept and the federation/confederation typology, most of them still work with these old taxonomies. In our opinion, it does not make much sense to use models and typologies which were developed on the basis of other historical and political configurations where the EC could afterwards be fitted in. A more fruitful approach would involve the application of more abstract concepts which would allow one to integrate these different labels, while remaining open for differentiation arising from the idiosyncracies of the EC. In the following section, we try to pursue this course of analysis.

3. The EC as a collective or a corporate actor?

3.1. The EC as a collective actor

A central question in social and political science is still how and why associations of individual actors emerge and stay together and why their constituent members continue to act together even when their circumstances or rationalities change. Conceiving the EC as a form of a historically emerged association of states raises questions as to what integrates the EC, sometimes giving it the status of an actor and sometimes not: in which policy fields does this happen and in which not – and why?

One of the most elementary forms of collectivity is when a plurality of individual actors acts in a concerted manner on the basis of complementarity of expectations. This constitutes what Laumann and Marsden (1979: 717) call a collective actor. They distinguish two components of such a collective deci-

sion-making system: converging interests and a communication structure which facilitates transmission of this preference-sharing.

This is a more general actor-concept by which the EC could be typified as far as certain actions are concerned. In specific cases the EC members act in concert because they all pursue the same end. Considering the convergence of ideas and interest with regard to some issue, in these domains EC action could be interpreted as being collective. However, this form of action is rather unstable, if one considers changes within perceptions, preferences and interests. Purely individual calculus can hardly explain the persistence of organized collective action. Following a rational-actor model implies the assumption that collective action is possible only when the same action alternative is preferred by all. Preferences for their part are a function of expected outcomes. If outcomes are distributed in such a way that they harm some co-actor, he would abstain from action. This is one of the two fundamental problems of collective action. The second one is referred to as the 'free-rider' problem and concerns the fact that it can be to the advantage of each actor not to participate, if all actors do (cf. Olsen 1965). But how then – if at all – is persistance in a collective or associative action process possible?

3.2. The EC as a corporate actor

Because of these problems, societies and organizations have developed numerous devices by which such difficulties may be circumvented and collective action carried out on more stable grounds. One of the most fully formalized of these is the institution of contract. Once such a purely collective action of institutionalization and the setting up of a more stable framework for collective action are concluded (a process which is a very interesting study in itself), a new kind of order comes into being, which Coleman (1974) calls a corporate actor: it is a corporative body with its own power to act, thanks to the transferral of members' rights and resources to this unit. This pool of resources will then no longer be employed by the decision of individual actors, but solely by the appointed unit. These resources or rights are usually mobilized not so much for the purpose of one single action as for whole series and categories of action which are usually described and defined in the written constitution of this body. As a result, the new unit cannot be understood as a mere aggregate of individual actors which, in every new situation, unite their behaviour towards a common goal, but rather as a relatively autonomous action unit which attributes resources and employs them on its own.

Coleman (1974) points to an important difference between the previously described collectivity of actors and this corporate actor. The interests of corporate actors are not merely aggregates of members' interests, but ad-

ditionally embody institutional self-interest, which can be directed also against members. The individual members still have their own interests and try to pursue them within the corporate body, but in addition to this aggregation of individual interests there is an institutional self-interest of the corporate actor which rests in the explicit purpose of the corporate actor, the purpose for which its members have combined their resources (Coleman 1974: 44).

With this concept, one can start from the principle that members of the organization do indeed continue to pursue their own interests, but that their membership in the organization defines certain restrictions to their doing so. The difference, for a nation state, between acting within the EC and acting in a non-organized context is thus not located in the personal interests and goals of the actors, but in the framework of restrictions in which these can be articulated.

This analytical distinction between collective and corporate actors, according to our knowledge, has only been made, although in rather different terms, by Weiler (1981, 1982) for the study of the EC, and by Wolfers (1962) for the study of international relations in general. Weiler stressed the importance of distinguishing between legal and political integration, a distinction which runs parallel to the concepts of corporative and collective actors. According to Weiler, membership within the EC implies an 'all-or-nothing effect' for the member states: as long as the EC member states retain the ultimate political option of withdrawing from the Community, they are largely unable to practise selective application of Community obligations (Weiler 1981: 297).

As early as 1962, Wolfers pointed to the fact that corporate bodies other than nation states would play a role on the international stage as co-actors with the nation states (Wolfers 1962: 19). In the 1970s, the transnationalist school with its attack on the traditional approaches' 'state-centred view' of world politics, adopted this idea. But transnationalism – even when it used the term actor – never elaborated the specificity of the corporate type of actor in world politics.

This new concept of organization reduces the need to answer the question whether and to what extent the members of the EC have common interests, since this is now no longer a conditio sine qua non for the existence of the EC, but merely an empirical question, given that all members are bound legally to a common constitution.

4. Two case studies in economic diplomacy

The following case studies will apply the corporate actor approach to the EC in two international policy domains. The view of our analytical framework makes the assumption that these domains are not representative for every

involvement of the EC in international politics. As two cases of economic foreign policy, they cover domains where the EC, since the beginning of the custom union, has had the competence to direct common foreign trade policies because former 'rights' were clearly transferred to the institution of the European Community. Applying the corporate-actor model as distinct from the collective-actor model to the EC case allows us to treat the EC treaties as the constitution which regulates at the same time both the transfer of resources and rights and the internal control mechanisms by which the subordinate actors can guide the action of the EC. In particular, we conceive the legal resources as the basic enabling conditions for the EC to act as a corporate actor on behalf of its members. These resources enable the EC to negotiate with external actors, to make agreements, to commit its members, and to enforce those commitments. However, the relationship between the EC and its members is not always as clear as that suggests. The action of the EC in the international arena sometimes emerges alongside that of member states which continue to represent their own interests. This indicates a very complex distribution of action resources between the EC and its member states. In the following two case studies, one on chemicals control policies and non-tariff trade barriers, and the other on the Multi-Fibre Agreements, we shall explore this complex relationship more thoroughly.

4.1. Chemicals control policies and non-tariff trade barriers

During the 1970s public authorities in the most advanced industrial countries were faced with increasing problems caused by the unintended deleterious effects of chemicals on health and environment. Consequently, there were increasing efforts to establish measures and preventive mechanisms for the prior testing of potentially hazardous chemicals. Switzerland (1969), Japan and Sweden (1973) were the first countries which enacted laws aiming at such an 'overall control of chemicals'. In the EC similar discussions began in 1975, and in 1979 the Council legislated a directive. The USA enacted its Toxic Substances Control Act (TSCA) in 1976. Differences in the regulatory approaches, especially between the USA and Europe, seemed at the time very likely to create technical and administrative barriers in trade. International harmonization in this domain therefore seemed to be a logical necessity, and in keeping with the interests of the industrialized countries in free trade.

It is obvious that skewed competition could result when a manufacturer or importer of a chemical substance is subjected – due to the greater costs of compliance to specific testing requirements and administrative procedures – to a heavier regulatory burden than domestic producers. If, on the other hand, a country with more severe requirements were to apply its safeguards to imports

in a less strict manner, achievements in environmental and health policy would be jeopardized. And in addition, domestic industry would hardly accept a 'softer' treatment of its foreign competitors. In such a situation, the most appropriate strategy seems to be the 'harmonization' of regulatory policies. Such a situation existed between the USA and the EC countries. In order to avoid significant barriers of trade, it was in the mutual interest of the two international actors to attune their regulations to one another. This might have been achieved by each member state individually, but interestingly enough the member states were attracted by the 'European solution', i.e., the EC should harmonize collectively with the US and other industrialized countries. For the Community this meant it had to perform two tasks simultaneously: on the one hand, to give the Commission a mandate to engage in bilateral negotiations with the USA, and on the other to define a common position which could be enforced through legal instruments (regulations, directives) within the Community. The subsequent analysis of these two processes will allow us to elaborate more precisely the internal working of the corporate actor 'EC' in relation to the interests of its subordinate actors, the members.

In the area of toxic substances the Commission has the power to take the initiative in two competing domains. First, since the time when the EC established the Environmental Action Programme in 1973, the Commission has been charged with 'investigating the measures still required to harmonize and strengthen control by public authorities over chemicals before they are marketed' (Kommission 1977: 156). Second, since the control of chemicals concerns the trade area and since different national regulatory approaches within the Community could seriously affect the functioning of the Common Market, Community action is also grounded in the Treaty provisions for the common trade policy in which the Commission has far-ranging legal powers. It is therefore not surprising that both domains – reflected by different departments of the Commission – were competing with each other, and finally it seems that the environmentalists' concern was not the one which triggered a Community policy in the toxic substances area. Biles (1983: 55) writes: 'It often has been stated that the basic policy objective of efforts to harmonize the US and European laws is the achievement of consistent and effective protection of health and the environment. However, economic considerations – in particular the avoidance (or minimization) of non-tariff trade barriers – constitute the principal force behind virtually all of these multilateral efforts'.

Basically, two factors gave rise to the intervention of the Commission in this policy domain. In 1975 France was motivated by domestic political factors to engage in the legislation of a chemicals control act. This would have created technical barriers to trade within the Common Market. The Commission, therefore, had to intervene in order to 'block' an action of a member state, which would have seriously injured the functioning of the Common Market. In

1976, when the USA enacted its TSCA, the European chemical industry feared that its access to the USA market would be hindered. Costly and complicated procedures and regulations, with which European exports would have to comply before introducing their chemicals to the USA market, would distort conditions of competition between the different countries. The Community therefore had to defend the Common Market's interest against that of the USA.

The Community's intervention illustrates the usefulness of the corporate-actor model: the fact that the Community had available necessary legal resources to prevent individual action by its member states (which would have harmed the functioning of the Common Market) and the fact that it already had legal resources to defend its trade interests against those of the USA, provides sufficient evidence for the view that the EC is an actor in its own right, which can even act against the interests of a member state. However, these resources were limited to the extent that the Community could 'protest' against the USA chemicals control policy, but did not, at the initial stage, have anything to offer to the USA on the negotiating table. The capacity to enter into negotiations with the USA presupposed two conditions. First, the EC had to convince the USA to enter into bilateral negotiation, by offering some sort of a package deal. Second, it had to initiate and legislate Community measures with the purpose of gaining 'implied powers' to engage in external relations in a domain (environmental and health policy) in which the Community initially had no immediate authorization according to the Treaty, but which is inseparably linked to a common policy (cf. Court of Justice 1971: 264).

The power to negotiate was largely dependent on the legal base of a common policy in chemicals control. Some member states thus urged a new (the sixth) Amendment of an EC Council Directive of 27 June 1967 of the Approximitation of Laws, Regulations and Administrative Provisions relating to the Classification, Packaging and Labeling of Dangerous Substances. The 'sixth amendment' of this directive was thus conceived of as a vehicle for a community-wide legislation in chemical control. Other member states, however, were not yet prepared to accept this: to agree to common legislation is indeed an irreversible transfer of legal resources, because of the superiority of Community over national law. To accept that the basic principles of a regulatory policy would be designed at the European level means, for political groups relatively influential at national level, the risk of losing control over policy formulation at the Community level. This danger is increased further when the Commission is empowered to negotiate on behalf of its member states. In this respect, the German Chemicals Industry's Association had been very worried about the possibility that through the USA-EC negotiations some unwelcome provisions of TSCA could trickle into the European legislation.

At this stage – in the summer of 1977 – a common policy seemed to be far away. The internal negotiations and discussions within the council's groups of experts seemed to be partially paralyzed by the intransigence especially of Britain and Germany. Both countries had powerful chemical industries and particular patterns of regulatory public-policy making: they were accordingly reluctant to give up their national traditions. However, as early as autumn 1977 the EC Commission had begun informal meetings with the USA Environmental Protection Agency (EPA). Experts from the EPA and the Commission's Environmental and Consumer Protection Service (ECPS) and Industrial Affairs Directorate had several successive meetings in 1977 and 1978 in order to agree on the harmonization of test procedures, mutual recognition of test data and laboratory practices, the confidentiality of business information, and the sharing of costs in cooperative efforts within the OECD. The negotiations, however, seemed to be rather hampered by the fact that the EC's draft sixth modification had not yet been adopted: 'The absence of EC legislation on dangerous substances', as one observer described it, 'rendered the European position uncertain. The talks often became seminars on the interpretation of TSCA and created little or no groundwork for the future international agreement by the EC' (Wilkinson 1980: 486).

Another barrier hindered the USA-EC dialogue: for some reasons – which are not difficult to discern – the USA had chosen to hold the formal negotiations within the OECD and considered the negotiations within the EC as purely informal (Biles 1983: 56). The USA was obviously not interested in bargaining with one corporate actor which spoke on behalf of its nine member states, but was more inclined to channel the negotiations into the OECD framework where the EC members were merely nations among other 24 industrial nation states. Besides the advantage for the USA that it had a rather strong position in this institution, another motive was undoubtedly that the OECD included all relevant chemical producers.

In order to commit the EC member states in particular to this negotiation forum, in April 1978 the USA and the Swedish Government initiated a high-level conference in Stockholm through which the USA tried to 'speed up and expand the harmonization efforts in the OECD' (NRDC 1979: 26). Fifteen industrialized nations and several international organizations – among them the EC Commission – took part in this conference. A German Secretary of State, who played an important role in the initiation of this meeting, described the aims and results of this conference in somewhat 'militaristic' terms: 'with a pincer-movement from the USA, Scandinavia and us, we succeeded with a big break-through. At this meeting all participants finally recognized the high economic importance which harmonized regulations for the marketing of chemicals have for each country' (Hartkopf 1980: 10). In this move, Germany clearly was the principal American ally. The result of the conference was the

identification of several priorities for policy harmonization and the creation of effective mechanisms for information exchange in this domain. The meeting also recognized 'that the OECD was the appropriate forum in which expedient action should be taken in some of the priority areas identified above. Several nations confirmed their willingness to contribute resources to enable expended activities to be carried out within OECD' (unpublished minute). This had been the principal USA objective.

Weakened by this decision and constrained by the lack of a common bargaining position, the Commission consequently tried to increase its legal resources in order to strengthen its position in the negotiations with the USA. In spring 1978 it asked the Council for a formal mandate to negotiate with the USA and to develop 'parallel' legislation in this field: the provisions for the implementation of TSCA (which was still no more than a broad frame without operational specifications, cf. Schneider (1985)) and the formulation of Community legislation were to be elaborated in close connection.

The fact that the sixth Amendment of the 1967 Hazardous Substances Directive had still not been enacted required very complex arrangements in the decision-making process to assure that the Commission would keep in line with the actual state of play in the negotiation area of the EC Council of Ministers. The Commission therefore regularly consulted national experts from a working group to compile a series of documents which would present the EC opinion about the proposed implementation rules of TSCA. The supra-national power to act on behalf of its member states was thus 'checked' by this intergovernmental practice of decision-making.

Whether common policy in chemicals control could be achieved seemed very uncertain in 1978. The puzzle of the policy-action system closely resembled a collective action situation, where a particular action was only possible when preferred by all. The breakthrough did not occur until 1979. At this time, France was about to implement its own Chemical Control Law and it was clear that the USA would implement TSCA. Under internal and external pressure, the discussion in the EC Council suddenly progressed (cf. Brickmann et al. 1982: 328). In spring 1979 the member states succeeded in finding a compromise formula which was formally adopted by the Council as the sixth Amendment of the 67 Directive. The implementation of TSCA obviously performed the most important function in forcing this: 'In order to combat the American initiative, the Europeans recognized the need for a united position, legally based, and saw in the European Community the best vehicle for achieving this' (Brickman et al. 1982: 350).

The common position, now legally based, gave the Community more weight in its interventions in the American implementation process. The USA now seemed to take the dialogue with the Commission more seriously (Commission 1981). The common policy on chemical control also contributed to the

drive towards harmonization within the OECD, an area in which remarkable progress had been achieved (OECD 1984, Koenemann 1982). Nigel Haigh drew attention to an important aspect of the sixth Amendment's passage which had enabled the Community to speak with one voice in discussions within the OECD and with the USA and other countries and which had strengthened the Community's position in ensuring that the operation of the US Toxic Substances Control Act did not create obstacles to the European chemical industry: 'The ability of the Commission – which can speak for a larger market than that of the USA – to enter into discussions with the USA has been greatly enhanced by the Directive and it is unlikely that each European country on its own could do so as effectively' (Haigh 1984: 215).

Undoubtedly, the 'official' forum of international harmonization in regulatory policies was the OECD. But after the sixth Amendment was adopted, the EC was able to negotiate as one bloc. The Commission participated as a non-voting member in the OECD's work. In every working group a Commission's representative had a right to participate without special invitation. Compared with other international and regional organizations, only the EC and the United Nations Environment Programme (UNEP) had such a privilege. In the OECD working groups, where the basic work of technical and administrative harmonization had been done, the Commission's representative usually monitored and coordinated the positions of the EC member states before and during the meetings. Thus, each EC member state was represented individually, but the presence and 'coordinating' involvement of the Commission enabled the pursuit of an united position by the EC countries.

It is difficult to estimate the effect of the sixth Amendment on the effectiveness of the Commission's action in international control of chemicals. All formal agreements were made within the OECD framework. The treaty making procedures therefore follow the OECD 'constitutions', which does not 'bind' in the same way as the EC Treaties do. Nevertheless, the results, especially at the level of scientific and technical harmonization are impressive (test guidelines, the principles of Good Laboratory Practice, etc.). But they cannot be explained without accounting for the role of the EC. It seems very unlikely that these remarkable results could have been achieved without a prior intra-EC harmonization, in which six of the relevant actors succeeded in the formulation of common policy, which – in the form of a directive – is immediately binding on all member states. OECD agreements by contrast have to be ratified – their binding effect therefore depends also on the balance of power within individual member states. This fact made it possible that an electoral shift, through which the Reagan administration came into power, could reverse the Carter administration's adoption of the mandatory chemical testing regulations in the OECD, which are among the most important provisions in the sixth Amendment (Chemical Week 7 Oct 1981). The transposi-

tion of the sixth Amendment into national regulations seems to have been fairly easy. Compared to the usual implementation gap in the domains of health, safety and environmental regulations, it had been adopted swiftly. After its enactment in 1979, the member states were required to adopt the directive no later than September 1981. In fact, as von Moltke (1982: 31) observed, 'no other E.C. environmentally significant directive has ever been implemented with comparable speed and moved as quickly toward full comprehensiveness'. France, Denmark, Germany and Ireland had already implemented the sixth amendment before the deadline. At this time, Britain's, Belgium's and Italy's taking-over regulations were at the drafting stage. Only Holland, Luxemburg and Greece were late in adopting the necessary legislation (for details see Rehbinder 1985). Even if some implementing rules differed, this relatively speedy (especially when compared with the original 67/548 directive) adoption indicates that the major interest conflicts between the member states had already been resolved during the policy formulation phase. An additional explanation for this pace is that the EC Commission in Brussels was urging, unusually strongly, for speed, and even took legal action against those states that delayed (Rehbinder 1985: 70). However, the most significant factor is undoubtedly the fact that Germany and France, the major chemicals producers in the EC, were the first to adopt the sixth Amendment and were therefore the best allies of the Commission in supporting a quick adoption of the sixth Amendment into national laws.

4.2. The EC in the Multi-Fibre Agreements [1]

International trade in textiles and clothing is regulated by the Multi-Fibre Agreement (MFA) within the framework of the General Agreements on Tariffs and Trade (GATT). The MFA encompasses the majority of the world's most important exporters and dates from 1973. It was preceded by a Long Term Agreement (LTA) for trade in cotton and cotton products, and by a series of national and local restrictions on trade which in many cases date back to the protectionism of the 1930s. The purpose of this protection is to shelter the jobs and production of established producers from competitive newcomers. Whereas the newcomers in the 1950s were the Japanese, more recently the Agreements have included the Eastern Europeans, developing countries such as Brazil and India, and the dynamic, newly industrialized countries (NICs) of East Asia – Hong Kong, South Korea, Taiwan, and Singapore. The MFA emerged at a time when an industry which had always been primarily national or local was becoming one of the main growth areas of international trade. Confronting these changes, the EC, which was concerned with its own textile and clothing industry employing three million in 1973,

negotiated as a single bloc with other trading countries. Since then, every four years (in 1977 and 1981) the Agreement has been renewed (at the moment of writing the 1986 agreement is being discussed). At the time of its creation the MFA was hailed as a liberal agreement which was beneficial to all sides – developed, underdeveloped as well as newly developed countries. The experience of actually operating the MFA confounded this view and when it was renewed in 1977 and 1981, substantially more restrictive agreements were reached in which the balance of advantage swung markedly in favour of the developed states (a pattern which will be confirmed for the 1986 agreement as well, according to most observers).

From an institutional point of view, the MFA is based on a single multilateral agreement under the auspices of the Textile Committee of GATT, which meets at Geneva. Attached to the unilateral agreements are a series of annexes, declarations, and bilateral agreements. It is these which formed and still form the main instrument of the EC's clearly protectionist position. In the bilateral agreements the EC insisted on tight quotas and other technical arrangements. These limit the import of all kinds of textile products, but put particular restrictions on what are defined as the 'most sensitive products', especially cotton goods.

The policy actor system for the MFAs includes the USA, Japan, the EC, Canada, Austria, Sweden, Finland, Norway and Switzerland, the eastern countries, the NICs and the developing countries. On the basis of the common commercial policy, the EC acts as a single unit on behalf of its member states. In formulating its policy, the EC therefore has first to reach an agreement among member states on a common position in textile trade talks. It then embarks on two sets of talks, the multilateral agreements for the regime as a whole, and bilateral talks for establishing agreements with individual exporting states.

At the level of the internal decision-making structure of the EC, basically four departments of the Commission and the Council are involved in the process of drawing up the common position for mandate for the MFA-talks:

- The Direction Generale (DG) III (responsible for industrial policy) carries out the initial consultation with industry and national officials; this leads to a programme with an emphasis on the technical issues and requirements of the Community.
- The DG I (responsible for external relations) draws up a draft negotiating mandate, taking into account its distinct 'international perspective' (North-South, East-West), thus modifying the initial ideas from DG III, which has an essentially 'internal' perspective on EC policy. This results in a draft mandate.
- The Council (the 'Article 113 Committee') now sets its own view on it and then refers it to national governments for their views and amendments.

- In the Council of Foreign Ministers the views of the national governments are represented; if approval is given the mandate can begin.
- The staff of the DG I then takes the leading role within the MFA-talks.

Starting from the background of this structural insight into the EC decision-making machine, we will now illustrate that the theoretical framework introduced earlier contributes more to the understanding of two crucial questions concerning this case: first, why the EC acts as a single action unit in the MFA negotiations and to what extent this can be interpreted as an act of 'European Integration' and second, why the EC took increasingly protectionist stances in the subsequent MFAs (MFA I, MFA II, MFA III).

A crucial point in the understanding of the EC's position in the Multi Fibre Agreements – however banal it may sound – is the fact that the Treaty of Rome had itself made provision for a common commercial policy (Articles 110–115 deal with the question of making agreements with third countries). This means that the outcomes of commercial policy have to be located at the European level, even in cases where the majority of the actors (the member states) are against such a solution. The fact that Germany nevertheless had individual contacts with East Germany, and Great Britain with Portugal on the same matter, does not affect this rule. The only point in time where an unanimous agreement was needed (hence, 'pure' collective action) on this, was when the articles for a Common Commercial Policy law were signed. Initial acceptance by the member governments of the transfer of authority over this policy sector to the Community level has been reinforced by their appreciation of the greater bargaining capacity which they gain as a group in international negotiations and their respect for the negotiating skills of the Commission staff responsible.

The constitution of the EC has to be understood as a transfer of resources from the member states to the EC level. But this transfer is not of a zero-sum type. Indeed, if the vesting of rights and resources were usually an irrevocable transfer, the federation model of the EC would fit. However, many conflicts of competence show that the socalled 'subordinate actors' are still tempted to cling to such rights. It is therefore not surprising that national conflicts of interest re-emerge in negotiation situations. The observation made by Farrands (1983) that within the textile negotiations the member governments have taken care of the limits of the authority of the Commission within the agreed boundaries of the Council of Ministries mandates' is therefore not so 'unexpected' (Dolan 1983). In contrast to traditional integration models within the corporate-actor model, it is exactly the thing to be expected. Indeed, when within the corporate actor (i.e., within the boundaries of the 'legal') there exists a free field, as in the formulation of the EC's standpoint for the MFA talks, the 'political' appears again (cf. Weiler's 'all-or-nothing effect'). Nevertheless, respecting the boundaries set by the convention, each member will try

to gain as much as possible out of the conflict. Most common aspects of this, which have been illustrated in many different case studies on European policy-making, are: firstly, the individual countries stick to very specific industrial policies (which are still under national legislation) and thus very often hinder the intended outcomes of the MFAs; secondly, they are present at almost every level in the decision making for the mandate; and thirdly, all real conflicts during the agreement period at the EC level can be situated along nation state lines (and not along unions vs industrialists or consumers vs production etc.). The power of the nation state in the final decision is also illustrated by the fact that almost all interest groups look first to national channels to promote their interests in spite of the presence of the very strong European interest group COMITEXTIL. Yet, we have shown through our theoretical framework that, all these different and mostly opposite interests notwithstanding, a policy outcome on a European level can be expected and explained without having to catch at the silk string of 'integration' or 'interdependence'.

The remaining question is then, of course, why the 'common position' which the EC adopted within GATT became increasingly protectionist for the subsequent MFAs. It is not yet clear what the common EC position will be for MFA IV (September 1986), but the likelihood is that, whatever the desires of the Community, in the first place the USA will argue for a restrictive MFA.

We reject as an explanation for these changes the fact that our corporate actor (the EC) might have altered its goals over the years, but we would prefer to deduce the reasons from the internal dynamism which a corporate actor can unfold. Since the 'exit' option for the individual countries is too costly and 'loyalty' is still far from being the prevailing reality in the EC, specific 'voice' options can be expected to emerge inside the corporate actor (cf. Hirschman 1970).

Coleman (cf. theoretical framework) distinguishes between the power of an actor (member state) in a system of collective decisions (the MFA amendments) and the interest an actor has in a certain decision. This entails that not all actors should be seen as equally acting in a specific collective action. The fact that the EC negotiation position within the MFA took a more and more protectionist stance – thus drifting in the direction of the initial wishes of the Anglo-French alliance (Britain, France, Belgium, Italy) – does not necessarily mean that this alliance had the most power in the EC system. Assuming that the different members of the EC have the same power concerning the MFA-talks at Community level, the protectionist stance of the final amendment could be explained by the fact that the Anglo-French alliance had more interest in bringing about a certain decision concerning the textiles sector. The final agreement – as well as for MFA I, MFA II and MFA III – was somewhere in between the protectionist and the more liberal position but leaning signifi-

cantly towards the former. It is also remarkable that Germany, which was always very critical of the position of the other EC members towards MFA II, stated during the talks on MFA III that at least the quotas of MFA II should remain.

Another explanation, or rather a complementary one, could be that, as mentioned by many scholars on the EC, economic goals are still more important to reach than political ones as far as individual countries are concerned. Economically speaking, a more protectionist position would not have harmed the German textile sector. The fact is that as the much more efficient and modernised German textile industry did not need such a strong position to survive, they were hardly going to risk reaching no agreement merely on political, philosophical grounds.

A third point concerns the very protectionist position taken by COMITEXTIL (Committee for the European Textile and Clothing Industry). This small but highly professional body was set up at the end of the 1960s with Commission encouragement since the Commission was anxious that the Community's industry should speak with one voice. COMITEXTIL has come to have a profound influence on the shape of EC textile policy. It works closely together with the Commission on textile issues, especially as a provider of information and a coordinator of national groups to form an 'European' view. The position of COMITEXTIL becomes all the more clear when we take account of the involvement of its leaders in the Commission's negotiating team as technical advisors for parts of the 1977 negotiations (Farrands 1979: 38). These internal dynamics of the EC which seem to lead to ever increasing protectionist standpoints are not neutralized by outside pressure, since it is known to the EC representatives that they can be pushed through at the GATT-level. This, of course, is only at the expense of other actors in the regime because of the EC's quantitative importance in textile matters (for an almost sentimental view from the standpoint of a country harmed by EC policy (Sri Lanka) (see Athulathmudali 1980)). Ironically enough, in spite of its internal divisions the EC is seen from the outside as a strong and unified actor. Due to the very important contribution of the EC to world textile production, an MFA without this actor would be totally uneffective. This strong position of the EC only works, however, with regard to the small, weak, underdeveloped or developing countries when it comes to drawing up the very protectionist bilateral agreements. But the greatest pressure in textile and clothing for the EC comes from the USA; as extremely protectionist bilateral agreements to USA sales are impossible, however, protectionism must be sought in reducing other imports into the EC. It may be of further interest to note that in the discussions on the textile and clothing industry, attention is almost exclusively directed towards the competition from developing countries, despite the fact that the competition between developed countries dominates the restructuring pro-

cesses, as can be illustrated by different indicators. Underdeveloped countries count for less than 25% of world trade in textiles, whereas the other 75% consists of trade between developed countries. Moreover, only 26% of the total of imported clothing in the EC came from underdeveloped countries in 1984. For textiles it was only 13% in the same year. Another indicator, the share in different consumer markets, shows a similar picture. In 1974/75 the sales of the underdeveloped countries to the three main markets – USA, Japan and EC – counted for only 7.2% in clothing and only 2.3% in textiles. In 1982 that was still only 15% for clothing and still only 2.9% for textiles (cf. UNCTAD 1979, 1985). The imports of clothing and textiles coming from underdeveloped countries thus account for only a very small part of world trade.

5. Conclusion

These case studies have tried to explore the complex relationship between the Community and the member states as far as external relations are concerned; they deal with a situation where the Community had the competence to make arrangements on behalf of its member states, but where the members still continued to pursue their own strategies and interests and where the competences of external representation were not clearly defined and delineated. In the EC's legal structure, treaty-making power has not been transferred completely to the Community level. Indeed, Per Lachmann points to the fact, that 'the Community has ... never suggested to third parties that succession has taken place but has always negotiated – most often through the Member States – protocols etc., allowing the Community to exercise its responsibilities along with or replacing the Member States as the case may be' (Lachmann 1984: 15).

In the MFA case the member states have not yet been replaced by the Community as parties to GATT. Legally, the EC is no contracting party in the GATT framework, but it politically behaves as if it were. This difficult construction is to be attributed to two overlapping and intermeshing arrangements. On the one hand, the constitutional provision of the Treaty of Rome for a common commercial policy obliges the member states to pursue a common policy at the EC level. On the other hand, the GATT rules do not yet formally acknowledge this new situation. However, as Per Lachmann notes on one European Court decision, 'through a process of implied mutual consent – the GATT partners had accepted that the Community had replaced the Member States as regards the execution of the GATT. This, however, is not succession but rather innovation and the Court explicitly refers only to the material obligations arising out of the GATT and not the formal status as Contracting Parties to GATT, which is still held by the Member States' (Lachmann 1984: 14).

In the domain of the chemicals control, the position of the EC was less strong. In this policy domain, the legal resources explicitly given over to the EC are quite weak. Although this policy topic is related to commercial policy as well, chemicals control is basicaly a matter of environmental and health policy. Thus the Community could only arrive at an influential position through internal legislation. The comparison also shows that the locus of the decision-making/negotiation arena is another determining factor for the position and power of the Community to act as a corporate actor on behalf of its members. Whereas in GATT it is generally accepted that the EC negotiates and speaks for its member states, in the OECD framework the role of the Community is limited to monitoring and coordination.

Both cases, however, demonstrate that the engagement of the EC in economic diplomacy is more than just a situation of collective action in which EC institutions would be merely facilitative and coordinating structures – and in which, after all, the member states would be the only true action units. The legal resources transferred to the EC institutions through the Treaty and internal legislations gives the EC the basic power not only to make agreements with third parties, but also to implement these agreements through judicial action against obstinate member states.

Acknowledgements

This paper is a revised version of a paper presented at the ECPR Joint Sessions of Workshops in Barcelona, March 1985. We would like to thank the participants of the Workshop 'The EC as an International Actor' and especially Jeremy Moon for his helpful comments.

Notes

1. The first case study is based on a rather intensive field-research of documents, interviews and a probation term at OECD. The second is merely a reinterpretation of already existing articles (both academic and non-academic) on the Multi Fibre Agreements. No original field work went into it. The study does not intend to assemble original information either; the scope is to arrange the already existent information in another way. The following studies were used as sources of information: Farrands (1979, 1982, 1983), Dolan (1983), Athulathmudali (1980), Van Dijck and Verbruggen (1982), Aggarwal (1983), Opitz (1980), De Groot (1981), Das (1985), Koekkoek and Mennes (1986), Wolf (1985), GATT (1984), Silberston (1984), de la Torre (1984), UNCTAD (1984).

References

Aggarwal, V.K. (1983). 'The unraveling of the Multi-Fiber Arrangement 1981: an examination of international regime change', *International organisation* 37: 618–645.

Athulathmudali, L. (1980). 'Forthcoming Negotiations on the Multi-Fibre Arrangement', *The World Economy* 3: 1–12.

Barby, H. von (1982). 'Die neue Chemikaliengesetzgebung im Hinblick auf den internationalen Handel', *Zeitschrift für Umweltpolitik* 2: 113–133.

Biles, B.A. (1983). 'Harmonizing the Regulation of New Chemicals in the United States and in the European Economic Community, *American Chemical Society Symposium Series* 213: 39–65.

Brickman, R., Jasanoff, S. and Ilgen, Th. (1982). *Chemical Regulation and Cancer: A Cross-National Study of Policy and Politics.* Ithaca, New York: Cornell University.

Coleman, J.S. (1972). 'Collective Decisions and Collective Action', pp. 208–219 in Laslett, P., Runciman, P.W. and Skinner, Q. (eds.), *Philosophy, Politics, and Society.* Oxford: Blackwel.

Coleman, J.S. (1973). *The Mathematics of Collective Social Action.* London: Heineman.

Coleman, J.S. (1974). *Power and the Structure of Society.* New York: Norton.

Court of Justice of the European Community (1971). Reports of Cases before the Court. Luxemburg.

Commission des Communauté Européennes (1981). État des Negotations entre la Communauté Européennes et les Autorités americaines en matière de contrôle des substances toxiques. COM (81) 69.

Das, D.K. (1985). 'Dismantling the Multifibre Arrangement', *Journal of World Trade Law* 19: 67–80.

Van Dijck, P. and Verbruggen, H. (1982). 'Het multivezelakkoord, de EG en de werkgelegenheid in ontwikkelingslanden'. *Economisch Statistische Berichten* 67: 472–476.

Dolan, M.B. (1983). 'European restructuring and import policies for a textile industry in crisis', *International Organisation* 37: 583–615.

Farrands, C. (1979). 'Textile Diplomacy: The Making and Implementation of European Textile Policy 1974–1978', *Journal of Common Market Studies* 18: 22–39.

Farrands, C. (1982). 'The Political Economy of the Multifibre Arrangement', pp. 87–101 in Stevens, C. (ed.), *EC and the Third World. Hunger in the World.* London: Hodder and Soughton.

Farrands, C. (1983). 'External Relations: Textile Politics and the Multi-Fibre Agreement', pp. 295–319 in Wallace, H., Wallace, W. and Webb, C. (eds.), *Policy-Making in the European Community.* Chichester: Wiley.

Forsyth, M. (1981). *Union of States. The Theory and Practice of Confedertion.* Leicester: Leicester University Press.

Gabbay, A. (1977). 'International Ramifications of the Toxic Substances Control Act',*Harvard Environmental Law Review* 2: 490–513.

GATT (1984). Textiles and Clothing in the World Economy. Geneva.

Alting von Geusau, F.A.M. (1967). 'The External Representation of Plural Interests. The European Community and its Members in the Conduct of External Relations', *Journal of Common Market Studies* 5: 426–454.

De Groot, G. (1981). 'Het Multivezelakkoord', *Economisch Statistische Berichten* 66: 1240–1246.

Gusman, S., Moltke, K., Irwin, F. and Whitehead, C. (1980). *Public Policy for Chemicals. National and International Issues.* Washington, D.C.: The Conservation Foundation.

Haigh, N. (1984). *EC Environmental Policy and Britain,* London: Institute for European Environmental Policy.

Hallstein, W., Goetz, H.H. and Narjes, K.H. (1969). *Der unvollendete Bundesstaat. Europaeische Erfahrungen und Erkenntnise.* Duesseldorf: Econ.

Hallstein, W. (1974). *Die Europaeische Gemeinschaft.* Duesseldorf: Econ.

Hartkopf, G. (1980). 'Toxic Substances: An Environmental Problem'. Opening lecture at a meeting in Bonn.

Hirschman, A.O. (1970). *Exit, Voice and Loyality.* Cambridge: Harvard University Press.

Hoffman, S. (1982). 'Reflections on the Nation-State in Western Europe Today', *Journal of Common Market Studies* 21: 21–37.

Huntington, S.P. (1973). 'Transnational Organizations in World Politics', *World Politics* 25: 333–368.

Jenkins, A.B. (1980). 'Nontariff Trade Barriers: A Comparision of the 6th Amendement and TSCA', *Toxic Substance Journal* 1: 35–50.

Keohane, R.O. and Nye, J.S. (1974/75). 'Transgovernmental relations and international organizations', *World Politics* 27: 39–62.

Koekoek, K.A. and Mennes L.B.M. (1986). 'Liberalizing the Multi Fibre Arrangement', *Journal of World Trade Law* 20: 142–167.

Koenemann, W.H. (1982). 'Internationale harmonisatie van de beheersing van chemicaliën: de rol van de OESO', *Milieu en Recht* 10: 278–283.

Kommission der Europaeischen Gemeinschaften (1977). *Stand der Umweltschutzarbeiten: Erster Bericht.* Brussels: EC

Krasner, S.D. (1982). 'Structural causes and regime consequences: regimes as intervening variables', *International Organisation* 36: 185–206.

Lachmann, P. (1984). 'International Legal Personality of the EC: Capacity and Competence', *Legal Issues of European Integration* 10: 3–21.

Laumann, E.O. and Marsden, P.V. (1979). 'The Analysis of oppositional structures in political elites: identifying collective actors', *American Sociological Review* 44: 713–732.

Mansbach, R.W., Ferguson, Y.H. and Lampert, D.E. (1976). *The Web of World Politics. Nonstate Actors in the Global System.* Englewood Cliffs: Prentice Hall.

Mansbach, R.W. and Vasquez J.A. (1981). *In Search of Theory – A New Paradigm for Global Politics.* New York: Columbia University Press.

von Moltke, K. (1982). 'National Implementation of European International Agreements Regarding New Chemical Substances', Environmental Law Symposium 1982, Minnesota, Mason.

NRDC – Natural Resources Defense Council (1979). 'International Cooperation for the Control of Chemical Control of Toxic Substances'. Unpublished paper.

OECD (1984). The OECD Chemicals Programm. Paris: OECD.

Olson, M. (1965). *The Logic of Collective Action.* Cambridge, (Mass.): Harvard University Press.

Opitz, K. (1980). *Wettbewerb und Kapazitaetsanpassung. Eine Analyse des Marktes für Chemiefasern in der BRD.* Berlin: Duncker und Humblot.

Petersmann, E.-U. (1984). 'The European Communities and GATT. The Economic and Legal Functions of GATT Rule'. *Legal Issues of European Integration, Special Issue:* 37–48.

Rehbinder, E. (1985). 'Harmonisierung des Chemikaliengesetz? Die Harmonisierungswirkungen der Richtlinie 79/831/EWG in den Mitgliedstaten der Europaischen Gemeinschaft im Lichte des deutschen Rechts', *Schriften der Geselschaft für Rechtspolitik* Band 3.

Schmidt-Bleek, F. and Bonberg, W. (1978). 'Potential Risks for Non-Tariff Barriers to Trade with Chemicals'. Unpublised paper.

Schneider, V. (1985). 'Corporatism and pluralist patterns of policy making for chemicals control: A comparision between West Germany and the USA', pp. 174–191 in Cawson, A. (ed.), *Organized Interests and the State. Studies in meso-corporatism.* London: Sage.

Schottelius, D. and Broecker, B. (1981). 'Umweltrechtliche Produktnormen und Internationaler Handelsverkehr – Wechselwirkungen und Spannungen dargestellt am Beispiel Chemie', pp. 121–150 in Gesellschaft für Umweltrecht (ed.), *Dokumentation zur 5. wissenschaftlichen Fachtagung der Gesellschaft für Umweltrecht.* Berlin: Erich Schmidt Verlag.

Silberston, Z.A. (1984). *The Multi-Fibre Arrangement and the UK Economy.* Her Majesty's Stationery Office, London.

Taylor, P. (1982). 'The European Communities as an Actor in International Society', *Journal of European Integration* 4: 7–41.

de la Torre, J. (1984). *Clothing-industry Adjustment in Developed Countries.* Thames Essay no. 38, Trade Policy Research Centre, London.

UNCTAD (1979). *Handbook of International Trade and Development Statistics,* New York.

UNCTAD (1984). International Trade in Textiles with Specal Reference to the Problems Faced by Developing Countries. Document TD/B/C.2/215rev.1.

UNCTAD (1985). *Handbook of International Trade and Development Statistics,* New York.

Wallace, W. (1983). 'Less than a Federation, More than a Regime: the Community as a Political System', pp. 403–436 in Wallace, H., Wallace, W. and Webb, C. (eds.), *Policy-making in the European Community.* London, Wiley.

Weiler, J. (1981). 'The Community System: the Dual Character of Supranationalism', *Yearbook of European Law* 1: 267–30.

Weiler, J. (1982). 'Community, Member States and European Integration: Is the Law Relevant?', *Journal of Common Market Studies* 21: 39–52.

Wilkinson, G.B. (1980). 'The Sixth Amendment: Toxic Substance Control in the EC, Law and Policy', *International Business* 2: 461–501.

Wolf, M. (1985). 'How to Unravel the Multi-Fibre Arrangement', *World Economy* 8: 235–247.

Wolfers, A. (1962). 'The Actors in International Politics', in: Wolfers, A. (ed.), *Disaccord and Collaboration.* Baltimore: John Hopkin Press.

Young, O.R. (1982). 'Regime dynamics: the rise and fall of international regimes', *International Organization* 36: 277–297.