

**The EU, the Greater China Area and Globalization:
The Case of the International Trade Regime**

by

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Introduction¹

The ongoing process of globalization has various manifestations.² An important one is the 'globalization' of the international trade regime first developed within GATT, now continued within the new World Trade Organization (WTO).

According to Stephen Krasner

Regimes can be defined as sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations.³

If we look at the international trade regime, principles defined by Krasner as "beliefs of fact, causation, and rectitude" could include what Ruggie has termed "embedded liberalism." Norms, defined by Krasner as "standards of behavior defined in terms of rights and obligations" could include "conditional reduction of trade barriers." Rules, defined by Krasner as "specific prescriptions or proscriptions for action" could include explicit targets and timetables for tariff reductions.⁴

Because of its underlying principles GATT was very much a western organization from the beginning and through the Cold War. A few communist countries from Eastern Europe did join as contracting parties, but while they remained state-trading countries they could not take part fully in the international trade regime. Also, developing countries that joined GATT were given exemptions from some of the rules.

During 1994 no less than 14 additional governments became contracting parties of GATT, bringing the number to 128 at the end of 1994. By the end of 1994 there were 24 working parties which had been established to examine accession requests, including for the People's Republic of China (PRC) and "Chinese Taipei" (Taiwan).⁵

Although the PRC is still a communist country it started to introduce market reforms from the end of the 1970s under the leadership of Deng Xiaoping. These reforms included reforms in the area of foreign trade.⁶ Since 1986 the PRC has sought to join the international trade regime. The Republic of China (ROC) on Taiwan applied for GATT membership in 1990.

¹ This preliminary draft is rather descriptive. A revised version will expand on the basic concepts of globalization, integration and international regimes. The paper has partly been based on interviews in Brussels on different occasions, in Taipei December 1996 and in Geneva September 1997.

² The concept of globalization has been defined in various ways. For the purpose of this paper it refers to the growing interdependence in the international system. For a discussion, see Marianne Beisheim/Gregor Walter, "'Globalisierung' - Kinderkrankheiten eines Konzeptes," *Zeitschrift für Internationale Beziehungen* Vol. 4, No. 1 (1997), pp. 153-180.

³ Stephen D. Krasner, "Structural Causes and regime consequences: regimes as intervening variables," in Stephen D. Krasner (ed.), *International Regimes* (Ithaca and London: Cornell University Press, 1983), p. 2.

⁴ See Marc A. Levy, Oran R. Young and Michael Zürn, "The Study of International Regimes," *European Journal of International Relations* Vol. 1, No. 3 (September 1995), pp. 267-330, esp. p. 273, and John Gerard Ruggie, "International regimes, transactions, and change: embedded liberalism in the postwar economic order," in Krasner (ed.), *International Regimes*, pp. 195-231.

⁵ World Trade Organization, *GATT Activities 1994-1995*, Geneva, April 1996, p. 111.

⁶ See, for instance, The World Bank, *China: Foreign Trade Reform*, Washington, D.C., 1994.

The concept of the Greater China Area is not well defined.⁷ In this paper we use it to refer to the PRC (or Mainland China), the ROC (or Taiwan), as well as Hong Kong that returned to Chinese sovereignty in July 1997, and Macao which will return to Chinese sovereignty in 1999. The latter two are already members of the WTO.

The other unit dealt with in this paper is the European Union (EU), which has had a Common Commercial Policy (CCP) for a number of years and which is supposed to have a Common Foreign and Security Policy (CFSP) since the entry into force of the Maastricht Treaty on European Union in 1993. We mention the latter because the question of PRC and ROC accession to the WTO is partly economic and partly political. However, the political question of diplomatic recognition was solved by the member states before the entry into force of the Maastricht Treaty.

The purpose of the paper is to outline the EU commercial policy vis-à-vis the PRC and ROC, especially concerning membership of the WTO. Since joining the multilateral trade regime usually involves the negotiation of an accession ticket the EU has had to develop a policy on the controversial issues associated with PRC and ROC membership first of GATT, then WTO.

The issues have to be seen in the context of growing trade between the EU and East-Asia in general, the Greater China Area in particular. The fact that the EU has trade deficits with China and Taiwan - although not with Hong Kong - is part of this context. In the political contest between the PRC and ROC all member states of the EU now have diplomatic relations with the PRC but not with the ROC. The EU has accepted that there is only one China and that the PRC represents that China. There are only informal relations with Taiwan even if Taiwan is an important trading partner of the EU.

The Political Context: EU Relations with the PRC and Non-Relations with the ROC

The general context of EU-PRC/ROC trade relations is politically sensitive. The so-called 'China problem,' the existence of two governments which claim, or used to claim, to represent the same country, creates political inhibitions and situations of difficult choices. Gradually the European countries established diplomatic relations with the PRC and broke off relations with the ROC - in some cases because the ROC did not accept relations with countries that had established relations with Beijing. To-day, when the ROC would like to join the UN while allowing the PRC to continue as a UN member, it is the PRC that does not accept such a two-China solution.⁸

The current situation goes back to 1975, when the European Community (EC) established official relations with the PRC. This happened on the occasion of a visit to Peking by EC Commission Vice-President Sir Christopher Soames.⁹

A number of the EC member states had trade agreements with the PRC and most of them had established official relations with the PRC by then. The UK, the Netherlands and Denmark had recognized the PRC in 1950 and diplomatic relations were established. France actually had decided to recognize the PRC at that time, too, but the PRC's recognition of the Ho Chi Minh regime hindered an

⁷ For a discussion of the concept, see David Shambaugh (ed.), *Greater China: The Next Superpower?* (Oxford: Oxford University Press, 1995).

⁸ Republic of China, Ministry of Foreign Affairs, "The Republic of China on Taiwan and the United Nations," August 1995.

⁹ Harish Kapur, *Distant Neighbours: China and Europe* (London: Pinter Publishers, 1990), p.123. Let us recall the the EC had nine members in 1975: France, Germany, Italy, Belgium, Netherlands, Luxembourg, United Kingdom, Denmark and Ireland. Greece joined in 1981, Spain and Portugal in 1986, and Sweden, Finland and Austria in 1995.

implementation of the decision. France finally established relations with the PRC in 1964 under General de Gaulle. The French tried to maintain relations with the ROC at the time, but the ROC rejected the idea of "two Chinas." So France broke off relations with the ROC in favour of the PRC. This was followed by Italy in 1970, Belgium in 1971, and Greece, Germany and Luxembourg in 1972. Spain also followed after the UN decision in 1971 to seat the PRC and so did Portugal in 1974. (Ireland followed only in 1979).¹⁰ This left the Holy See as the only European state with diplomatic relations with the ROC.¹¹

In 1974 the EC Council discussed trade relations with state trading countries, including the PRC. It was decided that bilateral trade agreements of the member states, which were expiring, should be replaced by EC agreements. This was in accordance with the Treaty of Rome establishing the European Economic Community (EEC), which foresaw a Common Commercial Policy. A draft text contemplating long-term non-preferential trade agreements, based on a reciprocal assurance of equal benefits and obligations, was sent to the state trading countries, including the PRC. The EC was offering most-favoured nation (MFN) treatment in respect of tariffs subject to exceptions. Agreements would also provide for Joint Committees and appropriate safeguard mechanisms. Existing national import quotas would be continued for 1975.¹²

Christopher Soames' trip to the PRC in May 1975 should be seen in this perspective of the EC's Common Commercial Policy. The status of Taiwan (ROC) could not be kept off the agenda.¹³ The PRC insisted that the EC formally and publicly declared that Taiwan was an integral part of China, and Beijing the sole government entitled to represent China. Christopher Soames made the following statement at a press conference on 7 May 1975:

I confirmed to the Minister that the Community ... does not entertain any official relations or enter any agreements with Taiwan. I explained that matters such as recognition of states did not enter into the responsibility of the Community. But I pointed out to the Minister that all the member states of the Community recognized the Government of the People's Republic of China as the sole legal government of China and have taken positions with regard to the Taiwan question acceptable to the People's Republic.¹⁴

This position was confirmed by Sir Christopher Soames, when he answered an oral question on EC-PRC relations in the European Parliament on 18 June 1975.¹⁵

A trade agreement was concluded between the EC and the PRC in 1978 and a textile agreement was signed in 1979. Economic cooperation was increased further with the conclusion of a

¹⁰ Harish Kapur, *China and the EEC: The New Connection* (Dordrecht: Martinus Nijhoff Publishers, 1986), p. 32.

¹¹ See also Cheng-wen Tsai and Chu-cheng Ming, "The Republic of China and Western Europe: Past and Future," in Yu San Wang, (ed.), *Foreign Policy of the Republic of China on Taiwan: An Unorthodox Approach* (New York: Praeger, 1990), pp. 123-143, esp. pp. 127-28.

¹² *Bull. EC* 5-1974, point 2330, and *Bull. EC* 11-1974, point 1301.

¹³ Xiao Zhi Yue, *The EC and China* (London: Butterworths, 1993), pp. 6-7.

¹⁴ Quoted from Kapur, *China and the EEC*, p. 37 [the ref there: *FBIS Daily Report*, 9 May 1975, p. A-19.]. See also *Bull. EC* 5-1975, point 1201-1205.

¹⁵ *Official Journal of the European Communities*, No. C 157, 14 July 1975.

Trade and Economic Cooperation Agreement in 1985.¹⁶ Finally, in 1988 the EC Commission established a diplomatic representation in Beijing. In 1989 the relations cooled, first because of human rights problems in Tibet, later because of the Tiananmen Square events.¹⁷ On the latter occasion the EC Commission released a statement in which it said that it was 'dismayed and shocked.' It went on:

It deplores the brutal repression of the people of Peking, so sorely tried. It would point out that cooperation between China and the Community can only suffer as a result and would risk being permanently affected if the policy of the Chinese Government were to start on a course which would put at risk the policy of openness and reform followed until now.¹⁸

The Commission expressed the wish that 'peaceful conditions will very quickly return in China.' It was also decided that Commission President Jacques Delors and Vice-President Frans Andriessen could not receive Zheng Tuobin, who was due to co-chair the meeting of the EC-China Joint Committee on 5 June that year.

Prior to establishing official relations with the PRC the EC had actually concluded a textile agreement with the ROC as late as October 1970.¹⁹ It expired on 1 October 1973. Since then there has been no official agreements between the EC and the ROC. When the Trade and Economic Cooperation Agreement was concluded between the EC and the PRC in 1985 the European Parliament was consulted, pursuant to article 235 of the European Economic Community (EEC) Treaty. The Parliament approved the Commission's proposal for a regulation concerning the agreement, having, *inter alia*, "regard to the enormous potential offered by China's economic policies and conscious of the need to compete effectively to exploit that potential."²⁰ But on the same day the Parliament also adopted a resolution on trade with Taiwan, where it pointed to Taiwan's "important foreign trade relations with over 140 countries and its position amongst the 20 largest trading nations of the world." The European Parliament therefore believed that "the Community cannot neglect the economic importance of Taiwan and should take full advantage of developing commercial and economic relations." In line with this the Parliament urged the Commission to "improve the existing commercial and economic relations with Taiwan and therefore to ensure that Taiwan is informed of planned trade measures and is treated in a comparable manner to other Far Eastern trading partners where EEC exports and imports are concerned."²¹

The Commission did not agree with the European Parliament in 1985. As a matter of fact during some years the Commission denied having contacts with representatives of the ROC. No official contacts were allowed in Commission buildings in Brussels.

¹⁶ Council Regulation (EEC) No 2616/85 of 16 September 1985, *Official Journal of the European Communities* No L 250, 19 September 1985. See also 'Signing of the Community-China Cooperation Agreement', *Bull. EC* 5-1985, points 1.5.1-1.5.4.

¹⁷ Xiao Zhi Yue, *The EC and China*, pp. 7-9.

¹⁸ *Bull. EC* 6-1989, point 2.4.1.

¹⁹ *Ibid.*, p. 6.

²⁰ Doc. A2-74/85, 11 July 1985. OJ No C 229, 9 September 1985.

²¹ Doc. 2-1765/84, 11 July 1985, OJ No C 229, 9 September 1985.

As late as October 1991 when the ROC's semi-official Central News Agency announced that there would formal talks between the EC and the ROC on intellectual property rights on November 21 and 22, without naming the venue, the Commission denied the announcement. "There are no formal negotiations between two entities which do not recognize each other," a Commission spokesman said. He admitted that there could be contacts, but there would be no negotiations.²²

In April 1992 the Vice-President of the Commission, Martin Bangemann, visited the ROC in private capacity, as Chairman of the Friedrich-Naumann Foundation. While he was there Bangemann stated that the EC favoured simultaneous admission of the PRC and ROC to GATT. He also discussed the participation of EC industries in the major infrastructure projects launched by ROC. ROC Premier Hau Pei-tsun lauded the visit of Bangemann as highly significant.²³ In October 1992 a member of the European Parliament, Carlos Robles Piquer (PPE) asked a written question to the Commission about this trip. The answer given by Bangemann on behalf of the Commission on 5 February 1993 was the following:

Since the establishment of diplomatic relations between the Community and China in 1975, the Community does not maintain official relations with Taiwan. Despite the absence of diplomatic relations, technical discussions between the Community and Taiwan are required on a number of commercial questions. Furthermore, the Working Party on the accession of Taiwan to GATT was set up on 29 September 1992.

Bilateral trade between the EC and Taiwan has grown considerably in recent years. Total trade grew from ECU 3,8 billion in 1981 to ECU 16,5 billion in 1991. The EC's trade deficit with Taiwan reached ECU 5,5 billion last year.

Vice-President Bangemann paid a private visit to Taiwan last April. This does not modify the situation described above although private visits can play a useful role in improving relations.

Relations between Beijing and Taipei are an internal Chinese affair which does not involve the Community.²⁴

In December 1992 the deputy chief of cabinet of Commission Vice-President Martin Bangemann, Paul Weissenberg, also visited the ROC as head of a 7-member delegation, which called on the Chinese National Federation of Industries and delivered two speeches. Weissenberg referred to the EC's single market, urging Taiwan businessmen to pay attention to unified product standards in order to gain easier access to the EC market. He expressed the hope that Taiwan would develop pragmatic bilateral ties with the EC.²⁵

In reality there have been regular informal consultations between the EC and the ROC for some years. At first they did not take place in Taipei or Brussels. But the 9th ROC-EC Consultation took place in Taipei, 22-23 October, 1992. The agenda included multilateral issues, bilateral cooperation, and removal of trade barriers. Issues dealt with included the ROC and the Montreal

²² Reuter News Service, 31 October 1991.

²³ *Agence Europe* 3 June 1992; China Economic News Service, Reuter Textline, 11 April 1992.

²⁴ "Written Question No 2410/92," *Official Journal of the European Communities* No C 141 (19 May 1993), p. 30.

²⁵ China Economic News Service, Reuter Textline, 10 December 1992.

Protocol dealing with pollution by CFCs, ROC and the Customs Co-operation Council, exchange of information in the environmental area, cooperation of small and medium size enterprises, scientific and technological cooperation, removal of tariff and non-tariff barriers in the textiles sector, anti-dumping procedures, taxation of Scotch and Irish whiskies, national treatment of European banks in the ROC, liberalization of the ROC's insurance sector, liberalization of EC import of meat and dairy products in the ROC, ROC's accession to GATT, mutual recognition of certificates, inspection of agricultural products, national measurement standards, patents and trademarks, the regulatory framework governing the European securities and future markets after the 1992 single market, customs cooperation, and income tax exemption on shipping enterprises. The ROC invited the EC to consider establishing a representative office in the ROC, to allow young graduates from the ROC to take part in the Commission's training and service programme, to abolish restrictions on officials' visits to the ROC, and designate officials in charge of relations with the ROC in the Commission's Directorate General responsible for external relations (DG I).²⁶

The fact that the consultations took place in Taipei for the first time was seen as a "political breakthrough" on the ROC side.²⁷

According to the China Economic News Service the EC did not commit itself to backing the ROC in its bid to become a signatory to the Montreal Protocol. Nor did the EC commit itself to an agreement on small and medium size enterprises. According to the same source Hugo Paemen, head of the EC delegation to the consultation meeting, did say that the EC was willing to help Taiwan join GATT and other multilateral international organizations if the island was able to open up its market to the EC. According to Sheu Ke-sheng, ROC chief negotiator, this would include removal of non-tariff barriers to trade. The EC rejected the proposal to set up a trade office in Taiwan, but said it would consider this after Taiwan joins GATT. Some exchange of trade information and inspection technology on ordinary products as well as cooperation between patent organizations was said to have been agreed.²⁸

In March 1993 ROC's Economy Minister Vincent Siew again invited the EC to set up a representation office in Taipei.²⁹

Commission Vice-President Martin Bangemann paid a second visit to Taipei in November 1993. He called on President Lee Teng-hui and other senior officials.³⁰

An EC-ROC consultation took place in Brussels, 22-23 February, 1994. Each side had a delegation of about 20 officials at the meeting. The agenda consisted of an economic overview, (including GATT accession of the ROC and EC relations with APEC), visa-free entry to the EU for ROC citizens, Taiwan as a regional operations center for the Asia-Pacific, market access issues both for financial services and goods, intellectual property rights, product certification, environment protection, and bilateral cooperation.³¹ According to the Commission the most important issues dealt with were ROC's accession to GATT, intellectual property, and financial services. The issue of tax discrimination of alcohol and tobacco products from the EC was brought up in connection with the

²⁶ Information kindly provided by the Taipei Economic and Cultural Office in Brussels.

²⁷ *Agence Europe*, 8 September 1992.

²⁸ China Economic News Service, Reuter textline, 23 October 1992.

²⁹ *Agence Europe*, 31 March 1993.

³⁰ China Economic News Service, Reuter Textline, 23 November 1993.

³¹ Information kindly provided by the Taipei Economic and Cultural Office in Brussels.

GATT membership issue. The ROC undertook to remove existing discrimination against EC imports by the middle of next year. In respect to intellectual property rights the ROC was moving in the right direction in its legislation. In financial services, however, the ROC still had a long way to go to satisfy EC requests. For the ROC to be able to join GATT a satisfactory offer in services was said to be needed.³²

In general the EC/EU has been trying to upgrade its relations with Asia in the 1990s. The Commission issued a communication on Asia in 1994.³³ In 1995 a communication on "A Long-Term Policy for China-Europe Relations" followed. The Commission argued that Europe and China share a number of interests in global and regional security, for instance non-proliferation of nuclear weapons, and other global issues, e.g. protection of the environment. Global economic stability was also a shared interest:

China's size and influence on world trade gives its economic policy global significance. It is in the world's interest, as well as China's, that the Chinese economy continues to grow and to open up, and that China takes its place as a major player in the world system of economic rules and policies. It is also essential to help China to participate fully in the rules-based system of the World Trade Organisation.³⁴

There was further an argument concerning competitiveness. "An active role for EU business in China, where US and Japanese competition is already fierce, is essential."

The EC's Common Commercial Policy

EU trade relations with the Greater China Area must be seen in the context of the EC's Common Commercial Policy, which is based on relevant articles of the Treaty of Rome establishing the European Economic Community. The treaty entered into force in 1958. It was later changed by the Single European Act (SEA), which entered into force in 1987, and the Maastricht Treaty on European Union, which entered into force on 1 November 1993.³⁵ These later treaties, however, did not make fundamental changes in respect to trade policy. The newly negotiated Amsterdam Treaty will add stipulations concerning services and trade-related aspects of intellectual property rights (TRIPS). This expansion of scope can be seen as a result of 'globalization', since the Uruguay Round results and the WTO cover these new issues.

Relevant articles on commercial policy are found in the Treaty of Rome (articles 110-116). But other articles are relevant, especially the ones on the customs union (articles 12-37),

³² Interview material.

³³ Commission of the European Communities, "Communication from the Commission to the Council: Towards a New Asia Strategy," COM(94) 314 final, Brussels, 13.07.1994.

³⁴ Commission of the European Communities, "Communication from the Commission: A Long Term Policy for China-Europe Relations," COM(95) 279 final, Brussels 05.07.1995, p.3.

³⁵ For the texts of the original treaties as amended by the SEA, see *Treaties establishing the European Communities. Texts amending these Treaties. Single European Act. Resolutions - Declarations* (Luxembourg: Office for Official Publications of the European Communities, 1987). For the Maastricht Treaty text, see Council of the European Communities and Commission of the European Communities, *Treaty on European Union* (Luxembourg: Office for Official Publications of the European Communities, 1992).

including the section on setting up of the common customs tariff. The common commercial policy was to be developed over a transition period lasting until 1970. Actually the customs union was established ahead of schedule in 1968. Despite the idea of a common commercial policy, which the European Court of Justice (ECJ) has said is an exclusive EC competence, elements of national trade policies remained until recently, especially national quotas on sensitive products, and sometimes voluntary export restraints (VERs) were negotiated by some member states.

In respect to trade relations with third countries article 113 is of central importance:

1. ... the common commercial policy shall be based on uniform principles, particularly in regard to changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures of liberalization, export policy and measures to protect trade as those to be taken in case of dumping or subsidies.

2. The Commission shall submit proposals to the Council for implementing the common commercial policy.

3. Where agreements with third countries need to be negotiated, the Commission shall make recommendations to the Council, which shall authorize the Commission to open the necessary negotiations.

The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it.

4. In exercising the powers conferred upon it by this Article, the Council shall act by a qualified majority.

We notice that the treaty assigns an important role to the Commission, which is expected to represent the common Community interest. The member states make final decisions in the Council of Ministers and supervise ongoing negotiations in this area through a special committee, referred to normally as the Article 113 Committee. We notice further that the Council can make decisions by a qualified majority vote (QMV). Finally, we notice that article 113 does not require consultation or other involvement by the European Parliament.

The Maastricht Treaty added the following to article 113: "The relevant provisions of Article 228 shall apply." Article 228 deals with agreements with third countries and international organizations in general. It was expanded by the Maastricht Treaty. It includes as a general rule that the European Parliament must be consulted for such agreements, but explicitly exempts agreements referred to in Article 113(3).³⁶

Another article which has been important so far is article 115, which deals with situations where member states have trade related economic difficulties. In such situations the Commission shall recommend methods to deal with the situation. However, "Failing this, the Commission shall authorize Member States to take the necessary protective measures, the conditions and details of which it shall determine." The Maastricht Treaty changed "shall" to "may" in the quoted part. The Treaty of Rome further said that "In case of urgency during the transitional period, Member States may themselves take the necessary measures..." The Maastricht Treaty says "In case of urgency, Member States shall

³⁶ The treaty also includes an article 239 on association agreements. For such agreements the assent by the European Parliament has been required since the Single European Act (SEA). This rule is now also mentioned in article 228 as revised by the Maastricht treaty.

request authorization to take the necessary measures themselves from the Commission, which shall take a decision as soon as possible." So the Maastricht Treaty has strengthened the role of the Commission in this respect. It is this article 115 which made it possible for some member states to have national quotas for certain products from some countries. With the completion of the Internal Market and abolishment of internal border controls such national quotas should in principle also be abolished - or changed into Community quotas, if necessary. The logic of this would have been to repeal article 115. This, however, did not happen. A leading expert on Community trade law concluded that "the mere existence of Article 115 in the Treaty alerts the Community's trading partners to the fact that there is... a legal basis for protectionist measures - whatever form they may possible take - inside the Community."³⁷

The text that will be added by the Amsterdam Treaty is the following new article 113(5):

The Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament, may extend the application of paragraphs 1 to 4 to international negotiations and agreements on services and intellectual property insofar as they are not covered by these paragraphs.³⁸

We notice that the use of QMV is not automatic but depends on a preceding unanimous vote.

If we look at the substance of EC trade policy it is partly based on the multilateral regime created within GATT and the WTO and partly based on agreements with various states and groups of states. Many authors have talked about a hierarchy of relations, with some countries being given special treatment. In Europe this includes especially the members of the European Free Trade Association (EFTA), which have had Free Trade Agreements (FTAs) since the first enlargement of the EC in 1973, when two original EFTA countries, the UK and Denmark, joined the EC together with Ireland.³⁹ Six EFTA countries, Austria, Finland, Iceland, Lichtenstein, Norway and Sweden, more recently, in 1993, concluded the European Economic Area (EEA) agreement with the EC, which entered into force in 1994. The Swiss people voted no to the agreement in a referendum. The following year, however, three of the EEA states, Austria, Sweden and Finland joined the EU as members. Through the EEA the remaining states, Norway, Iceland and Lichtenstein, get access to the EC's internal market. This means free movement for industrial goods, services, capital and people.⁴⁰

As the Cold War was coming to a close the EC negotiated Trade and Cooperation Agreements with Eastern European states, starting with Hungary in 1988. These were followed with association agreements, so-called Europe Agreements, with Central and Eastern European countries (CEECs), which aim for free trade in industrial products over a 10 year period.⁴¹ So-called Partnership

³⁷ Marc Maresceau, "The Concept 'Common Commercial Policy' and the Difficult Road to Maastricht," in Marc Maresceau (ed.), *The European Community's Commercial Policy after 1992: The Legal Dimension* (Dordrecht: Martinus Nijhoff Publishers, 1993), pp. 5-19.

³⁸ Council of the European Union, Intergovernmental Conference, *Amsterdam European Council: Draft Treaty*, Brussels, June 1997, p.112.

³⁹ Finn Laursen, 'The Community's Policy Towards EFTA: Regime Formation in the European Economic Space (EES),' *Journal of Common Market Studies* Vol. 28, No. 4 (June 1990), pp. 303-325.

⁴⁰ See also Finn Laursen, "European Integration and Trade Regimes: From the European Economic Area to the 'Europe' Agreements," in Madeleine O. Hosli and Arild Saether (eds), *Free trade agreements and customs unions: Experiences, challenges and constraints* (Maastricht: European Institute of Public Administration, 1997), pp.267-291.

⁴¹ Finn Laursen, 'The EC and its European neighbours: special partnerships or widened membership?' *International Journal* Vol.47, No 1 (Winter 1991-2), pp. 29-63; and Finn Laursen, 'The EC in Europe's Future Economic and Political

and Cooperation Agreements have been negotiated with some of the former Soviet republics, including Russia. Three former Soviet republics, the Baltic countries of Estonia, Latvia and Lithuania, have been included in the group that have negotiated Europe Agreements. Outside Europe the most important part of this hierarchy of relations is the Lomé Convention with a large group of former colonies of member countries. These countries are in Africa, the Pacific and the Caribbean, thus referred to as APC countries.

It can be argued that the EC for many years gave low priority to relations with countries in Asia. In the 1960s the area was largely neglected. In the 1970s some Asian countries became competitors as they started exporting an increasing number of industrialized commodities, including especially the East Asian Newly Industrialized Countries (NICs). The EC became protectionist in areas like textiles and clothing, shipbuilding, steel and parts of the chemical and electronic industries. Countries targeted especially included South Korea and Taiwan. Taiwan was further excluded from the Generalized Scheme of Preferences (GSP) for developing countries which was agreed in the United Nations Conference on Trade and Development (UNCTAD) in 1971. The EC's protectionism continued in the 1980s, including quantitative limits of textiles based on the Multifibre Arrangement (MFA), which was negotiated in the GATT in 1973 and went into force at the beginning of 1974. There were quantitative restrictions and 'voluntary' export restraints in areas like footwear (Korea and Taiwan), electrical equipment (Korea), umbrellas (Taiwan) and metal flatware (Korea). During the 1980-88 period the four Asian NICs were targeted by thirty anti-dumping or anti-subsidy actions by the EC, nearly 40 percent of the cases against imports from developing countries.⁴²

Quotas, VERs, anti-dumping and other similar instruments increasingly replaced tariffs as means of protection in the 1970s and 1980 despite efforts during the Tokyo Round to limit these Non-Tariff Barriers (NTBs) to trade. Tariffs were gradually reduced through successive rounds of trade negotiations within GATT. The average tariffs for non-preferential imports to the EC were reduced from 12.5 percent for the original six member countries of the EC in 1958 to 5.1 percent (trade-weighted average) in 1988. However, high tariffs did remain for some products: Up to 30 percent for agricultural products, where there might be so-called levies in stead of or additionally to tariffs, up to 20 percent for footwear, 12.5-15 percent for textiles and clothing, 13-19.2 percent for organic chemicals, 12.5-22 percent for some motor vehicles, 14 percent for most integrated circuits, radios, television sets and video recorders.⁴³ The list gives a good idea of what is considered 'sensitive' products within the EC.

EU Trade with the Greater China Area

In 1995 China ranked as number five among the EU's main trading partners in terms of total trade (imports plus exports) after the United States, Switzerland, Japan and Norway. Hong Kong was number 9 and Taiwan number 12. If we add the three Chinese economies together "Greater China" comes in as number four after the United States, Switzerland and Japan, but very close to the latter (see Table 1).

Architecture,' in Svein S. Andersen and Kjell A. Eliassen (eds.), *Making Policy in Europe: The Europeification of National Policy-making* (London: SAGE Publications, 1993), pp. 215-236.

⁴² Enzo R. Grilli, *The European Community and the Developing Countries* (Cambridge: Cambridge University Press, 1993), pp. 281-283.

⁴³ J.P. Hayes, *The Making of Trade Policy in the European Community* (London: Macmillan, and New York: St. Martin's Press, 1993), pp. 11-12.

The EU's trade with China and Taiwan has expanded considerably over recent years. The general trends are shown in tables 2-4 and fig. 1-3. We notice that the EU has trade deficits with China and Taiwan, but a surplus with Hong Kong.

If we look at the relative importance of the three Chinese economies in EU's trade then China ranked as number 27, Taiwan as number 25, and Hong Kong as number 16 in respect to imports in 1980. By 1995 China had moved up to 4th place, Taiwan to 8th place, but Hong Kong had fallen to 20th place on the import side. On the export side China moved up from 26th to 8th place and Taiwan from number 42 to number 16. Here Hong Kong also moved up, from 22nd to 6th place from 1980 to 1995.⁴⁴ This is a rather impressive improvement of the EU's trade relations with the Greater China Area.

Table 1: The EU's Main Trading Partners

RANK	TRADING PARTNERS	EU IMPORTS	EU EXPORTS	TOTAL VOLUME	% OF TOTAL EU TRADE
1	United States	103.6	100.9	204.5	18.4
2	Switzerland	43.8	51.0	94.8	8.5
3	Japan	54.3	32.9	87.2	7.9
4	Norway	25.4	17.3	43.7	3.9
5	China	26.3	14.6	40.9	3.7
6	Russia	21.9	16.1	38.0	3.4
7	Poland	12.2	15.1	27.3	2.5
8	South Korea	10.9	12.3	23.2	2.1
9	Hong Kong	7.2	15.8	23.0	2.1
10	Turkey	9.2	13.4	22.6	2.1
11	Brazil	10.8	11.3	22.1	2.0
12	Taiwan	11.8	10.1	21.9	2.0
13	Canada	11.7	10.1	21.8	2.0
14	Czech Republic	9.0	11.6	20.6	1.9
15	Singapore	8.8	10.9	19.7	1.8

Source: Christopher Piening, *Global Europe: The European Union in World Affairs* (Boulder and London: Lynne Rienner Publishers, 1997), p. 16.

Table 2: EU Trade with Hong Kong (Values in Mio ECU)

⁴⁴ Eurostat, *External and Intra-European Union Trade. Statistical yearbook 1958-1995* (Luxembourg: Office for Official Publications of the European Communities, 1997), pp. 42-43.

	1990	1991	1992	1993	1994	1995	1996
exports	6999	7830	9272	12000	13913	15791	17340
imports	6554	7052	6518	7005	7111	7155	7179
balance	445	778	2754	4995	6801	8636	10161

Source: Eurostat, "European Union Trade Relations with Hong Kong, China and Taiwan . Analysis from 1990 to 1996," *Statistics in Focus: External Trade* No. 4, 1997.

Fig. 1: EU Trade with Hong Kong

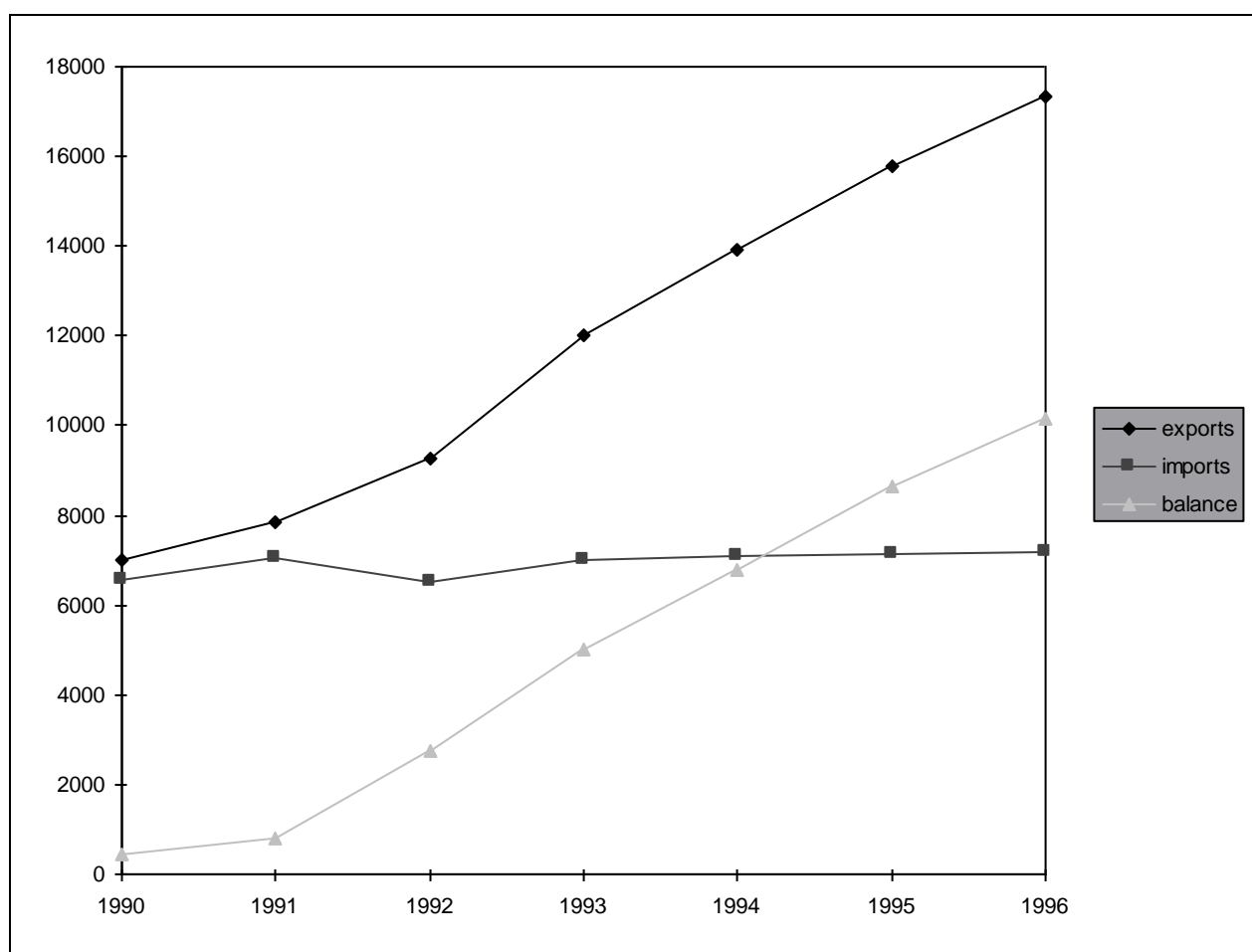


Table 3: EU Trade with Taiwan (Values in mio. ECU)

	1990	1991	1992	1993	1994	1995	1996
--	------	------	------	------	------	------	------

exports	5396	6028	6780	8198	9263	10106	9932
imports	10084	12061	11705	11358	11380	11765	12908
balance	-4688	-6033	-4925	-3160	-2117	-1659	-2976

Source: Eurostat

Fig. 2: EU Trade with Taiwan

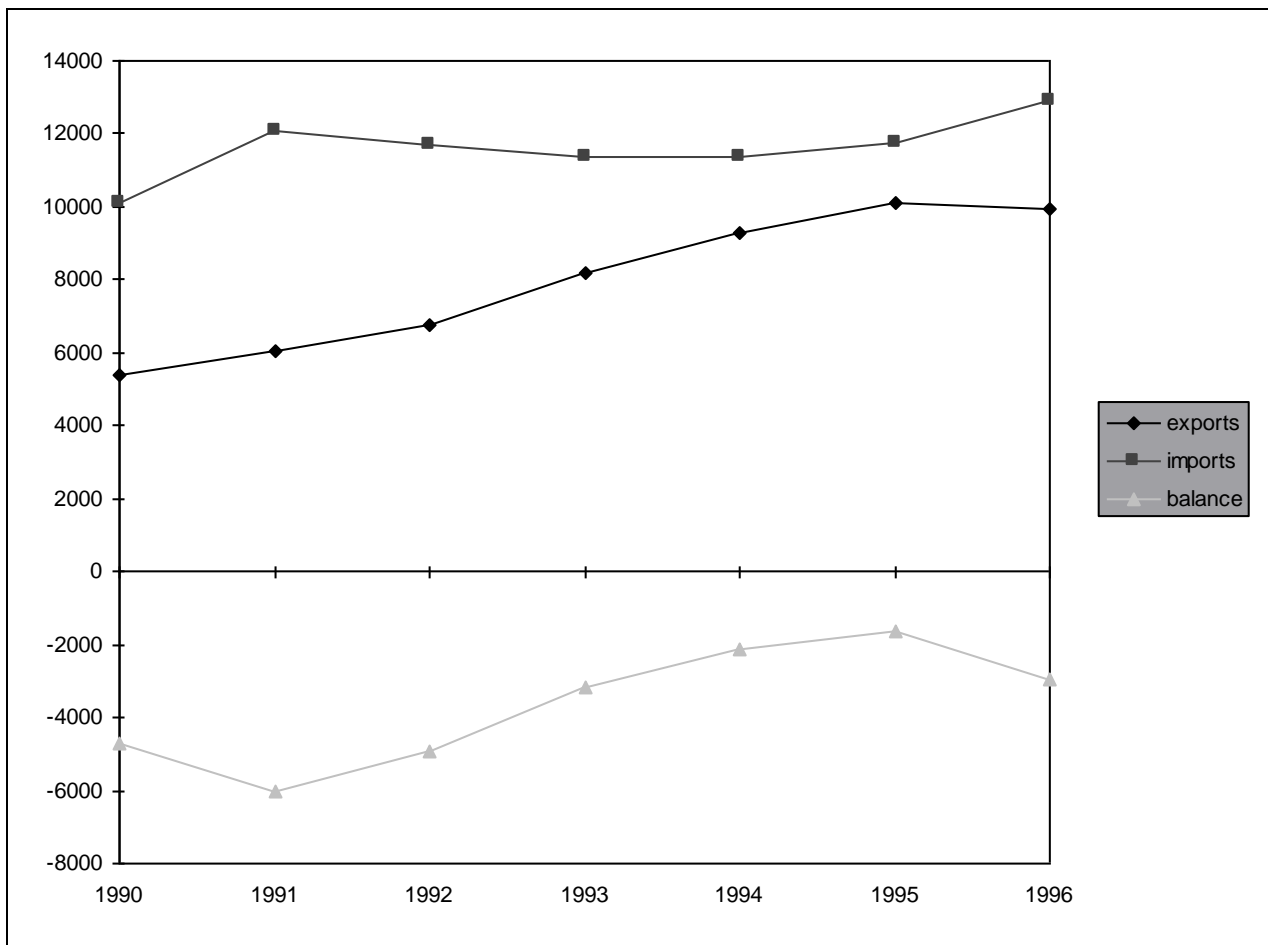


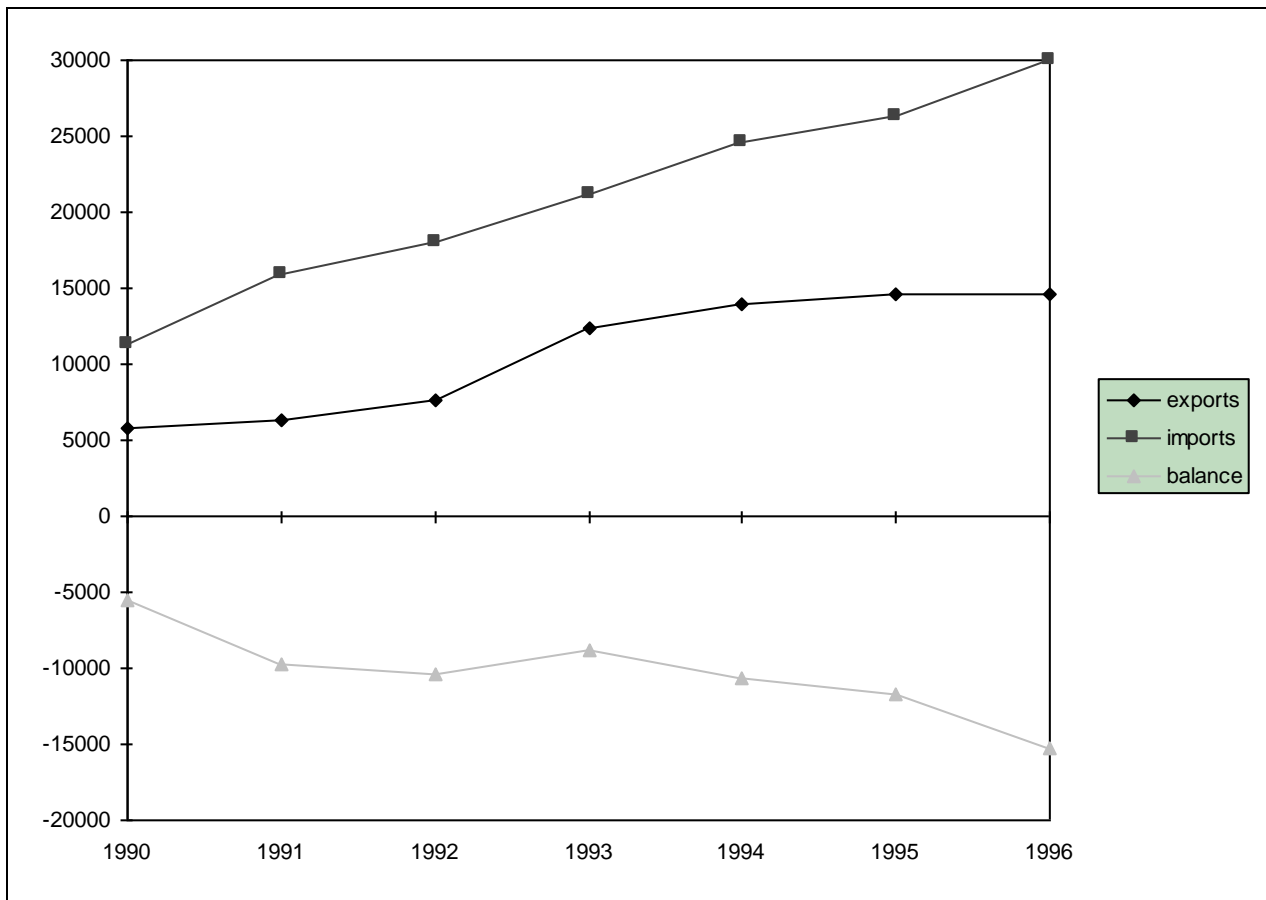
Table 4: EU Trade with China (Values in mio. ECU)

	1990	1991	1992	1993	1994	1995	1996
--	------	------	------	------	------	------	------

exports	5796	6255	7578	12356	13991	14625	14652
imports	11356	15979	17968	21119	24619	26341	29978
balance	-5560	-9724	-10390	-8763	-10629	-11715	-15325

Source: Eurostat

Fig. 3: EU Trade with China



The Management of (Non)-Relations with Taiwan

As mentioned earlier, since the establishment of official relations between the EC and the PRC in 1975 there have been no official relations between the EC and the ROC. Trade, however, as we have seen, kept increasing during the 1980s and early 1990s. So the need for some way to manage these (non)-relations was felt. On the EC side this included the passing of unilateral measures, especially in respect to textiles, which has been a politically sensitive issue in the EC. Anti-dumping measures are by nature also unilateral. Recently, in 1990, the EC Commission used a non-governmental organization, the Association of European Chambers of Commerce and Industry (Eurochambres) to conclude two

agreements with the ROC. One was a "Protocol on Income Tax Exemption on Shipping Enterprises" between the Taipei Economic and Cultural Office in Brussels and Eurochambres. In this protocol, signed 1 August, 1990, in Brussels, the two sides "ascertained that, as from date of signature, the financial authorities of both parties are willing not to apply, on a reciprocal basis, income tax imposed on the operation of ships in international traffic by their respective shipping enterprises carrying cargoes from either side." The other agreement, signed by the Secretary General of the China External Trade Development Council on 29 December, 1990, and by the President of Eurochambres on 20 March 1991, was an "Agreement on the Organization of a System of International Customs Deposits with China-Taiwan for the temporary Admission of Goods."⁴⁵

Basically Eurochambres acted as an agent for the Commission, which took the initiative and conducted the negotiations. Using Eurochambres was a solution chosen in order not to upset relations with the PRC. The shipping tax agreement was only concluded after several years of discussions. The purpose was to avoid discrimination in relation to the United States. The agreement on customs deposits aims to facilitate temporary admission of goods for exhibitions and fairs. It is managed by the International Chamber of Commerce in Paris, which guarantees that the goods in question will be reexported. The agreement follows the same principles as the International Convention of the ATA Carnet.⁴⁶

The possibility of other agreements between European non-governmental organizations and ROC organizations/authorities cannot be ruled out. However, WTO membership of the ROC might presumably make it easier for the EU to contemplate direct bilateral agreements with the ROC.

EU Anti-Dumping Policy

Apart from tariffs, which have been reduced thanks to successive rounds within GATT, the EU have used quota restrictions for imports from China and other East Asian economies. Quotas were especially important for textiles and clothing and remain so, although these restrictions based on GATT's Multi-fibre arrangement (MFA) are supposed to be phased out over a ten-year period. Since the EU gives Most-Favoured-Nation (MFN) treatment to China and Taiwan even if they are not members of WTO the two economies have benefited from internationally agreed tariff reductions. In the case of China MFA restrictions have been negotiated. In the case of Taiwan they have been imposed unilaterally by the EU. Another important trade policy instrument has been anti-dumping duties.

Article VI of the GATT deals with anti-dumping and countervailing duties. The article condemns dumping" by which products of one country are introduced into the commerce of another country at less than the normal value of the products, ... if it causes or threatens material injury to an established industry ... or materially retards the establishment of a domestic industry" in the importing country. The article says that there is dumping, if the price is

- (a) is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country, or
- (b) in the absence of such domestic price, is less than either
 - (i) the highest comparable price for the like product for export to any third country in the ordinary course of trade, or

⁴⁵ Copies of both agreements kindly provided to the author by Eurochambres.

⁴⁶ *Agence Europe*, 21 March 1992.

(ii) the cost of production of the product in the country of origin plus a reasonable addition for selling cost and profit.

The article also specified that "Due allowance shall be made in each case for differences in conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability."

If there is dumping, what can the importing country do? "In order to offset or prevent dumping, a contracting party may levy on any dumped product an anti-dumping duty not greater in amount than the margin of dumping in respect of such product."⁴⁷

This definition of dumping, especially b(ii), obviously leaves some discretion to the importing country. More specific guidelines were given in the Anti-Dumping Code adopted as part of the GATT Tokyo Round Agreements in 1979.⁴⁸

The EC introduced legislation for "protection against dumped or subsidized imports" from non-member countries in 1979. A new Regulation was adopted in 1984.⁴⁹ It was followed by a new regulation 1988.⁵⁰ It stated the general principle that "A product shall be considered to have been dumped if its export price to the Community is less than the normal value of the like product." It then went on to define the normal value, the export price, etc. It dealt with the concept of injury and how investigations had to be conducted. If it was concluded that there was dumping (or a subsidy) an anti-dumping or countervailing duty could be imposed. There was also the possibility of accepting price undertakings by the exporting company. Anti-dumping measures were subject to review, "where warranted." They normally lapsed after five years.

The current EC Regulation on anti-dumping was adopted in 1995 after the conclusion of the Uruguay Round.⁵¹

This is not the place for a major study of the EC's anti-dumping policy. Suffice it to mention that a number of authors have been rather critical of the Community's policy in this area. The number of anti-dumping actions increased substantially during the 1980s. Many have argued that anti-dumping has become a substitute for other protectionist measures that have become more difficult to apply because of international commitments.⁵²

At the end of 1995 the EU had 147 anti-dumping measures in force, including China with 30 measures. Traditionally a high proportion of anti-dumping measures were against state trading countries, including Eastern European countries. Between 1991 and 1995 there were only 11 cases

⁴⁷ Quoted from Kenneth W. Dam, *The GATT: Law and the International Economic Organization* (Chicago and London: The University of Chicago Press, 1970), p. 400.

⁴⁸ General Agreement on Tariffs and Trade, *The Texts of the Tokyo Round Agreements* (Geneva, August 1986), pp. 127-145.

⁴⁹ "Council Regulation (EEC) No 2176/84 of 23 July 1984 on protection against dumped or subsidized imports from countries not members of the European Economic Community," *Official Journal of the European Communities* No L 201 (30 July 1984), pp. 1-16.

⁵⁰ "Council Regulation (EEC) No 2423/88 of 11 July 1988 on protection against dumped or subsidized imports from countries not members of the European Economic Community," *Official Journal of the European Communities* No L 209 (2 August 1988), pp. 1-15. For an analysis, see C. Norall, "The New Amendment to the EC's Basic Anti-Dumping Regulation," *Common Market Law Review* Vol. 26, No. 1 (1989), pp. 83-101.

⁵¹ Council Regulation (EC) No 384/96 of 22 December 1995 on protection against imports from countries not members of the European Community," *Official Journal of the European Communities* No L56 (6 March 1996).

⁵² See for instance Christopher Norall, "New Trends in Anti-dumping Practice in Brussels," *The World Economy* Vol. 9 (March 1986), pp. 97-112; Brian Hindley, "Dumping and the Far East Trade of the European Community," *The World Economy* Vol. 11 (December 1988), pp. 445-464; and Phedon Nicolaidis, "EC Anti-dumping Policies," *EUI European Trends* No 4 (1989), pp. 57-67.

involving the Central and Eastern European Countries (CEECs). Other countries involved since 1991 were Japan with 12 measures, South Korea with 9, Turkey with 7 and Taiwan with 6.⁵³

Table 5: Anti-dumping measures in force as at 31st December 1995 against Taiwan

PRODUCT	MEASURE	REGULATION/DECISION	PUBLICATION
Electrolyte capacitors	duty	Council Reg. (EC) No. 1384/94 13.06.94	OJ L 152 18.06.94 p. 1
Glutamic acid (monosodium glutamate)	duties	Council Reg. (EEC) No. 2455/93 02.09.93	OJ L 225 04.09.93 p. 1
Microdisks	duties	Council Reg. (EEC) No. 2861/93 18.10.93	OJ L 262 21.10.93 p. 4
Polyester fibres (synthetic)	duties	Council Reg. (EEC) No. 3905/88 12.12.88	OJ L 347 16.12.88 p.10
Polyester yarns	duties	Council Reg. (EEC) No. 803/92 30.03.92	OJ L 88 03.04.92 p. 1
Synthetic textile fibres of polyester	duties	Council Reg. (EEC) No. 3017/92 19.10.92	OJ L 306 22.10.92 p. 1

Source: Commission of the EC

Table 6: Anti-dumping measures in force as at 31st December 1995 against Hong Kong

PRODUCT	MEASURE	REGULATION/DECISION	PUBLICATION
Microdisks	duties	Council Reg. (EC) No. 2199/94 09.09.94	OJ L 236 10.09.94 p. 2
Televisions (small-screen colour)	duties	Council Reg. (EEC) No. 2093/91 15.07.91	OJ L 195 18.07.91 p. 1
Video cassette tapes	duties	Council Reg. (EEC) No. 1768/89 19.06.89	OJ L 174 22.06.89 p. 1
	undertakings	Com. Dec. 89/376/EEC 19.06.89	OJ L 174 22.06.89 p.30

Source: Commission of the EC

Table 7: Anti-dumping and anti-subsidy measures in force as at 31st December 1995 against China

PRODUCT	MEASURE	REGULATION/DECISION	PUBLICATION
Artificial corundum	duties	Council Reg. (EC) No. 2556/94 19.10.94	OJ L 270 21.10.94 p.27
		Council Reg. (EC) No. 709/95 27.03.95	OJ L 73 01.04.95 p. 1
Barium chloride	duties	Council Reg. (EEC) No. 541/91 04.03.91	OJ L 60 07.03.91 p. 1
Bicycles	duties	Council Reg. (EEC) No. 2474/93 08.09.93	OJ L 228 09.09.93 p. 1
Calcium metal	duties	Council Reg. (EC) No. 2557/94 19.10.94	OJ L 270 21.10.94 p.27
Dihydrostreptomycin	duties	Council Reg. (EEC) No. 3836/91 19.12.91	OJ L 362 31.12.91 p. 1
Espadrilles	duties	Council Reg. (EEC) No. 1812/91 24.06.91	OJ L 166 28.06.91 p. 1
Ferrosilicon	duty	Council Reg. (EC) No. 621/94 17.03.94	OJ L 77 19.03.94 p.48
Fluorspar	duties	Council Reg. (EC) No. 486/94 04.03.94	OJ L 62 05.03.94 p. 1
Furazolidone	duties	Council Reg. (EC) No. 2674/94	OJ L 285 04.11.94 p. 1
Furfuraldehyde	duties	Council Reg. (EC) No. 95/95 16.01.95	OJ L 15 21.01.95 p.11
Lighters (disposable)	duties	Council Reg. (EEC) No. 3433/91 25.11.91	OJ L 326 28.11.91 p. 1

⁵³ Commission of the European Communities, "Fourteenth Annual Report from the Commission to the European Parliament on the Community's Anti-Dumping and Anti-Subsidy Activities (1995)" COM(96) 146 final, Brussels, 08.05.1996, p. 1.

		Council Reg. (EC) No. 1006/95	03.04.95	OJ L 101	04.05.95	p.38
Magnesia (deadburned)	duty	Council Reg. (EC) No. 3386/93	06.12.93	OJ L 306	11.12.93	p.16
Magnesium oxide (caustic magnesite)	duty	Council Reg. (EEC) No. 1473/93	14.06.93	OJ L 145	17.06.93	p. 1
Microdisks	duties	Council Reg. (EEC) No. 2861/93	18.10.93	OJ L 262	21.10.93	p. 4
Oxalic acid	duties	Council Reg. (EEC) No. 3434/91	25.11.91	OJ L 326	28.11.91	p. 6
Peroxidisulphates	duties	Council Reg. (EC) No. 2961/95	18.12.95	OJ L 308	21.12.95	p.61
Photo albums	duty	Council Reg. (EC) No. 3664/93	22.12.93	OJ L 333	31.12.93	p.67
Polyester yarns	duties	Council Reg. (EEC) No. 803/92	30.03.92	OJ L 88	03.04.92	p. 1
Polyolefin woven bags	duties	Council Reg. (EEC) No. 3308/90	15.11.90	OJ L 318	17.11.90	p. 2
	additional duties	Council Reg. (EEC) No. 2346/93	23.08.93	OJ L 215	25.08.93	p. 1
Potassium permanganate	duty	Council Reg. (EC) No. 2819/94	17.11.94	OJ L 298	19.11.94	p.32
Silicon carbide	duties	Council Reg. (EC) No. 821/94	12.04.94	OJ L 94	13.04.94	p.21
Silicon metal	duty	Council Reg. (EEC) No. 2200/90	27.07.90	OJ L 198	28.07.90	p.57
	additional duty	Council Reg. (EEC) No. 1607/92	22.06.92	OJ L 170	25.06.92	p. 1
Televisions (colour)	duties	Council Reg. (EC) No. 710/95	27.03.95	OJ L 73	01.04.95	p. 3
Televisions (small-screen colour)	duties	Council Reg. (EEC) No. 2093/91	15.07.91	OJ L 195	18.07.91	p. 1
Tugsten carbide and fused tugsten carbide	duties	Council Reg. (EEC) No. 2737/90	24.09.90	OJ L 264	27.09.90	p. 7
	duties	Council Reg. (EC) No. 610/95	20.03.95	OJ L 64	22.03.95	p. 1
Tugsten ores and concentrates	duties	Council Reg. (EEC) No. 2735/90	24.09.90	OJ L 264	27.09.90	p. 1
	duties	Council Reg. (EC) No. 610/95	20.03.95	OJ L 64	22.03.95	p. 1
Tugsten oxide and acid	duties	Council Reg. (EEC) No. 2736/90	24.09.90	OJ L 264	27.09.90	p. 4
	duties	Council Reg. (EC) No. 610/95	20.03.95	OJ L 64	22.03.95	p. 1
Typewriter ribbons	undertakings	Com Reg. (EEC) No. 1937/90		OJ L 174	04.07.90	p.27
	duties	Council Reg. (EEC) No. 3200/90	05.11.90	OJ L 306	06.11.90	p.21
Video cassette tapes	duties	Council Reg. (EEC) No. 30091/91	21.10.91	OJ L 293	24.10.91	p. 2

Source: Commission of the European Communities, "Fourteenth Annual Report from the Commission to the European Parliament on the Community's Anti-dumping and anti-subsidy activities (1995)," COM(96) 146 final, Brussels, 08.05.1996.

One reason for the many cases against China is the role still played by the state-sector of the economy. China's Ministry of Foreign Trade and Economic Cooperation sees a problem in this connection:

In anti-dumping allegations, EU , on the excuse of China being a "non-market economy," used analogue countries to determine the alleged dumping margin of Chinese products and refused to apply individual treatment to the Chinese enterprises under different situations, as the result of which anti-dumping cases against Chinese products have become the main target for the purpose.⁵⁴

⁵⁴ "The Economic and Trade Relations Between China and the European Union Countries in 1995," *Almanac of China's Foreign Economic Relations and Trade 1996/97* (Beijing: China Economics Publishing House and Economic Information & Agency, 1996), pp. 507-509.

The Issue of GATT Accession for China and Taiwan

China was one of the original contracting parties of the General Agreement on Tariffs and Trade (GATT) after the Second World War. China signed the GATT in 1947 and ratified the Protocol of Provisional Application in 1948. China also took part in the first two Rounds of multilateral tariff negotiations in Geneva in 1947 and in Annecy in 1949.⁵⁵

In October 1949 the Peoples Republic of China (PRC) was founded in mainland China and the Chiang Kai-shek government fled to Taiwan, where it continued the Republic of China (ROC). Both the PRC and the ROC claimed to be the legitimate government of China. The ROC maintained China's seat in the UN until 1971, but decided to withdraw from GATT on 6 March 1950. For many years the PRC showed no interest in GATT membership. In 1965 the ROC requested observer status in GATT, which was granted despite objections from some contracting parties, which stated that the PRC was the sole lawful government of China. The objecting states included two EC member states at the time, namely France and the Netherlands, as well as two future EC member states, the UK and Denmark.⁵⁶

The ROC continued its observer status at GATT until 1971, when it was expelled following the UN General Assembly Resolution 2758 (XXVI) which discontinued ROC membership in the UN and restored the rights of the PRC.

It was only in connection with its "open-doors-policy" in the 1980's that the PRC started becoming interested in GATT. It became an observer in GATT in 1982, signed the Multifibre Arrangement (MFA) in 1983 and got a special observer status in 1984 which allowed it to take part in meetings of the GATT Council and eventually all GATT meetings. This has allowed the PRC to take part in the Uruguay Round meetings that started in 1986. On 10 July 1986 the PRC formally notified GATT of its decision to "resume" its membership in GATT. A Working Party on the PRC's status as contracting party was established in March 1987. Following the Tiananmen events in June 1989 negotiations were suspended and not resumed before December 1989.

The ROC formally submitted its application for accession to GATT on 1 January 1990. It did so under the name of the Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu. Originally the PRC strongly opposed GATT membership of the ROC as "utterly illegal," but gradually its position became less negative. In September 1992 the GATT Council decided to establish a Working Party to consider the request from the ROC to accede to GATT under article XXXIII.⁵⁷ The PRC has argued that accession must take place according to article XXVI(5) which implies the sponsorship of a responsible contracting party.

Both Hong Kong, sponsored by the UK, and Macao, sponsored by Portugal, have joined GATT - in 1986 and 1991 respectively - on the basis of article XXVI(5). This happened with the approval of the PRC. Hong Kong returned to the PRC in 1997 and Macao will return in 1999. The PRC has promised that they will enjoy a high degree of autonomy and be able to continue in the WTO.

But who should sponsor the ROC. The PRC presumably after "resuming" its membership. This obviously is not acceptable to the ROC. Other contracting parties also prefer to use article XXXIII because it implies negotiations and concessions before joining. Article XXVI was made

⁵⁵ For background, see for instance Hungdah Chiu, "Taiwan's Membership in the General Agreement on Tariffs and Trade," *Chinese Yearbook of International Law and Affairs* Vol. 10 (1990-91), pp. 198-205.

⁵⁶ See also Ya Qin, "GATT Membership for Taiwan: An Analysis in International Law," *New York University Journal of International Law and Politics* Vol 24 (Spring 1992), pp. 1059-1105, at p. 1070.

⁵⁷ General Agreement on Tariffs and Trade, *GATT Activities 1992: An Annual Review of the work of GATT*, Geneva, June 1993, pp. 95-96.

for colonies that had customs autonomy. The ROC does not really fit in with the purpose of the article.⁵⁸

Article XXXIII stipulates:

A government not party to this Agreement, or a government acting on behalf of a separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in the Agreement, may accede to this Agreement, on its own behalf or on behalf of that territory, on terms to be agreed between such government and the CONTRACTING PARTIES. Decisions of the CONTRACTING PARTIES under this paragraph shall be taken by a two-thirds majority.⁵⁹

We notice that this article talks about 'a government' and that it also includes a government 'acting on behalf of a separate customs territory possessing full autonomy' in commercial matters. We further notice that a decision can be made by a two-thirds majority. This article is flexible and should facilitate the ROC's membership. By applying as "The Customs Territory of Taiwan, Penghu, Kinmen and Matsu" the ROC has itself tried to avoid the issue of "two Chinas" or "One China, one Taiwan." that would politically complicate the matter.

Due to the PRC's original opposition to ROC's membership in GATT many GATT contracting parties hesitated to deal with the issue. However, in 1991 a group of US senators linked the renewal of the PRC's most-favoured-nation status to ROC's GATT membership. Despite opposition within the administration President Bush sent a letter to Senator Max S. Baucus, Chairman of the Senate Subcommittee for International Trade on 19 July, 1991, in which he pledged his support to the ROC's GATT membership:

...I share your interest in Taiwan's accession to the GATT. As a major trading economy, Taiwan can make an important contribution to the global trade system through responsible GATT participation. The U.S. has a firm position of supporting the accession of Taiwan on terms acceptable to GATT contracting parties. The United States will begin to work actively with other contracting parties to resolve in a favourable manner the issue relating to Taiwan's GATT accession.... U.S. support for Taiwan's accession to the GATT as a customs territory should in no way be interpreted as a departure from the long-standing policy of five administrations which acknowledges the Chinese position that there is only one China, and that Taiwan is part of China.⁶⁰

Subsequently the EC and some other GATT members also expressed their positive attitude to ROC membership.⁶¹

⁵⁸ This is even admitted by a scholar from the PRC. See Lei Wang, "Separate Customs Territory in GATT and Taiwan's Request for GATT Membership," *Journal of World Trade* Vol. 25 (October 1991), pp. 5-19, at 15.

⁵⁹ Quoted from Kenneth W. Dam, *The GATT: Law and the International Economic Organization* (Chicago and London: The University of Chicago Press, 1970), p. 441.

⁶⁰ Quoted from Hungdah Chiu, "Taiwan's Membership," p. 204.

⁶¹ Ya Qin, "GATT Membership for Taiwan," p. 1060. [With ref. to "EC Supporting Taiwan for GATT," *Free China Journal*, July 26, 1991, at 1.]

Initial Negotiations with Taiwan

The EC Commission, which negotiates in the GATT/WTO on behalf of the EC, has been in favour of ROC membership in GATT on certain conditions.⁶² The timing of membership depends on accepting the obligations. The Commission welcomes the fact that the ROC seeks membership as a developed country, which means that it cannot claim the exemptions given to developing countries. It is important in this respect to remember that ROC has important trade surplus and great foreign exchange reserves.

When negotiations started the ROC was asking for derogations for certain sectors and transitional periods for some, including automobiles and civil aircraft. But the Commission noticed that the GDP per capita in the ROC is higher than in three EC member countries. So derogations were out of question. When the ROC said that it had non-competitive sectors the Commission answered that GATT was about opening up and accepting competition.

The codes adopted by the Tokyo Round was one of the problems in the negotiations.⁶³ The EC said that the ROC had to accept all the codes. There are codes dealing with anti-dumping practices, subsidies and countervailing measures, import licensing procedures, customs valuation, technical barriers to trade (TBTs), trade in civil aircraft, and government procurement. Taken together these codes should constitute a non-tariff barriers (NTB) regime. The Tokyo Round failed to agree on codes on quantitative restrictions and safeguard actions that constitute two other groups of NTBs.⁶⁴

By mid-October 1993 the ROC had agreed to sign five of the Tokyo codes, but asked for some transition periods, one and a half year for TBTs and three years for import licensing. In respect to the government procurement code the ROC offered to start to negotiate accession as soon as it accedes to GATT. But the ROC refused to sign the civil aircraft code.

The EC Commission also argued that there were important discriminatory import measures in the ROC. The EC was mainly concerned about discrimination against tobacco and alcohol products from the EC. But there were also discriminatory measures in the agricultural area, as well as in the industrial area, including for automobiles and motor cycles.

The EC message to the ROC was straight-forward: accept all obligations without derogations; sign all codes and end all discriminating measures on or before accession to GATT. The Commission also expected an across-board binding of tariffs followed by meaningful bilateral tariff negotiations for particular products.

We should add that it was agreed that the ROC would join as "Chinese-Taipei." It took a year to agree on that. All GATT Contracting Parties also confirmed in September 1992 that there is only one China, as expressed in the UN General Assembly Resolution 2758 of 25 October 1971. The question of timing of the accession of China and "Chinese Taipei" will depend on the reports of the respective Working Parties. It was agreed in September 1992, when the Working Party on "Chinese Taipei" was established, that the Council of GATT - now WTO - should give full consideration to the views expressed, including the view that the Council "should examine the report of the Working Party

⁶² This section is based on interview material.

⁶³ For the texts of these codes, see General Agreement on Tariffs and Trade, *The Texts of the Tokyo Round Agreements*, Geneva, August 1986.

⁶⁴ For a synopsis of the NTB codes, see Joseph M. Grieco, *Cooperation among Nations: Europe, America, and Non-Tariff Barriers to Trade* (Ithaca and London: Cornell University Press, 1990), pp. 57-64. On the Tokyo Round, see especially Gilbert R. Winham, *International Trade and the Tokyo Round Negotiation* (Princeton: Princeton University Press, 1986).

on China and adopt the Protocol for the PRC's accession before examining the report and adopting the Protocol for Chinese Taipei."⁶⁵

The Views of the European Parliament

The European Parliament has also dealt with the issue of GATT membership of the PRC and the ROC.⁶⁶ The Committee on External Economic Relations prepared a report of the issue (The Hindley report), adopted unanimously by the Committee on 17 March 1993.⁶⁷ The report included a motion for a resolution, which was adopted by the Parliament on 28 May 1993.⁶⁸ In this resolution the Parliament supports the membership of GATT of both the PRC and the ROC. In respect to the PRC the Parliament said that "the re-integration of China into the GATT system will only formally be a resumption, but substantially a new accession with the result that the PRC will have to enter into negotiations on new tariff concessions and that the Contracting Parties will remain entitled to invoke the non-application clause under Article XXXV of the GATT, if they are not satisfied with the concessions offered by the PRC for its new accession." In respect to the ROC the Parliament was aware of the political implications but said that "GATT has at its disposal the appropriate instruments to accept Taiwan as a contracting party without prejudicing the main political issue." The Parliament found that article XXXIII was the pertinent legal basis for ROC's accession, and said that "the application of Taiwan does not pose major difficulties in economic terms for it has long enjoyed a market economy system." The Parliament also recalled that "Taiwan belongs to the newly industrialized economies (NIE) and to the so-called 'five Tigers' of the Far East, which precludes Taiwan being given developing country status in GATT." GATT membership would be to "the advantage of all other GATT members including the PRC" and it was "manifestly in the European Community's interests."⁶⁹

Another report was prepared by the Committee on Foreign Affairs and Security (The Reding report).⁷⁰ This report also included a motion for a resolution. It was adopted by the committee on 17 March 1993 by 20 votes to 1, with 13 abstentions. It too was adopted by the Parliament on 28 May 1993.

This second resolution recalled that "the Community has no diplomatic relations with the Taiwanese Government since the only recognized government is that of the People's Republic of China." But Taiwan is geopolitically important and has had exceptional economic results. Trade between the EC and ROC has grown steadily over the years. The resolution also referred to "the reform process launched by the Kuomintang in 1986, which has led to the lifting of martial law and the

⁶⁵ *GATT Activities 1992*, p. 96. The wording on this point in this GATT report makes it sound as if there was a consensus on the order expressed in the quoted part. This, however, was not the case (author's interview material).

⁶⁶ In general, see "Parliament in Favour of Taiwan and China Accession to GATT," *Agence Europe*, 2 June 1993.

⁶⁷ European Parliament, "Report of the Committee on External Economic Relations on the inclusion of China and Taiwan in the General Agreement on Tariffs and Trade (GATT). Rapporteur: Mr Michael J. Hindley," Report no. A3-0092/93, 19 March 1993, Doc. PE 203.426/fin.

⁶⁸ *Debates of the European Parliament* No 3-431 (28 May 1993), pp. 306-307.

⁶⁹ "Resolution on the inclusion of China and Taiwan in the General Agreement on Tariffs and Trade (GATT)," *Official Journal of the European Communities* No C 176 (28 June 1993), pp.221-224.

⁷⁰ European Parliament, "Report of the Committee on Foreign Affairs and Security on GATT membership for Taiwan. Rapporteur: Mrs Viviane Reding," Report no. A3-0139/93, 29 April 1993. Doc. PE 202.417/fin.

formation of political parties (particularly the Democratic Progress Party), and [to] the fact that the constitution now guarantees a large number of fundamental rights and freedom of the press." The resolution confirmed the Parliaments support for ROC membership in GATT, suggesting that the PRC and ROC applications should be considered in parallel. In general, "relations between the Community and Taiwan should be organized on the basis of a pragmatic approach allowing the establishment and strengthening of political, cultural, economic and commercial relations." Investment and trade with ROC "should be stepped up." In more specific terms, the resolution called on "the Commission to open an office in Taipei, as it has done in the other countries of the region." In this connection it was also mentioned that all member states are now "represented in Taiwan by cultural or trade institutes, etc."⁷¹

The Hindley and Reding reports were debated by the European Parliament on 27 May 1993. "Taiwan is already a major world trader and deserves a quick and problem-free entry into GATT," said Michael Hindley (British member of the European Socialist Group, PSE) when he introduced his report. Viviane Reding (Luxembourg Christian Democrat, member of the European Peoples Party, PPE) said that nobody wishes to make a choice between China and Taiwan. "There is no logic to it, as the countries of the European Community have clearly well understood, since they long ago opened cultural institutes and trade offices in Taipei, although they do not have official diplomatic relations with Taiwan." So she looked for pragmatic solutions, which should include membership in GATT, the IMF, the World Bank and the OECD for Taiwan. In the debate that followed the question of child labour and human rights was brought up, but mainly so in relation to the PRC. Bettini (Green Group) for instance emphasized that Taiwan had been absent from Amnesty International's reports of imprisonment of dissidents for the past two years. Also, there is now a vocal opposition in the Taiwanese Parliament "and its members are being neither ill-treated nor silenced."⁷²

During the European Parliament's debate of the Hindley and Reding reports the Commission was represented by the Commissioner from Portugal, Joao de Deus Pinheiro. During his contribution to the debate he stated, inter alia:

As the House is aware, the European Community recognizes the People's Republic of China as being the only China, and it does not, therefore, have diplomatic or other official relations with Taiwan. The suggestions contained in the Reding report that the Community's political relations with Taiwan should be strengthened must therefore be considered in the light of the Community's official stance. Nevertheless, in view of Taiwan's economic and commercial importance, the Commission believes that the accession of that country to GATT will be of benefit to the multilateral trade system. Given the surplus of Taiwan's balance of trade, it is important that that country should make significant tariff concessions during the accession negotiations. Naturally, the Commission will defend the Community's interests in this context.⁷³

The conclusion of the Uruguay Round in December 1993 added some new issues, including services, etc.⁷⁴ Since China and Taiwan did not succeed in joining GATT before the start of

⁷¹ "Resolution on GATT membership for Taiwan," *Official Journal of the European Communities* No C 176 (28 June 1993), pp. 224-225.

⁷² *Debates of the European Parliament* No 3-431 (27 May 1993), pp. 275-281.

⁷³ *Ibid.*, p. 280.

⁷⁴ On the EC and the Uruguay Round, see for instance Finn Laursen, "The EC, GATT, and the Uruguay Round," in Leon Hurwitz and Christian Lequesne (eds.), *The State of the European Community: Policies, Institutions & Debates in the Transition Years* (Boulder, CO: Lynne Rienner Publishers, 1991), pp. 373-385; Finn Laursen, "The EC, the United States,

the WTO in 1995 they are now expected to accept the outcome of the Uruguay Round including new commitments in respect to services, agriculture, TRIMs and TRIPs, etc.

China's Liberalization Policies and Negotiations

Relatively high customs tariffs was one of China's problems after it started seeking admission to GATT. In the early 1990s it introduced various liberalization measures to satisfy the demands from other countries for easier access to the Chinese market. During 1991-92 the tariffs were reduced for about 3,500 products. In 1993 tariffs were reduced in two steps for about 2,800 categories of products. This brought the average tariff to 36 percent.⁷⁵ The various measures, however, were not deemed to be sufficient by China's trade partners to bring China into GATT before the start of the WTO in 1995.

In its communication to the Council in 1995 the Commission listed the following remaining key areas in China's negotiations concerning WTO accession:

- commitments in the field of import tariffs
- initial commitments in the field of services
- the liberalisation of the foreign trade monopoly
- adherence by China to the Tokyo Round Civil Aircraft Code and the Government Procurement Agreement.
- elimination by China of all WTO-inconsistent quotas or other non-tariff barriers, over a transitional period
- making China's industrial policies WTO compatible
- acceptance of appropriate provisions on other horizontal issues such as subsidies, standards, state-pricing, state trading and the elimination of export duties
- the definition of an appropriate transitional trade defence mechanism, which could be invoked in cases of market disruption.⁷⁶

All in all, this added up to a rather substantial list of EU requests.

In 1995, at the Asia-Pacific Economic Cooperation (APEC) meeting in Osaka, China's president Jiang Zemin announced that tariffs for between 4,000 and 6,000 products would be reduced to about 25 percent, which happened in April 1996. At an APEC meeting in Manila in November 1996 the Chinese pledged themselves to reduce the average tariff to 15 percent in year 2000.

China's reductions of tariffs have been substantial, but the average is still high compared with most of China's trading partners, and there are peak tariffs for some products. China still has a number of problems concerning non-tariff-barriers (NTBs). There are problems of transparency of

and the Uruguay Round," in Alan W. Cafruny and Glenda G. Rosenthal (eds.), *The State of the European Community. Vol. 2: The Maastricht Debates and Beyond* (Boulder, CO: Lynne Rienner Publishers, 1993), pp. 245-263, and Youri Devuyt, "The European Community and the Conclusion of the Uruguay Round," in Carolyn Rhodes and Sonia Mazey (eds.), *The State of the European Union Vol. 3: Building a European Polity?* (Boulder, CO: Lynne Rienner Publishers, 1995), pp. 449-467.

⁷⁵ Hung-yi Jan, "The PRC's Bid to Enter the GATT/WTO," *Issues and Studies* Vol. 33, No. 6 (June 1977), pp. 33-51, at p. 40. A. Neil Tait and Kui-Wai Li, "Trade Regimes and China's Accession to the World Trade Organization," *Journal of World Trade* Vol. 31, No. 3 (June 1997), pp. 93-111, at p. 97.

⁷⁶ COM(95) 279 final, p. 11.

trade legislation and the juridical system which has to assure the implementation of commitments is still not well-established.

Intellectual property rights has also been a problem area. And with the creation of the WTO China has to produce an acceptable offer in the area of services, which has turned out to be difficult.

The Chinese themselves feel that unfair conditions are being imposed on them and the integration of China in the world economy is being delayed. An official of the Ministry of Foreign Trade and Economic Relations summarized the Chinese measures by 1996 this way:

1. Having reduced tariff rates for tobacco and cigarettes, spirits, video tapes and passenger vehicles.
2. Having eliminated the import quota, licensing and import control measures for 367 tariff lines.
3. With regard to financial services, China is going to allow foreign banks establishing operational branches in another 10 cities in addition to the 13 open coastal cities. The experimental area for insurance services will expand from Shanghai to Guangzhou. Meanwhile, China also has decided to further enlarge the area and numbers of foreign enterprises being permitted to conduct retailing services.
4. On trading rights, China has decided to allow the establishment of Sino-foreign trading companies on a trial basis in Pudong, Shanghai.
5. China has undergone a 39.3% cut to the number of products in the List of Products Subject to Statutory Inspection.
6. The Regulations of the People's Republic of China on the Customs Protection of Intellectual Property Rights was promulgated and border protection measures were also formulated.
7. At the end of 1995, the plan that President Jiang Zemin announced in the APEC Osaka Meeting regarding the elimination of non-tariff measures has been put into implementation. The plan for reducing tariffs will also begin from April 1, 1996.⁷⁷

When negotiations on China's WTO membership restarted in Geneva in March 1997 the EU Commissioner in charge of relations with China, Sir Leon Brittain said:

The EU believes that if all sides muster sufficient political will, the term's of China's accession could be agreed by the end of the year. For this to happen, China must make bold and meaningful commitments to market reform in areas that are vital to the smooth functioning of the WTO. The EU believes the negotiations must focus on trading rights, services and tariff and non-tariff measures, among other areas.⁷⁸

He went on to say that the EU's "distinctive approach is that if Beijing respects certain basic obligations at the outset, fixed transition periods should be agreed for China's acceptance of the remaining WTO

⁷⁷ Li Zhongzhou, "China's Participation in the APEC and the WTO," *Almanac of China's Foreign Economic Relations and Trade 1996/97* (Beijing, China Economics Publishing House, 1996), pp. 72-74.

⁷⁸ "Chinese accession to the WTO Statement by Sir Leon Brittan," <http://europa.eu.int/rapid/cgi/rapcgi.ksh...tion.gettxt=gt&doc=IP/97/189|0|AGED&lg=EN>.

commitments." This would recognize "China's special position as a country that is still in transition from a command economy to a market economy."

There had been hopes that the summit between presidents Clinton and Jiang in November 1997 would lead to a final deal on China's accession to WTO. This, however, was not the case. The fact that the USA expects a trade deficit of \$44 billion this year makes it difficult for President Clinton to strike a deal.

Taiwan's Current Situation

At the end of 1996 Taiwan had been through 7 formal meetings of the GATT/WTO working party as well as 139 bilateral meetings. Bilateral meetings had been concluded with 7 of the 26 interested WTO members. At the 7th meeting of the working party in 1995 the WTO secretariat was asked to start drafting the accession protocol for "Chinese Taipei."⁷⁹

Taiwan had reduced customs tariffs four times between 1984 and 1988, which brought the average down from 8 to 5.7 percent. The accession offer made by Taiwan at the end of 1995 would reduce tariffs for agricultural products from 18.5 percent in 1992 to 11.3 percent after a 5-year implementation period. For industrial goods the reduction would be from 5.4 to 3.8 percent after a 4-year implementation period.

Concerning NTBs the Taiwanese claim no longer to have many. A sensitive area has been cars, where restrictions mainly hit Japanese cars. This problem seems now to have been solved in bilateral talks with the Japanese. There are also problems within the agricultural area with area restrictions (for instance privileged access for apples and beef meat from the United States) as well as import controls which must be changed to tariffs. Problems which have existed concerning sanitary standards, anti-dumping, subsidies and technical barriers have been analysed in the negotiations and Taiwan has promised to bring practice in line with WTO requirements.

Taiwan has also promised to open the area of services, incl. international courier services, telecommunications, audio-visual services, construction and engineering, distribution, education and certain transport services. Banking and insurance seem to have caused some problems.

In July 1974 Taiwan changed its import licensing system to a "negative list" system. Import is now in principle free. Only in certain cases are import licenses required to protect public health, national security and the environment. In 1995 92.9 percent of customs lines were free. The system is now considered WTO-consistent.

In order to bring its domestic legislation in line with WTO requirements Taiwan is amending 39 regulations and 33 laws. Five new laws are also introduced. The objectives are to eliminate elements of discrimination (incl. MFN and national treatment), bring domestic standards up to international standards (e.g. TRIPs), and to establish the legal basis for opening markets previously subject to statutory restrictions (for instance tobacco, alcohol, telecommunications and foreign attorneys).

Since Taiwan is not a member of the IMF it has also negotiated a special exchange agreement. The obligations exceed normal IMF requirements. They include the promotion of a stable system of exchange rates, no imposition of restrictions on payments and transfers without the approval of the WTO, and avoidance of imposition of capital controls to address balance-of-payments and macro-economic objectives.

⁷⁹ Ing-Wen Tsai, "Taiwan's WTO Accession: Meeting the Requirements," unpublished manuscript kindly provided by the author.

At the end of 1996 Taiwan had five main problem areas still to be solved: foreign lawyers to be allowed to form partnerships with local lawyers, a domestic legal framework for regulating mutual life insurance, private banking, government procurement and tariff quotas for cars. By September 1997 the latter two problems had largely been solved. But Taiwan was still not ready to permit foreign banks to run private banking. The area is considered sensitive because of the potential political instability associated with Taiwan's relations with China.⁸⁰

There is now a draft report from the working party and draft protocol on accession to the WTO of "Chinese Taipei" dated 11 July 1997. Although it seems that the United States is not completely satisfied with the text it indicates that the Taiwanese negotiations are nearly completed. Given the linkage between the accession of the PRC and Taiwan established in 1992 when Taiwan's working party was established it looks as Taiwan may still have to wait for some time.

Concluding Remarks

EU relations with China have been upgraded in recent years and EU-ROC relations are slowly becoming more pragmatic. The end of the Cold War has changed some of the strategic-political parameters and the reform process in the PRC has continued, despite the setback in 1989. It is also worth recalling that the PRC and the ROC have been able to coexist within the Asian Development Bank since 1986⁸¹ and in the Asia-Pacific Economic Cooperation forum (APEC) since 1991.⁸² So a gradual integration of China and Taiwan into the global trade regime has started, but China still has to come forward with additional measures of liberalization to assure its accession to the WTO.

According to Keohane international regimes stabilize mutual expectations regarding future behaviour, reduce transaction costs, produce information otherwise not available or available only at high cost, and provide a frame of reference that ensures that the interaction repeats itself frequently enough to generate a long 'shadow of the future'.⁸³

This case study has shown that accession to the international trade regime is based on a bargain between the 'ins' and the 'outs'. The politicisation of US-China relations in particular have made it difficult for China to strike the bargain. The EU may have a central role to play to help China reach a bargain, but the EU itself still has some problems.⁸⁴ So further Chinese measures and WTO negotiations are necessary.

China's large trade surpluses towards the United States and the EU are contributing factors for the demands it faces for liberalization. Noone dares predict today when a deal may be struck.

⁸⁰ Ibid. and interview of Taiwanese official in Geneva in September 1997.

⁸¹ Peter Kien-Hong Yu, "On Taipei's Rejoining the Asian Development Bank (ADB) Subsequent to Beijing's Entry: One Country, Two Seats?" *Asian Affairs, An American Review* Vol 17, No 1 (Spring 1990), pp.3-13.

⁸² Damon Darlin, "APEC Resolves 'Three Chinas' Problem, But Struggles to Define Its Own Function," *The Asian Wall Street Journal Weekly*, September 2, 1991.

⁸³ Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton: Princeton University Press, 1984).

⁸⁴ See also Michaela Eglin, "China's entry into the WTO with a little help from the EU," *International Affairs* Vol. 73, No. 3 (1997), pp. 489-508.

Recently Taiwan's Economics Minister Wang Chih-kang has been quoted saying that Taiwan may join the WTO in May 1998. He will meet US Trade Representative Charles Barshefsky in Washington in January and anticipates a breakthrough. Apart from the United States Taiwan still has to conclude negotiations with Canada, Switzerland and the EU, but these three parties are expected by the Taiwanese to follow suit once a deal is struck with the Americans.⁸⁵ However, it is not enough for Taiwan to conclude the negotiations about accession conditions. The linkage with China's accession may well have the Taiwanese waiting for a long time. A delinkage would surely require a lot of work.

WTO membership for China and Taiwan as 'Chinese Taipei' should make it politically easier for the Commission to deal with Taiwan and follow the suggestions that have been coming from the European Parliament for pragmatic improvements in EU-ROC relations, including eventually the establishment of a Commission office in Taipei.

WTO membership will 'multilateralize' EU's relations with the Greater China area in trade matters. It will allow for some conflicts to be settled through the WTO dispute settlement system instead of bilaterally. Part of the Uruguay Round results is also an agreement to phase out the MFA over ten years thus leading to a liberalization of trade in textiles and clothing. Application of the Uruguay Round results should lead to fewer NTBs affecting trade between the EU and China and Taiwan. And, if we look towards the future, if the WTO succeeds putting competition policy on the agenda and creates a multilateral regime for competition policy we may also see fewer anti-dumping cases. Indeed, WTO membership of China and Taiwan should be expected to have mutual benefits.

Sir Leon Brittan, EC Commissioner responsible for EC external economic relations said in a speech at the Royal Institute of International Affairs, Chatham House, in London in February 1994:

... the EU has unequivocally welcomed China's and Taiwan's applications for [GATT] membership. The discussion is underway in Geneva to negotiate the terms of membership in each case. These are real negotiations: membership of GATT or the WTO is no sinecure. But nor is it impossibly difficult. If the terms are right, the early membership of China and Taiwan must be in the interest both of the world economy and of the applicants. And in both cases, the race is now on to become founder members of the WTO when it opens its doors for business in Geneva next year. The EU would welcome conclusion of the membership process for China, as for Taiwan, this year if it is possible. When East Asia is fully represented in the multilateral trade system economic relations will be easier because we shall all be speaking the same language and applying the same rules. We will do all in our power to make it possible.⁸⁶

As we now know, they did not make it in 1994. Indeed, the race is still on.

⁸⁵ "Taiwan may join WTO in May: official" <http://www.asia1.com.sg/biztimes/1/nchin03.html>.

⁸⁶ Leon Brittan, "The European Union and Pacific Asia: Time for a Fresh Look at the Prospects," speech at Chatham House, London, February 1994, p. 6.