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The foreign policy behaviour of the European Union towards the Latin American Southern Cone States (1980-2000): has it become more cooperative? The cases of foreign direct investment and agricultural trade.

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Contents

Chapter 1 - Introduction

An analysis of the recent literature about the relationship between the European Union[1] and the Latin American Southern Cone States[2] suggests that a *rapprochement* between these two regions has been taking place since the mid-to-end 1980's.[3] Several cooperation agreements were signed on a bilateral basis, as with Argentina in 1990, Uruguay in 1991, and Brazil and Paraguay in 1992, and two on a bi-regional basis with Mercosur, the Inter-Institutional Cooperation Agreement, in 1992, and the Inter-Regional Cooperation Agreement, in 1995. A process of negotiation for the conclusion of a third agreement with Mercosur, the Inter-Regional Association Agreement, started in 1999. The declared EU intention is to build up a 'special relationship' characterized by a 'partnership', in which the main objectives are to promote democracy, respect for human rights, the rule of law, regional integration as a way to achieve peaceful relations between neighbours, sustainable development, and to increase trade and economic relations with attention to the importance of social solidarity.[4]

Historically, the First World War interrupted the evolution of the relations between today's European Union and the Southern Cone States. Before 1914, the relationship between these regions had a broad character with Latin American countries taking Europe as its ideological and cultural model, and as its main economic partner. The United States attempted to eliminate this influence in the course of the 19th century,

[1] For the period before the Treaty of Maastricht which created the European Union, the term EU refers to the three European Communities (the European Economic Community (EEC), renamed European Community (EC) by the Treaty of Maastricht; the European Coal and Steel Community (ECSC) and the European Atomic Energy Community (EURATOM)), and its member-states within the framework of the European Political Cooperation (EPC).

[2] The term Latin American Southern Cone States (from here on Southern Cone States - SCSs) refers to the countries which became members of the Southern Cone Common Market (Mercosur) created in 1991, i.e. Argentina, Brazil, Paraguay and Uruguay. The definition excludes therefore Chile and Bolivia, despite the fact that these countries are included in the geographical definition of Latin America's southern cone, and are associated members of Mercosur.

[3] See for instance: Dias, 1999; CEPAL 1999; IRELA 1997,1999a,1999b; de Brito, 2000; Ayuso, 1996; Camerana, 1995; Correia, 1996; Dauster, 1996; Di Biase, 1996; Freres et al, 192; Galli, 1995; Grabendorf, 1999; Gratius, 2002; Guzman, 1981; Marin, 1996; Matutes, 1999; Mix, 1996; Petersen, 1983; Bodemer, 2001; Picerno 1996; Purcell, 1995; Roett, 1994; Ramjas, 1996; Saboia, 1993; Vasconcelos, 1993; Vizentini, 2000.

with the Monroe Doctrine of 1823 being the first explicit manifestation of this intention.[5] After the Second World War, the United States gained an absolute political and economic hold over all of Latin America, then considered a strategic area in Cold War geopolitics.

During this period the Western-European states initiated an integration process that culminated in the creation of the European Union by means of the Maastricht Treaty in 1992. While the EU is today one of the main economic and political partners of the Southern Cone States, the inverse is not true. The latter have not been a priority in the foreign policy of the European Union towards less developed countries, unlike the Central and Eastern Europe, South Mediterranean, and the Africa, the Caribbean and the Pacific states signatories of the Lome/Cotonou agreements. The relations between the two regions can therefore be defined as highly asymmetrical.

With a view to this asymmetry, one would expect that a change of the bi-regional relationship in the last decades would coincide with a change in EU foreign policy. This research project, therefore, aims at analysing the recent developments in the bi-regional relationship from the vantage point of EU foreign policy. The foreign policy of the European Union is a controversial topic itself, and it has been criticised for being confusing, incoherent, paralysed, and a failure in terms of creating common policies among the member-states. Some conceptual and operational problems with regard to the 'actorness' of the European Union, and the process of foreign policy decision-making will be addressed in this study, but it is assumed that these problems do not threaten the existence of a EU foreign policy or the possibility to analyse it.

The present study seeks to answer two questions in particular: whether, or not, EU foreign policy behaviour towards the Southern Cone States has become more cooperative since the mid-to-end 1980s, and why the change, if any, occurred. Among the explanatory factors usually pointed out in the literature and in the general media, three are the most recurrent: the EU intention to balance the US hegemony, the

[4] See for instance: COM (95) 495 final; COM (99) 600 final; Declaration of Rio, 1999; Chris Patten's SPEECH/00/346, 2000.

[5] Independently of what was ‚better' for Latin America,i.e., to be under the influence of former colonial states or of other states seeking to increase their own power, the fact is that the Monroe Doctrine

accession of Portugal and Spain to the EU, and the processes of democratisation, economic liberalisation, and regional integration which took place in the Southern Cone States.[6]

Most of the explanations for this *rapprochement* have, however, not been treated in a methodologically systematic fashion. This study attempts to fill this gap, and to develop an in-depth empirical analysis with a conceptual framework based on current IR literature.

The methodology and the approaches to be used in the analysis and their specific hypotheses are presented in detail in Chapter 4, and a precise definition of the object of study, i.e. the dependent variable, in Chapter 3. Before that, a brief historical background of the EU foreign policy towards Latin America, and towards Mercosur, after its creation in 1991, is presented in Chapter 2. The analysis of two selected case-studies, foreign direct investment and trade in agriculture is then carried out in Chapters 5 and 6, respectively. The main findings of the research are summarized in the conclusion.

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marked the entrance of the US into the dispute of influence over Latin America. See for instance Louard, 1992, p.480-485, and Blum et al, 1988, p.187-188.

[6] For the first case see for instance: Vizentini, 1999, p.155; di Biasi, 1996, p.38; IRELA 1997a, p.3; Hofmeister, 2001, p.9; Nunnenkamp, 2001, p.137; d'Arcy, 2002, p.210; Gratious, 2002, p.11; Santader, 2000, p.48; Stocchiero, 1995, p.31; Bouzas, 1999, p.18; Grabendorf, 1999, p.81 and Giordano, 2003, p.21. For the second case see for instance Pio 1997, p.10; Dauster, 1997, p.113; Alperstein, 1992, p.233; Navarro, 1992, p.60; Medeiros, 1995, p.49 and Vasconcelos, 1993, p.105, and for the third case see for instance Marin, 1996, p.187; Cussac, 1995, p.42; Alloco, 1998, p.21; Vasconcelos, 1993, p.108 and Ayuso, 1996, p.159.

Chapter 2 – The Southern Cone States in the foreign policy of the European Union: a historical background

In order to analyse whether and why EU foreign policy towards the Southern Cone States has become more cooperative since the mid-to-end 1980s, it is useful to sketch the general historical background of EU foreign policy towards Latin America (section 2.1), and towards Mercosur (section 2.3), after its creation in 1991. This Chapter also contains a brief description of the main historical and institutional aspects of Mercosur (section 2.2).

2.1) EU foreign policy towards Latin America

The first official contact the then European Community made with Latin American countries was shortly after the Treaty of Rome, in 1958, when the European Commission sent to most governments a Memorandum of Intention declaring its aim to establish close relations and cooperation with the area, and specifying that the Community's preference for internal trade was not to prejudice commercial prospects between the two regions.[7] In 1963, following a proposal by the Commission (COM(63)6), the Council of Ministers approved the establishment of a Contact Group between officials from the Commission and Latin American ambassadors in Brussels. As a development of the Contact Group's meetings, which took place from June 1963 to January 1964, the Latin American ambassadors sent a Memorandum to the Council of Ministers setting forth the need for a comprehensive policy towards the region. The Commission and the European Parliament supported this initiative, with the latter issuing a detailed report known as the Martino Report.[8] As a result, bilateral working groups were formed and met, during 1965 and 1966, to discuss specific issues regarding their commercial relations. The hope on the side of Latin Americans to

[7] See Yrigoven, 1985, ch.2; Mower, 1982; Duran, 1985, pp.9-17.
[8] For the report see IRELA 1996, p.5.

transform the meetings into a forum for negotiations was however frustrated.[9] The Council never responded to their demand to upgrade the working groups into a mixed commission, despite the interest of the Italian government to promote better relations with Latin America, as part of its 'triangular policy'. [10]

In 1970, the Latin American countries which were members of the Special Committee for Latin American Coordination (CECLA) issued the Declaration of Buenos Aires calling for an institutionalization of their political dialogue, and closer economic cooperation between both regions.[11] This time the Council responded positively and a regular dialogue between the group of Latin American ambassadors to the Community (GRULA) and officials of the Commission was initiated.

This dialogue, however, did not advance in any substantial measure, and the Community's official policy was limited to bilateral commercial treaties with the major Latin American countries (so-called First generation agreements), such as with Argentina in 1971, Uruguay and Brazil in 1973 and Mexico in 1975.[12] One exception was the policy developed toward the Caribbean countries, which were incorporated together with other former European colonies in Africa and the Pacific in the so-called ACP Group and were accorded a special regime codified in the Lomé Convention of 1975.[13]

[9] Cavalcanti, 1996, pp.180-181.

[10] In the 1960s the Italian government adopted the so-called 'triangular hypothesis' in its foreign policy, aiming to promote a relationship between the US, Italy, as representative of Europe, and Latin America to support the economic development of the latter. The policy was motivated, among others, by the concern of the Italian government with the massive immigration to the region, which reached more than 900.000 Italians between 1946-58. The lack of US support to the policy contributed to its failure. For more see Camerana, 1985. Italian immigration was already strong before this period. Until 1947, there was a total of 1.513.151 Italian immigrants in Brazil, followed by Portuguese (1.462.117), Spaniards (508.802), German (253.846) and Japanese (188.622), see Ribeiro Hoffmann, 2001, p.149

[11] CECLA was an *ad hoc* group formed in 1963 by Latin American countries to coordinate their participation at the first meeting of the United Nations Conference on Trade and Development (UNCTAD). For the Declaration of Buenos Aires see IRELA, 1996, p.32.

[12] What characterizes First Generation Agreements are their conventional bilateral and technical structure and their reference to possible reciprocal cooperation. In practical terms, however, these treaties only extended the Most Favoured Nation (MFN) status to its signatories. See Lamothe, 1996, p.650; Calderón, 1996, p.682.

[13] The first Lome agreement was renegotiated in the subsequent Lome's II of 1979, III of 1985, IVa of 1989, and IVb (Mid term review) of 1995, and replaced in June 2000 by the Cotonou Agreement. For more see Chapter 5, EU Development Policy.

In 1974, an Inter-Parliamentary Dialogue between the European Parliament and the Latin American Parliament (Parlatino) was initiated. It has, since then, taken place every year, and the main concerns usually addressed are the consolidation of democracy, respect of human rights, and promotion of economic development in Latin America.[14] In 1975, the Latin American countries tried to improve their regional cooperation and common representation abroad by founding the Latin American Economic System (SELA). In 1978, SELA produced the Informe de Punta del Este and, in 1979, the Decision 44, advancing proposals of qualitative changes in its relations with the Community, which can be seen in the context of the movement of the New International Economic Order (NIEO).[15]

Shortly before assuming its presidential term in 1980, Italy, through the Italo-Latin American Institute (IILA) proposed a ministerial meeting between Latin American countries and EU member-states to foster bi-regional relations, in which it would suggest the possibility of concluding a "Lome agreement with Latin America". The meeting ended up never taking place, but the Italian government at least emphasised the necessity to intensify relations with Latin America and to restructure the forms of dialogue with the region.[16] The Council, still under the Italian presidency, responded positively and established two instruments to renew the dialogue: meetings between GRULA, Coreper and the Commission, and meetings between GRULA and the Commission. However, the admission of Cuba to GRULA in the same year, and the Falklands war, in 1982, resulted in a suspension of the dialogue.[17]

With the exception of the measures in the context of Falklands, EU foreign policy towards Latin America remained based mainly on the Inter-Parliamentary Dialogue and on bilateral economic treaties. With regard to the latter, a new round was signed

[14] Parlatino was created in 1964 by the Lima Declaration as a permanent regional institution constituted by the elected national Parliaments of Latin America with the aim of promoting peace, democracy, human rights, economic development, regional integration and international cooperation, among others. It has a permanent seat in Sao Paulo, Brazil where the annual Assembly and other meetings take place. For details see homepage http://www.parlatino.org.br.
[15] See Yrigoyen, 1985, p.17.
[16] See Camerana, 1995; Cavalcanti, 1996, pp.196-197.
[17] About the EU conduct during the Falklands War see Camerana, p.61; Yrigoyen, ch.3; Hill, 1996; Martin, 1999, pp.131-169.

(the so-called Second Generation Agreements)[18] with individual countries such as with Brazil, in 1980, and with sub regions, such as the Andean Pact, in 1983, and the Central American Common Market, in 1986. [19]

In 1984, the Commission prepared the document 'Orientations for a strengthening of the relations between the Communities and Latin America' (COM (84) 105), setting out proposals to promote closer cooperation in specific areas and access of Latin American countries to the European Investment Bank (EIB). In the same year, the Dialogue of San Jose was institutionalised between the Commission and the Contadora Group (formed in 1983 by Nicaragua, Colombia, Panama, Venezuela, Costa Rica, El Salvador, Guatemala, and Honduras) to deal with the Central American crisis, triggered by the Nicaraguan Revolution and the US military policy towards it. It is generally held to be one of the best examples of coherence and efficacy in the EU foreign policy, and the first case of an open divergence with US policy in Latin America.[20] Also in 1984, the Institute for European-Latin American Relations (IRELA) was created to promote interregional relations with support of the European Commission and the European and Latin American Parliaments.[21]

In 1986, the Commission sent a communication to the Council on the state of affairs in Latin America and proposals for the development of a new policy, based on the recognition of the heterogeneity of the region, and in support of the sub-regional integration processes (COM (86) 720). The Council responded supportively and, during the Hague Summit in June, declared its interest in strengthening the bi-regional relations, emphasizing the new dimension of Latin America in the Community given by the accession of Portugal and Spain.

After joining the EU, Spain assumed a very active role in promoting Latin America, even if the concept of Spain as a 'bridge' between Latin America and Europe,

[18] The second generation agreements reaffirmed the MFN clause and contained declarations about the intention to increase bilteral economic cooperation. See Lamothe, 1996, p.650; Calderón, 1996, p. 682.
[19] The Andean Pact was created in 1969 between Venezuela, Colombia, Equator, Peru and Bolivia, and the Central American Common Market was originally created in 1960 between Guatemala, El Salvador, Honduras, Nicaragua and Costa Rica and revitalised after the Central American crisis, when Panama became a member as well.
[20] See for instance: Smith, Hazel, 1995; Saraiva, 1996, ch.5; Guttry, 1996.
[21] IRELA was closed down in 2002 due to allegations of financial misconduct.

fostered by then Foreign Minister Fernando Morán, and based on the concept of 'Hispanidad' -stressing common cultural values-, had to be replaced by the more modest role of 'catalyst for change and supporter' of Latin American interests. Spain managed to get key Latin America-related positions into the European institutions, such as the Commissioner for Latin American affairs Abel Matutes, in 1989, and the Commissioner for development cooperation Manuel Marin, in 1993.[22] Portugal has also had a long term special relationship with Latin America but its links have been more restricted to Brazil. Within the EU, Portugal joined to a large extent the Spanish effort to promote closer relations with Latin America, but with less "enthusiasm". As in the context of the Iberoamerican Summit (see below), Portugal showed some reluctance in joining what it saw as primarily a Spanish initiative, which might be a legacy of its historical fear of remaining in the shadow of its bigger neighbour.[23]

In 1987, the Rio Group Dialogue was established, as a development of the success of the Dialogue of San Jose, but with the main difference that is was not created to solve a crisis situation, but rather to establish a permanent forum for bi-regional political dialogue. The Rio Group Dialogue was institutionalised in 1990 by the Declaration of Rome, and turned out to be the main forum for meetings at the ministerial level,

[22] The increased interest of Spain to develop closer relations with Latin America began under the regime of General Franco. The consensus on the priority accorded to Latin America among Spanish political parties is reflected in the Constitution of 1978, in which Art.56.1 of Title II states that "As a Chief of State and the symbol of its unity and permanence, the King shall moderate the regular functioning of its institutions and assume the highest representation of the Spanish State in international relations, *particularly with the nations of its historical community*…" with "historical community " referring both to Europe and Latin America. These priorities are reflected in the structure of the Spanish Foreign Ministry, which created, in 1985, the Secretariat of State for International Cooperation and for Iberoamerica, alongside with its other two divisions, the Secretariat of State for the EC, and the General Secretariat of Foreign Policy. For more about relations between Spain and Latin America see for instance, Schumacher, 1995; Berrocal, 1981; Guzman, 1981; García, 1996, pp.707-711; Baklanoff, 1996, p.110; Atkins, 1995, pp.89-90; Durán 1997; Cavalcanti 1994, 1996.

[23] A major multilateral cooperative initiative promoted by Portugal together with Brazil was the creation of the Community of the Portuguese Speaking Language Countries (CPLP), in 1996, including Angola, Cabo Verde, Guine-Bissau, Mozambique and Sao Tome e Principe as well. The idea came up in 1989 during the First Meeting of the Heads of State and Government of the Portuguese Speaking Countries in Sao Luis, Brazil, when the Portuguese Language International Institute, based in Cidade da Praia, Cabo Verde, was also established. The Community, on the contrary of what its name suggests, does not focus only on linguistic matters; its objectives include political-diplomatic coordination and economic cooperation. It has a legal personality, an institutional framework and a budget financed by the member-states and private contributions to support the implementation of its objectives. Some of its achievements include cooperation with Timor-Leste, the mediation in the conflict in Guine-Bissau in 1998; the forgiveness of the external debt of Mozambique vis-à-vis Brazil in 2000, and the development of projects against AIDS, and transfer of technology. About the CPLP see Saraiva, 2001, and for a general historical background of the relations between Brazil and Portugal see Magalhaes, 1999 and Cervo & Magalhaes, 2000.

where security but also economic issues are often discussed.[24] In 1989, the meetings between the Commission and GRULA recommenced. In 1990, the European Commission opened a delegation in Paraguay and Uruguay and, in 1991, in Argentina (in Brazil it had already been opened in 1984).[25]

In 1991, the Iberoamerican Summit, between Portugal, Spain and most Latin American countries was initiated. Although not an EU initiative, these Summits contributed to consolidate the leading role of Spain, and to a lesser extent Portugal, in promoting closer relationships with Latin America within the EU. The second meeting, in Madrid, coincided with the 500th anniversary commemoration, the Barcelona Olympic Games and the Universal Exposition of Seville, and Spain succeeded in establishing the concept of "Iberoamerican community", a project pursued by it since the mid-1970s. In the subsequent meetings, a number of joint cooperative projects were developed, and the positions in international forums were coordinated.[26]

In 1993, the European Investment Bank was authorised to finance projects in Latin America and in 1995, the Madrid European Council adopted the document 'European Union and Latin America: the present situation and prospects for a closer partnership 1996-2000' (COM (95) 495), proposed by the Commission, in which the EU advanced a new strategy for its relations with Latin America, based on a differentiated approach in correspondence to the necessities of each country or sub-region.

A new round of agreements (so-called of Third Generation) was signed with individual countries: with Argentina and Bolivia in 1990, Venezuela and Uruguay in

[24] The Rio Group was created in 1986 by Brazil, Argentina, Paraguay, Uruguay, Colombia, Mexico, Peru and Venezuela as an intergovernmental group to promote peace, democracy and integration of Latin America. Bolivia, Chile, Equator and Panama jointed it afterwards. For more see for instance Saraiva, 1996, ch.6. For the final declaration of the meetings until 1996 see IRELA, 1996, and EU DG External Relations homepage.

[25] The delegation in Paraguay and Uruguay operate in a joint office located in Montevideo. For details see the delegation's homepages (www.delarg.cec.eu.int; www.delbra.cec.eu.int; www.delury.cec.eu.int). About the opening of the delegation in Brazil, which was the first in Latin America, see Cavalcanti, 1996, p.195.

[26] The Iberoamerican Community is qualitatively different from the British Commonwealth and the French relationship with former colonies. The longer lag in time of decolonisation, and the relatively more advanced stage of development of the "ex-colonies" give a much more symmetric character to the Community, despite the leadership ambitions on the part of Spain. For more details see for instance

1991, Chile in 1990, 1996 & 2002, Mexico 1991 & 1997, Paraguay and Brazil in 1992; and sub regions, with the Andean Community and Central American Common Market in 1993, and Mercosur in 1995. Negotiations with Mercosur for a new (association) agreement started in 1999. The main new aspects of these agreements were that they were broader in scope and included political conditionality regarding democracy, the environment and human rights by means of the so-called democracy clause, and they could be renegotiated with total flexibility, as set out in the so-called 'evolutive clauses'. [27]

Third Generation Agreements must be seen in the context of the creation of a vast network of institutionalised relations in the EU since the beginning of the 1990s. The EU has signed agreements with most countries in the world under the name of cooperation, association, partnership, 'European' agreements, etc. The peculiarities of the agreements with Latin American countries are best understood when contrasted with the ones signed with other countries or regions. In terms of the similarities, all 3rd generation agreements contain the democratic and the evolutive clause, and are classified under mixed competence, since they cover issues under competence of the Community and Member States.[28]

Regarding the differences among 3rd generation agreements, the most important one is whether they are "empty" of "full" in terms of legal commitments. [29] While the

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Seixas Correia, 1994, and for the conclusion of the Iberoamerican annual summits see homepage of the Spanish Foreign Affairs Ministry: http://www.aeci.es/

[27] The agreements with Mexico of 1997 (after the incorporation of Decisions 2/2000 and 2/2001), Chile of 2002, and the Association Agreement with Mercosur under negotiation since 1999 are sometimes referred as a 4th generation, since they include FTAs, unlike the other agreements. See Lamothe, 1996, p.651; Calderón, 1996, p.682; García, 1996, pp.725-732 CEPAL, 1999, p.8; COM (95) 216 final; Devlin et al, 2002.

[28] It is interesting to note what while the democratic clause is welcomed by Latin American governments, which see it as a reinforcement of the guarantee against the return of military governments (Mercosur also has such a clause, which was used against the attempts of military coup in Paraguay in 1996 and 2000), most Asian countries see it as an attempt of the EU to export Western values in detriment of Asian values and an issue of national sovereignty. This disagreement, enhanced by the entrance of Burma to ASEAN in 1997 is the main reason why the attempts to conclude a 3rd generation agreement between the EU and ASEAN in 1992 failed. See Lim Paul, 1999, pp.4-11.

[29] For this distinction and more details see Torrent, 1998, p.213-228. The differentiation is actually also pertinent to 2nd generation agreements. Among the full agreements some were signed as pre-accession agreements to the EU, such as the ones with Estonia, Latvia, Lithuania and Slovenia. Others, such as with Czechoslovakia, Hungary and Poland acknowledged the associate's intention to seek membership but did not included any contractual obligation in that respect. In this sense it is a mistake to distinguish cooperation and association agreements with basis on the possibility of EU accession. The association

agreements with the ACP, CEE, former Soviet and Mediterranean countries contained from the beginning specific legal commitments regarding topics such as trade in goods, competition, etc., the agreements with Latin American countries were originally empty. Some of these agreements, such as the one with the Andean Community, remained without substantial commitments, but others, such as those with Mercosur, Chile and Mexico were 'filled" later, either by the conclusion of a new agreement, such as the one with Chile of 2002 and the one under negotiation since 1999 with Mercosur, or straight in the same agreement such as the case of Mexico, with the incorporation of Decision 2/2000, promoting the liberalisation of trade in goods, and Decision 2/2001, promoting liberalisation of trade in services and FDI.

The logic behind the conclusion of empty agreements is their political meaning. One political reason pointed out as for the conclusion of these agreements is that they were seen as a strategy by the EU to reinforce its presence in the world and consolidate the international legal personality of the Community as distinct from its Member-States vis-à-vis 3rd Parties. Another reason is that these agreements attended to the interests of the Commission to expand its competences and to the Council's to justify its work, since most agreements - full or empty - created bilateral institutional arrangements such as joint Committees, Commissions and Sub-Commissions which meet periodically to manage the relations. In addition, this close management is also useful for the EU in that it is used as a basis for the establishment of its (unilateral) policies of development cooperation. Although they are legally independent from the agreements, the fact that they are managed together contributes to the (mis)perception of 3rd Parties that the cooperation programmes owe their existence to the agreements and were therefore negotiated, instead of unilaterally decided and implemented.[30]

agreements with Cyprus and Malta, or Chile and Mexico make no reference at all to membership. See Phinnemore, 1999, pp.62-70.

[30] This point becomes particularly relevant in the case of Asian countries, which do not accept the democratic clause in bilateral agreements but are targets of development cooperation via NGOs. In this

Table 1: EU Bilateral (and Bi-regional) Agreements

Type	**Example (date signature)**	**Legal commitments**			
		Trade	**Treatment of foreign firms**	**Capital movements**	**Financial protocol**
Cooperation	Andean Community 1993	No	no	no	no
Cooperation	CACM 1993	No	no	no	no
Cooperation	Argentina 1990	No	no	no	no
Cooperation	Uruguay 1991	No	no	no	no
Cooperation	Brazil 1992	No	no	no	no
Cooperation	Paraguay 1992	No	no	no	no
Cooperation	Mercosur 1995	no	no	no	no
Association	Mercosur under negotiation since 1999	FTA goods and services	Probably yes	Probably yes	Probably no
Cooperation	Chile 1991, 1996	no	no	no	no
Association	Chile 2002	FTA goods & services	yes	yes	no
Cooperation	Mexico 1991	No	no	no	no
Association	Mexico 1997	FTA goods & services	yes	yes	no
' European'	CEEs	FTA asymmetrical calendar	National treatment	yes	Non quantified, mentions PHARE
Partnership & Coop (PCAs)	Russia 1994 Ukraine1994, Belarus 1995	MFN	National treatment	yes	Non quantified, mentions TACIS
Euro-Med Association	Tunisia 1995, Egypt 2001, Lebanon 2002, etc	FTA asymmetrical calendar	confirm GATS obligations	FDI	Non quantifiedd oes not mention MEDA
Lome-Cotonou	ACP	Non-reciprocal preferences (WTO waiver)	Non discriminatio n	no	Quantified from EDF funds

Source: Based on Torrent, 1998, Ch.8 and updated by author.

Apart from the development of the relations with specific countries and sub-regions in Latin America, the Commission prepared a document regarding Latin America as a whole entitled 'Prospects of a new association - European Union/Latin America in the 21st century' (COM (99) 105), in which it provided an overview of bi-regional relations, and proposed the main objectives of the EU for the 'First Summit of

case, the EU support for democratisation is against the national interest of the recipient country. See Lim, 1999, p.35.

European Union-Latin American-Caribbean Heads of State and Government (EU-LAC Summit) to be held in Rio de Janeiro in June that year.

During the First EU-LAC Summit, the 48 participant states signed the Declaration of Rio containing 69 points about the general principles which should guide the bi-regional relationship in the political, economic and cultural spheres. The Declaration also created a bi-regional group, which should meet regularly, and contained a Plan of Priorities to Action establishing 48 priorities for the implementation of cooperation programmes. Negotiations for the conclusion of a trade liberalisation agreement with Mercosur, and one with Chile were launched. A Second Summit of European Union-Latin American-Caribbean Heads of State and Government took place in Madrid in 2002, and a Third Summit is expected to be held in Mexico in 2003.[31]

2.2) The creation of the Southern Cone Common Market (Mercosur)

The process of integration that culminated in the creation of the Southern Cone Common Market (Mercosur) began with the rapprochement that took place between Argentina and Brazil, formalized in the Declaration of Iguaçu of 1985. Until then, relations between the two countries had been one of competition for political dominance in the region, the result of a long historical tradition.[32] The process of regional integration can be seen mainly as a result of democratization and the necessity of economic reestructuration in both countries. It developed in a series of initiatives, such as the Program of Integration and Economic Cooperation of 1986, the Treaty of Integration, Cooperation and Development of 1988, and the Act of Buenos Aires of 1990. The integration process was extended with the invitation to Paraguay and Uruguay to join in.[33]

[31] About the Rio Summit see for instance IRELA, 1999a and 1999b; Maior, 1999; Stuart, 1999; and about the Madrid Summit Gratius, 2002.

[32] This dispute can be traced back to colonial times, but a more recent reference is the end of the War of Paraguay, in 1864, when Brazil lost its hegemony in the Southern Cone and Argentina consolidated its 'unification' and developed economically. Since then, both countries played a 'power politics' game, involving Chile, or the support from the US or the UK to counterbalance each other, although they never reached the point to declare a war. For more see for instance Cervo & Rapoport, 1998.

[33] For a detailed description of the negotiations leading to the creation of Mercosur see Costa Vaz, 2002, Ch5 & & 6.

In 26th March, 1991, the four countries signed the Treaty of Asunción, formalizing their intention to constitute a common market after a transition period of four years. With the Protocol of Ouro Preto, signed on 17th December, 1994, Mercosur acquired international legal personality, and its institutional structure was formalised. Chile and Bolivia became associate members of Mercosur on 25th June, 1996 and 17th December, 1996, respectively.[34] In 24th July, 1998 Mercosur member states signed the Protocol of Ushuaia, conditioning membership to democratic principles and government, and a Political Declaration regarding the promotion of peace in the region, security cooperation and disarmament and non-proliferation of nuclear weapons. In 18 February, 2002, Mercosur gained a Permanent Court for Dispute Settlements with seat in Asunción, created by the Protocol of Olivos. [35]

The institutional structure of Mercosur has an inter-governmental character and consists of five institutions. The first is the Council of the Common Market (CMC), the superior and legislative organ, titular of legal personality (although it can delegate it to the Common Market Group to negotiate agreements with third parties). It is composed of the Foreign and Economic Ministers of the member states. The Presidency of the Council rotates every six months. The second institution is the Common Market Group (CMG), which is the executive and technical organ, coordinated by the Ministries of Foreign Relations and Economy, and the Presidents of the Central Banks. It is composed of four titular and four supplement members from each country, and 11 sub-groups which work on specific issue areas.[36] The third institution of Mercosur is the Joint Parliamentary Commission which has a consultative and deliberative character, and consists of 16 parliamentarians from each country. The fourth institution is the Foreign Trade Commission, which is subordinated to the CMG and coordinated by the Ministries of Foreign Relations. Finally, there is the Social and Economic Consultative Forum, which is composed of representatives of society, business and workers. Apart from these five institutions,

[34] The associate members participate in the political meetings and in the free trade area, but do not need to adopt the common external tariff. See Mello, 1997, p.83-92.
[35] For more about Mercosur see Mercosur Home page: www.mercosur.org.uy, or for instance: Brandao & Pereira, 1997, da Matta & Pena, (ogs), 1996, Brum 1995, Mello, 1997, Vigevani, 1998, Wehner, 1999.
[36] The issue areas are: trade, border transport, technical norms, fiscal and monetary policies regarding trade, ground transport, maritime transport, industrial and technological policies, agricultural policy, energy policy, coordination of macroeconomic policies and labour, employment and social security matters.

Mercosur has an Administrative Office in Montevideo, which is the depositary of the official documents.

Mercosur has made remarkable progress towards the liberalisation of intra-regional trade flows, particularly through the elimination of barriers, and as a result, intra and extra trade in goods increased from 1990 to 1996 by 89% and 311% respectively.[37] It has faced, however, obstacles to eliminate non-tariff barriers, and to effectively enforce a common external trade policy. The common external tariff, which ranges from 0 to 20%, also faces a long list of exceptions to sensitive products, such as motor vehicles and sugar. This means that in practical terms, Mercosur is not yet a full customs union, despite its formal status since the 1st of January of 1995 (according to the new schedules it is planned to be fully implemented by 2006). At the end of the 1990s, Mercosur has faced a series of setbacks which can be seen as a result of the macro-economic instability of its member-states. The effects of the devaluation of the Brazilian currency, in 1999, and the Argentina crisis, in 2001, led to a profound rethinking ("soul searching") of the whole integration project, and it was discussed whether it should really become a custom union, or if it would not be better to be limited to a free trade area.[38]

Parallel to its specific characteristics, Mercosur can be seen as part of the new wave of regionalism, in which the creation of free trade areas or common markets are seen as a new strategy of insertion in the world economy. Instead of the creation of relatively closed blocks as a protection against competition from developed countries, as in the previous regionalist approaches, the new regionalism is based in the concept of open regionalism, or building blocks, in which regional groupings are seen as a step towards multilateralism.[39] In this regard, Mercosur has engaged in negotiations and concluded agreements with other regions, such as the European Union and the Andean Community, and with individual countries, such as Mexico, South Africa and India, next to the deeper relations with Chile and Bolivia.

[37] For an analysis of the strengths and weakness of Mercosur institutional framework see for instance Torrent, 2002 and Malamud, 2003. For statistics see EC-DG Trade, 1998, pp.2-3.
[38] See for instance Bouzas, 2002.
[39] See for instance Al-Agraa, 1997; Ethier, 1998; Fuentes, 1994; Heete at al, 1999; Mansfield, 1997 and 1999 and Mattli, 1999.

By the end of 2000, Mercosur was involved in two major negotiation processes, one with the EU since 1999 (see below), and one with North and South American countries, except Cuba, since 1994, the Free Trade Area of the Americas (FTAA). [40] The importance of these negotiations is not only that they will establish the terms of Mercosur's relationship with the two bigger actors of the world economy, but also that they will have an impact on the further developments of Mercosur itself. While the EU wishes Mercosur to continue evolving towards a customs union (the mandate of negotiations for the Association Agreement explicitly mentions it), the US prefers it to become a FTA and in ultimate instance dissolve into the FTAA.

2.3) The EU foreign policy towards Mercosur

The EU foreign policy towards Mercosur evolved initially in the framework of its policy towards Latin America, but has progressively received a different treatment. On one hand, it is considered an emergent market together with Chile and Mexico, and on the other hand, it is seen as the most successful project of regional integration, with a special appeal to the European Union, who sees it as a receptive region to implement its "integration model". [41]

The first treaty the EU signed with Mercosur was the Inter-Institutional Cooperation Agreement between the European Communities and Mercosur of 29th May, 1992. This agreement was intended principally as a vehicle for technical assistance, personnel training, and institutional support for the integration process (Art.2), seen as the best strategy to promote social and economic development and political stability in the region.[42] The agreement created a Joint Consultative Committee with members from the European Commission and Mercosur's Common Market Group to develop and intensify the inter-institutional dialogue and promote and assure the cooperation initiatives of the agreement (Art.7). A number of cooperative programmes were

[40] The decision to establish a FTAA was taken by the Heads of State and Government of the 34 states of the region during the Summit of the Americas, which took place in Miami in December of 1994, following the initiative of the then former US President George H.W. Bush. The negotiations of the agreement were launched formally in April 1998, at the Second Summit of the Americas in Santiago, Chile. See for instance Bouzas, 1999; Hirst, 1999; Jaguaribe, 1995; Mello, 1997; Schirm, 1997; Roett, 1999; Granell, 2002, Pastor, 1996; and the FTAA homepage http://www.ftaa-alca.org.
[41] About the idea of exporting the EU model see for instance Torrent, 2002, pp.208-213.
[42] Grabendorf, 1999, p.103.

implemented such as the support to Mercosur's Administrative Secretariat and technical cooperation regarding customs norms, and animal and vegetable health.

In October 1994, the European Commission prepared a detailed document entitled 'For a Strengthening of the EU Policy towards Mercosur' (COM (94) 428), in which it elaborated a long and a short-term strategy to guide its foreign policy towards Mercosur. In its conclusions, the Commission declared that despite the achievements enabled by the Interinstitutional Agreement, this treaty was an insufficient instrument to promote the necessary strengthening of the EU's relations with Mercosur, and proposed the elaboration of an interregional cooperation framework agreement, which would, in a first stage, prepare the basis for bi-regional commercial liberalization and continue to support the integration process, and, in a second stage, create a free-trade area. The two stages would be institutionalised by two independent agreements, although the second would be negotiated under the principles stated in the first. The European Council approved the Commission's strategy during the Summit in Essen, in December 1994, and, shortly later, signed, together with the Commission and the Mercosur member-states, a Solemn Joint Declaration officializing the intention to begin negotiations. In April 1995, the Council requested the COREPER to analyse the Commission's document, and in October the Economic and Social Committee sent a reply adding some proposals and emphasizing the promotion of the participation of sectors of civil society in the process of negotiation of the agreement (ESC Opinion 1176). The European Parliament also supported the Commission's proposal and added some suggestions as well, such as including a political dialogue between members of the Joint Parliamentary Commission of the Mercosur and the European Parliament in the institutional dispositions of the agreement (Resolution of 16-5-1995).

The Interregional Cooperation Agreement between the European Community and its Member States and Mercosur and its Member States was signed on the 15th of December of 1995, and entered into force in July 1999. It is a typical empty Third generation agreement: very broad, containing 9 titles and 36 articles, which cover political, economic and cultural aspects of the bi-regional relations, but with no substantial commitments. On the positive side the agreement established a forum for regular meetings at the ministerial level with the establishment of a Cooperation Council to supervise the developments of the negotiations towards the second stage of

the agreement. The Cooperation Council is composed of members from the European Commission and from the Common Market Council and the Common Market Group of Mercosur (Art.25), and assisted by a Joint Commission of Cooperation (Art.27) and a Commercial Sub-Commission (Art.29).[43]

During the 1st EU-LAC Summit in Rio de Janeiro, in June 1999, both sides decided to open negotiations to liberalise bilateral trade. One particular aspect of the negotiations between the EU and Mercosur is that it represents a negotiation between one block formed with developed countries and one with developing countries in reciprocal terms. The concept of concluding reciprocal trade agreements between developing and developed countries is relatively new; it started with NAFTA, and the EU agreements with Mexico, Chile and Mercosur. While the NAFTA is a mere trade liberalising agreement, as will be the FTAA if and when concluded (although non-trade cooperation initiatives, such as aid and technical assistance, are taking place in parallel), the FTA promoted by the EU combine it with political and development cooperation commitments in a single undertaking, which should contribute to compensating possible negative effects of the reciprocity among asymmetric partners. This represents a shift in the strategy of the EU development policy and has been implemented towards other developing countries as well, even the ACP as is apparent in the new Cotonou Agreement.[44]

During the first Meeting of the EU-Mercosur Cooperation Council (on the 24th November 1999) in which the High Representative Javier Solana and Trade Commissioner Chris Patten, among others, participated, the structure, methodology and calendar for the negotiations of the Association Agreement were set. It was agreed that the results of the negotiations would constitute a single undertaking to be implemented as an indivisible whole and that, given its mixed character, it would be negotiated in parallel by the European Commission (covering its competences: trade and cooperation) and by the Member States (for their competences: investments and services). With regard to the structure of the negotiations, it was established that the following committees would be created: a Bi-regional Negotiations Committee to

[43] For detailed analysis of the agreemetns see for instance Kinoshita, 2001, and Torrent, 1998, p.224-227.
[44] See for instance Devlin et al, 2002.

provide general oversight and management of the negotiations on trade matters and cooperation (with the ability to create Technical Groups to implement activities related to the trade negotiations), a Subcommittee on Cooperation to conduct negotiations on cooperation, and, a Coordinating Secretariat, exercised by representatives of the European Commission and of the Mercosur Presidency.

On the 6-7th April, 2000, during the First Meeting of the Bi-regional Negotiations Committee, in Buenos Aires, the negotiations for the conclusion of the association agreement began. With regard to the political dialogue, the conclusions of the meeting emphasised the importance to discuss topics such as prevention of conflicts, confidence and security building measures, promotion and protection of human rights, democracy and the rule of law, sustainable development taking into account economic, social and environmental dimensions, common actions against drug traffic, arms traffic, organised crime and international terrorism. Three subgroups were created to deal with economic, social and cultural, and financial and technical cooperation. In regard to trade negotiations, three technical groups were created: trade in goods; trade in services and intellectual property, and government procurement, competition and dispute settlement.

The second round of negotiations took place in Brussels, on 13-16th June, 2000. In this round the EU negotiators presented the state of affairs regarding the EU agricultural policy and the enlargement process, and the Mercosur negotiators presented the state of affairs regarding their process of integration. The three trade related technical groups exchanged information and discussed specific objectives. The subgroup on financial and technical cooperation, whose general objective is to offer European technical assistance to Mercosur with a view to reinforcing the development and the integration process of Mercosur and the integration between Mercosur and other countries in Latin America, established that cooperation should be focalised in three areas: modernisation of the public administration, institutional cooperation (to reinforce the process of deepening regional integration, supporting in particular the Administrative Secretary, the Parliamentary Joint Commission and the Economic and Social Consultative Forum of Mercosur), and regional cooperation (promoting trade and investment, encouraging land-use planning and the development of the communications infrastructure and environmental protection).

During the third round of negotiations, which took place in Brasilia on 7-10th, November 2000 there were mainly exchanges of information and joint texts proposals about the political dialogue and economic cooperation. In the field of trade, the technical groups held discussion sessions on agriculture, sanitary and phythosanitary rules, trade defence instruments and government procurement, etc. In the fourth round of negotiations, held on 19-22nd March, 2001 in Brussels, the trade representatives presented text proposals and working documents in the field of various non-tariff issues, and the Commission launched a business facilitation initiative as an instrument for interaction with the business community, which could be implemented before the conclusion of the agreement.

During the fifth round of negotiations, which took place in Montevideo on 2-6th July, 2001, the EU unilaterally presented a tariff offer on goods, covering 90,5% of its imports from Mercosur, and negotiation texts for goods, services and government procurement. This initiative marked the beginning of a second stage in the negotiation process. Until then, the exchanges had more a fact-finding character. With the tariff offer in goods, the real negotiations actually started. A third stage would be the offer of preferential market access for services, government procurement and investment.

In reciprocity, at the sixth round, held in Brussels on 29-31st October, 2001, Mercosur presented its tariff offer for goods, which, however, covered only 35% of its imports from the EU, besides negotiation texts on services and public procurement. A substantial progress on the cooperation chapter was made and joint texts in several fields, such as telecommunications, energy, and transport were agreed. During the seventh round, which took place in Buenos Aires on 8-11 April, 2002, the main topics discussed were the prospects for the Second EU-LAC Summit, the proposals regarding the business facilitation measures of the EU-Mercosur Business Forum, and the increase of EIB funds to Latin America. Join texts in the cooperation chapter, institutional framework and political dialogue were made. In the eighth round of negotiations, which took place on 11-14 November 2002 in Brasilia, negotiating texts about intellectual property rights and dispute settlement, the discussion on methods and modalities for the negotiations on market access on goods (including agriculture)

and services were concluded, and the implementation of the business facilitation measures was considered. [45]

On the 5th of March 2003, both parties exchanged a second offer on liberalisation of tariffs on goods. The EU offer covered 91% of Mercosur exports, and Mercosur's 83,5%, a much better offer than the previous 35%, and above the 80% minimum required by the WTO to consider the EU-Mercosur agreements as a free trade area. [46] During the 9th Round of negotiation, which took place in 17-21 March of 2003 in Brussels, the tariff offers from the EU reached 91,5%, and from Mercosur 83,5%, and method and modalities for negotiations on investment and government procurement were agreed.[47]

As indicated so far, the ambition of the negotiators is to be able to provide a first-draft text of the full agreement at the EU-Mercosur ministerial meeting which will take place in the second half of 2003, and to conclude the agreement in 2004.[48]

[45] For more details about the negotiation process see DG External Relations Homepage, (http://europa.eu.int/comm/external_relations/mercosur/ass_neg_text/index.html) and IRELA 2000a.
[46] Gazeta Mercantil, Editorial, 10/03/03; Daniel Ritter, Valor Economico, 10/03/03.
[47] Folha de Sao Paulo, Editorial, 22/03/03.
[48] Press IP/03/329, 05/03/03.

Chapter 3 - The dependent variable: the level of cooperation of EU Foreign policy behaviour towards the Southern Cone States

In order to define the dependent variable of this research: the level of cooperation of the EU foreign policy behaviour towards the Southern Cone States, and the indicators to analyse it, it is important to define what is understood by foreign policy (section 3.1), EU foreign policy (section 3.3), and cooperative behaviour (section 3.4), given that all these concepts are subjected to controversial debates in the relevant literature. Each of these concepts is developed in the following, as well as the possibility of conceptualising the EU as an international actor (section 3.2).

3.1) Foreign policy

As indicated in its very terminology, foreign policy refers to policies directed to the outside. The identification of the outside implies the establishment of a borderline with regard to the inside, and therefore the delineation of a certain unit. Considering the modern international system, this unit has traditionally been seen as the nation-state, given its distinctive position as the exclusive holder of territorial sovereignty and its endowment with international legal personality in the Westphalia System. Yet, there is nothing intrinsic in the definition of foreign policy that implies the exclusivity of nation-states as initiator actors.

This aspect of the definition of foreign policy, i.e., which actors are recognized as having a foreign policy, is particularly relevant when analysing the foreign policy of the European Union, since it is not a nation-state, as will be discussed in detail in the following section. The main objective of this section is to inquire how foreign policy can be studied independently of the type of actor who performs it. A first step in that direction is to examine how it has been studied in the past, in other words, i.e. to survey the relevant foreign policy literature.

Although the behaviour of political units directed to their outside has been studied for centuries, this has mostly been done from a historical perspective, or with analytical

concepts such as *Realpolitik* or balance of power. It was only after the Second World War that scholars from the then also recently born discipline of International Relations began to engage in attempts to develop a systematic framework to study foreign policy. The most influential was the comparative foreign policy project (CFP) proposed by James Rosenau in 1966. The project must be seen in the context of the behavioural revolution in the social sciences, which sought to move away from non-cumulative descriptive case-studies and towards the construction of explanations using quantitative methods in comparative studies for theory building, but was, however, not successful in producing a unified theory, and not able to incorporate many important factors affecting foreign policy behaviour, as is pointed out by its critics.[49]

Less ambitious studies produced middle-range theories and focussed on specific determinants of foreign policy making, such as the role of the decision-making process (Snyder et al, 1954), bureaucratic politics (Graham Allison, 1971), group dynamics (Charles Hermann, 1978), public opinion (Cohen, 1973), and cognitive and psychological factors (Sprout & Sprout,1956; Axelrod, 1976).[50] Despite these advances in the study of foreign policy, a general scepticism developed against the subject with the so-called "structural turn" in IR theory, following the publication of the "Theory of International Politics" by Kenneth Waltz in 1979. The hegemony of structural approaches at the systemic level, especially in the American academy, first with Neorealism, but also with the development of Institutional Liberalism as in the work of Robert Keohane, and later on Identity Constructivism developed by Alexander Wendt, discredited the usefulness of unit-level approaches to explain international politics.[51]

Although two sides of the same coin, the study of "action" by foreign policy approaches, and the study of "interaction" by international politics approaches imply methodological and meta-theoretical questions subject to great controversy in the social sciences. On one hand, this question can be seen in methological terms as advanced by David Singer already in 1961, as to which level-of-analysis to conduct a

[49] See Neack et al, 1995; Linda Brandt, 1982.
[50] See Clarke & White, 1988 and Neack et al, 1995.
[51] See for example Carlsnaes, 2001, p.331-334; White, 2001, p.171-173.

study. On the other hand, it can be seen as an ontological question as to which are the main forces in the international politics: actors or structures, and emphasise the issue of purposiveness of behaviour on any level of analysis. The relationship between the level-of-analysis and the ontological problem (or, the actor-structure debate) in IR has been overly discussed in the last decade.[52]

The actor-structure debate brought to the discussion the possibility of defining the behaviour of international actors in non-intentional ways, and of using structural approaches to analyse foreign policy. Moreover, the development of synthetic approaches as exemplified by the structuration theory of Anthony Giddens opened up the floor to explore the possibility of combining both systemic and unit-level sources of determination of behaviour. Whereas the structuration approach relegated a passive role to structures, in that they are defined as enabling and constraining actor's behaviour, "synthetic" approaches went a step further, claiming that there is no ontological unidirectional causality between actors and structures, and that both are capable of influencing each other. These approaches transcend the actor/structure dichotomy, which is particularly welcome to phenomena here researched insofar as, some of the relevant approaches addressing cooperative behaviour are, as was seen in the previous section, systemic, and some are unit-level.[53]

3.2) International actorness of the EU

Apart from the just mentioned controversial issues regarding the study of foreign policy as such, an analysis of EU foreign policy has to address the possibility of studying the EU as a unit of the international system, whose behaviour and foreign policy can be analysed separately from its member-states'. The definition of international actorness in the discipline of International Relations is based in assumptions about the nature of the international system and vary with its different approaches, but it is closely related to the one of international legal personality in Public International Law.

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[52] For the level-of-analysis and ontological questions see for example Wendt, 1987, 1991 and 1992; Dessler, 1989; Hollis and Smith, 1991 and 1992; and Czempiel, 1996.

[53] The actor/structure debate has taken place in most Social Sciences' disciplines. For more details about synthetic approaches in Social Theory see for instance the works of Anthony Giddens and Juergen Habermas, or José Maurício Domingues. In the discipline of International Relations, see for instance Wendt 1991, 1992; Hollis & Smith, 1991, 1992.

In Public International Law, legal personality is defined as the potential ability to exercise certain rights and to fulfil certain obligations vis-à-vis other international legal persons. International institutions can also have an international legal personality, but this does not imply that the international legal personality of international organisations is equivalent to the one of states. On the contrary, whereas states are recognised as possessing the widest range of rights and duties (such as treaty making power, enjoyment of privileges and immunities from national jurisdictions, capacity to espouse international claims and to protect its personnel, locus stand before international tribunals, administration of territory, right of mission and recognition of states), those of international organisations are clearly circumscribed in terms of express powers – competences – laid down in the constituent instruments, or implied powers which have evolved in practice. The classic case is the United Nations, which were held to possess international legal personality by the International Court of Justice in its 1948 Advisory Opinion on the *Reparation of Injuries Suffered in the Service of the United Nations* (ICJ Reports 1949, p.174); yet, the Court also pointed out that attributing such personality to the United Nations did not amount to declaring it a state or that its rights and duties were the same as those of a state; indeed, in its recent Advisory Opinion on the *Legality of the Use by a State of Nuclear Weapons in an Armed Conflict*, the Court reiterated the limited nature of an international organisation's legal personality. [54]

The debate about the legal personality of the EU is often misunderstood. Although so far the EU itself has not been attributed explicit international legal personality, this does not necessarily mean that it does not, or cannot have, such personality. In fact, there is a debate in international and European law, in which one side, at least, claims that the denial of full legal personality is mostly due to the explicit unwillingness of member-states to confer independent rights and duties to the Union, as can be seen in the (unpublished) *travaux préparatoires* of the Maastricht negotiations; nothing in the Treaties itself, according to this view, precludes the assumption of such personality.[55]

[54] For more about the international legal capacity of international organisations see for instance Kirgis, 1977, pp.7-29; Shaw, 1997, pp.909-915 & Brownlie, 1979, pp.677-704.

[55] Although some authors such as De Witte, 1998 assert that even in that case "the subjective intention to withhold legal personality does not exclude that legal personality may have been implicitly granted". Quoted in Wessel, 2000, p.521.

Unlike the EU, the three original communities, the European Coal and Steel Community (ECSC), the European Atomic Energy Community (Euratom) and the European Economic Community (EEC) had provisions in their constituting treaties conferring them legal personality to conclude agreements with 3rd parties in certain areas under the provided competences, as indicated in Art.6/ECSC; Art.101 (1)/Euratom; and Art.210/EEC, respectively. With the Merger Treaty signed in 1965 the "executive" institutions of the three communities: their Commissions and Council were unified, but their legal personalities remained as before. With the Treaty of Maastricht signed in 1992, the EEC was renamed European Community (EC) and the three communities came to be referred to as the 1st pillar, but they continued to have separate legal personalities. The Treaty of Amsterdam signed in 1997 renumbered the EU and EC treaties without any changes in the legal personalities. With the Treaty of Nice signed in 2001 the TEU and the Treaty of the EC were merged into one consolidated version, again without implications the legal personalities of the respective organs. The ECSC expired on 23 July 2002 and its rights and obligations as under the international agreements concluded were taken over by the European Community (EC). [56]

Another complicating issue affecting the definition of international actorness of the EU is the complex distribution of competences between the community institutions and its member-states.[57] Before the Treaty of Maastricht, the distribution of competences was primarily between the European Communities, which could be exclusive or non-exclusive, and the residual competences of the member-states.[58]

[56] In the case of ECSC Art.6 provides that the Community enjoy legal capacity it requires to perform its functions, and not explicitly power to conclude agreements, but it was interpreted as such, and the ECSC has in fact concluded many agreements. For details about its expiration see for instance Council Decision 2002/595/EC from 19-7-2002. In the case of the EEC/EC, there have been many controversies about the limits of its competence, which have often been referred to the European Court of Justice. For more details see for instance MacLeod, Hendry & Hyett, 1996.

[57] The final report of the Convention Working Group on Legal Personality, for instance, suggested that the EU should be given a explicit legal personality, which would replace the one of the Community and possibly the one of EURATOM, but that the distribution of competences between the EU and member-states and between the EU and the EC do not have to necessarily change. See CONV 305/02 - WG II 16, p.6, at the Convention Homepage: http://europa.eu.int/futurum/

[58] Under exclusive competence only the Community can act, such as regarding the Common Commercial Policy regulamented by Art.113/133. Under non-exclusive competence member-states can act in the case that the Community does not (non-exclusive non-exercised competences). For some cases they can continue to act in parallel to the Community even if the latter starts acting (such as the development policy or the conclusion of international association agreements Art.238/310), and in

Apart from acting within the community institutions the member-states were engaged in intensive plurilateral cooperative initiatives, the most important being the European Political Cooperation (EPC).[59]

The Treaty of Maastricht segmented even further the distribution of competences between the community institutions and the member-states, notably by the institutionalisation of the three-pillar structure. The first pillar came to include the activities which were under the competence (exclusive or non-exclusive) of the Community, and the second and third pillars those in the competence of member-states, namely the Common Foreign and Security Policy (CFSP) and Judicial and Home Affairs (JHA). Apart from the three pillars, the member-states continued to retain competences over issues outside the EU system, with some of them however, being effectively decided and managed within the EU system, and, thus, forming an informal "fourth pillar". [60]

In International Relations, the debate on international actorness is not based directly on the concept of international legal personality, but rather on assumptions which vary according to each approach. Three main positions can be found with regard to the status of actorness in the EU. On one extreme, some scholars reject it entirely, as they reject the actorness of international organisations, and claim that nation-states remain the only relevant units of the international system. This position is most commonly advanced by realists, for whom the external behaviour of the European Union should be analysed as a zero-sum result of its member-states' (Mearsheimer 1990, 2001; Bull, 1982).

Others scholars argue that the EU is not a political unit comparable to international organisations, nor will it become a state-like unit either. These scholars claim that the

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some cases they lose their possibility to act. See Torrent, pp.39-40 and MacLeod, Hendry & Hyett, 1996.

[59] The EPC was created in 1970 as a forum for member-states to discuss and coordinate their position in foreign policy issues. It was institutionalised in 1986 by the Single European Act (SEA). About EPC and its evolution into CFSP see for instance: Allen, Rummel & Wessels (Eds), 1982; Allen & Pijpers (Eds), 1984; Hill, 1983, 1996); Holland, 1991; Nuttall, 1993; Ginsberg, 1989; Schoutheethe 1980, 1986; Regelsberger et al (Eds), 1997.

[60] As the case of the negotiation of „mixed agreements" with Third Parties, i.e. agreements which cover issues under the competence of the Community and issues under the competence of member-states,

European Union has a *sui generis* and evolving character and therefore should be defined as a (still) incomplete political unit of the international system. A complete international actor should be able to fulfil certain criteria, which is not (yet) the case with the EU. For some (Sjostedt, 1977) the criteria would include the possession of a community of interests, a decision-making system, a system for crisis management, a system of management of interdependence, a system of implementation, external communication channels and external representation, community resources and a mobilisation system. For others (Breterthon & Vogler, 1999) the requisites are a shared commitment to values and principles, ability to identify policy priorities, ability to negotiate with others, use of policy instruments and domestic legitimacy. Others (Hill 1993, 1996, 1998) identify as the major obstacle for EU unity the "gap" between expectations (from 3rd parties) and the capacity of the EU to perform.

A third group of scholars defend the possibility of analysing the EU as a political unit of the international system, given that, despite the fragmented foreign policy decision-making processes and the lack of capabilities, the EU has developed a major "presence" in the contemporary global arena. Presence is defined by some authors as an actor who is an initiator, shaper, barrier, filter, facilitator and manager of policies towards 3rd parties (Allen & Smith, 1990, 1998), and by other authors as an actor who contains a clear international identity, and has been producing a significant impact upon other international actors (Whitman, 1994, 1997, 1998; Manners 1997; Ginsberg 2001; Smith K., 1999). This position is also held by realists who accept that the EU could be treated as an 'as if' international actor (Waltz, 2000; see also Kagan, 2002).[61]

This study assumes that the EU actorness has to be analysed on an empirical case-by-case basis, rather than at the theoretical level. The case for the EU actorness seems to be stronger for foreign policies for which the Community has exclusive competences, sufficient capabilities to manage and implement the policy, in an issue-area in which the EU has a strong international presence, such as trade in agriculture, than for policies under the 'fourth pillar', such as FDI. Since the purpose of the present study

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such as the GATs and Yaoundé/Lomé/Cotonou agreements, or the under negotiation with Mercosur. See Torrent, Ch5.

[61] For most references see Manners, 2000, p.28-29.

is not to analyse the actorness of the EU, but to examine the level of cooperation of its EU foreign policy, it seems to be sufficient to assume that the EU can be treated as a political unit of the international system, whose level of actorness at a particular point of time is more an empirical than a theoretical matter.

3.3) EU foreign policy

When referring to the EU, the label "foreign policy" is traditionally associated with security-military high politics, as the activities developed within the European Political Cooperation (EPC) and the Common Foreign and Security Policy (CFSP), while the activities developed within the Community are traditionally denominated "external relations". As stated above, however, the perspective here adopted defines EU foreign policy as encompassing both activities, since the two parameters of this differentiation (organisational structure of the policy-making system and categorisation of issue-areas into high or low-politics, i.e. the degree of politisation and sovereignty sensitivity) vary with time and are considered an empirical matter.[62]

Another question that arises when analysing the EU foreign policy refers as to whether it can be done with foreign policy approaches designed to study nation-states. It is one matter to loosen the assumption that nation-states are the exclusive initiator foreign policy actors, but, it is quite another matter to apply foreign policy approaches developed to study nation-states to studies of the foreign policy of other types of actors, such as the European Union. [63]

This study assumes that, once the EU is considered to be a unit of the international system (with different levels of actorness, according to the policy area), approaches to foreign policy analysis, such as the Neorealist, Identity Constructivist, and Utilitarian Liberal foreign policy theories can be directly applied to study the foreign policy of the EU.

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[62] For more about this see section 4.1

[63] For an initial debate about the challenges posed by the development of the European integration to the study of foreign policy see Carlsnaes & Smith (Eds) 1994. Among others the authors argue that the main theories of Foreign Policy Analysis have been developed in the US academic community, and to a large extent reflect US setting and concerns, and therefore are at risk of becoming irrelevant to

3.4) Cooperative behaviour

International cooperation is one of the major topics addressed in the discipline of International Relations. There are, essentially, three main bodies of literature dealing with it: one regarding international negotiations, one regarding international regimes (and international organisations) and one regarding regional integration. An appropriate definition of cooperative behaviour is the one proposed by Robert Keohane (Keohane, 1984, pp.51-52) in the context of the literature of international regimes.

Cooperative behaviour is defined as a process of policy coordination in which actors adjust their behaviour to the actual or anticipated preferences of others. Intergovernmental cooperation takes place when the policies actually followed by one government are regarded by its partners as facilitating realization of their own objectives, as a result of policy coordination. It is important to note that cooperation does not imply an absence of conflict; on the contrary, it is typically mixed with conflict and reflects partially successful efforts to overcome conflict, whether real or potential.

Cooperation, as a proactive behaviour, therefore, takes place only in situations in which actors perceive that their policies are actually or potentially in conflict, not where there is harmony, i.e., a situation in which actors policies' automatically facilitate the attainment of the goals of the partner. Discord, which is the opposite of harmony, stimulates demand for policy adjustments, which can either lead to cooperation or to continued and possibly even intensified discord.

3.5) Indicators

The indicators of the level of cooperation of the EU foreign policy behaviour can be found in two distinct areas of the EU foreign policy; it its unilateral foreign policies, and in the bilateral agreements concluded with the SCS. The precise indicators for

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analyse European foreign policy (both at the EC/EU level and national states level), specially as the process of integration develops further.

each case study are seen in details in Chapters 5 and 6; in the following table there are briefly presented.

For the case study of foreign direct investment, the main indicators are the commitments and references to cooperation in the bilateral agreements, and the programmes within the development policy, since the EU does not have a commom FDI policy.

For the case of agricultural trade the main indicators are the commitments and references to cooperation in the bilateral agreements, the programmes within the development policy, and also the policies within the commom commercial and the common agricultural policy.

According to these indicators, the level of cooperation of the EU foreign policy behaviour will be classified in a scale consisting of four levels of cooperation: very low, low, medium and high.

Table2: Indicators and level of cooperation of the EU foreign policy behaviour

Indicators/Level of Cooperation	**Very Low**	**Low**	**Medium**	**High**
Number/budget of cooperation programmes in the development policy	No programmes	More than earlier	More than earlier	More than earlier
Nature of cooperation programmes	-	Do not accommodate demands from recipient, impose conditionalities against the will of recipient	Accommodate demands from recipient, impose conditionalities against the will of recipient	Accommodate demands from recipient, impose only conditionalities accepted by the recipient
Commitments about the issue area in the bilateral agreements	No commitments, or commitments against the will of recipient	No commitments; but informal support of commitments favourable to recipient	Commitments favourable to both parts	Commitments favourable to recipient and disfavourable to the EU
Reference to cooperation in the issue area in	No reference	General reference	Specific reference	Specific reference with financial

bilateral agreements				protocol
Tariffs	-	Lower than before	Lower than before	Lower than before
Abusive use of CCP defensive instruments	Used	Less used than before	Less used than before	Less used than before
SGP concessions	No concessions	More than before	More than before	More than before

Chapter 4 - Research Design

This chapter describes the research design adopted to study the level of cooperation of the EU foreign policy towards the Southern Cone States. It first describes the methodology adopted (section 4.1), then summarises the chosen approaches and their predictions regarding the EU foreign policy towards the Southern Cone States (section 4.2).

4.1) Methodology

As mentioned earlier, this research project seeks to answer two questions: whether, or not, the EU foreign policy behaviour towards Mercosur has become more cooperative since the mid-to-end 1980s; and why the change, if any, occurred. The answer to the first question is dealt with through a descriptive inference of the level of cooperation of the EU foreign policy behaviour towards Southern Cone States, which is done with the help of the general indicators developed in Chapter 3 and refined for each case study in Chapters 5 and 6.[64]

The answer to the second question, i.e. why this change (or non-change) occurred, is arrived at by testing the hypotheses derived from the chosen theoretical approaches. However, since the main interest of this study is to provide a better understanding of the motivations of the EU foreign policy towards Southern Cone States, i.e., it is a problem- and not method-oriented project, the research design does not offer ideal conditions in order to produce a strong test of the approaches under consideration, and the conclusions cannot be generalized.

The hypotheses are tested in two steps. The first step follows the congruence procedure, according to which the explanatory power of a hypothesis can be assessed by the degree of consistency between predicted and observed values of the dependent variable with an analysis of the covariance between the dependent and independent variable, i.e. whether the former changed in the predicted direction. If it does not change in the predicted direction the hypothesis is falsified. However, since

covariance does not imply causality, other strategies must be adopted as well. A second step consists in the analysis of the causal mechanisms between the independent and dependent variables through process tracing. If causal mechanisms cannot be observed, the covariance analysis should, at least, be complemented by the analysis of further observable implications of the hypothesis, as a second best option.[65]

Information for the descriptive inference of the level of cooperation of EU foreign policy behaviour, and the test of the chosen hypothesis is based on primary and secondary sources. With regard to primary sources, EU documents, statements from EU officials, from the general press, and a few interviews conducted in Brussels with officials responsible for the relations with the Southern Cone States in the Council Secretariat and the Commission, and an international relations consultant of the Green Party in the European Parliament were used.[66]

The selection of the period of time to be analysed took into consideration the following aspects. First that the alleged change of EU foreign policy towards the Southern Cone States would have occurred in the mid-to-end 80s. Second, that cooperation is defined as long patterns of behaviour and not as isolated acts or events and, therefore, the values of the dependent variable must be assessed in a certain range of time, for instance 5 year periods. As a result, the periods of time chosen are 1980-1985 and 1995-2000. The five years before and after the alleged change should be able to provide enough empirical evidence to test the hypothesis.

The criteria for the selection of case studies were, first, their relevance for the issue area identified as representative of a conflict between the EU and the SCSs; second, the variance of the dependent variable (which should be the highest possible); third, the variance of the tested independent variables (which should be the highest

[64] King et al, 1994, Chapter 2.
[65] About the congruence procedure and process tracing see Bennet & George, 1997; Van Evera, Ch.2; Rittberger 2001, pp.308-310. About multicausality (or equifinality) see King et al, 1994, p.87 & Bennet & George, 1997, p.5.
[66] The interviews were made under the condition of not revealing the names.

possible); and finally, the variance in the not included potential independent variables (which should be the lowest possible).[67]

With regard to the representativeness of conflict, it is important to emphasise that one striking characteristic of the bilateral relationship between the EU and the Southern Cone States is the asymmetry between both partners. This asymmetry has many facets: representation in international politics, recognition and assimilation of socio-cultural models, and level of economic development. In sum, the asymmetry present in the bilateral relationship between the EU and the Southern Cone States is representative of the asymmetry between the "North and the South", "First and Third World", or "developed and deve loping countries". Each facet of this asymmetry poses a different level of potential conflict in the relationship in each period of time.

In the period of time analysed, the asymmetry in the representation in international politics did not pose a major conflict between the parties, as previously in the context of the Non-Alignment Movement, in the context of the creation of the UNCTAD, as a counterpoint to the GATT, or in the UNESCO crisis. After the beginning of the 1980s, the SCSs seemed to accept the legitimacy of international institutions and engage in constructive criticism from within. Other actors, such as organised civil society, instead, have questioned the assymetric representation in international institutions, not in a North-South but in a civil society-private sector basis. MNCs are accused of having hijacked the agenda of international organisations such as WTO or the aborted MAI in their favour, and although most of them are originally European or American, they are seen as independent actors which advance their interests independently of their home governments, and eventually against them.[68]

The risk of conflict between the EU and the Southern Cone States regarding socio-cultural matters has never been significant. The latter see themselves as sharing European culture and values. It can be said that there is no socio-cultural cleavage between the EU and the Southern Cone States societies, such as, for instance, between

[67] King et all, 1994, pp.139-150.
[68] See for instance the homepage of the anti-globalisation movement organisations ATTAC or Nologo: http://attac.org , http://www.nologo.org.

"Western" and "fundamentalist - Islamic" societies, which could be defined as a conflictuous one in the 1990s. Although Europe is seen as the birth place of a hegemonic culture, and in that sense seen as "superior", characterising an asymmetric relationship, that culture is, by and large, shared by the societies of the Southern Cone States.[69]

The economic asymmetry between the regions can be said to be the major cause of conflict between the European Union and the Southern Cone States in the period of time studied. This asymetry is appointed to be the cause of the less advanced stage of development of the Southern Cone States. The point here is not to evaluate the validity of this claim, but to acknowledge that the main source of conflict in the relationship between the EU and the Southern Cone States has been the need to coordinate policies which have an impact on the accumulation of capital and economic development in the latter.

Within the economic issue area, two case studies seem to be particularly relevant, foreign direct investment (FDI) and agricultural trade. The EU policies in relation to FDI and agricultural trade directly affect prospects of economic development in the Southern Cone States. Foreign direct investment has become the major source of capital inflows to developing countries in the period under consideration (vis-à-vis portfolio investment and aid), and is generally considered to be –potentially- the best form foreign capital to promote economic growth. The conflict between the EU and the Southern Cone States during the period under consideration was not about the desirability of European FDI in the Southern Cone States, as in previous periods, but about the type of desirable investment. While European investors are interested in increasing profits and market share, the SCSs are interested in bringing the developmental potential of FDI to fruition. Conflict has arisen when both interests could not be simultaneously achieved.

Agricultural products are the main component of Southern Cone States' exports to the EU, and it has a major impact on the domestic accumulation of capital and economic development. Despite the liberal agenda pursued in the GATT/WTO, the agricultural

[69] See for instance Huntington, 1993.

sector of the EU still remains highly protected. This discussion has polarised the EU and the Southern Cone States both in multilateral forums such as the WTO, and in their bilateral negotiations, going well beyond purely technical matters.

The criteria for selection of the particular approaches to be used in this study were that they: 1) offered testable hypotheses (in a positivist sense, and which could be applied to the congruence procedure method as outlined above)[70]; 2) offered hypotheses which made sense in the empirical case under consideration (special attention was given to the three motives found in the secondary literature: balance against the US, accession of Portugal and Spain, process of democratisation and regional integration in the Southern Cone States), and; 3) covered the three major groups of theoretical frameworks of the discipline of IR (realism, constructivism and liberalism), minimizing therefore the potential independent variables left outside.

Moreover, although both case studies selected belong to the issue area of economics, the choice of approaches did not privilege approaches claimed to be better suited to explain economic issues such as the Theory of Hegemonic Stability (Kindleberger, 1973, 1981; Gilpin 1971, 1981, 1984, 1991, 2000) [71] or IPE foreign economic policy approaches (Ikenberry 1986, 1988; Tooze, 1994) nor excluded the ones which claim to be better suited to explain security such as Neorealism (Waltz 1979) or Identity Constructivism (Wendt 1999).[72] A summary of the chosen approaches and their hypotheses are seen in the following.

[70] Positivism refers to the epistemology as implied in scientific realism, a philosophy of science which assumes that the world exists independent of human beings, that mature scientific theories typically refer to this world, and that they do so even when the objects of science are unobservable. Wendt, 1999, p.85.

[71] The theory of hegemonic stability (THS) can be allocated among the so-called Critical approaches to International Political Economy (IPE), which questions the liberal emphasis on the autonomous evolution and low level of politization of the conflicts emaning from the increasing international economic interdependence. Stability and cooperation is only possible with the existence of a hegemonic state supporting it. For the differences between Neorealism and THS see Guzzini, 2001. For a summary of THS see Hasenclever et al 1997, pp.86-95. Other Critical IPE approaches (such as in the work of Susan Strange and Robert Cox) although sharing the criticism of the excessive optimist liberal view about international conflicts emaning from interdependence, claim on the contrary, that states have lost their capacity to have an impact over economic issues, which are driven mostly by multinationals corporations, in line with neomarxist arguments.

[72] The assumption is that the division between high and low politics at the theoretical level is misleading and or even normative. The degree of political sensitivity and security implication of particular policy issue-areas is more an empirical than a theoretical matter. Food and oil production , for instance, were at different times and from different states considered either as economic welfare

4.2) Hypotheses

4.2.1) Neorealism

According to Neorealism, acting within the anarchic international system, states try to secure their own survival and therefore aim to keep and extend their autonomy from and their influence over, other states. Their foreign policy behaviour depends on their power position in the international system (independent variable), i.e. its share in certain capabilities such as gross national; product (GNP), military forces, territory and population, and on the polarity of the system as a whole, given that it has an influence on the room of manoeuvre each state has to use its capabilities. The better the power position of a state, the more autonomy for itself and the more influence over other states it will strive for. Autonomy- and influence-seeking policies are therefore the possible values for the dependent variable.

As regards the question of whether a state pursues autonomy- or an influence-seeking policy, there are two main variants of neorealist approaches: the classical Waltzianian neorealism, and what is defined by Rittberger *et al* as Modified Neorealism, or post-classical realism by Brooks. The main difference between the two approaches is that while the former holds that a state's foreign policy is based in worst-case scenarios and will always prefer autonomy over influence, for the latter, security pressure is an intervening variable, in which case, therefore, states attribute less importance to autonomy when they are exposed to low security pressure; in other words, the lower the security pressure a state is exposed to is, the more willing it will be to sacrifice some autonomy in order to gain substantially more influence over other actors. [73]

Given the purpose of this study, it is important to specify under which conditions each of these two neorealist variants would foresee the existence or an increase of the level

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issues belonging to low politics, or as security issues belonging therefore to high politics. External investments can be considered a matter of de facto survival for developing states, in which their sovereignty regarding the management of internal economic policies is at stake (such as implied in the IMF-World Bank "conditionality").

of cooperation on the part of the EU towards the Southern Cone States. According to the standard version of Neorealism, cooperation is foreseen as part of a strategy to make alliances against threatening dominant third states. When facing an increase of its power position, the EU would be expected to increase the cooperation with non threatening secondary powers within the international system in order to counterbalance US hegemony in the Southern Cone. Although cooperation implies a certain degree of loss of autonomy vis-à-vis the partner, it contributes to the prevention of the threat of a far greater loss of autonomy which would result from the dominance of the powerful third country.[74]

Modified Neorealism foresees cooperation only in bilateral relationships towards weaker states as a means to increase the stronger state's influence on the weaker; in other words, the attempt to gain control over the behaviour of another state through cooperation is only possible in relation to weaker states. Therefore, according to Modified Neorealism, when facing an increase of its power position, and in the case that the security pressure faced by the EU from its major competitors is not high (in which case its prediction is different from classical Neorealism), the EU could promote a cooperative foreign policy towards the Southern Cone States as part of a strategy to increase its general influence worldwide. Given its greater power, the EU would be expected to have more influence in the cooperative initiatives and could impose certain modes of behaviour (conditionality such as the democratic clause) or reinforce the existing asymmetrical interdependence in its favour.

Hence, in principle, both variants of realism could be used to analyse the cooperative foreign policy behaviour of the EU. However, as was mentioned in Ch.1, a frequently cited motive for the EU's foreign policy towards the Southern Cone States is the explicit attempt to counterbalance US hegemony in the region. Since one of the aims of the present study is to explore this rather loose statement, it opts to test the classical neorealist approach, and not the modified neorealist one, since the former explicitly addresses the role of the hegemonic power, i.e. the United States as a source of EU behaviour.

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[73]For a detailed analysis of Neorealism and its variants see Rittberger at at, 2002, Ch.3, especially pp.45-58.
[74] Rittberger at al, 2002, p.46.

Neorealist Hypothesis: As the EU evolves into a more powerful actor in the international system, it will promote a more cooperative foreign policy towards the Southern Cone States in order to counter-balance US hegemony in the region.

As a corollary, it is to be expected that the EU's foreign policy will become more cooperative once the project of constituting a unified market in the Americas, as implied in the project of the Free Trade Area of the Americas (FTAA) was announced at the Americas Summit in 1994, and as Southern Cone States engaged seriously in its negotiation.

Proceeding to the empirical analysis of the independent variable EU power position, the polarity of the system and the EU's relative power position is measured for both periods of observation.

As regards the polarity of the international system, during the period of 1980-1985 the United States and the Soviet Union were the two great powers in the context of the Cold War. The EU was an ally of the US and dependent on its strategic direction and military capabilities in order to assure its security. The Southern Cone States were secondary regional powers under the sphere of influence of the US.

In the period of 1995 to 2000, the international system was characterised by a unipolar situation in which the US was defined as the "winner" of the Cold War and the hegemonic power. Despite the unipolarity, the EU gained space of manoeuvre to pursue its own interests. It did not depend so much on US military support since the threat from the "east" had disappeared: it had developed a cooperative relationship with Russia, and engaged in the process of negotiation for the accession of most central and eastern European states (CEEs). According to Neorealism, in a unipolar situation, rising major powers such as the EU face a strong incentive to balance the hegemon by means of mobilising its capabilities to match those of the hegemon and

/or by aggregating capabilities with 3rd parties, such as the SCS, by the establishment of coalitions.[75]

Regarding the relative power position, the first thing to define is which states should be included in the reference group. According to Neorealism, the reference group consists of the state's major competitors. Although the major competitors of the EU are the United States, Japan, URSS/Russia and China, when the polarity of the international system is taken into consideration, it becomes unnecessary to include other states than the US, since in a unipolar system the EU as a great power would try to compete only with the hegemonic power. Moreover, insofar as the case study under consideration refers to the EU's behaviour towards the Southern Cone States, Japan, the USSR/Russia and China become insignificant since they have historically (and in the period under consideration) a very low engagement in Latin America in general, with the possible exception of Cuba. The relevant fact is that the major competitor of the EU over influence in the Southern Cone States is by far the US. The reference group taken into consideration is restricted therefore to the US.

The capabilities taken into consideration for the comparison of the relative power are those traditionally pointed out by neorealists: gross national product (GNP), export volume, military spending, size of armed forces, population, territory, and also foreign direct investments, insofar as it can also be defined as a power capability and is one of the case studies of this research. An analysis of the following tables show that in all economic categories (GNP, volume of exports and FDI) the EU clearly increased its power capabilities vis-à-vis the US, while in the military categories (military spending and armed forces) the US not only kept its primary position but increased the gap to other competitors. With regard to territory and population the EU also increased its relative position, mainly due to the accession of Greece in 1981, Portugal and Spain in 1986 and Austria, Finland and Sweden in 1995.

It would be necessary to establish a hierarchy or a measurement for each power capability in order to conclude whether the sum of the losses and gains in capabilities

[75] Note that while Waltzianinan Neorealism claims that the only predicted behaviour of rising powers vis-à-vis the hegemon is to balance, other Realists such as Stephen Walt claim that sometimes they can

was positive or negative. Such measurement is however not set out by realist approaches.[76] In the absence of specific rules of procedure, it is possible to claim that for the case of disputes between the EU and the US, economic power capabilities are more relevant than military power capabilities, given the improbability of use or threat of use of military means in a conflict escalation. Based on this argument, it is possible to assert that the relative power position of the EU vis-à-vis its competitors, mainly the US, increased from 1980-1985 to 1995-2000.

To sum up, it can be said that the power position of the EU increased from the first period of observation of this study (1980-1985) to the second (1995-2000). This increase was due to the change in the polarity of the international system from bipolar to unipolar and the increased relative power position, measured in terms of relative power capabilities.

Table 3: Gross Domestic Product (GDP), current prices, current exchange rates (billions of US dollars)

	EU*	EU % OECD	US	US % OECD	OECD total
1980	2..954,6	35,5	2.771,5	33,3	8.331,4
1981	2.637,7	31,1	3.104,5	36,6	8.474,9
1982	2.538,7	30,6	3.228,6	38,9	8.309,5
1983	2.485,7	28,9	3.502,0	40,7	8.597,4
1984	2.367,2	26,3	3896,6	43,2	9.013,2
1985	2.440,7	25,8	4.174,9	44,1	9.474,3
1986	3.630,7	31,6	4.411,8	38,4	11.488,3
1987	4.493,0	33,7	4.698,9	35,2	13.344,5
1988	5.003,3	33,3	5.061,9	33,7	15.027,8
1989	5.079,3	32,4	5.439,7	34,7	15.667,1
1990	6.328,1	35,9	5.750,8	32,6	17.621,1
1991	6.603,4	35,4	5.930,7	31,8	18.632,1
1992	7.241,2	36,2	6.261,8	31,3	20.006,3
1993	6.528,5	32,3	6.582,9	32,5	20.233,1
1994	7.011,1	32,4	6.993,3	32,3	21.627,0

bandwagon, i.e., join the stronger, even if it is rare. On balancing and bandwagoning see for instance Waltz, 1979; Walt, 199; Ch.5 & Schweller, 1994, Ch.3.

[76] Rittberger et al, 2002, p.43.

1995	8.622,1	36,4	7.338,4	31,0	23.674,2
1996	8.792,3	36,9	7.751,1	32,5	23.820,9
1997	8.265,4	35,3	8.256,5	35,2	23.432,5
1998	8.550,6	36,2	8.720,2	36,9	23.602,5
1999	8.562,8	34,4	9.212,8	37,0	24.877,0
2000	7.891,5	31,3	9.762,1	38,7	25.220,4

Source: compiled with data from OECD homepage

(http://cs4-hq.oecd.org/oecd/selected_view.asp?tableId=561&viewname=ANAPart2)

*EU include the member states for each year (Belgium, Denmark, France, Germany, Ireland, Italy, Luxemburg, Netherlands, UK until 1980; plus Greece after 1981; plus Portugal and spain after 1986 and plus Austria, Finland and Sweden after 1995)

Table 4: Exports of goods, transaction f.o.b. prices, current exchange rates (million dollars)

	EU*	EU % World	US	US % World	World total
1980	660.775	32,6	225.566	11,1	2.028.000
1981	537.199	26,8	238.715	11,9	2.003.000
1982	590.288	31,5	216.442	11,5	1.875.000
1983	574.537	31,3	205.639	11,2	1.837.000
1984	585.754	30,1	223.976	11,5	1.994.000
1985	717.558	37,0	218.815	11,3	1.940.000
1986	795.746	37,5	227.158	10,7	2.121.000
1987	958.644	38,5	254.122	10,2	2.492.000
1988	1.063.478	37,5	322.427	11,4	2.833.000
1989	1.136.875	37,2	363.812	11,9	3.053.000
1990	1.383.419	40,7	393.592	11,6	3.395.000
1991	1.373.373	39,9	421.730	12,2	3.446.000
1992	1.458.640	39,7	448.163	13,0	3.667.000
1993	1.375.369	37,5	464.773	12,7	3.671.000
1994	1.562.367	37,2	512.627	12,2	4.203.000
1995	2.083.743	41,5	584.743	11,7	5.016.000
1996	2.181.902	67,4	625.073	19,3	3.237.000
1997	2.140.888	39,5	688.697	12,7	5.415.000
1998	2.231.378	41,8	682.138	12,8	5.342.000
1999	2.229.257	40,2	692.784	12,5	5.551.000
2000	2.307.178	36,9	692.784	11,1	6.252.000

Source: compiled with data from WTO homepage

(http//www.wto.org/english/res_e/satis_e/webpub_e.xls)

*EU include the member states for each year (Belgium, Denmark, France, Germany, Ireland, Italy, Luxemburg, Netherlands, UK until 1980; plus Greece after 1981; plus Portugal and spain after 1986 and plus Austria, Finland and Sweden after 1995)

Table 5: FDI Outflows (millions of dollars & % total world)

	1980	1985	1990	1995	2000
EU	23,812 (44)	26,084 (42)	121,344 (52)	159,713 (45)	968,019 (70)
USA	19,230 (36)	13,338 (22)	30,982 (13)	92,074 (26)	164,969 (12)
Total World	53,674	62,163	233,315	356,404	1,379,493

Source: Compiled with data from UNCTAD Homepage

(http//stats.unctad.org/fdi/eng/tableviewer/wdsview/print.asp)

Table 6: Defense expenditures as % of gross domestic product, based on current prices

	Average 1980-1984	Average 1985-1989	Average 1990-1994	Average 1995-1999	2000 (estimative)
Belgium	3,2	2,8	2,0	1,5	1,4
Denmark	2,4	2,0	1,9	1,7	1,5
France	4,0	3,8	3,4	2,9	2,7
Germany	3,3	3,0	2,1	1,6	1,5
Greece	5,3	5,1	4,4	4,6	4,9
Italy	2,1	2,3	2,1	1,9	1,9
Luxemburg	1,0	1,0	0,9	0,8	0,7
Netherlands	3,0	2,8	2,3	1,8	1,6
Portugal	2,9	2,7	2,6	2,3	2,2
Spain	2,3	2,1	1,6	1,4	1,3
UK	5,2	4,5	3,8	2,8	2,4
US	5,6	6,0	4,7	3,3	3,0

Source: NATO homepage, http://www.nato.int/docu/pr/2000/p00-107e.htm, table 3

Table 7: Armed forces, annual average strengh, thousands

	1980	1985	1990	1995	2000e
Belgium	108	107	106	47	42
Denmark	33	29	31	27	25
France	575	563	550	504	395
Germany	490	495	545	352	323

Greece	186	201	201	213	205
Italy	474	504	493	435	382
Luxemburg	1	1	1	1	1
Netherlands	107	103	104	67	54
Portugal	88	102	87	78	73
Spain	356	314	263	210	160
UK	330	334	308	233	218
US	2.050	2.244	2.181	1.620	1.484

Source: NATO homepage, http://www.nato.int/docu/pr/2000/p00-107e.htm, table 6

Table 8: Neorealist independent variable: EU power position

	1980-1985	**1995-2000**
Polarity of the international system	Bipolar	Unipolar (US hegemony)
EU Relative power position (vs. US)	->	increased

4.2.2) Identity Constructivism[77]

This approach is a variant of Constructivism developed by Alexander Wendt, holding that the interaction between actors depends on the structure of knowledge of the international system. Knowledge is defined as culture, or shared meanings, which differs from the concept of common knowledge. While the latter is a sum of individual beliefs, the former has a relation of supervenience and multiple realizability with individual's beliefs. Culture cannot exist or have effects apart from the beliefs of individuals, but is not reducible to them.[78] Depending on how the 'Others' are conceptualised, as an enemy, a rival or a friend, three distinct macro level knowledge structures, or cultures, develop: Hobbesian, Lockean or Kantian, respectively.

The Hobbesian culture is characterized by four tendencies: 1) permanence of an endemic and unlimited state of war, i.e. a self-help system in which survival depends

[77] As labelled by Hasenclever et al., 1997, pp.186-192. For the approach itself, see Wendt, 1999.

on military power; 2) high death rate of actors, due to the elimination of the unfit; 3) unsuccessful balancing behaviour, leading to the dominance of the strongest actor; 4) impossibility of non-alignment or neutrality. The Lockean culture is characterized by: 1) a situation in which warfare is simultaneously accepted and constrained, i.e. the right to life and liberty (sovereignty) of the Others is recognized although not the right to settle disputes without violence, which is only limited by 'Just War standards'; 2) a low death rate of actors; 3) a successful balancing behaviour (although it is not essential for survival), 4) the possibility of non-alignment and neutrality. Finally, the Kantian culture is characterized by: 1) a *de facto* rule of law, in which disputes are settled without war or the threat of it; 2) members fight as a team if the security of any one is threatened by a third party; 3) other kinds of power than military, such as discursive, institutional and economic are more salient.

According to Wendt, each of these three cultures can be internalised by the actors in three different degrees, which can be seen as answers to why the actors comply with the norms of the culture in which they are embedded. The first degree of internalisation is the most superficial and means that states comply because they are forced to (coercion). States have no choice but follow the norms of the culture; their behaviour is thus externally and not internally driven. In the second degree of internalisation states comply because of self-interest (price). They do have an alternative, but decide to follow the norms for instrumental reasons because they think they can advance some exogenously given interest. In the third degree of internalisation states comply because they want to; they see the norms as legitimate. Their behaviour is even more internally driven than in relation to the second degree of internalisation, since norms construct their identities and interests; therefore, the level of compliance is the highest.[79]

In adapting Identity-Constructivism to analyse the behaviour of a unit of the international system, the systemic variable 'knowledge distribution' is transformed into the variable 'knowledge position', or role position.[80] Structural change, or cultural change, occurs when actors redefine who they are and what they want.

[78] Wendt, 1999, p.161.
[79] Ibid, pp.266-78.

Changes in foreign policies vis-à-vis 3rd countries occur with changes in the role position attributed to them (independent variable). In Wendts' original formulation, the possible values for role position would be enemy, rival or friend. These roles are symmetrical because they were defined for the issue-area of security (high politics) and equal states. The present study develops further sub-types of role positions (within each of the three cultures) in order to analyse the relationship between non-equal states and other issue-areas as well.

The types of role-positions attributed by the EU to the SCSs and its respective expected behaviour are: 1) conquered/colonised - enmity regarding economic issues would imply the non respect of sovereignty in attempts to obtain economic advantages; the level of cooperation would be inexistent; 2) neglected - rivalry regarding economic issues would imply respect for sovereignty, but exploration of the Other in its own benefit, without any attempt to avoid conflicts. The 3rd country would be politically neglected, and cooperation would be very low or low. Given this unequal relationship, the negligence on the part of EU towards the Southern Cone States is perceived as more problematic than vice-versa; 3) benign client - friendship regarding economic issues would imply the attempt to incorporate the demands from the Other and minimize or solve conflicts; higher levels of cooperation are expected to occur. In the case of economic friendship between unequal partners, the relationship assumes a paternalistic character in which the 3rd country is seen as a benign client.

It must be emphasised that although cooperation is a typical behaviour among friends, enemies or rivals can also cooperate. The difference is that, in the case of enemies or rivals, either the cooperation will be short-lived, or its practise will transform the actors themselves into friends in a process of collective identity formation. Cooperation among enemies and rivals is not only atypical and transitory, but also of a lower quality; it occurs only to the extent that it is instrumental to attain other interests (in the case of rivals) or to the extent that states feel coerced to do so (in the case of enemies). A high level of cooperation is only expected to occur between friends.

[80] In the same way that it was done in the case of Neorealism. For more about this procedure see

Identity Constructivism states that roles are objective, collectivelly constituted positions that give meaning to the subjective self-understandings of states (role identities). While the latter comes and goes as states take on or disgard beliefs, the former persist as long as states fill them. For that reason the methodology to find out role positions must not take into consideration self-declared EU beliefs about itself (as in a discourse analysis approach of how the EU defines the SCS) but rather the systemic determinants of the role position.

These determinants are what Wendt calls the "master variables". Three of them, namely interdependence, common fate and homogenisation are active or efficient causes of collective identity formation, while the fourth, self-restraint, is an enabling, or permissive cause of collective identity formation. All four variables may be present in a given case, and the more they are present the more likely collective identity formation will occur. Still, one efficient cause alone combined with self-restraint is already enough to trigger the process. The importance of the variable self-restraint is that it enables states to overcome the fear of being engulfed, physically or psychically, by the other; actors must trust that their needs will be respected and they will not be sacrificed to the group in order to engage in a cooperative behaviour.[81]

Identity Constructivist hypothesis: As the role position the EU attributes to the SCS changes from neglected to benign client, the level of cooperation of the EU foreign policy will increase.

Table 9: Level of cooperation according to role position

Level of cooperation	**Enemy (conquered)**	**Rival (neglected)**	**Friend (benign client)**
Null	X		
Very low		X	
Low		X	
Medium			X

Baumann, Rittberger & Wagner 1998, p.3. & Rittberger & Schimmelfennig 1997, pg.10.
[81] Wendt, 1999, pp.343-344 and 358.

High			X

Proceeding to the analysis of the independent variable in the periods of 1980-85 and 1995-2000, the four master variables and the role position of the SCS vis-à-vis the EU are analysed in the following.

Although self-restraint is a crucial variable, it can be said that when dealing with weaker partners it becomes less relevant. Stronger actors do not have the fear of engaging in cooperative behaviour with weaker ones, because they are backed by their asymmetrical power. In the case of an analysis of the level of cooperation of EU foreign policy towards the Southern Cone States, it is possible to consider as independent variables only the three active master variables, i.e., homogenisation, interdependence and common fate.

The variable common fate is defined as the extent to which the individual survival, fitness or welfare of each partner depends on what happens to the group as a whole. Although common fate can refer to something good, in international politics it is typically constituted by an external threat, which can be social (a military attack from a 3rd party) or material (ozone depletion). Common fate differs from interdependence in that it is constituted by an external actor or fact, and not by the interaction between the partners. Regarding the period from 1980 to 2000, it can be said that the EU and the SCSs did not share any strong common fate.[82]

Regarding the level of homogenisation, Wendt differentiates between two senses of alikeness: corporate identities and type identity. The former refers to the extent to which partners are isomorphic with respect to basic institutional form, function and causal powers. In that regard, it can be said that with the development of the process of integration among the Southern Cone States the degree of alikeness with the EU increased. The process of integration started formally with the *rapprochement* between Brazil and Argentina in 1985, gained an institutional form in 1991 with the

[82] Ibid, pp.349-353.

creation of Mercosur, and more strength with the inclusion of Chile and Bolivia as associate members in 1996 and 1997 respectively.

The alikeness in type identity refers to type variation within a given corporate identity, such as how political authority is organised, and its control over economic matters. During the first period of observation all Southern Cone States were governed by military dictatorships, the first democratic governments of Brazil, Argentina, Paraguay and Uruguay were installed in 1985, 1983, 1989 and 1985 respectively. Although the situation in Paraguay is considered more unstable given the two attempts of military coups in 1996 and 1999, the political stability of the region was strengthened with the inclusion of a 'democratic clause' in the Treaty of Asunción of 1991. Regarding the control of the political authority over economic matters, in the Southern Cone States prevailed the direct state control of enterprises until the end of the 80s. Argentina, Brazil and Uruguay started a process of economic liberalisation and privatisation with the governments of Carlos Menem, Collor de Mello and Luis Lacalle, respectively, all elected in 1989, and Paraguay with the government of Juan Carlos Wasmosy, elected in 1993.

Considering the three factors analysed: corporate identity, organisation of political authority and political control over economic matters, it can be said that the degree of isomophormism or alikeness between the EU and the Southern Cone States, increased from the first to the second period of observation.[83]

The variable interdependence is defined as a situation in which the outcome of an interaction for each depends on the choices of the other, and has two aspects, as identified by Keohane and Nye: sensitivity and vulnerability. The former measures the degree to which changes in one actor's circumstances affect the other actors and the latter measures the costs an actor would incur from ending a relationship. When either is highly asymmetric, which is the case between the EU and the Southern Cone States for both variables, the relationship is of dependence and not interdependence. Although the increase of dependence does not favour cooperation in the same way as

[83] Ibid, pp.353-357.

interdependence, it can still be said that it does favour unilateral cooperation from the stronger partner, in the sense that it diminishes even more the fear of the other.[84]

Concluding, it can be said that in the first period of observation, none of the three efficient master variables: common fate, homogenisation and dependence was very high, which suggests that no process of collective identity was in place, and that the role position the EU attributed to the SCS was the one of "neglected".

In the second period of observation, the level of homogenisation between both regions increased. With the processes of integration, democratisation and economic liberalisation the SCSs became more alike the EU in all of the most important aspects of homogeneity: corporate identity, organisation of political authority and political control over economic matters. A trend towards a process of collective identity formation took place, although only in its initial stages; the role position can be said to have evolved in the direction of a "benign client", though not fully consolidated.

Table 10: Identity Constructivist independent variable

	1980-85	**1995-2000**
Role position	Neglected	Benign client

4.2.3) Utilitarian Liberalism[85]

a) Summary of the approach and hypothesis

According to Utilitarian Liberalism, foreign policy is a 'net gain-seeking policy' (dependent variable) as determined by the interests of their societies (independent variable). The term societal groups includes all organized societal actors involved in the foreign policy decision-making process; i.e. not only societal actors in the narrower sense, such as private actors (companies, business and labour interest

[84] Ibid, pp.344-349.
[85] The Utilitarian Liberalist approach follows the model developed in Bienen, Freund & Rittberger, 1999, and Freund & Rittberger et al, 2001.

groups, etc.) but also societal actors in the wider sense, such as political and administrative actors.

All actors are conceived as rational utility maximizers, they all strive for gains, which can be material (income) or immaterial (power), in order to safeguard their survival. As a result of the interaction of the domestic actors in the process of interest intermediation, they create policy networks with a certain structure. Each actor's capability to assert its preferences in the process of foreign policy making is determined considering their relative dominance in the policy network.[86]

The analysis of a foreign policy network is done in three steps: first, the organised private and political administrative actors involved in the policy network are identified, then, their foreign policy preferences are ascertained; and, finally, those actors who are capable of dominating foreign policy decision- making are identified on the basis of the network structure.

The organised actors are those who show evidence of interaction in the form of communication (hearings, consultations, exchange of information) and/or coordination or cooperation (division of labour, exchange arrangements, bargaining processes) in a policy field or in relation to a certain policy. [87] The preferences of organised actors may be informed by a theoretically deductive method that assumes that these actors choose their preferences in order to maximize their income or power.[88]

With regard to the types of societal actors, Utilitarian Liberalism differentiates between actors from the political administrative system and private actors. The former encompasses political actors (which are democratically elected, such as the Prime Ministers and Presidents), administrative actors (which are appointed by the political

[86] Policy networks are defined as a set of relationships among organised private and political administrative system actors which results from their interaction in the form of coordination, cooperation and communication with a view to the formulation and implementation of policy. Freund & Rittberger et al, 2001, p.75.
[87] Rittberger et al, 2001, p.10.
[88] If it is not possible, or only possible to a limited extent, to determine actors' preferences deductively, help can be sought in the empirical- inductive method, in particular the method of questioning experts. Ibid, p.12.

actors to perform political tasks, such as Executive organs) and political-administrative actors (which are also appointed by the political actors to perform political tasks such as administrative actors, but which require a broader political support, such as Ministers). Private actors are subdivided into companies, economic pressure groups (issue area associations such as industry, farmer, trade associations), and political advocacy groups (issue area non-profit oriented private organisations such as NGOs, etc).

The most dominant actor is determined by an analysis of the pertinent policy network. The assertiveness of actors in policy networks is determined by the level of actors' mobilization and the independence of political and political- administrative, from private actors. The most assertive private and PAS actors must be identified, and then independence of the latter from the former. Regarding the mobilization of the private actors, it is possible to distinguish the level of situative mobilization (how intense an actor's preferences are), which is greater the more a policy affects his/her basic interests; and the level of structural mobilization, which is greater the higher the actor scores in the four following dimensions: level of representation (the more individuals and legal entities affected by the respective policy he represents); the representation of individuals and legal entities concentrated in that actor (the less that actor has to compete with other organised private actors for the same members); level of hierarchy (the better he is in a position to make binding decisions for his members); and capacity for generating technical and political information.

The mobilization of the political and political-administrative actors is also determined by the level of situative mobilization and the level of structural mobilization. The former is defined in the same terms as for the case of private actors, and the latter is determined by the formal competences of the actor in the policy area and his/her formal and informal powers in the decision-making process.

Finally, according to Utilitarian Liberalism, as a last step once the dominant interests in the policy network have been identified, the strength of the dependent variable 'net gains-seeking foreign policy' must be evaluated. This strength depends on the degree of strength of the societal interests, which can be analysed according to the following indicators: 1)strong societal interests exist if the dominant actor in a monopolistic

network has highly pronounced preferences; or the majority of dominant actors in a pluralist or corporatist network have highly pronounced preferences for the same option for foreign policy action; 2)medium-strength societal interests exist if the dominant actor in a monopolistic network has low-intensity preferences; or the majority of assertive actors in a pluralist or corporatist network have low-intensity preferences for the same option for foreign policy action; 3)weak societal interests exist if the dominant actor in a monopolistic network is not mobilized situatively; or there is no majority of actors with the same preferences of at least low intensity in a pluralist or corporatist network. Only in the first two cases will utilitarian liberalism allow any statements about the foreign policy. In the last case, when there are only weak societal interests, the foreign policy is not determined by societal interests, since society is then indifferent to the various options for foreign policy action.[89]

To sum up, in the utilitarian liberal view, foreign policy is determined by the interests of those societal groups which are able to dominate the foreign policy decision-making process. Foreign policy changes are, consequently, a function of changes of the preferences of dominant actors, or of changes in the composition of the set of dominant actors in each foreign policy network. Changes towards cooperative policies are expected to happen when that becomes the interest of the dominant actors in the EU foreign policy making network.

Utilitarian-Liberalist Hypothesis: As the configuration of the EU societal interests' changes towards favouring cooperation with Southern Cone States, the foreign policy will become cooperative.

The empirical analysis of the independent variable 'EU dominant domestic interests' is carried out separately for each case study in Chapter 5 & 6. In the following, however, some general features of the EU political system and policy-making are examined in order to provide a general background for the case studies. Before that, it should be emphasised that the use of Utilitarian Liberalism to study the EU foreign policy is in conformity with the trend to use approaches from Comparative Politics to analyse EU policy making. Scholars have claimed that aproaches such as pluralism,

[89] Bienen, Freund & Rittberger, 1999, pp.20-21.

corporativism, new-institutionalism (in its rationalist, sociological and historical version) are better suited to explain EU politics than the previously predominant approaches, such as (neo)functionalism and (liberal) intergovernmentalism (Risse, 1996; Hix, 1994; Caporaso, 1997; Kleistra, 2001). The use of policy networks was also introduced in the EU studies as a new paradigm to study European governance (Börzel, 1997; Heritier, 1996). While most empirical studies conducted so far have focused on EU domestic policies, this study develops an empirical analysis of EU policies towards third countries.

b)EU societal actors

In the case of the EU, the political actors are considered to be the European Parliament, whose members are directly elected at the European level, the European Council, whose participants, i.e. member-states' Heads of State or Government are nationally elected, and the Ministerial Councils, whose participants, i.e., member-states representatives at ministerial level, are accountable to their national parliaments. The main administrative actors are considered to be the European Commission, the European Investment Bank (EIB), the European Central Bank (ECB), the Economic and Social Committee (ESC), the Committee of the Regions (CoR), the Court of Auditors and the EUROPOL. The COREPER (COREPER 1, 2 and Special Committee on Agriculture) and subcommittes, such as the Committee 133 are considered to be political-administrative actors. A brief description of these actors and their points of connection with private interest groups follow below.

With regard to private actors, the economic and political advocacy pressure groups taken into consideration are the ones lobbying in Brussels, since the preferences of the ones lobbying in the national capitals are incorporated in the preferences from the member-states and therefore European and Ministerial Councils. Companies include both EU member-states' national companies and EU multinationals or joint-ventures, but only when lobbying in Brussels, and individually, outside the sectoral economic pressure group. In the case of EU foreign policy towards the Southern Cone States, it seems to be the case that most companies do not try to exert influence individually, but rather by participation in organisations such as the European Round Table of Industrialists (ERT) or the Mercosur-European Union Business Forum (MEBF).

Although their participation in the policy network is done separately for each case study, it can be said that both organisations are very active in the issue area of economic policies. Other pressure groups particularly involved in EU foreign policy towards Latin America in general are NGOs working in the development and human rights areas such as the International Cooperation for Development and Solidarity (CIDSE), and the Working Group on European Union-Mercosur negotiations (WG/EU-Me). The main EU societal actors and their deduced basic interests are listed in the following table.

Table 11: Main EU societal actors

Type	**Actors**	**Interests**
Political (EU level)	- European Parliament	-extend policy-making power (re-election at EU level, competences within the EU) -increase financial means (EC budget)
Political (national level)	-European and Ministerial Councils	-extend policy-making power (re-election at national level, competences within the EU) -increase financial means conditioned to not increasing net national contribution
Administrative	-European Commission -European Investment Bank (EIB) -European Central Bank (ECB) -Economic and Social Committee (ESC) -Committee of the Regions	-extend policy-making power (competences) -increase financial means (EC budget)

	(CoR) -Court of Auditors -EUROPOL	
Companies	-European companies	-increase financial means (profits)
Economic Pressure Groups	-European Round Table of Industrialists (ERT) -Mercosur EU Business Forum (MEBF) -sectorial lobbies (COPA/COGECA)	-increase financial means (membership contribution, consultancy fees) -fulfil organisational purpose (influence content of policy outcomes)
Political Advocacy Groups	-International Cooperation for Development and Solidarity (CIDSE) - Working Group EU-Mercosur	-increase financial means (membership contribution, donation, consultancy fees) -fulfil organisational purpose (influence content of policy outcomes)

Source: adapted from Rittberger 2001, p.86-87 & 89.

Although the role of each societal actor in the policy networks of FDI and agricultural trade are seen in Chapters 5 and 6; the general activities of two of them; the MEBF, and the Working Group EU-Mercosur are briefly described here since they are particularly involved in both networks.

The Mercosur-European Union Business Forum (MEBF) was launched in February of 1999, in Rio de Janeiro, with the objective of pursuing the enhancement of trade and business relations between the two regions, as stated in its founding document, the Rio Declaration. The idea was that entrepreneurs of each region should together identify barriers to trade, services and investment and elaborate joint recommendations to policy decision-makers on how to reduce or eliminate these restrictions, and speak to governments with one voice on issues where business consensus has been reached. MEBF has been particularly active in the negotiations of the Interregional Association Agreement, started in November of 1999. The

recommendations are approved in plenary sessions, after being prepared by three working groups: (Trade) Market Access, Investment/Privatisation, and Services. The second plenary meeting of the MEBF took place in Mainz, in November 1999, and concluded with the Mainz Statement; and the 3rd in Madrid in May/2002 during the 2nd EU-Latin America and Caribbean Summit (EU-LAC Summit), and was concluded with the signature of the Madrid Declaration. The content of these documents regarding FDI and agricultural trade are seen in Chapter 5&6.

The Commission has welcomed the founding of, and the activities proposed by, the MEBF, as stated in the official reaction to the MEBF Rio Declaration, in which its signatory, Commissioner Manuel Marin, explained how he viewed the possibilities for implementing the recommendations from the MEBF. An example of close consultation between the Commission and the MEBF was the EU-Mercosur Action Plan on Business Facilitation, launched during the 2nd EU-LAC Summit in Madrid. The document was based, to a large extent, on the list of business facilitation measures prepared by the MEBF, originally presented to the negotiators of the Association Agreement in Sept/2001, and reformulated in a final proposal by the means of the Buenos Aires Statement on Business Facilitation. Commissioner Pascal Lamy congratulated MEBF for its involvement: "At your conference in December last year in Buenos Aires you surprised us all by an unprecedented consensus amongst the business from both sides and a very comprehensive set of some 62 concrete business measures for customs, standards and e-commerce(…) today we are on the verge to announce an agreement with Mercosur on a Business Facilitation Action Plan, which apart from the areas you proposed to us at your Buenos Aires conference, include sanitary and phytosanitary measures for which Mercosur has demonstrated great interest." The parts of the initiative regarding FDI and agricultural trade are treated in Chapters 5 and 6.[90]

An expression of the growing importance of MEBF is the increase in attendance from about 100 to 200 businesspersons between the Rio and the Madrid meetings, and from one representative from the Commission (Industry Commissioner Martin Bangemann), to as much as the Vice President of the European Commission, Loyola

[90] MEBF, 2001a, pp.4-5; MEBF 2001b, p.15; Lamy, 2002 (speech 15-05-2002)

de Palacio, the European Commissioners Pascal Lamy, Erkki Liikanen, Chris Patten and Pedro Solbes, and the President of the Delegation of the European Parliament for the Latin American Countries and the Mercosur, Rolf Linkohr. The size and level of detail of the declarations also supports the perception of growing importance: while the Rio Declaration was a 10 page document with rather general recommendations, the Madrid Declaration has 42 pages and very specific recommendations at the level particular instruments and economic fields.

The Working Group on EU-Mercosur negotiations (WG/EU-Me) was created by academics of the Mercosur Chaire of the Institut d'Etudes Politiques de Paris (Science Po) as a follow up initiative to a seminar organised jointly with the University of Sao Paulo (USP) in May 1999 on "Political and economic stakes of EU-Mercosur negotiation and the agricultural deadlock". The main objective was to have a permanent consultative group set in a neutral and independent academic framework to discuss, monitor and make recommendations to the negotiation processes in which the EU and Mercosur are engaged at the interregional (Association Agreement) and multilateral levels (WTO), serving as an interface between negotiators, firms and civil society. It is organised around a core of about 30 international experts who meet periodically in workshops and conferences, and produce specialised papers and annual reports about the negotiations. These experts have established links with the Commission and participate in the conferences organised with the civil society to discuss the EU-Mercosur and EU-Chile association negotiations, the first of which took place in October/2000 and the second, in February/2002.[91]

c) Assertiveness of EU actors

[91] The core group of experts are: Jorge Balbis,Uruguay; Klaus Bodemer,Germany; Roberto Bouzas,Argentina; Jean-Christophe Bureau, France; German Calfat,Belgium; Daniel Chudnovsky, Agentina; Patricio Contreras,OEA; Robert Devlin,IADB; Antoni Estevadeordal,IADB; Renato Flores Jr.,Brazil; Christian Freres,Spain; Paolo Giodano, IADB; Paolo Guerrieri, Italy; Marcos Jank,Brazil; Ekaterina Krivonos, IADB; Andres Lopez, Argentina; Patrick Messerlin, France; Pedro da Motta Veiga, Brazil; Alejandro Nin,Uruguay; Peter Nunnenkamp,Germany; Sheila Page, UK; Felix Pena, Argentina; Marta Reis Castilho,Brazil; Jose Luis Rhi-Sausi,Italy; Maryse Robert;OEA; Pierre Sauve, OECD; Karsten Steinfatt,OEA; Sherry Stephenson,OEA; Jose Tavares de Araujo Jr.,OEA; Vera Thorstensen, Brazil; Ramon Torrent, Spain; Marcel Vaillant,Uruguay; Alfredo Valladao,France; Alvaro Vasconcelos,Portugal; Soledad Zignago,France. For more information and download of reports see homepage: http://chairemercosur.sciences-po.fr/. For details about the Conferences organised by the Commission see http://www.europa.eu.int/comm/external_relations/mercosur/conf/obj.htm

Helen Wallace identifies five main types of EU policy processes, which aggregate patterns of competences and decision-making powers for different issue-areas, and which imply different patterns of assertiveness of EU actors. Although this classification by no means replaces a proper empirical analysis for particular case studies, it provides a helpful overview of the general patterns of policy making in the EU.[92]

The first EU policy process variant is what the author calls the community method, which constitutes a form of supranational policy making, in which powers were transferred from the national to the EU level. The main characteristics of the community method are: a strong role of the Commission in policy design, policy-brokering and policy-execution; an empowering role for the Council of Ministers through strategic bargaining and package deals; an engagement of national agencies as the subordinated operating arms of the agreed common regime; a distancing from the process of elected representatives at the national level and only limited opportunities for the Parliament to have an impact on the policy; an occasional, but defining, intrusion by the ECJ to reinforce the legal authority of the Community regimes; and the resourcing of the policy on a collective basis, as an expression of sustained solidarity. Although this method was for a long time considered 'the" emerging process of policy-making in the EU, its empirical validity was questioned and alternative methods were identified. Still, it is generally considered as descriptive of the structure of policy making for policies such as the Common Agricultural Policy (CAP).

The second method is the EU regulatory model, and is characterised by: the Commission as the architect and defender of regulatory objectives and rules, increasingly by reference to economic criteria; the Council as a forum for agreeing minimum standards and the direction of harmonization (mostly upwards towards higher standards), to be complemented by mutual recognition of national preferences and controls, operated differentially in individual countries; the ECJ as the means of ensuring that the rules are applied reasonably evenly, backed by the national courts

for local application, and enabling individual entrepreneurs to have access to redress in case of non-application or discrimination; the EP as one of several means for prompting the consideration of non-economic factors (environmental, regional, social etc) with increasing impact as its legislative powers have grown; and extensive opportunities for private economic and social interest groups to be consulted and influence policies. The regulatory model has been applied to the development of the single market and policy making in the area of competition policy, social policy, environmental domain, and also in many of foreign policies towards 3rd countries in the area of commercial and development policy. Wallace argues that the regulatory model displaced the community method as the predominant policy paradigm, and its successful implementation had instigated its promotion as a model for the development of broader global regulation.

The third variant is the multi-level governance. This method is considered to describe the structure of policy-making in distributive policy, such as the policies based on structural funds. With the development of distributive policies, the monopoly of national central governments over contacts with the EU level of policy-making was broken, and regional and local authorities became actively engaged in the policy process. The main characteristics of the multi-level governance model are: the Commission as the deviser of programmes in partnership with local and regional authorities, and using financial incentives to gain attention; member governments in the Council under pressure from local and regional authorities, agreeing to an enlarging and redistributive budget; members of the EP as source of pressure from territorial politics in the regions; empowerment of local and regional authorities, which gained an official forum of representation in the Committee of the Regions in 1993; increase of allocation of funds from the EC budget to "cohesion".

The fourth variant is the policy coordination and benchmarking (also called the OECD technique), and is characterised by: the Commission as the developer of networks of experts or epistemic communities; the involvement of independent experts as promoters of ideas and techniques; the convening of high-level groups in the Council to brainstorm rather than negotiate; dialogue with specialist committees in

[92] Wallace, 2001, pp.28-35. Other authors such as Neil Nugent also explore the variations in EU policy

the EP. The object of this method is not to establish a single common framework but rather to share experience and to encourage the spread of best practice. Examples of issue areas in which it seems to operate are education and employment policy.

The last variant of EU policy process proposed by Wallace is intensive transgovernmentalism, in the sense of strong commitment to achieve cooperation between member-states in areas that remained to a large extent under their competence, such as the Common Foreign and Security Policy (CFSP), and its predecessors, the European Political Cooperation (EPC) and the Justice and Home Affairs (JHA) policies. This method is characterised by: an active involvement of the European Council in setting the overall direction of policy; the predominance of the Council of Ministers in consolidating cooperation; the limited or marginal role of the Commission; the exclusion of the EP and the ECJ from the circle of involvement; the involvement of a distinct circle of key national policy-makers; the adoption of special arrangements for managing cooperation; the opaqueness of the process for national parliaments and the general public; and the capacity to deliver substantive joint policy.

d) Independence of EU PAS actors from private actors

Although subjected to variations according to particular issue area and case study, a common ground in the literature of private interest group representation in the EU is that the Commission is seen as the main institutional target of attempts to influence policy outcomes. Two main reasons are pointed out; the first is the fact that the Commission is constantly understaffed and overloaded with work, which makes it particularly dependent on private actors offering information and expertise –a drafting official in the Commission has been defined as "a very lonely person with a blank piece of paper in front of him, wondering what to put on it".[93] Often firms, industrial associations or other interest groups have more expertise in an issue area than the Commission, which sometimes even asks an interest group to prepare a report on its behalf. The second reason is the exclusive power of initiative of the Commission,

processes, see Nugent, 1999, pp.351-358.
[93] Hull (1993, p.83) cited in Greenwood, 1997, p.18.

combined with the perception that it is in the early stages of initiatives that most influence can be exerted. [94]

Other "bargaining chips" of private interest groups vis-à-vis the Commission, apart from information and expertise are: a)economic muscle – some big companies and sectorial groups, such as for instance the pharmaceutical industry, have so much resources and influence in key economic indices, such as employments or exports, that they cannot be ignored; c) status – the Commission for instance is particularly keen on high-prestige high-technology industrial domains such as information technology, biotechnology etc, and these exert a special appeal; d) power of implementation – groups as farmers are powerful actors because they own significant land resources, and if they refuse to implement a policy it will probably fail. Other groups such as pharmaceutical companies can offer help in implementation through self-regulation, which is attractive for the Commission by diminishing its overload; e) non-competitive and efficient organisation format – the Commission prefers to have a "one-stop-shop" European group based in Brussels representing all the interests within the category.[95]

Next to the Commission, the second in importance as an institutional target by interest groups in the EU is the Parliament. With regard to external relations, the formal powers of the EP in foreign policy decision-making, both regarding the bilateral agreements and the development policy are quite limited, but it has managed to participate in the determination of policies via informal channels. In the Treaties of Paris and Rome, the then Common Assembly had a very confined consultative role over the conclusion of association agreements under Art.238/EEC. With the establishment of the Luns (in 1964) and Westerterp (in 1973) procedures it was accorded the right to hold a debate prior to the opening of negotiations of association, and trade agreement with 3rd countries, respectively, and the right to be informed by the Commission and the Council on the progress of the negotiations and on the content of the agreements before their conclusion. In 1982, the two procedures,

[94] About private interest groups representation in the EU in general see for instance Greenwoood 1996, 1997; Bowen 2002; Hix ,1999, Ch7. Other main references include: Cowles, 1994; Gorges, 1996; Mazey & Richardson (eds), 1993; Kirchner, 1981;; McLaughlin & Greenwood, 1995; McLaughin, Maloney & Jordan, 1993; Maloney et al, 1995; Sargent, 1987, 1987; Streeck & Schmitter 1985, 1991; Traxler & Schmitter, 1994; Tsinsizelis, 1990; Van Schendelen, 1993, 1994).

referred as the Luns-Westerterp procedure, were extended to the negotiations of all international agreements, including accession treaties. Some of the EP's suggestions, in fact, came to constitute one of the main characteristics of the international agreements with 3rd countries, namely the so-called democratic clause. It also got closely involved in the implementation of these agreements, by inclusion of clauses about inter-parliamentary dialogues between partners. Another tool used by the EP is the question procedure (Art.140/EEC), by which the Commission has to reply orally or in writing to questions put to it. The Council was not bound by this provision, but has agreed to reply as well. The Single European Act (SEA) introduced the assent procedure under which the EP came to have a formal final say on the conclusion of association (Art.238/EEC) and accession agreements (Art.237/EEC). The EP decision, if reached by an absolute majority became fully binding, which represented a turning point for the EP in its struggle for power in EU foreign policy. Another innovation of the SEA was the inclusion of the EP as an associate in the also then formalised European Political Cooperation (Art.30.4 SEA), meaning that the Presidency had to inform the EP about the issues being discussed and take its views into consideration. The Treaty of Maastricht expanded the assent procedure (reached by absolute majority) to a wide range of treaties with 3rd countries, but the value of this measure was weakened by allowing the Council to suspend agreements to which the EP had assented without prior consent. Another new measure was that the EP could reject the annual budget and amend non-compulsory expenditure, impelling and even determining financial priorities in the context of external relations and the financing of aid projects. Regarding the CFSP, the EP was accorded the right to be consulted about its main aspects and basic choices (Art.J.7/TEU) but the vagueness of these terms implied that the application of the consultation mechanism is open to wide interpretation. Under the Treaty of Amsterdam the right of information was extended to any decision in the field of external trade policy, and the right of consultation to international agreements (Art.300/TEU), but the latter only after the Council has reached a decision, which entails that the involvement in the formulation and negotiation stages of international agreements remains marginal. [96]

[95] See Greenwood, 1997, pp.18-20 & 33-43; Bouwen, 2002; Nugent, 1999, Ch.6.
[96] About the powers of the EP in the EU foreign policy see for instance Weiler, 1980 and Viola, 2000.

The most important mechanisms for interests to engage with the European Parliament are the committee systems, rapporteurs and intergroups. Proposals from the Commission and initiatives from the EP itself are considered first in the standing committees of the Parliament. Each has a secretariat of about five officials, who are usually targeted by interest groups. Rapporteurs are MEPs appointed by Committees to prepare the Parliament's response to Commission proposals and to those measures taken within the Parliament itself. When an appointment is made, a shadow rapporteur is appointed by each political group to monitor the process on behalf of the interests of that party. Because of the centrality of their involvement with a particular initiative, they are key targets for interest groups as well. Intergroups are unofficial groupings of MEPs clustered around particular areas where members have particular interests. They began to emerge after the first direct election to the Parliament in 1979, and do not receive any official resources, which has provided an opportunity for interest groups to provide financial and secretariat resources for them to operate. The semi-anarchic existence of intergroups means that they do rather different things (their area of interest vary from Social Economy to Friends of Music, from Ageing to Cuba, etc) and offer quite different avenues of influence to interest groups, but are recognised as having a considerable effect on the working methods of the EP, in particular during the plenary sessions in Strasbourg. [97]

The third institutional target for private interest groups in the EU is the Council of Ministers, which, as the final point of decision-making, makes it a target for last-minute interest representation; at this later point in the decision-making cycle, it becomes more difficult to exert influence because issues have already been shaped, and interventions may require seeking changes to entrenched positions rather than seeking to shape problems into policy initiatives. The main access to decision-making in the European Council is via the 'national route". Interest groups need to work in their usual channels of national representation, but also to the ways in which national governments coordinate their machinery for working on the EU level. More centralised member-states tend to have better coordination, but this may mean that their COREPER representatives (COREPER 1, COREPER 2 and the Special Committee on Agriculture) are given little room for bargaining, and such delegations

[97] See Greenwood, 1997, pp.43-48 and Nugent, 1999, Ch.9.

may therefore be less available to private interest groups. Although, it is often easier to establish contact with officials from the Commission than with national administration officials, the "national route" is pursued by many interest groups. For instance, despite the measures at the EU level aimed at producing competition on equal terms and removing national favouritism, the interest of some large firms (national champions) and domestic governments are extremely intertwined. Representation at the national level is also more available to those interest groups lacking the resources to take the Brussels route, such a small firms and public interests. [98]

The Economic and Social Committee (ESC), the Committee of the Regions (CoR), the European Investment Bank (EIC) and the Court of Auditors have also been traditionally targeted by private interest groups. Other institutions such as the European Monetary Institute (EMI), the European Central Bank (ECB) and the EUROPOL are, however, by nature likely to be more insulated from the pressures of private interest groups. The most relevant for this study are seen in the following.

The Economic and Social Committee (ESC) is a consultative institution, created by the Treaty of Rome to provide input by outside interests, but with the exception of particular cases, its profile has been considered relatively low. It is a consultative body and it is made up of 222 members from representative organisations, nominated by national governments and appointed by the Council of the European Union for a renewable 4-year term of office. The members are divided in three broad categories: employers, workers and other interests, and, historically, the most active interests groups have been the trade unions (such as the European Trade Union Confederation – ETUC) and the associations of professions (such as SEPLIS, representing the liberal professions; EUROCADRES, representing salaried, unionised professional and managerial staff; and CEC, representing independent organisations of managerial staff primarily in industry and commerce) and their main task is to issue opinions on matters to the Council, the Commission and the European Parliament, when requested or from its own initiative. Every two years the ESC members elect a bureau made up of 24 members, a president, and two vice –presidents chosen from each of the three

[98] See Greenwood, 1997, pp.31-33 and Nugent, 1999, Ch.7 &8.

groups in rotation. It also has a number of specialist sections covering the functional range of EU competences, and works in a similar manner to the EP, with rappporteurs and plenary meetings (ten times a year) in which opinions are adopted by simple majority.[99]

Like the ESC, the Committee of the Regions (CoR) was also designed for input of specific interests and has only advisory powers, but its political profile has been much higher, since it was created by the Treaty of Maastricht in 1991. The Treaties oblige the Commission and Council to consult the CoR whenever new proposals are made in areas which have repercussions at regional or local level. The Maastricht Treaty set out 5 such areas - economic and social cohesion, trans-European infrastructure networks, health, education and culture. The Amsterdam Treaty added another five areas to the list - employment policy, social policy, the environment, vocational training and transport - which now covers much of the scope of the EU' s activity. Outside these areas, the Commission, Council and European Parliament have the option to consult the CoR on issues if they see important regional or local implications to a proposal, and the latter can also draw up an opinion on its own initiative. CoR's work is based in three main principles: a)subsidiarity, which was written into the Treaties at the same time as the creation of the CoR, and means that decisions within the EU should be taken at the closest practical level to the citizen, i.e. the EU, therefore, should not take on tasks which are better suited to national, regional or local administrations; b)proximity, by which all levels of government should aim to be ' close to the citizens' , in particular by organising their work in a transparent fashion, so people know who is in charge of what and how to make their views heard; and c)partnership – by which sound European governance means European, national, regional and local government working together. With respect to its organisational structure, the CoR has 222 members and the same number of alternate members, appointed for a four year term by the Council, acting on proposals from the member states. Each country chooses its members in its own way, but the delegations all reflect the political, geographical and regional/local balance in their member state. The members are elected members of or key players in local or regional authorities in their home region. The Committee organises its work through six specialist Commissions, made up of CoR members, who examine the detail of

[99] See for instance Greenwood, 1997, p.49, 133-136 & 159; Nugent, 1999, pp.279-285 and ESC

proposals on which the CoR is consulted and draw up a draft opinion, which highlights where there is agreement with the European Commission' s proposals, and where changes are needed. The draft opinion is then discussed during the plenary sessions which take place five times each year. If a majority approves it, the draft is adopted as the opinion of the Committee of the Regions and is sent on to the Commission, Parliament and Council. The CoR also adopts resolutions on topical political issues.[100]

The European Investment Bank (EIB) was created by the Treaty of Rome as the financing institution of the EU. Its responsibilities and functions are referred iin several articles of the TEC; Art.267 is especially important because it sets out the task of the EIB as being to contribute, on a non-profit making basis to the development of the common market. Around 90% of its loans are form projects within the member-states, and the remaining for projects in 3rd countries. It has its own legal personality and financial autonomy, as it funds most of its operations by borrowing on the capital markets rather than by drawing on the Community budget. The EIB's management and control structures reflect this independence and allow it to take lending and borrowing decisions solely on the basis of projects' merits and the best opportunities available on the financial markets, but is also take in consideration the objectives of the EU development policy. Its governing body includes a: a) Board of Governors - consisting of Ministers nominated by each of the Member States, usually Ministers of Finance, Economic Affairs or the Treasury, who among others lay down general directives on credit policy and authorise the Bank activities outside the Union; b) Board of Directors - consisting of 25 Directors and 13 Alternates appointed by the Board of Governors (24 Directors and 12 Alternates nominated by member-states and one of each by the Commission). It meets once a month and its main tasks are, among others, to ensure that the Bank is managed in keeping with the European Treaties, the EIB's Statute and the directives laid down by the Governors and to approve the granting of loans; and, c) Management Committee - which is the Bank's full-time executive body and oversees day-to-day business. It recommends decisions to Directors, notably borrowing and lending decisions, and ensures that these are implemented. Its members are appointed by the Governors, on a proposal from the

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Homepage (http://www.esc.eu.int/).

Board of Directors, for a period of six years. Regarding its organisational structure the EIB had a number of directorates and departments, among them, of particular interest of this research, a responsible for lending operations in 3rd countries, with an official responsible for each world region. The EIB has increasingly found itself a target of interest groups from the areas related to industry and infrastructure and also environmental groups, who have been active in pressing the EIB to ensure compliance with environmental criteria in the funded projects.[101]

[100] See for instance Greenwood, 1997, Ch.9; Nugent, 1999, pp.285-289; and CoR homepage (http://www.cor.eu.int/).
[101] See for instance Greenwood, 1997, p.49; Nugent, 1999, pp.289-293; and EIB Homepage (http://www.eib.org/).

Chapter 5 - Case Study 1: Foreign Direct Investment

5.1) Case description and dependent variable

Foreign direct investment (FDI) is one of the major sources of capital which can be used to promote economic development. In countries such as the Southern Cone States, which have a low level of domestic savings, external capital is of central importance. According to economic theory, private investment flows search locations in which firms expect to increase their profitability or market share. While some countries manage to attain a desirable level and quality of foreign investment without governmental intervention, that is not the case with most developing countries (Section 5.1.1). Even if absolute FDI flows to developing countries have increased significantly since the end of the 1980s, it is still a fact that in most cases these flows were not enough, or even worse, were not able to have the expected effect on economic development (Section 5.1.2). The need for governments to intervene in private FDI flows has been discussed in many forums but the modalities and limits remain a major conflict between the developing and developed countries in general, and the EU and the Southern Cone States in particular. At the multilateral level, attempts to constitute an international FDI regime to address this conflict have so far failed (Section 5.1.3). At the bilateral level, the EU has signed agreements on FDI (though without entering any legal commitments on account of its lack of competence), and, as part of its development policy, it has created specific instruments to promote European FDI to developing countries, including the Southern Cone States (Section 5.1.4). Although the efficacy and efficiency of these instruments can be questioned, it can still be said that the EU has been trying to increase the developmental quality of European FDI to the Southern Cone States, and that the level of cooperation regarding FDI as indicated in its foreign policy has increased from the period of 1980-1985 to 1995-2000 (Section 5.1.5).

5.1.1) The role of FDI in economic development

Economic development presupposes capital, and the major sources of capital (of a nation-state) are domestic savings and external capital. Whether domestic savings are

enough to promote a desired level of investment and economic growth for a given country depends on many factors, but for the purpose of this research it is enough to state that that was not the case in the Southern Cone States in the period analysed, i.e. 1980-2000, and that these countries depended on external capital inflows in order to promote economic development.[102]

External capital can take the form of portfolio or direct investments.[103] The advantages of FDI over portfolio capital are subject to controversy, with regard to both its economic basis, and the political implications of foreign control of strategic activities. In most Latin American countries, until the early 1980s, there was a political distrust towards FDI and multinationals, but it lost prominence, not by coincidence, with the advent of the crisis of their external debts, which had been financed by portfolio capital.[104] As regards economic grounds, the alleged advantages of direct investments are its longer term maturation and lower volatility, its immediate transformation into investment (not linked to consumption or speculative purposes), and the fact that it facilitates the transfer of technology, therefore contributing, in theory, not only to the accumulation of capital but also to an increase in efficiency of the economic system of production.[105]

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[102] Fishlow, 1992, p.136; Martins Lima, 1994, p.235; Santagostino, 1997, p.35. Economic development is defined in pure economic terms, i.e. as economic growth, not including social indicators

[103] Foreign direct investment (FDI) occurs when an investor based in one country (the home country) acquires an asset in another country (the host country) *with the intent to manage that asset*. The management dimension is what distinguishes FDI from portfolio investment in foreign stocks, bonds and other financial instruments. In most instances, both the investor and the asset it manages abroad are business firms. In such cases, the investor is typically referred to as the "parent firm" and the asset as the "affiliate" or "subsidiary". There are three main categories of FDI: a) Equity capital is the value of the MNC's investment in shares of an enterprise in a foreign country. An equity capital stake of 10 per cent or more of the ordinary shares or voting power in an incorporated enterprise, or its equivalent in an unincorporated enterprise, is normally considered as a threshold for the control of assets. This category includes both *mergers and acquisitions* and *"greenfield"* investments (the creation of new facilities); b) Reinvested earnings are the MNC's share of affiliate earnings not distributed as dividends or remitted to the MNC. Such retained profits by affiliates are assumed to be reinvested in the affiliate. This can represent up to 60 per cent of outward FDI in countries such as the United States and the United Kingdom; c)Other capital refers to short or long-term borrowing and lending of funds between the MNC and the affiliate.

[104] The political distrust is alleged to be based in the past imperialist, neoimperialist and "gun boat diplomacy" policies practiced by the US and European countries, in which MNCs were an instrument of dominance of national governments in detriment of political and economic interests of developing countries. On that see for instance Graham, 2000, pp.167-173 and Krasner, 1978. For a good recent edited volume about Latin America external debt crisis see KAS 1999 with papers from, for instance, Eliana Cardoso, Reinaldo Goncalves and Paulo Nogueira Batista Jr. among others.

[105] For the debate and the economic grounds of FDI advantages in general and vis-à-vis portfolio investments to promote economic development see for instance: UNCTAD 1999; Petrochilos 1989; OECD 1990; Gomes-Casseres & Yoffie 1993, Lim, 2001.

The traditional economic factors considered to be determinants of FDI location are economic stability, size of domestic market, possession of natural resources, and the presence of cheap labour. While these factors remain relevant, they are of diminishing importance, particularly for the most dynamic and technologically advanced industries. The new determinants of location reflect domestic FDI and regulatory regimes, existence of favourable infrastructure and synergies derived from the presence of other firms in the same industry or those which offer complementary products and services. Developing countries, and among them the Southern Cone States, are in clear disadvantage vis-à-vis developed countries in terms of these new determinants of FDI. The desirability and necessity of attracting FDI above the level provided by private capital flows has led these countries to adopt certain policies, such as the (unilateral) liberalisation of the rules regulating the entrance and conditions of permanence of FDI, and offering incentives such as tax concessions, exemptions from import duties and subsidies to foreign firms. During the period of 1990-1998 over 135 countries reduced regulatory restrictions on FDI. For major changes in the Southern Cone States see table1.[106] These countries also moved away from the so-called Calvo Doctrine, which advanced the inclusion of a clause in FDI agreements in which the foreign investor agreed to waive all rights to diplomatic protection afforded to him by his own country under international law, and any conflict had to be solved through the legal remedies available in the host state.[107]

Despite the unilateral liberalisation, and active promotion of FDI a closer look at Latin American aggregates, which reflect the same trends of Southern Cone States', show that investment and economic growth rates did not follow capital inflows (see table1). The main reasons pointed out for the lack of success of FDI in generating

[106] See UNCTAD, World Investment Report 1999. Another possible determination of FDI location is the perception of a protectionist threat; big firms fearing protectionism from countries which could put in risk its exports decide to produce in that country directly as a means to secure its markets. This seems to be one of the motivations of massive Japanese FDI in the US during the 1980, but would be less relevant as a determinant of FDI towards developing countries. See Bhagwati, 1991.

[107] The Calvo Doctrine is named for an Argentinean diplomat and jurist, Carlos Calvo, and evolved from a treatise written by him in 1896 which addressed the cries for protection in Latin American countries as a result of the diplomatic and military intervention in these countries by foreign investors in the 19th Century stemming from European colonialism. The doctrine contends that, if these countries acceded to the international legal concepts, they would be at the mercy of the powerful states and this would be injurious to the weaker nations, thus, and unjustifiable inequality between national and

economic growth are that most FDI was done via privatization programmes and therefore did not expand economic capacity, but merely changed control of existing firms from domestic to foreign ; most FDI went to services (not manufacturing sector), and therefore did not contribute to increase exports, nor to improve the quality of the services, given the lack of good local regulatory systems and competition law; countries and provinces within countries engaged in fiscal wars to compete for FDI and were, therefore, unable to increasing their taxes revenues; and finally that the major source of FDI were mergers and acquisitions, and in many cases local employees were replaced by foreigners.[108]

Table 12: Latin America Macroeconomic indicators (%GDP)

	1976-81	1983-90	1991-94	1995-96
Net capital inflows	4.9	1.2	4.9	4.9
Change of reserves	1.0	0.2	1.5	1.9
Deficit on current account	3.9	1.0	3.4	3.0
Gross capital formation	24.0	16.7	17.9	18.0
Savings	20.1	15.7	14.5	15.0
Real annual growth	5.5	1.6	3.6	1.9

Source:French-Davis & Reisen, 1998, p.13.

The empirical evidence of the 1990s has, therefore, qualified the thesis of the almost unconditional benefits of FDI with regard to development. After two decades of research about the impact of FDI on economic growth in the developing countries it was recognised that FDI is not monolithic, and its benefits vary from one sector and country to another. Whether positive or negative aspects of FDI prevail depends on the policies adopted by the host country, the investing company's code of conduct, the financial institutions that support it, and the international policy context. In other words, not only quantity of FDI matters but its quality as well. Governments have, therefore, developed policies aiming at improving the quality of FDI, the first wave of which became known as second generation FDI promotion policies, with

foreigners would be established. The doctrine is a clear desincentive to FDI in what it increases the risks for the foreign investor. Baker, 1999, pp.90-91.

[108] For more details and empirical examples see for instance: UNCTAD 2002; UNCTAD 2001a; UNCTAD 2001b; UNCTAD 2001c; Uthoff & Titelman 1998; Wallace 1990; Barbosa 1995; Barry 1999. For specific case studies regarding the concession of tax exemption and subsidies to General Motors and Ford in Brazil see Hanson, 2001and Nodari, 2002.

liberalisation and the strengthening of standards of treatment for foreign investors being considered the first generation of such policies.[109]

Second generation (governmental) policies on FDI addressed such issues as the marketing of countries as locations for FDI and the setting up of national investment promotion agencies (IPAs). In 2000, more than 164 national IPAs and well over 250 sub-national ones were in operation. IPAs are typically financed by the public sector although they try to supplement their income with revenues from charging services, private sponsorships and aid from international institutions. In the case of developing countries, international assistance has been of great importance, especially in the first years after their establishment. Most IPAs were created under the ministry of economic, finance or foreign affairs or the president/ prime minister's office (about 60%), some as autonomous public bodies (about 20%), some as private agencies (about 8%) and some as joint private-public enterprises (about 3%). In the case of sub-national IPAs, which are very frequent in developed countries, such as Italy (with 20 offices) and Germany (16), these are often independent organisations and not subsidiaries of the national agencies, although the latter try to perform a coordinating role to avoid unnecessary competition.[110] Pursuing a similar purpose on the global level, high level officials of IPAs founded, in a meeting under the auspices of UNCTAD in 1995, the World Association of Investment Promotion Agencies (WAIPA). According to its statute, WAIPAs main goals are to promote and develop understanding and cooperation amongst IPAs, to strengthen information gathering systems and information exchange amongst IPAs, to share country and regional experiences in attracting investment, to help IPAs gain access to technical assistance and training through WAIPA sponsored events or by way of referrals to relevant

[109] International organisations such as the UN and OECD have been stimulating the debate about the impact of FDI on economic growth among others with the organisation of major international conferences with academics and policy makers such as the "OECD Global Forum on FDI", from which the Inaugural Conference took place in Mexico City in November 2001, the First Conference in Paris in February 2002, and the Second in Shanghai in December 2002; the "UN Financing for Development" in March 2002 in Monterrey, Mexico, and the UN World Summit on sustainable Development in Johannesburg in September 2002 and; the "ECLAC FDI Policies in Latin America", in January 2002 in Santiago. In the UN matters related to foreign direct investment were carried out until 1992 by the United Nations Centre on Transnational Corporations, from 1992 to 1993 by the Transnational Corporations and Management Division of the UN Department of Economic and Social Development, and since 1993 by the UN Conference on Trade and Development (UNCTAD). UNCTAD declared aim is to further the understanding of the nature of transnational corporations and their contribution to development and to create an enabling environment for international investment and enterprise development. In addition the UN Economic Commission for Latin America and Caribbean (ECLAC) also deals with FDI issues in Latin America and Caribbean.

international or multilateral agencies, and to assist IPAs in advising their respective governments on the formulation of appropriate investment promotion policies and strategies.[111]

Third generation FDI promotion policies are more complex and aim at targeting foreign investors at the level of industries and firms to meet their specific locational needs at the activity and cluster level, in light of a country's developmental priorities. A foreign affiliate, like any other firm, has three options for obtaining inputs in a host country: import them, produce them locally in-house, or buy them from a local supplier. For developing countries the formation of the so-called 'backward linkages' with foreign affiliates, i.e. a network of domestic suppliers, has a central importance since it contributes to the upgrading of the technological capabilities of domestic enterprises and to embed foreign affiliates more firmly in their economies. The extent to which foreign affiliates forge linkages with domestic suppliers is determined by the balance of costs and benefits, as well as differences in firm-level perceptions and strategies. The lack of efficient local suppliers, the lack of information about potential suppliers and misperceptions from foreign affiliates are the main obstacles to the creation of backward linkages. Host governments can play a central role in providing information and supporting local firms to meet minimum requirements, as long as the policy instruments are not against existing multilateral rules.[112] Examples of third generation measures are, for instance, the supplier audits, provision of advice on subcontracting deals, sponsoring of fairs, exhibitions and conferences, organisation of meetings and visits to plants, the introduction of technology transfer as a performance requirement, the incentive of research and development cooperation, the promotion of suppliers associations, the collaboration with private sector training programmes, the provision of legal protection against unfair contractual arrangements, the encouragement and guarantee the recovery of delayed payments, and the concession of fiscal benefits to firms providing long-term funds to suppliers.[113]

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[110] See UNCTAD, 2001, The World of Investment Promotion at a Glance.
[111] See WAIPA homepage: www.waipa.org
[112] For more about the multilateral rules on FDI see section 5.1.1.3.
[113] For an detailed overview see UNCTAD, World Investment Report 2001, and on third generation measures, p.22.

Table 13: FDI promotion policies in the Southern Cone States (measure, date of adoption or creation)

	1st generation (liberalisation & incentives)	**2nd generation (creation of IPAs)**
Argentina	Law 21.382/93; Decree 1.853/93	-Agencia de Desarrollo de Inversion [114]
Brazil	CVM Normative Instruction 130/90; BC Communication 2.099/90; INPI Resolution 22/91; BC Letter 216/91; BC Resolution 1.832/91; revocation of BC Instruction 85/81; Law 8.383/91; Decree 368/91; BC Resolution 1.894/92; BC Letter 2.266/92; BC Letter 2.282/92; INPI Resolution 35/92; BC Letter 2.313/92; SRF Normative Instruction 12/92; INPI Normative Instruction 120/93; Law 9.249/95; Constitution Amendment nr.6/95, Arts.171 & 176; Decree 2.452/88; Law 9.440/97; Law 9.449/97; Decree 20.725/97; Interministerial Measure 1/96 and 3/97 [115]	-Investe Brazil, 2002[116]
Paraguay	Law 60/90; Law 117/91; Decree 19/89; Decree 27/90, Decree 6.361/90	- Proparaguay, 1991[117]
Uruguay	Law 16.906, 1988	-Instituto de Promocion de Inversiones y Exportaciones, 1996[118]

Source: compiled by the author.

[114] Barry in OECD 1988, FDI policy and promotion in LA, p.53-56.

[115] The important to note about Brazilian legislation regarding FDI is that from the creation of a specific legislation with the Law 4.131/62 and Decree 55.762/65 until the 1990s the trend was towards the creation of restrictions to FDI, and afterwards, specially during the government of President Collor de Mello, the trend inverted towards the elimination of restrictions. Legislation includes constitutional legal basis, specific statutes or laws and regulation legal acts from agencies responsible for FDI, such as the Securities Commission (CVM), Central Bank (BC) and the National Institute for Industrial Production (INPI). For details see Barreto Filho, 1999, p.130-133 and IDB, 1997 Chapter on Brazil.

[116] See homepage: www.investebrasil.org.br. The structure of the national agency Investe Brasil was largely inspired in the Instituto de Desenvolvimento Industrial de Minas Gerais (INDI), a regional agency from the state of Minas Gerais created in 1968 to promote its economic and industrial development. INDI is also a Brazilian member of WAIPA, besides Investe Brasil. For about INDI see homepage: www.indi.gov.br.

[117] See homepage: www.proparaguay.gov.py

5.1.2) FDI flows and trends

By the end of the 1970s, the annual outflow of FDI from OECD countries to all destinations (including to one another) doubled from around US$ 25 billions in the beginning of the decade to nearly US$60 billions. After declining sharply in the early 1980s, it began once again to increase. During the years 1986 to 1989 annual FDI flows increased at a phenomenal rate, multiplying per four. FDI flows to Latin America followed the global trend. In the early 1980s these countries faced a shortage of foreign private capital and most inflows were governmental or multilateral loans as part of rescheduling arrangements for their external debt (succeeding the high level of capital inflow of the 1970s, predominantly in the form of portfolio investment as commercial bank loans). In the early 1990s there was a resurgence of capital inflows in the form of FDI. This increase of FDI flows is driven by multinational and transnational corporations (MNCs & TNCs) operations with their affiliates abroad and cross-border mergers and acquisitions, and is pointed out to be the major component of the process of economic globalisation.

As regards the major sources of global FDI outflows, developed countries account for more that three-quarters of the world total average during the relevant period, with the EU having become the leading group, rising from a share of 44% of total world outflows in 1980 to 70% in 2000. The United States remains in the second place although with a decreasing participation, from 36% of the total in 1980 to 12% in 2000, followed by Japan (see table 3). It is interesting to note that until the mid-1970s the US was the major source of FDI outflows, with a share of total stocks of 55% in 1967, and 52% in 1971. [119]

Table 14: FDI Outflows (millions of dollars & % total world)

	1980	1985	1990	1995	2000
EU	23,812 (44)	26,084 (42)	121,344 (52)	159,713 (45)	968,019 (70)
USA	19,230 (36)	13,338 (22)	30,982 (13)	92,074 (26)	164,969 (12)
Japan	2,385 (4)	6,452 (10)	48,024 (21)	22,630 (6)	31,558 (2)
Total World	53,674	62,163	233,315	356,404	1,379,493

[118] See homepage: www.uruguayxxi.gub.uy
[119] Gilpin, p.13

Source: Compiled with data from UNCTAD Homepage

With regard to global FDI inflows, an upward trend favouring developing countries took place, peaking in 1994 with a share of 41% of total world inflows, but going back to the original share of about 15% in 2000. Latin America lost ground along the two decades from 14% of total world inflows in 1980 to 6% in 2000, and the Southern Cone States as well, although in a smaller grade; from 5% to 3% in the same period (see table 4).[120]

Table 15: FDI Inflows (millions of dollars & % total world)

	1980	1985	1990	1995	2000
Developed c.	46,530 (85)	42,693 (74)	164,575 (81)	203,311 (62)	1,227,476 (82)
Developing c.	8,380 (15)	14,873 (26)	37,567 (19)	112,537 (34)	237,894 (16)
LA & Carib.	7,485 (14)	7,278 (12)	10,282 (5)	30,866 (9)	95,405 (6)
SCSs.	2,908 (5)	2,346 (4)	2,938 (1)	10,270 (3)	44,312 (3)
Total World	54.945	57.596	202.782	330.516	1.491.934

Source: Compiled with data from UNCTAD Homepage

Considering FDI flows to Latin America and the Caribbean, the United States remained the major source country from 1980 to 1994, having increased this advantage in the 1990s. The EU stood in second and Japan in third position (see table 10). The same trend can be observed when only Mercosur member-states are taken into account. However, in the second half of the 1990s this trend was reversed, especially due to the extraordinary increase in the Spanish outflows to these countries.

Table 16: Major sources of FDI to Latin America & the Caribbean (net flows, annual average in million US dollars & % total)

	1980-1984	1985-1989	1990-1994
EU	1.176 (41%)	1.265 (54%)	1.952 (22%)
US	1.263 (44%)	941 (40%)	6.732 (74%)
Japan	435 (15%)	149 (6%)	386 (4%)

[120] See for instance World Bank, *Global Development Finance*, 1999& UNCTAD, *World Investment Report 2001*.

Total of above	2.874 (100%)	2.355 (100%)	9.070 (100%)

Source: IRELA, 1996, p.95.

Table 17: Major sources of FDI to Southern Cone States (net flows, annual average in million US dollars & % total)

	1980-1984	1985-1989	1990-1994
EU	812 (47%)	846 (44%)	962 (24%)
US	678 (39%)	893 (46%)	2.918 (72%)
Japan	233 (14%)	194 (10%)	154 (4%)
Total of above	1.723(100%)	1.933 (100%)	4.034(100%)

Source: IRELA, 1996, p.108.

Since the beginning of the 1990s, but especially after 1994, Spain has had an extraordinary increase of its FDI outflows to Latin America. Spanish firms participated in many privatisation programmes, such as in the telecommunications sector in which the Telefónica de Espana bought privatised companies in Brazil, Argentina and Peru; and the participation of Spanish banks in mergers and acquisitions operations, such as the purchase of Banespa (Brazil) by BSCH for US$3.6 billion, Serfin (Mexico) by BSCH for US$1.6 billion and Bancomer (Mexico) by BBVA for US$1.9 billion. Other examples of significant acquisitions by Spanish companies are the purchase of YPF in Argentina by Repsol, and of Endesa and Enersis in Chile by Endesa Espana. In 1994, Spain became the main European country investing in Latin America, and ranked second world-wide after the United States. For example, Spain accumulated inflows in Argentina from 1992 to 1999 that represented 31.8% of the total in Argentina (US ranked 2nd with 21.1% and Netherlands 3rd with 7.3%), and 20.8% in Brazil from 1996 to 2000 (US ranked 1st

with 23.7%, and the Netherlands 3rd with 9.3%), coming from a participation of 5.6 and 0.6% of stocks in 1992 and 1995 respectively.[121]

Table 18: Spanish FDI (% of total net investments)

	1980-1985	1986-1991	1992-1995
Latin America	23.53	4.89	28.34
Argentina	-0.8	1.37	5.29
Brazil	2.4	0.24	0.77
Paraguay	1.13	0.04	0.13
Uruguay	2.33	0.25	0.41
Chile	9.79	0.89	0.85
Mexico	3.13	1.12	2.2
Peru	0.87	0.01	16.07

Source: OECD, 1996, p.29.

One last interesting remark is that when stocks, rather than flows, of FDI are analysed, the EU assumes the first position both in Argentina and Brazil. This indicates that the EU was the major investor in these countries for a certain period prior to 1980. In Brazil, Germany stands out as the major source, and in Argentina, Italy, as can be see in the following tables.

Table 19: FDI in Brazil (stock in Dec.of the year in billion dollars & %)

	1980	1990	2000
USA	5,0 (29%)	10,4 (28%)	35,4 (22%)
EU*	6,2 (35%)	14,1 (38%)	69,1 (43%)
Spain	0,1	0,1	21,8
Netherlands	0,4	0,9	11,2
France	0,7	2,0	9,9
Portugal	-	0,1	7,7
Germany	2,4	5,6	7,5
UK	1,1	2,5	3,8
Italy	0,5	1,2	2,9
Belgium	0,6	1,1	2,2

[121] About Spanish FDI in Latin America see for instance OECD, 1997, p.28; CEPAL, 2000; Giordano & Santiso, 1999; Santiso, 1996; Nunnenkamp, 2001, p.19-20.

Sweden	0,4	0,6	2,1
Japan	1,7	3,8	4,1
Switzerland	1,8	3,5	3,9
Canada	0,6	2,2	2,9
Off-shore	1,2	1,8	21,7
Other	1,0	1,5	23,8
Total	17,5	37,3	160,9

Source: adapted from Banco Central do Brasil in IIKH, 2002, p.184.

* sum of member-states listed below

Table 20: FDI in Argentina (stock in Dec.of the year in billion dollars & %)

	1980	1990	2000
USA	2,1 (40%)	3,7 (42%)	54,7 (38%)
EU*	2,0 (38%)	2,9 (33%)	64,0 (45%)
Spain	0,1	0,1	33,1
France	0,4	0,6	10,7
Italy	0,5	0,8	7,8
UK	0,3	0,3	5,8
Germany	0,3	0,7	3,8
Netherlands	0,4	0,4	2,8
Brazil	0,1	0,1	2,2
Chile	-	-	8,9
Australia	-	-	1,8
Switzerland	0,5	0,5	2,0
Other	0,4	2,2	3,7
Total	5,3	8,8	143,2

Source: adapted from Ministerio de Economia, in IIKH, 2002, p.185.

* sum of the listed above

5.1.3) International cooperation regarding FDI

The development of international rules on FDI at the multilateral level started after WW II in the context of the establishment of the Bretton Woods system. Before that, FDI was regulated predominantly by national law with a restrictive bias, and a few bilateral initiatives (see below). In its beginning, the main impulse towards the development of a multilateral regime for FDI came from the US, at that time the

largest exporter of capital, without success however. The Havana Charter for the establishment of the International Trade Organisation (ITO) contained provisions about investment in its Art.11 & 12, but not the General Agreement on Tariffs and Trade (GATT), signed in 1947. The question of investment was revised in the context of the 1955 GATT review conference, undertaken when it became clear that the Havana Charter would not enter into force given the insufficient number of signatory countries and the refusal of the American Congress to ratify it. The Resolution on International Investment for Economic Development signed at the Conference recognised that an increased flow of capital into countries in need of investment from abroad and, in particular, into developing countries would facilitate the objectives of the General Agreement, and urged contracting parties to participate in negotiations directed at the conclusion of bilateral and multilateral agreements on FDI related issues, even though these only had recommendatory status. In the Tokyo Round negotiations in the 1970s, rules on subsidies, technical standards and government procurement were negotiated and although their focus was on the impact upon trade in goods, the rules are also relevant to the competitive conditions which foreign investors face.[122]

A more directly relevant development in the GATT regarding FDI came during the Uruguay Round, concluded in 1994. The Ministerial Declaration which launched the negotiations in 1986 included the request for the examination of the restrictive and distorting effects of investment measures upon trade. After difficult negotiations which polarised developed and developing countries, an agreement was reached about Trade Related Investment Measures (TRIMs) with a compromise between the prohibition of performance and domestic content requirements of investments related to trade in goods (Art.1) (as advanced by developed countries) and the concession of special treatment to developing countries regarding the concession of national treatment (Art.4) and the periods of implementation of the new rules (Art.5). Art.9 foresees a review of the agreement.[123]

[122] WTO, 1996, p.35; Barreto Filho, 1999, pp.94-98; Moran, 2000.
[123] The TRIMs agreement covers two types of performance requirements; local content requirements and trade balancing requirements. Graham, 2000, p.61.

Although less directly, the General Agreement on Trade in Services (GATs), also had an impact upon FDI, which might, given the growing importance and volume of trade in services, even bigger in the long-term than TRIMs. GATT rules only put obligations on governments in respect of the treatment of foreign goods, they were not concerned with the treatment of foreign persons, legal or natural, operating in their territories, which is a central issue for FDI. GATS however, when establishing obligations in respect of the treatment of services, recognises that the supply of many services to a market is difficult or impossible without the physical presence of the service supplier. Trade in services is therefore closely linked to FDI in that foreign firms offering service products often need a commercial presence in that country, a topic dealt with under the FDI rules on establishment and permanence. In GATS, signatory countries must offer to foreign firms MFN treatment, the right to market entry (Art.16) and national treatment (Art.17), though the latter not as a general principle but only in specified sectors.

Two other agreements finalised with the Uruguay Round also refer to FDI. The first is the Trade Related Aspects of Intellectual Property (TRIPs) agreement, since the definition of investment explicitly includes intellectual property. With its provisions on minimum standards, domestic enforcement procedures and dispute settlement, the agreement is directly relevant to the legal environment affecting FDI. The second is the Agreement on Subsidies and Countervailing Measures (ASCM). Although it refers to trade in goods, which by definition, occurs only after investments have been made and is, therefore, not easily applied to FDI, the agreement prohibits incentives such as grants, subsidized credits, tax exemptions, preferential access to government contracts, monopoly position and closure of the market to further entry.[124]

Still within the context of the Breton Woods organisations, there were also debates in the UN General Assembly in the 1960s and 1970s, instigated by developing countries and their promotion of the New International Economic Order (NIEO). The purpose here was to maximise the contribution of MNCs to host countries economic development; yet the proposal had a protective character and was, therefore, not supported by the US and other developed countries. The most relevant point was the

[124] About FDI the Uruguay Round see WTO, 1996, pp.35-40 & Barreto Filho 1999, Ch.9

attempt to create a Code of Conduct for Transnational Corporations, for which negotiations started in 1977, only to be officially suspended in 1992 with the justification of a need for revision under the changed international circumstances.[125] As regards the settlement of disputes, UNCITRAL developed arbitration rules which can be used by other arbitration institutions regarding disputes between two governmental parties.[126] Other examples from the UN system are the two codes negotiated in the framework of UNCTAD, one on Restrictive Business Practices, which was adopted on a non-binding basis in 1980, and one on transfer of technology, never adopted. The weakness of these codes is also attributed to the lack of support by developed countries. Some developing countries and NGOs propose that the negotiations of a multilateral agreement should be in a UN framework, and not in WTO or OECD, given that the main objective of such an agreement should be to increase the developmental potential of FDI, and not liberalization *per se*, but so far there are no concrete proposals in that respect.[127]

Under the World Bank Group, three agencies were created to deal with FDI. The first is the International Finance Corporation (IFC), established in 1955 to provide loans and, later, equity investments in private sector projects in developing countries which are members of the World Bank, without government guarantees. In 1985 the IFC created a Foreign Investment Advisory Service (FIAS) to assist governments in the creation of improved conditions to attract FDI.[128] The second agency is the International Centre for the Settlement of Investment Disputes (ICSID), established in 1966 to assist in the arbitration or conciliation of investment disputes that arise between foreign private investors and host state governments when both the investor's home country and the host government have signed the Convention. One predecessor of ICSID was the Permanent Court of Arbitration (PCA), an intergovernmental body

[125] Barreto Filho, 1999, p.63.
[126] Baker, 1999, p.42.
[127] See for instance the debate in the report from the Civil Society Consultation on Trade and Investment meeting, organised by the European Commission, DG Trade, from 28-04-1999 (http://europa.eu.int/comm/trade/miti/invest/csdmti.html accessed on the 10-02-2001.
[128] See homepage from IFC: www.ifc.org and FIAS: www.fias.net . FIAS developed projects in the Southern Cone States such as: Argentina, assistance of the creation of IPA in 1994; Brazil, proposal for the creation of IPA in 1996, study about FDI environment with emphasis on export-oriented FDI and administrative costs to FDI in 2001; Paraguay, support in the development of legal policy and institutional changes in 1993, support to the Cabinet to prepare a Investment Policy Statement in 1994, support to develop a strategy and business plan for the IPA in 1995 and support to the new IPA in

established by the Hague Conventions of 1899 and 1907, which established its Rules of Arbitration and Conciliation for Settlement of International disputes between state and non-state parties , but it is a bureau that administers a panel of international arbitrators rather than a court.[129] The ICSID, despite some problems has become recognised as one of the pre-eminent arbitration institutions by the international investment community, particularly the community involved in FDI projects in LDCs, and it also provides assistance for the formulation of treaties and laws regarding FDI in developing countries. Among EU and Southern Cone States only Brazil did not sign the Convention, Argentina signed it in 1992 (entry into in force in 1994), Paraguay in 1981 (1983) and Uruguay in 1992 (2000). Other major non-signatory countries are Mexico, Canada and India. [130]

The third World Bank Group agency dealing with FDI is the Multilateral Investment Guarantee Agency (MIGA). It was created in 1985 to provide political risk insurance (guarantees) to investors and lenders and other services such as research, technical assistance to member-states, mediation of investment disputes etc. In 1992 the agency formulated a legal framework commissioned by the Development Council of the World Bank and IMF regarding guidelines on the treatment of FDI. MIGA Guidelines were different from those negotiated at the UN General Assembly in that they did not include rules of good conduct for foreign investors, and did not intend to represent a codification of customary international law with regard to the treatment of FDI, but rather to formulate generally acceptable international standards which support the objective of promoting FDI. All EU and Southern Cone States signed the MIGA Convention and Guidelines, among major non-signatories is only Mexico.[131]

Apart from the international organisations of the Breton Woods System, the Organisation for Economic Cooperation and Development (OECD) has also developed international rules regarding international investments. In 1961 its member-states signed two codes relating to the right of establishment of foreign-

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1996; Uruguay, study of investment climate in 1991. See FIAS-ICC projects in Latin America at the homepage.

[129] See for Baker, 1999, p.42 and for PCS its homepage: http://www.pca-cpa.org/

[130] Fore more about the history and records of ICSID see Baker, 1999, Chs.3-6; Homepage: www.worldbank.org/icsid.

[131] See for instance Baker, 1999, Chs.7-11; Barreto Filho, 1999, Ch7; WTO, 1996, p.33-34; MIGA Homepage www.miga.org.

controlled enterprises, the Codes of Liberalisation of Capital Movements and Current Invisible Operations. In 1976 member-states signed the Declaration on International Investment and Multinational Enterprises, which consists of four instruments, namely , the Guidelines for Multinational Enterprises, concerning the behaviour of MNCs, as well as one regarding the treatment accorded to foreign-controlled enterprises, including new investment by already established enterprises (National Treatment); one regarding Conflicting Requirements; and one regarding Incentives and Disincentives. The National Treatment Instrument sets out the principle that, as indicated in the name, foreign-controlled enterprises operating in member countries should be accorded no less favourable treatment than that accorded to domestic enterprises in like situations, it contains however a long list of country exceptions. The attempts to upgrade the National Treatment Instrument into a binding agreement in 1991 failed due to disagreements among negotiating parties. The Declaration has been reviewed in 1979, 1984, 1991 and 2000. In 1991, three new countries, Argentina, Brazil and Chile acceded to it, and in 2000, Estonia, Lithuania and Slovenia, followed suit. By the end of 2002 Israel, Latvia, Singapore and Venezuela were in process of accession negotiations as well. [132]

In the early 1990s the OECD engaged in a major effort to create a wider agreement about FDI, assuming that the existence of a broader range of issues would facilitate negotiations by increasing the probability of each party to get something they liked. After three years of preparations, negotiations were launched in 1995 for the conclusion of a Multilateral Agreement on Investment (MAI). The main features of the proposed agreement would be the application of national treatment and MFN to the establishment and subsequent treatment of investment, the creation of certain standards for investor protection regarding expropriation and compensations, the prohibition of performance requirements, and the establishment of a dispute settlement procedure for governments and private investors regarding violations under the MAI. It did not address investment incentives such as subsidies, nor tax policies and would have had a broad list of general exceptions and country specific reservations, and according to specialists would have actually only codified the *status*

[132] The two major problems were regarding the opposition of some members, specially France and Canada to include cultural industries, and the scepticism of US delegation to obtain support from the

quo of the practice of FDI regulation in OECD member-states, not advancing much in terms of liberalisation. Still the negotiations failed and were suspended in late 1998.[133]

The main reasons for the failure of MAI were the disagreements among the negotiating parties, which were deadlocked among others by the lack of involvement of higher-ranking political officials, as well as external opposition, most notably from the anti-globalisation movement. It seems that the background of the disagreements and the opposition was, essentially, a lack of clear and solid information about the costs and benefits of the agreement and of each particular provision. FDI became a polemic issue based on superficial knowledge of the matter, both in terms of technical issues and in terms of domestic demands. To address this problem the OECD refocused its efforts on the dissemination of information about FDI with initiatives such as the OECD Global Forum on International Investment advanced by the Centre for Cooperation with Non-Members. If a new round of negotiations is to be launched in the future, it would be expected to take place within the WTO and not the OECD, and would therefore include the developing countries.[134]

One last issue concerning international cooperation regarding FDI at the multilateral level are the agencies created to deal with the settlement of disputes between private parties, i.e., between a private foreign investor and a private local company, individual or institution, and not, therefore, between a private party and the host government, in which case the PCA, UNCITRAL, ICSID and MIGA would be the appropriate bodies. The first international agreements addressing the settlement of international disputes in the case of two private parties, and covering also issues regarding FDI, were the Treaty of International Procedural Law, signed in Montevideo in 1888, which was however only ratified by four countries; the Geneva Protocol on Arbitration Clauses from 1923, in which "each of the contracting states recognises the validity of an agreement whether relating to existing or future

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Congress. See Graham, 2000, p.20-21. Fore more about the Declaration and its instruments see for instance OECD, 1991.

[133] Graham, 2000, p.2-3.

[134] Although Japan, South Korea and specially the European Commission had manifested their preference to use the WTO/GATT as a forum rather than OECD already early 1990s, the consensus was that it would be easier to negotiate first among developed countries which had more similar demands and then expand it to developing countries, what in light of the failure of MAI turned out to be quite ironic. Graham, 2000, pp.190-191 & Walter, 2000.

differences between the parties subject respectively to the jurisdiction of different contracting states by which the parties to a contract agree to submit to arbitration all or any differences that may arise in connection with such contract relating to commercial matters or to other matters capable of settlement by arbitration, whether or not the arbitration is to take place in a country to whose jurisdiction none of the parties is subject" (Art.1); and the Geneva Convention on the Execution of Foreign Awards of 1927. To deal with these cases a number of arbitration agencies were created, the most important being the American Arbitration Association (AAA), the Korean Commercial Arbitration Board (KCAB), the Japan Commercial Arbitration Association (JCAA) and the International Chamber of Commerce (ICC). The ICC was established in 1919 to promote international commerce and, in 1923, it created an international arbitration system, covering also FDI related matters. It also accepted cases with governmental agencies.[135]

As mentioned earlier, in parallel to the developments at the multilateral level, a number of bilateral and regional agreements concerning FDI have been signed. Regarding the Bilateral Investment Treaties (BITs), the first ones were promoted by the United States after the WW I, as provisions in the "Treaties of Friendship, Trade and Navigations". After WW II, the US signed specific agreements regarding FDI, such as the "Establishment Conventions". In the late 1950s, Germany started promoting BITs, signing the first one in 1959 with Pakistan, and developing the broadest network of BITs so far.[136] The number of BITs proliferated especially in the 1990s, reaching 1.857 in 2000. Although these treaties remain quite standardised, they are able to reflect in their provisions the differing positions and approaches of the many countries which have concluded such agreements. The first ones were typically between one exporting capital (a developed country) and one importing capital (a developing country) at the initiative of the developed country in order to secure legal protection and guarantees for the investments of its firms. The developing country would sign a BIT to promote a favourable climate to attract foreign investors, but usually demand the inclusion of protection of its own economy. This pattern has changed since the late 1980s and especially the 1990s as developing countries and economies in transition began to sign BITS between themselves with the dual purpose

[135] For more about these agencies see Baker, 1999, pp.31-38.

of protecting their outward investment and attracting inward investment as well, including sometimes market access (right of establishment) instead of only protection (post-establishment treatment).

The main principles and provisions of BITs are the same as national FDI regulations. They deal with the scope and definition of investment (which in most cases includes tangible and intangible assets, direct as well as portfolio investments and existing as well as new investments) and investor (natural persons, national or permanent residents; and/or juridical persons, companies), national and most-favoured-nation treatment in relation to the right of establishment and/or post-establishment, guarantees and compensation in respect to expropriation and compensation for war and civil disturbances, guarantees of free transfer of funds and repatriation of capital and profits, subrogation on insurance claims, mechanisms for the settlement of disputes state to state and investor to state. In addition they might include provisions regarding transparency of national laws, performance requirements, entry and residence of foreign personnel, general exceptions, etc. [137]

Latin American countries have not signed BITS until the late 1980s, but by 2000 had concluded a total of 300. Argentina is signatory of 53 BITS, with the first one signed in 1993. Brazil has signed 14, the first in 1994, Paraguay 23, 20 of each after 1993, and Uruguay 24, of each 18 after 1990 (for the ones signed with EU member states see table 10). These numbers however hide some peculiarities. In the case of Brazil, for instance, none of these agreements entered into force because they were not ratified by Congress. It has been alleged that these agreements were signed under pressure to attract investments but that they were unconstitutional by conceding more advantages to foreign firms than to national ones, namely by allowing controversies to be solved by private arbiters abroad, or expropriations to be paid in cash instead of government bonds. Even if this is, essentially, a technical judicial problem, the motives behind of non-ratification are clearly political, showing a change of perspective on the limits of liberalisation.[138]

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[136] Barreto Filho, 1999, pp.44-46.
[137] See UNCTAD, 2000, Bilateral Investment Treaties 1959—1999; Robert at al, 2002.
[138] See Estado de Sao Paulo, 27-12-2002.

Table 21: BITs signed between the Southern Cone States and EU member states until 01-01-2000 (year of signature/entry of force)

	Argentina	Brazil	Paraguay	Uruguay
Austria	1992/95	-	1993/99	-
Belgium/Luxemburg	1990/94	1999/-	1992/-	1991/-
Denmark	1992/95	1995/-	1993/-	-
France	1991/93	1995/-	1978/80	1993/97
Finland	1993/96	1995/-	-	-
Germany	1991/93	1995/-	1993/98	1987/90
Greece	1999/-	-	-	-
Italy	1990/93	1995/-	1999/-	1990/98
Ireland	-	-	-	-
Netherlands	1992/94	1998/-	1992/94	1988/91
Portugal	1994/96	1994/-	1999/2001	-
Spain	1991/92	-	1993/96	1992/94
Sweden	1991/92	-	-	-
UK	1990/93	1994/-	1981/92	1991/97

Source: Adapted from UNCTAD 2000, Bilateral Investment Treaties

At the regional level most countries participating in regional free trade agreements such as the North American Free Trade Area (NAFTA), the Asia-Pacific Economic Cooperation (APEC), the Andean Community (CAN), the Caribbean Community (CARICOM), and the Common Market of the South (MERCOSUR) have included provisions on intra and extra FDI (see table 11).[139] The provisional draft for the Free Trade Area of the Americas (FTAA) also foresees a very detailed chapter on investments including national treatment (Art.2) and MFN clause (Art.3) with a list of exceptions (Art.4), prohibition of certain performance requirements (Art.7), provisions about key personnel (Art.8), state-to-state and investor-to-state settlement of dispute mechanisms (Art.14 & 15), commitments not to relax labour (Art.18) and environmental (Art.19) laws to attract investment, etc..[140]

[139] For more details about the provisions see for instance WTO, 1996, pp.27-31 or Barreto Filho, Chs.8&10.
[140] For the text of the second draft see FTAA homepage: www.ftaa-alca.org (accessed on 17-01-2003).

The case of the EU is examined in the next section. Mercosur has three instruments regarding FDI which have been established by Decisions of the Common Market Council (CMC): The Colonia Protocol (CMC/Decision No.11/93 from 17/01/1994) and the Montevideo Protocol (CMC/Decision No.13/97 from 15/12/1997) for intra-zone originated FDI, and the Buenos Aires Protocol for extra-zone originated FDI (CMC/Decision No.11/94 from 05/08/1994). These protocols have not yet entered into force until April/2003 (because they were not yet ratified by the member states). Despite of that, the main provisions of the Buenos Aires Protocol, which is the relevant one in terms of FDI relations with the EU, are seen in the following.

The Buenos Aires Protocol adopts a broad definition of investment, including intellectual property, copyright, patents and publicly awarded concessions including those conferred to natural resources exploration and exploitation (Art.2A1), and also a broad definition of investor, including permanent residents in third countries and legal persons registered elsewhere, owned or controlled by persons registered and domiciled in signatory and third countries (Art.2A2). As regards the right of establishment, the application of national treatment and MFN is left to the discretion of member states. As far as post-establishment treatment is concerned, it gives national treatment, non-discrimination and MFN (except for privileges deriving from participation in FTAs, common customs or similar regional agreements or international tax conventions) and encompasses coverage for political risks and allow free transfer of funds including benefits, dividends, royalties, etc. (Art.C,D&E). The protocol also establishes a dispute settlement mechanism by which state-to-state differences are dealt with through diplomatic action and alternative international arbitration and investor-to-state disputes are treated through friendly consultation, intervention of host courts or international *ad hoc* or institutional arbitration (Art.2G,H,I). Despite this quite liberal approach, favouring FDI, the Buenos Aires Protocol does not mention performance requirement or commitments about personnel.[141]

[141] Colombi & Podrez, 1996; Chaire Mercosur, 2002, p.17; Robert at al, 2002, p.270.

Mercosur has signed agreements on FDI matters with the EU (which are looked at in detail in the next section), as well as with Chile, Bolivia and the United States, though they are just cooperation agreements, and do not include any legal commitments. The latter, dated 19-06-1991, was signed by the four member-states, because Mercosur still did not have legal personality, and only foresaw cooperation on the exchange of information. The agreements with both Chile and Bolivia were signed in 25-06-1996, are broad and envisage their incorporation as associated members in Mercosur. Both contain references as to their objectives (Art.1) with regard to the promotion and protection of reciprocal investments but without specific commitments either. The one with Chile contains in addition on article about investments (Art.41) in which both parts confirm that the bilateral treaties between Chile and Mercosur member-states remain in force.

Table 22: International rules regarding FDI

Year Sign.	**Instrument**	**Type***
1888	Treaty of International Procedural Law (Montevideo)	ML
1923	Geneva Protocol on Arbitration Clauses	ML
1927	Geneva Convention on the Execution of Foreign Awards	ML
1955	UN General Assembly Resolution on International Investment for Economic Development	ML
1957	Treaty Establishing the European Community	RE
1957	Agreement on Arab Economic Unity	RE
1958	New York Convention on Recognition and Enforcement of Foreign Arbitral Awards	ML
1961	OECD Code of Liberalization of Capital Movements	PL
1961	OECD Code of Liberalization of Current Invisible Operations	PL
1962	PCA Rules of Arbitration and Conciliation for Settlement of International Disputes	ML
1962	UN General Assembly Resolution 1803: Permanent Sovereignty over Natural Resources	ML
1965	Common Convention on Investments in the States of the Customs and Economic Union of Central Africa	RS
1966	UNCITRAL	ML
1966	IBRD Convention establishing the International Centre for Settlement of Investment Disputes (ICSID)	ML
1969	Agreement on Andean Pact	RE
1970	Agreement on Investment and Free Movement of Arab Capital among Arab Countries	RS
1970	Decision No. 24 of the Commission of the Cartagena Agreement: Common Regulations Governing Foreign Capital Movement, Trademarks, Patents, Licenses and Licences and	RS

	Royalties	
1971	Convention Establishing the Inter-Arab Investment Guarantee Corporation	RS
1972	Joint Convention on the Freedom of Movement of Persons and the Right of Establishment in Central African Customs and Economic Union	RS
1973	Agreement on the Harmonization of Fiscal Incentives to Industry	RS
1973	Treaty establishing the Caribbean Community	RE
1974	UN General Assembly Resolution 3201: Declaration on the Establishment of a New International Economic Order	ML
1974	UN General Assembly Resolution 3202: Programme of Action on the Establishment of a New International Economic Order	ML
1974	UN General Assembly Resolution 3281: Charter of Economic Rights and Duties of States	ML
1975	The Multinational Companies Code in the Custom and Economic Union of Central Africa	RS
1976	OECD Declaration on International Investment and Multinational Enterprise	PL
1977	ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy	ML
1979	Draft International Agreement on Illicit Payments (not adopted by the UN General Assembly)	ML
1980	Unified Agreement for the Investment of Arab Capital in the Arab States	RS
1980	Treaty Establishing the Latin American Integration Association	RE
1980	UN General Assembly Resolution 35/63: The Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices	ML
1981	Agreement on Promotion, Protection and Guarantee of Investment among the Member States of the Organization of the Islamic Conference	PL
1983	Treaty Establishing the Economic Community of Central African States	RE
1983	Draft United Nations Code of Conduct on Transnational Corporations (not adopted by the UN General Assembly)	ML
1985	IBRD Convention Establishing the Multilateral Investment Guarantee Agency (MIGA)	ML
1985	UN General Assembly Resolution 89/248: Guideline for Consumer Protection	ML
1985	Draft International Code of Conduct on the Transfer of Technology (not adopted by the UN General Assembly)	ML
1986	ILO Procedure for the Examination of Disputes Concerning the Application of the Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy by Means of Interpretation of its Provision	ML
1987	Community Investment Code of the Economic Community of	RS

	the Great Lakes	
1987	Agreement for the Establishment of a Regime for CARICOM Enterprises	RS
1987	Revised Basic Agreement on ASEAN Industrial Joint Enterprises	RS
1987	Agreement Among the Governments of Brunei Darussalam, the Republic of Indonesia, Malaysia, the Republic of the Philippines, the Republic of Singapore and the Kingdom of Thailand for the Promotion an Protection of Investments	RS
1989	Fourth ACP-EEC Convention of Lomé	PL
1990	Charter on a Regime of Multinational Industrial Enterprises (MIEs) in the Preferential Trade Area for Eastern and Southern African States	RS
1990	Resolution Adopted by the Conference Strengthening the Implementation the Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices (adopted as UN General Assembly Resolution 35/63)	ML
1991	Decision No.291 of the Commission of the Cartagena Agreement: Common Code for the Treatment of Foreign Capital and on Trademarks, Patents and Royalties	RS
1991	Decision No. 292 of the Commission of the Cartagena Agreement: Uniform Code on Andean Multinational Enterprises	RS
1992	North American Free Trade Agreement (NAFTA)	RE
1992	MIGA Guidelines on the Treatment of Foreign Direct Investment	ML
1993	Treaty Establishing the Common Market for Eastern and Southern Africa	RE
1994	Mercosur Colonia Protocol	RS
1994	Mercosur Buenos Aires Protocol	RS
1994	APEC Non-binding Investment Principles	PL
1994	Final Act of the European Energy Charter Conference , the Energy Charter Treaty, Decisions with Respect to the Energy and Annexes to the Energy Charter Treaty	PL
1994	WTO TRIMs	ML
1994	WTO GATs	ML
1994	WTO TRIPs	ML
1994	WTO ASCM	ML
1997	Mercosur Montevideo Protocol	RS

Source: compiled from WTO, 1996, p.27-29 & 32-33.

*RS=regional separated instrument, RE= regional instrument embedded in broader framework, PL=plurilateral instrument, ML=multilateral

5.1.4) FDI in EU foreign policy, or the non-existent FDI policy

The EU does not have a single regime for FDI towards 3rd parties. Instead, it treats separately the three main aspects of FDI, namely, movement of capital, right of establishment and regime post establishment.

Movement of capital - both intra member-states and with 3rd parties - is regulated by Cap.4 (Art.56/TEC), which establishes the competences of member-states and the Community. The Community used its competences in a limited manner as in the Council Directive 72/156/CEE from 21-03-1972 (d.o. L 91/1972, p.13) and in a broader manner as in the Council Directive 88/361/CEE from 24-06-1988 (d.c.L 178/1988, p.5). With the Maastricht Treaty, the Community competences were expanded. Art.73B/56 prohibits the restrictions of movements of capital between member-states and 3rd parties, but is weakened by Art.73C/57 which allows the member-states to preserve certain restrictions present on 31-12-1993 and Art.73D/58 which allows them to introduce new ones for reasons of fiscal control, public order, public security, administrative information or prudential supervision. The TEU also establishes that the Community has a non-exclusive competence in general matters concerning the movement of capital (Art.73C/57); it is, however, exclusive with regard to measures which represent a retrocess in the liberalisation of the movement of capital, in particular regarding the adoption of safeguards up to the limit of 6 months. The Council shall decide by QMV in the first and third case and by unanimity in the second. Art.73G/60 creates a special regime regarding sanctions, by which the Community can act, but if not, the member-states can do it individually under certain restrictions. In sum, regarding the external competences of the EU in the case of movement of capital, it is possible to say that a)in cases of liberalisation, given that the Community competences as nonexclusive, the member-states retain their competences as long as the Community dos not exercises; b)in cases of stand-still, the member-states retain their competences if referring to measures dealt in Art.73D/58, and the Community has exclusive competence if referring to retrocess in

liberalisation or safeguards; c)member-states remain with competences regarding most specific aspects of movement of capital, subjected to reserves on the part of the Community in its non exclusive competence.[142]

The second aspect of the EU legislation regarding FDI, the right of establishment, is covered by Ch.2 (Art.43/TEC), but only regarding intra member-states. The Community can in theory exercise external competences derived from its internal responsibilities (implied competences) but that has not been the case so far regarding the right of establishment. The right of establishment remains in practice therefore under the competence of member-states.[143]

The third aspect of the EU legislation about FDI, the regime post-establishment (treatment of foreign firms), is covered by different dispositions regarding each economic sector, such as transports, or regime of enterprises, such as fiscal matters, both for intra member-states and 3rd parties firms. Regarding the conclusion of bilateral agreements with 3rd parties, the Community can accept commitments about treatment of firms under Art.238/310. In the case not covered by this Art., such as the multilateral negotiations under WTO, the competences for each case must be analysed individually. [144]

As a result from this rather complex combination of competences, when the EU engages in multilateral negotiations regarding FDI, such it was the case during the negotiations for the GATS and TRIMs and the failed negotiations for the OECD MAI, or in agreements with 3rd parties containing FDI related matters, such it was the case of the with the CEEs under the European Agreements and the former Soviet States which contained provisions about the right of establishment of firms, then the Community and the member-states work as indicated in the description of the 'fourth pillar": i.e. each of them negotiate the parts of the agreements under their competence, but within the EU system. In other words, although member-states negotiate individually in their own name, they do it in the intergovernmental forum of the EU,

[142] Torrent, 1998, pp.85-87.
[143] Torrent, 1998, pp.88-90 & 108-110.
[144] Torrent, 1998, pp.90-93.

i.e. the Council, and the concluded agreements are managed by institutions from the EU system, mostly the Commission. [145]

Among the agreements signed with the Southern Cone States, none contained specific commitments regarding FDI; they only mentioned the intent to development cooperation regarding the promotion of EU FDI, what is seen in details in the following.

5.1.4.1) Bilateral agreements

As seen in the previous section, the competence for FDI issues remains to a large extent with the EU Member-states and, consequently, the negotiations regarding FDI commitments with Southern Cone States remain to a large extent at the bilateral level, as indicated by the BITs signed between EU member-states and Southern Cone States. However, EU mixed agreements with 3rd parties could contain FDI commitments. These agreements can also contain references to cooperation regarding FDI matters. In the following the content regarding FDI in the EU agreements with the SCS are seen in details.

The bilateral agreements between the EU and individual Southern Cone States were signed by the EEC/EC, which does not have the competence to negotiate FDI provisions (or Euratom, but these are not included given the peculiarities of foreign policy regarding atomic energy). The first and second generation agreements do not contain any reference to cooperation either.[146] It is worth mentioning that in the EEC-Argentina agreement of 1971, Argentina stated its desire for an increase of the European investments, as a means to contribute to its economic development as a

[145] Torrent, 1998, pp.111-112 & 146-147.

[146] What characterises First Generation Agreements is their conventional bilateral and technical structure and their reference to possible reciprocal cooperation. In practical terms, however, these treaties only extended the Most Favoured Nation (MFN) status to its signatories. The 2nd generation agreements reaffirmed MFN clause and declared the intention to increase commercial and economic cooperation. The 3rd generation agreements are broader in scope and include political conditionality regarding democracy, environment and human rights by means of the so-called democracy clause, and can be renegotiated with total flexibility as stated in the so-called 'evolutive clause'. See for instance Lamothe, 1996; Calderón, 1996; García, 1996;CEPAL, 1999; COM(95) 216.

unilateral declaration (nr.9). The third generation agreements mention the intention to promote cooperation regarding FDI, such as: Art.6 of EEC-Argentine of 1990: "the contracting parties agree to cooperate in particular to encourage joint ventures, especially to diversification of Argentine exports and the assimilation of technology…"; Art.3.2 of EEC-Brazil of 1982: "as means to (promote economic cooperation), the contracting parties shall endeavour inter alia to facilitate and promote by appropriate means: (a) broad and harmonious cooperation between their respective industries, in particular in the form of joint ventures; (…)(f) favourable conditions for the expansion of investment on a basis of advantage for both parties"; Art.7(b) of EEC-Uruguay of 1992: "(the contracting parties agree) to improve the favourable climate for mutual investment between the Community member-states and Uruguay, particularly through agreements for the promotion and protection of such investment based on the principles of non-discrimination and reciprocity". Texts in the other treaties are quite similar.

The bi-regional agreement between EU and Mercosur of 1992 does not contain any commitment about FDI (it was signed by the EC), neither mentions cooperation in that regard, given that its major objective was to promote technical assistance to the integration process. The agreement of 1995 was signed by both the EC and member-states, and could contain FDI commitments (in the 4th pillar format, such as it was the case of the agreements with CEEs) but it does not. But it foresees cooperation in Arts.11 & 12. Note that in Art.12-2b (emphasis added) it is explicitly stated that specific commitments should be done at the bilateral basis among EU and Mercosur member-states. Art.11 reads as follows: "(cooperation in business) shall focus in particular on:(1a) increasing the flow of trade, investment, industrial cooperation projects and the transfer of technology…(1c)identifying barriers to industrial cooperation between the Parties and eliminating such barriers using measures which promote compliance with competition rules and foster the tailoring of those rules to the needs of the market, giving due attention to the involvement and consultation of operators,(1d) stimulating cooperation between the Parties' economic operators, especially small and medium-sized enterprises;…(3b) suitable initiatives to back cooperation between small and medium-sized enterprises, such as the promotion of

joint ventures, the establishment of information networks, encouraging the opening of trade offices, the transfer of specialist know-how, subcontracting, applied research, licensing and franchising, (3c) promoting initiatives to increase cooperation between Mercosur economic operators and European associations, with the aim of establishing dialogue between networks". Art.12 addresses the promotion of investment and states that: "1.Within the bounds of their spheres of competence, the Parties shall promote an attractive and stable climate for greater mutually beneficial investment; 2. Such cooperation shall encompass measures including the following:(a) promoting regular exchanges of information, the identification and dissemination of information on legislation and investment opportunities; (b) promoting the development of a legal environment which is conducive to investment between the Parties, particularly, where applicable, *through the conclusion between interested Community Member States and Mercosur Party States of bilateral agreements for the promotion and protection of investment and bilateral agreements to prevent double taxation;* (c) promoting joint ventures, particularly between small and medium-sized enterprises."

The association agreement under negotiation since 1999 is not yet concluded, and is not included in the analysis, although it is supposed to include commitments about FDI.

Table 23: FDI matters in the EU-Southern Cone States Agreements (year of signature and signatory on the EU side)

	In force in 1980 (1st generation)	2nd generation	3rd generation
Argentina	1971 (EEC) - nothing	-	1990 (EEC) no commit; coop Art.4 (1&2), Art.6
Brazil	1973 (EEC) - nothing	1980 (EEC) - no commit, coop Art.3(2a,2f)	1992 (EEC) no commit; coop Art 3(1d,1e, 3b), Art.8,Art.9,Art.10(1)
Paraguay	-	-	1992 (EEC) no commit; coop Art 2(3c), Art.5(1),Art.7
Uruguay	1973 - nothing	-	1991 (EEC) no commit; coop Art.3 (1d,1e,3b,3c,3e) Art.5(1); Art.7
Mercosur*	-	-	a-1992 (ECs) nothing b-1995 (EC+MS) no commit., coop Art.11; Art.12

			c-Association agr. under negotiation, probably will include commitments(EC+MS)

Source: compiled by author
*the Agreement of 1992 was signed by Mercosur, the one of 1995 by Mercosur and its member-states and the one under negotiation should be signed by Mercosur and its member-states as well.

5.1.4.2) EU development policy

Apart from the negotiation of specific commitments, the EU has addressed the issue of FDI in the context of its development policy. It has created a number of instruments to promote European FDI towards developing countries in general, and the SCS in particular. Before reviewing these instruments in details, the general features of the EU development policy are described in order to contextualise the strategy adopted towards the SCSs.

5.1.4.2.1) General features

The origins of the EU development policy can be traced back to the Schuman Plan. In the Declaration of 9th May 1950 Robert Schumann mentions among the main tasks of the united Europe, the development of the African continent.[147] When the Treaty of Rome was signed in 1957, France, Belgium, Italy and the Netherlands still had responsibility for dependent overseas countries and territories. It was then made an arrangement for their association with the Community as indicated in Art.131-135 (Arts.182-188 TEC), and the European Development Fund (EDF) was set up to supply them with financial aid. In 1963, eighteen former, mainly francophone colonies reached an agreement under the Yaoundé Convention to continue the relationship set out in the Treaty of Rome. The Yaoundé Convention, conceived of in the context of Cold War decolonisation, reflected a recognition of the importance of offering the newly independent associated countries benefits over and above those available from the Soviet bloc. With the accession of the United Kingdom the Yaoundé Convention was replaced by the Lomé Convention, in 1975, which

incorporated the Commonwealth member countries from Caribbean and Pacific. The new group of countries were no longer denominated "associated" but continued to receive special aid and trade preferences. The Lomé Convention was renegotiated every five years thereafter until Lomé IV in 1990, which was renegotiated for ten years including a mid-term review in 1995 and has been extended to cover an increasing number of ACP partners. It was replaced in June 2000 by the new Cotonou Agreement.

Although the ACP countries have remained the main priority of the EU development policy, a more wide perspective was defined already in the Paris Summit in 1972 in which the EU decided to address its development policy not only to its former colonies but to the "Third World" in general. [148] In 1974 the Community announced a cooperation policy for non-associated countries (Asian and Latin American – ALA) as distinct from ACP and Mediterranean countries and, in 1976, for the first time financial and technical cooperation with ALA countries were included in the EC budget for development, although limited to the instrument of GSP, at the initiative of the European Parliament. In the late 1970s and beginning 1980s cooperation agreements – the so-called 2nd generation - were signed with many developing countries such as in 1977 with the Mediterranean countries, in 1980 with ASEAN and Brazil, in 1983 with the Andean Pact and CACM. After the end of the Cold War, the EU included the former communist countries in its development policy. In 1989 the PHARE programme was created to provide aid to Poland and Hungary, and it was extended in 1990 to all of the Central and Eastern European countries (CEEs). In 1991 a similar programme (Tacis) was created to address the New Independent States of the former Soviet Union (NIS). The nature of the cooperation with CEEs developed

[147] The reference to the cooperation with Africa was a request of the deputy René Mayer. See Bitsch, 2001, p.65.

[148] Note that the terminology Third World is not used anymore. The most important contemporary classifications are the following: a)from the UN: based in a number of social and economic criteria; b) from the World Bank, based in the gross national income per capita, in the year of 2000: high income (US$9.266 or more), upper middle (2.996-9.265), lower middle (756-2.995) and low income (755 or less) – the last three addressed as developing countries; c)from the IMF: based in subjective factors developed "with the objective of facilitating analysis by providing a reasonably meaningful organization of data", in 2001: advanced economies (subdivided in major advanced economies (the seven largest in terms of GDP, referred as the G-7), European Union Countries (EU-15), Euro Area (12) and Newly Industrialized Asian Economies), developing countries (125 countries divided by regional breakdowns Africa – Sub-Sahara and North, Asia, Europe, Middle East and Turkey, Western Hemisphere, other developing countries such as the Heavily Indebted Poor Countries – see the

in a special relationship given it geopolitical importance; between 1991 and 1993 each of them signed association agreements with the EU, which aimed not only at promoting bilateral cooperation but at preparing these countries to become EU members themselves. The commitment with the new wave of enlargement was announced at the Luxemburg Summit of December 1997 and started officially with the beginning of the accession process with the candidate countries of Bulgaria, Cyprus, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovak Republic, Slovenia and Turkey in March 1998.[149] It is interesting to note that the EU development policy towards CEEs and the enlargement were clearly supported by the US government. The Bush administration in fact encouraged the EU to take the international lead in providing assistance for the democratic transitions and market reforms in the CEEs. The idea was that the PHARE program together with Western multilateral aid performed the same tasks as the Marshall Plan after the Second War, but under the coordination and main responsibility of the EU. The EU has actually managed the aid resources from the G-7 and G-24 together with its own since the 1990s.[150]

Although it can be said the scope of the EU development policy has been broadened from targeting only the member-states' former colonies to developing countries in general, with a special emphasis on the CEEs since the 1990s, it can be observed that the traditional instruments of development cooperation, i.e. aid and trade concessions have been reserved to the poorest countries, while new instruments involving the private sector have been used with the most advanced developing countries. The latter approach has been clearly the one taken to address Latin American countries, among them Southern Cone States, as stated for instance in the Regulation 443/92, which addresses the cooperation with Asia and Latin America countries (ALA). In this regulation the EU distinguishes what it denominates "development cooperation" from "economic cooperation". While the former focus purely on the recipient, the latter focus on mutual interests both from the recipient and the EU economic and corporate actors. As stressed in an evaluation report of the regulation, done by an independent consultancy company, the definition of mutual interests must involve a reciprocal

following footnote), countries in transition (subdivided in Central and Eastern Europe, and Commonwealth of Independent States and Mongolia).

[149] Since the cooperation with CEE gained a very specific treatment is not further developed here.

(two-way) direct and measurable flow of benefits in order not to render redundant the concept of economic cooperation vis-à-vis development cooperation.

Although this measurement is extremely difficult to be done, and the differentiation between economic cooperation and development cooperation is not clear at all, one major distinction is the already mentioned role of the private sector. While in development cooperation the EU acts more as a donor of resources, directly or indirectly, through instruments such as the SGP, Stabex and Sysmim, and the target country is a relatively passive recipient, in economic cooperation the EU tries to act more as a partner, in which not only the target country has a bigger role but also business corporations and associations as well. The specific objectives of economic cooperation with Latin American (and Asian) countries based on the wording of the Regulation are: creating an environment more favourable to investment and development and enhancing the role of businessmen, technology and know-how from all member-states. According to the evaluation report the essence of this strategy has been to raise the profile of the EU as distinct from its member-states within Latin American (and Asian) countries, and to enhance the influence of the EU, both politically and economically, particularly as a more effective counter weight to the influence of the US and Japan. [151]

After the trend towards broadening and emphasis on CEEs and NIS, the EU development policy has been redirected to prioritise the poorest countries, as stated in the Council Declaration on the Development Policy of the European Union of 10/12/2000, in which it states that 'the principal aim of the Community's development policy is to reduce poverty with a view to its eventual eradication (and that) the resources available for development aid will be allocated in accordance with their impact on the reduction of poverty. The least developed countries (LDCs) should be given priority". Other developing countries have been more addressed via economic cooperation, which have been included in the 3rd (and 4th) generation agreements together with trade liberalisation and political cooperation. Even the ACP countries have been progressively allocated to this new source of cooperation as stated in the Cotonou Agreement replacing the Lome Conventions. It is interesting to

[150] See Ginsberg, 2001, pp.220-222

note that given the great differentiation in the development strategy directed to LDCs and other developing countries, the criteria used to define which countries are LDCs and not has been subjected to controversy.[152]

In regard to the legal basis it was only with the Maastricht Treaty on the European Union that development cooperation gained a specific legislation, under Articles 177 to 181. It is defined as of exclusive competence of the Community, its main goals are to foster the sustainable economic and social development of the developing countries, in particularly the most disadvantaged among them; their smooth and gradual integration into the world economy; and their campaign against poverty. It should also contribute to the consolidation of democracy and the rule of law and to the respect of human rights and fundamental freedoms. A salient feature of the Maastricht Treaty the incentive to member-states to use the EU framework in their individual development policies in order to try to make them more coherent and better coordinated, among each others and with the Community's programmes, but respecting the principle of subsidiariry, i.e., that in areas of non-exclusive competence, the Community takes action only insofar as the objectives of the proposed action cannot be sufficiently achieved by the member-states.[153]

Apart from this specific legal basis, another primary legal basis regarding the development policy (which were used a axis for development cooperation before the TEU) are the articles referring to the conclusion of international agreements with 3rd countries which may contain development cooperation instruments such as: Art.133, which regards the common commercial policy and therefore the tariff concessions under the SGP; Art. 300, which is the basis of international cooperation agreements; Art.308, which allows the Community to develop financial and technical aid; Art.310, which refers to the conclusion of international association agreements. Regarding the

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[151] See Nordic Consulting Groups A/S, 2001.

[152] The least developed countries (LDCs) are used in a synonym for the Heavily Indebted Poor Countries (HIPCs) as defined by the IMF and World Bank to be the targets of the initiative of Debt Relief. The criteria to be considered a HIPC are to face a unsustainable debt burden beyond available debt-relief mechanisms; and to have a track record of reform and sound policies thought IMF and World Bank supported programs. For more details see for example: Debt Relief under the Heavily Indebted Poor Countries Initiative Fact Sheet in the IMF Homepage. For a strong criticism of this criteria see Press Release ECOSOC/5880 of 16/12/1999, in which the Economic and Social Council of the EU recommends a revised identification criteria for the least development country list.

[153] OECD, 1996, pp.12-13.

EU secondary law, the most important about development cooperation with Latin America are the mentioned Regulations EC 442/81 and EC 443/92.[154]

The main instruments of the development policy are: 1)Programme Aid (support to structural balance of payments adjustment, in kind or in foreign currency - most go to ACP, some to Mediterranean since 1992 and commodity compensation schemes such as Stabex for agricultural exports and Sysmin to the mining sector – most to ACP with some exceptions from 1987 and 1991; 2)Food Aid – it was the first development policy instrument introduced outside cooperation agreements signed with the ACP, created in 1967. It was originally managed according to the rules of the Common Agriculture Policy (CAP), but after many reforms, in 1982, 1986, 1987 and 1996 was gradually integrated in the development policy, since 1996 part of the allocations were re-denominated as food security, and since 1992 food aid for humanitarian purposes was transferred to ECHO;[155] 3)Humanitarian Aid - emergency relief to victims of natural disasters, wars, refugees, rehabilitations, reconstruction, most go to CEE and ACP; 4)Aid to NGOs –can be done by contracting (where the NGO is contracted to implement Commission designed projects and programmes) or co-financing (where the Commission provides financing up to 50% of the total for a NGO project for a maximum of 5 years), most go to ACP and LA, Brazil was the major recipient in the period of 1986-1998; 5)Project Aid: 5.1)Natural Resources Productive Sectors(rural development and agriculture, forestry, fisheries); 5.2)Other Productive Sectors (industry, mining & construction – most to ACP, trade, tourism, investment promotion - fastest growing sub sector due to ECIP scheme); 5.3)economic infrastructure & services (transport, communications, energy, banking, business – most to ACP, CEE & NIS); 5.4)social infrastructure & services (education, health, population, water, other); 5.5)governance & civil society; 5.6)multi-sector-crosscutting (environment, women in development, rural development).[156]

[154] The secondary EU legislation consists of: regulations – general legislative measures binding and take effect directly in the national legal order without need for national implementing measures; directives – binding but require implementing national law; decisions- binding measures to individuals, or MS, conclusions, communications, declarations, recommendations, resolutions, opinions – rules of conduct, without legally binding force.
[155] More details are seen in Chapter 6.
[156] See Cox & Chapman, 1999 & OECD, 1996.

Other instruments are the so-called 'horizontal programmes', administered by the Europe Aid Agency such as: Al-Invest (facilitates the contact between European and Latin American small and medium-sized companies, but without providing finance or guarantees); ALFA (promotes cooperation in higher education between both regions); URB-AL (establishes direct links between European and Latin American cities); ALURE (encourages the optimal and most rational use of energy, replaced Synergy programme); ALIS (promotes the benefits of using information technologies and tries to bridge the gap of the digital divide); and ATLAS (facilitates and encourages economic cooperation through a network of Chambers of Commerce and Industry).

In regard to the financing of development cooperation projects there are three sources, the first is the Community budget, which is allocated according to a geographical (Mediterranean basin, Asia and Latin America and southern Africa) or a thematic approach (among which the most important are food aid, humanitarian aid and cooperation with NGO's). The second financing source is the European Development Fund (EDF), which is fed by contributions from Member-States, calculated according to a specific distribution key and are allocated into the ACP countries. The third financing source is the European Investment Bank (EIB), which is fed by own resources or risk capital, and gives loans to countries as decided by the Council or Commission. Since the 1980s the relative weight of the EDF has fallen from an average of 57% for 1986-88, when the EC Budget provided only 36% to an average of 17% for 1996-1998, when the EC Budget became the major source of EU development cooperation finance with an average of 75% of the total. The EIB remained a third source with about 7% during the last two decades. This shift is attributed to be a result of the beginning of initiatives for the CEEs (Phare) and the New Independent States (Tacis) in the 1990s, which are financed by the EC Budget.[157]

The evolution of EU development cooperation can be seen in the following tables, in which it can be observed that the proportion of aid to the CEEs and NIS rose from about nothing to almost 30 and 10% respectively over the period of 1986 to 1998. This increase was practically all compensated by the decrease of aid to the ACP

[157] Cox,1999,p.4.

which diminished by almost a half from about 60 to about 30%. Aid to Latin America had a minor increased of about 2%.

Table 24: Regional Distribution of EC External Cooperation (commitments in % total)

Region	1986	1990	1995	1998
ACP	44,7	41,9	35,4	33,1
South Africa	0,3	0,9	1,7	1,5
Asia	5,5	9,8	9,5	7,2
Latin America	6,3	6,8	6,6	5,6
Med & Mid.East	15,7	11,9	11,8	15,9
CEEs	-	21,0	19,7	18,4
NIS	0	0,2	11,2	12,1
Unallocable	27,6	7,7	4,1	6,2

Source: Cox, 1999, p.4.

When seen in the context of the total world development cooperation, it can be observed that the EU, including the bilateral aid from member-states is the single largest donor for the periods in consideration bellow.

Table 25: Major World Aid donors (share of total aid %)

Donor	Average 1986-1991	Average 1992-1997
US	20,5	17,0
Japan	17,9	18,5
Canada	4,7	3,6
EC	6,6	10,0
France	12,7	13,2
Germany	12,0	14,9
Italy	6,7	4,4
UK	5,3	5,5
Netherlands	4,7	4,7

Source: Cox, 1999, p.121.

Table 26: External Cooperation to Latin America (US$ mi)

	1994	1995	1996	1997	1998	%(1994-98)
EU Member-States	1.696	1.911	2.112	1.394	1.590	36.2
EU (EC)	288	413	418	822	424	9.2
Europe (EU+MSs)	1.984	2.325	2.530	1.716	2.014	46.4
US	986	736	344	544	492	13.6
Japan	808	1.102	938	659	508	17.6
Other*	688	823	930	769	853	17.4

Source: IRELA, 2000

* Inclusive multilateral donors

The decision making procedure is as follows: the Commission prepares proposals and sends them to the (Development) Council, which adopts regulations and directives, after Maastricht by QMV. It is interesting to note that although the European Parliament does not play a direct formal role in the decision-making of the development policy, it does play via its budgetary powers. The Commission produces a preliminary draft of the EC Budget and then sends it to the Council which, acting by QMV, makes amendments and then establishes the draft budget. The Parliament can propose modifications to non-compulsory expenditures, which must be adopted by a majority of the members of Parliament. Parliament may also acting by a majority of its members and three-fifths of the votes cast, reject the budget as a whole. Should it do so, the procedure must begin again from the start, on the basis of a new draft.[158]

Table 27: Decision-making actors of the EU Development Policy

Actor	**Competence**
European Commission	-Formal monopoly of policy initiation -Agenda setting
EU Member-States	-(Development) Council -EDF committee and other management committees -Financial contribution to the EDF
(Development) Council	-Formal power to issue resolutions and

[158] Cox, pp.22-23.

	regulation
European Parliament	-Control of Commission's budget -Introduction of special budget lines to support policies

Source: Cox, 1999, p.23.

The organisational structure of management of the development policy within the Commission has suffered many alterations since its origins. Until 1985 it was managed by a single Directorate-General Development. Responsibility for managing aid to Asia, Latin America and the Mediterranean was transferred in 1985 to a separate DG which, in the early 1990s merged with DGI (foreign policy). The original DG Development, which became DG VIII remained responsible for relations with the ACP countries and food aid. DG I covered North-South relations, Eastern Europe and Former Soviet Union. In 1992, a separate office was created to deal with humanitarian assistance, the European Community Humanitarian Office (ECHO). In 1993, DG IA was created to deal with political aspects of the external relations, while DG I kept control over trade relations and North-South issues. This situation changed again in 1995, when DG IB was set up to deal with relations with Asia, Latin America and the South and East Mediterranean. In 1998, a Common Service for External Relations (SCR) was created to deal with the technical, financial and legal aspects of implementing the aid and cooperation programmes and with audits and evaluation.

In 1999 there was a major reform in which the DG Development became responsible with ACP, South Africa, non-emergency food aid and NGO co-financing. The DG External Relations became responsible for NIS, Mediterranean, Middle East, Latin America and most Asian developing countries, human rights and democratisation. DG Enlargement was created to be responsible for the pre-accession countries, including the PHARE programme. Other DGs are also involved in the delivering of the development policies such as the Economic and Financial Affairs DG (responsible for economic monitoring and dialogue with 3rd countries and macro. financial assistance), and Eurostat (technical support to the design, implementation, monitoring and evaluation of statistical cooperation programmes and statistical components of more general programmes).

In 2001 the Europe Aid Cooperation Office was created as a department of the Commission on the basis of the existing Common Service for External Relations office, to be responsible to the implementation of all the Commission's external assistance instruments managed by the DG External Relations services which are financed from the EC Budget and the European Development Fund, with the exception of pre-accession instruments, humanitarian aid, macro finance assistance, Common Foreign and Security Policy actions, and the Rapid Reaction Facility. Europe Aid is supervised by a Board comprising the Commissioners for External Relations as the Chairman, for Development and Humanitarian Aid as Chief Executive and for Enlargement, Trade and Economic and Monetary Affairs as members, who meet regularly to approve the annual programmes, reports and budgetary programmes.

In regard to other EU institutions involved in the management of the development policy, it can be mentioned the European Court of Auditors, which is responsible for checking that the accounting rules have been complied with in the Commission spending, as well as increasingly concerning itself with broader issues of effectiveness, relevance and impact, and the European Investment Bank (EIB), which is seen in details in the next section.[159]

5.1.4.2.2) FDI policy instruments

The EU has created a number of instruments to address the promotion of FDI towards developing countries. Regarding the Southern Cone States, the most important are the loans and guarantees from the European Investment Bank (EIB), and the support from the horizontal programmes such as the European Community Investment Partners (ECIP), Al-Invest, Business Cooperation Network (BC-Net) and the Business Cooperation Centre (BCC), also known in the French acronym BRE (Bureau de Rapprochement d'Enterprises). The setorial programmes Synergy/ALURE (energy) and ALIS (information technology) also involve cooperation regarding FDI.[160] Although part of the EU (unilateral) development policy, these instruments are often mentioned in the bilateral and bi-regional agreements with Southern Cone States in

[159] About the reforms in the management structure of the development policy see Cox, 1999, p.19-20 and EU homepage: www.europa.eu.int/comm/external_relations/reform/intro/europeaid_en.htm

the relevant cooperation articles (see section above). Each of them is seen in details in the following.

a) European Investment Bank (EIB)

EIB's main task is to grant medium - and long term loans and guarantees for investment projects within the European Union. However, it also assists non-member countries whose development the Union wishes to foster, participating in implementing the Union's development aid and cooperation policies. The Bank's operations take the form of loans from its own resources generally accompanied by interest subsidies, financed by the EC budget. It may also manage, under mandate, risk capital finance provided from budgetary resources. The major part of the financing goes to large projects with State guarantees (where the minimum EIB contribution is 20 million EURO), but it also provides long-term risk-capital finance for smaller projects through on-lending lines with local banks. The final contribution to individual investments or projects often consists of participating loans on a cost plus basis, but with guarantees. The EIB is progressively moving away from global on-lending to providing support to investment funds. It selects as partners those banks or other financial institutions that can deal in equity and equity-linked products, and channels its finance through partner institutions.

The EIB received a mandate to operate in Latin America in 1993.[161] Its financing projects in Mercosur member states from 1996 to 2000 can be seen in the following table.

Table 28: EIB financing projects in Mercosur member-states

Year	Country	Project	Beneficiary	Loan (million EURO)
1994	Argentina	Modernisation of distribution network of natural gas	Gas Natural Ban	46.0
1995	Argentina	water	Aguas Argentinas	70,0

[160] ALIS is not included in the analysis because it started only in 2002.
[161] See EIB Homepage, and for the mandate the online paper: Financing in Asia & LA at www.eib.eu.int/pub/divers/ala_en.pdf

1995	Argentina	water	Ailinco	6,0
1995	Paraguay	water	Asuncion Sewrage	17,0
1996	Argentina	roads in Mercosur network	Argentina Rep	45.0
1997	Brazil	construction of cement works	Cia Minas Oeste de Cimento	32.5
1997	Brazil	construction of optical fibre plant	Pirelli Cabos SA	22.0
1997	Uruguay	eucalyptus plantation	Eufores SA	10.0
1998	Argentina	water supply services	Aguas Cordobesas SA	36.8
1998	Brazil	motor vehicle factory	Mercedes Benz do Brasil SA	70.0
1998	Brazil	gas pipeline with Bolivia	Transp Bras Gaseoduto Bolivia-Br SA	55.0
1999	Brazil	finance of small ventures	ABN Amro Bank & BBA	59.0
1999	Brazil	mobile telephone network	Celular CRT SA	57.7
1999	Brazil	tyre factory	Pirelli Pneus SA	37.0
2000	Argentina	construction of gas pipeline	Metrogas SA	51.7
2000	Argentina	conversion of gas power station into combined cycle plant	Pluspetrol Energy SA	57.8
2000	Argentina	water supply and sewrage networks	Servicios de Aguas de Missiones SA	20.4
2000	Argentina	glass container production	Rayen Cura SA	17.1
2000	Brazil	mobile telephone network	Telebahia celular SA	40.0
2000	Brazil	mobile telephone network	Telesergipecelular SA	15.0
2000	Brazil	mobile telephone network	Telpecelular SA	58.5
2000	Brazil	motor vehicle factory	Volkswagen do Brasil LTDA	91.5
2001	Argentina	Construction of eletric central	Central Dock Sud	77,3
2001	Argentina	Fabrication of biote de vitesse	Volkswagen Argentina	46,6
2001	Brazil	energy	Light Power Distribution	33,6
2001	Brazil	energy	Comgas	46,8
2001	Brazil	industry	Vega do Sul Galvanisation	58,0
2001	Brazil	forestry	Veracel Forestry	32,7
2002	Brazil	energy	Coelce Power Distribution	54,6

Source: compiled by author based with data from EIB Homepage

http://eib.eu.int/loans/cbcneuoo.html

Table 29: EIB loans to EU non-member states (million Euros)

Year	Total	Southern Cone states	%
2000	5.389,0	352,0	6,53

1999	4.035,0	153,7	3,81
1998	4.410,0	161,8	3,67
1997	3.244,0	64,5	1,99
1996	2.294,0	45,0	1,96
1995	-	93,0	-
1994	-	46,0	-
1993	-	0	0

Source: compiled by author based with data from EIB Homepage http://eib.eu.int/loans/cbcneuoo.html

b) European Community Investment Partners (ECIP)

The ECIP programme was conceived in 1988 at the initiative of the Commission with the support of the European Parliament for the mutual interest and advantage of the developing countries of Asia, Latin America and Mediterranean, and of European industry wishing to invest in them, by encouraging the creation of joint ventures among small and medium enterprises (SMEs) in an attempt to improve the developmental quality of private FDI. Larger companies can also participate if their projects are particularly interesting for the development of the host countries, but multinationals are strictly excluded.

It was extended to South Africa, and also inspired the creation of the JOP programme for the Phare and Tacis countries. It was the first programme launched by the Commission to specifically support FDI in 3rd countries, although only countries which had concluded cooperation or an association agreement with the EU were eligible to benefit from ECIP. It was originally established as a pilot project, defined on the basis of Article 205 of the Treaty of Rome (concerning implementation of the EC budget – Art.274 of the consolidated version and the European Parliament provided the necessary credits from within its margin of manoeuvre (Non-Obligatory Spending). The pilot project ran for three years (1988-1991), and in 1992 was given a formal legal and budgetary basis with the Regulation EEC 319/92 of 3 Feb 1992. The latter was modified by the Regulation EEC 213/96 of 29 Jan 1996. The programme was considered a success and was extended twice, for the periods of 1992-94 and 1995-99. However, since 1996 it became progressively more bureaucratic and heavier

due to its "labour intensive" characteristic and the insufficient number of staff available to work in it. Therefore, instead of renewing the programme again in 1999, the Commission demanded only a 2 years extension in order to finance the costs of the management of the closure and the winding down of the existing portfolio of projects.[162] Although recognising the success of the programme, the Commission alleged, based in their own reports and independent evaluations, that further assessment was needed in order to redefine its overall policy priorities, and optimise the synergy with the other investment promotion and financing programmes of the EU.[163]

The principal characteristics of ECIP were: a) replying exclusively to initiatives coming from enterprises (demand-driven); not granting quotas to particular regions or industry sectors; conceding five types of financing: Facility 1 - grants up to 100.000 EUR towards the identification of potential joint venture partners; Facility 2 - interest free loans of up to 250.000 EUR towards feasibility studies or pilot projects; Facility 3 - equity (holding or loans) of up to 1 million EUR in joint ventures; Facility 4 - interest free loans or grants of up to 250.000 EUR towards training costs in joint ventures; Facility 1B - grants of up to 200.000 EUR for the preparation of BOO/BOOT schemes; b) accessibility to the enterprises via a network of financial institutions (development and commercial banks). The Commission used to provide advances to the ECIP financial institutions who in turn, and after the green light from the Commission, allocated these funds to the final beneficiaries; c) covering all the phases of the putting into place of a joint-venture: partner search; feasibility studies by the enterprise (interest-free advances reimbursable by the enterprise in case of success, or converted into grant in case of non-success); capital participation in the equity capital of the joint-venture; grants for small and medium enterprises, and interest-free reimbursable advances for larger enterprises, to finance training in the case of technology transfer.[164] The Commission emphasized facility 1 and 2, i.e. promote and prepare joint ventures.

[162] COM(1999) 726.
[163] See the commissions' Progress Reports in COM (1998)752 for the years from 1995 to 1997, COM(2000)135 for 1998 and COM (2000) 439 for 1999. For evaluations see Touche Ross 1990; SEMA Group 1994; and Deloitte & Touche 1999 and Lamigeon, 1999.
[164] COM (2999) 439, p.3 & 10.

c) Program of Business Cooperation and Promotion of Investments (AL- Invest)

The AL-Invest project became operational in 1995 after a two year pilot phase, and was renewed in 2000 for four years. The main objective of the programme is to facilitate the contact between European and Latin American businesses; it does not, as the ECIP programme, limit the risk involved or provide financial instruments or support for identified common projects.

The Programme operates with the following mechanisms: a) a network of Eurocentres - Latin American organizations, called ' economic operators' , chosen by the Commission as focal points for the rest of the interested companies, which form a network working in contact with the Delegations of the European Commission in Latin America, and are responsible for the promotion and organization of activities taking place within the Al-Invest programme, providing support in the search for business partners, furthering partnership opportunities, etc.; b) a network of Coopecos - European organizations, such as Chambers of Commerce, Federation of Industries, Development Agencies, Consultant Companies, that support industrial cooperation and investment promotion in Latin America. They promote the Al-Invest programme by informing business, increasing awareness of cooperation opportunities, putting them in contact with corresponding Latin American networks, etc; c) setorial meetings - events organized by a group of economic operators, who draw up a schedule of personal interviews with 25 companies. The operators propose these events to the Commission, who agrees to co-finance an annual 50 events. The events last two days and are usually held during specialist trade fairs. The participating companies receive a programme of face-to-face meetings (' agendas') specially arranged for them according to their profiles and products; d) TIPS System - information on-line service; e) the services of a Secretariat, based in Brussels.

The structure of the project consists of a unit in the Commission responsible for operating the project with input from an Advisory Committee as well as a Technical Secretariat for provision of services. A Board under the Assistant Director General consisting of 3 representatives from DG RelExt and 3 from DG Enterprise make all the decisions. The Technical Secretariat consists of 8 persons, who devote 50% of

their time promoting the programme and the rest providing support for organising meetings.

From 1996 to 1999, the programme organized 156 Setorial Meetings, in which more than 13.000 European and Latin American companies participated. Until April 2000, 210 commercial accords were registered (summing 89.3 million EURO), and 42 investment accords (summing 43.3 million EURO).

d) Business Cooperation Network (BC Net) & Business Cooperation Centre (BCC)

Although these initiatives were mainly designed to facilitate the cooperation among European firms by offering a matching service, firms from 3rd countries could also participate in the database. The BCC was created as early as in 1973 and the BC-Net in 1988, and both programmes were part of the European Commission Multi-Annual Programme to help and support enterprises, particularly small and medium (SMEs). They were managed by the DG Enterprise until 2000 when, following two negative evaluations and with a repositioning of the Commission's activities more towards policy and regulation development and less in direct actions management, they were closed down.

They were very similar, the main differences being that while BCC was designed as a scheme offering a "one to many" services, in which the local intermediary contacted by the SME would routinely look for a match, but also in parallel the profile would be disseminated by all other intermediaries who had access to the internet database, BC-Net was designed as a "one to one" scheme in which the operation was charged a fee, could be confidential and only the contacted intermediary would receive the information and look for matches. In practice, under BRE the intermediaries were more disseminators of information and under BC-Net they got actively engaged in assisting firms to move forward in their negotiations.[165]

[165] See Technopolis, 2000 & Homepage DG Enterprise

The Southern Cone States intermediaries in the database were; from Argentina: Del Rio – Business Consultants, DEVNET Argentina, Fundación de Empresas – Eurocentro Córdoba, Eurocentro de Cooperación Empresarial Câmara Argentina de Comercio, Euroinvest, Eurocentro Mendoza, Internacional y Culto Argentina Cancilleria Argentina, Bolsa de Comercio de Mar del Plata; from Brazil: Indi, Governo do Rio Grande do Sul, América 2000 Consultoria e Representacao LTDA, Italian-Brazilian Chamber of Commerce of Minas, Federacao das Indústrias do Estado de Santa Catariana, Charneski & Associados S/C, Federacao das Indústrias do Estado do Rio de Janeiro, Federacao das Indústrias do Estado de Pernambuco; Paraguay: Bolsa de Subcontratacion del Paraguay – Eurocentro Paraguay; Uruguay: DEVNET Uruguay, Camara de Industrias del Uruguay. Information about the number of matches effectuated by these intermediaries was not available, and will be therefore not considered. [166]

e) Synergy/ALURE

The EU has developed two cooperation programmes in the field energy in Latin America, both under the management of DG Energy and Transport. The first, Synergy, was created in 1980 to finance projects to help developing countries of Asia, Africa and Latin America to define, formulate and implement their energy policy, especially after the privatisation of energy firms. It developed 14 projects in Latin America. Synergy was financed as a form of aid assistance, and did not involve FDI. ALURE however, created in 1996, was designed within a framework of redirection of focus from aid to economic cooperation, i.e. involving mutual gains, and exclusively to Latin America. The three declared objectives are to 'improve the services of Latin American utilities, preferably in the growth sub-sectors of electricity and natural gas and to promote business relations with European firms linked to the sector such as utilities, financial operators and industrial firms, in particular small business; to contribute, where necessary, to the adaptation of legal and institutional frameworks; to promote sustainable economic and social development with relevant schemes". The initial phase of the programme (ALURE I), lasted for two years (1996-1997) and had a portfolio of 13 projects, with an EC contribution of 7 million euros, and the second

[166] The database still exists and is administrated by the Eurocenters (see Al-Invest); see

phase of the programme (ALURE II) lasted a period of five years (1998- 2002) with a budget of 25 million euros. However, it was decided that ALURE will not be renewed, and Synergy also closed down in 2000. The main reasons appointed for the suspension of both programmes are the political disagreements regarding the future objectives of the programmes and the general reprioritisation for the cooperation with Latin America to the issues areas of information society, human rights and poverty alleviation.[167]

5.1.5) The level of cooperation of EU foreign policy behaviour

The indicators selected to analyze the level of cooperation of the EU foreign policy behaviour in the case of foreign direct investment are the number/budget and nature of the cooperation programmes under the EU development policy, and the characteristics of the commitments regarding FDI provisions in the bilateral agreements between the EU and the Southern Cone States, and Mercosur. Regarding FDI commitments, it was seen that they remain under the competence of member-states outside the EU system. Even if they had been negotiated by the Council and managed by the Commission it would have been an example of "fourth pillar" development and not of EU initiatives. The only agreement which could have fit into this case was the one of 1995 with Mercosur, but that was not the case since it did not contain any provision on FDI, only reference to cooperation (unlike the agreements with the CEEs and former Soviet States). The agreements with Argentina, Brazil, Paraguay, Uruguay and the 1992 with Mercosur were signed by the EEC/EC, who could not have negotiated such provisions. The informal political influence of the EU, independently of it formal competences, could be considered as favouring a cooperative approach with developing countries in general, when the position of the Commission in the discussions about the possible opening of negotiation of a multilateral agreement of FDI within the WTO is analyzed. The Commission supported a scaled down version of a multilateral agreement at the WTO which would

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http://europa.eu.int/comm/enterprise/networks/eic/eic.html

[167] The suspension of the programmes was criticised in a Report from the DG for Research of the European Parliament, which emphasised that the development of the energy sector is strategic among others to attain the „new" objectives of alleviate poverty and promote a information society (by the means of the programme ALIS, initiated in 2002. The report recommended the Parliament to try to create a new energy programme, EP, 2001, pp.22-24.

include neither pre-establishment national treatment nor investor-to-investor dispute settlement procedures, propositions usually advanced by developing countries.[168]

Table 30: FDI related issues in the EU-SCS bilateral agreements

FDI related issues	**1980-85**	**1995-2000**
commitments	-No	-No
reference to cooperation in bilateral agreements	-Br-EEC 1980	-Arg-EEC 1991 -Urug-EEC 1991 -Br-EEC 1992 -Par-EEC 1992 -Mercosur-Ecs 1992 -Mercosur+MS-EC+MS 1995

Source: compiled by author

Regarding the programmes concerning FDI under the EU development policy, the main empirical findings are summarized in table 25. Although it was not possible to find information about the specific operations and the budget to the Southern Cone States for all programmes, it can be seen that most programmes were created in late 80s, beginning of 90s; only BCC existed before, and it was not a program specially designed to Latin America. It can be estimated, therefore, that the total of budget allocation to cooperation regarding FDI in the EU development policy towards the Southern Cone States increased from 1980-85 to 1995-2000. The main characteristic of the nature of the programmes was that they focused on the creation of joint ventures among small and medium enterprises, and in attempts to improve the developmental impact of European FDI.

[168] Graham, 2000, p.186.

Table 31: EU programmes addressing FDI in the EU development policy towards the SCSs

Program	**1980-1985**	**1995-2000**
EIB loans	Null (mandate to operate in LA was accorded in 1993)	% of the total loans to non-member states increased continuously from 1,96 in 1996 to 6,33 in 2000
ECIP	Null (created in 1988)	-
Al-Invest	Null (created in 1992)	From 1996 to 2000 42 investment accords with SCS
BCNet	Null (created in 1988)	-
BCC/BRE	Info about operations with SCS not found	-
Alure	Null (created in 1996)	-

With base in the empirical information described so far it can be argued that in the first period of observation, the level of cooperation was very low. The only indicator for cooperation was the reference of cooperation in the bilateral agreement between the EEC and Brazil from 1980. In the second period, although no commitments regarding FDI were included in any bilateral agreement, all new agreements contained references to cooperation in articles regarding economic cooperation. Moreover, the EU created programmes in its development policy addressing FDI which, among others, aimed at improving the developmental quality of European investments in the SCS, even if their effective impact can be considered as relative insignificant when in context of the total amount of European FDI outflows to the Southern Cone States. The level of cooperation is evaluated as medium. To conclude, it can be said that the level of cooperation did increase from 1980-85 to 1995-2000, even if it remained at a low level.

Table 32: The level of cooperation of the EU foreign policy behaviour towards the SCS in foreign direct investment (very low, low, medium, high)

Indicators	**1980-85**	**1995-2000**
Agreements	No commitment, one ref to cooperation => coop very low	No commitment, 6 ref to coop=> coop low
Development policy programmes	(BCC-BRE)=> coop very low	EIB, ECIP, Al-Invest, BCNet, Alure, (BCC-BRE) => coop medium
Resulting level of cooperation	**Very low**	**Medium**

5.2) Independent variables and test of predictions

In order to explain why the level of EU foreign policy behaviour towards the Southern Cone States has become slightly more cooperative from the period of 1980-1985 to the period of 1995-2000 for the case study of foreign direct investments, the value of the independent variables of the approaches being taken in consideration, and the test of their predictions for each period of time and the covariation test is examined in sections 5.2.1, 5.2.2 and 5.2.3. Section 5.2.4 adds the further observations and concludes with the evaluations of the offered explanations.

5.2.1) Neorealism

As seen in Chapter 4, the power position of the European Union can be said to have increased from the period from 1980-1985 to 1990-2000. The increase was due to the change of polarity of the international system, which allowed the EU to pursue a more independent foreign policy vis-à-vis the US, and increase of EU's relative power position. The first step of the analysis of the test of the Neorealist hypothesis, i.e. the covariation between the independent and dependent variables is therefore positive.

Neorealism however does not offer an explanation of the absolute level of cooperation in each period, i.e. it predicts that the level of cooperation will be higher in a situation of lower differential of relative capabilities vis-à-vis the stronger power and a multipolar system than in a situation of higher differential of power in a bipolar system, but it does not specify if the level of cooperation in the first situation will be, for instance, medium or high, and in the second situation low or very low.

Table 33: Test of Neorealist prediction for the case study foreign direct investment

	1980-85	**1990-95**
Independent variable	High differential in relative capabilities between the US and the EU	Lower differential in relative capabilities between the US and the EU
Expected change of level of cooperation in the foreign policy behaviour towards the SCSs	->	Higher
Observed level of cooperation in the EU foreign policy behaviour towards the SCSs	Very low	Medium

5.2.2) Identity Constructivism

As analysed in Chapter 4, in the period of 1980-85 the level of homogeneity between the EU and SCS was very low: while the EU countries were liberal-democracies engaged in a process of regional integration, the SCS were protectionist dictatorships competing among each others. They shared a certain level of common fate in capitalism against communism in the context of the Cold War, but in the division of labour between the "allies", the W estern hemisphere was seen as in the responsibility of the US, not the EU's, inhibiting, therefore, initiatives from the latter. The role position of the SCSs was evaluated to be the one of neglected; and the expected level of cooperation very low.

In the second period of observation, the level of homogeneity can be considered as high after the SCS engaged in the process of democratisation, economic liberalisation and regional integration. The level of common fate decreased with the end of the Cold War. It was concluded that this change favoured the initiation of the development of a collective identity between the EU and the SCSs; the EU came to see the SCSs as a friend (benign client). It was expected that the level of cooperation would increase to medium.

The test of covariation is therefore confirmed, since the level of cooperation increased from the first to the second period, and the explanation of the absolute level of cooperation in each period is also confirmed.

Table 34: Test of Identity Constructivism prediction for the case study of FDI

	1980-85	**1990-95**
Independent variable	Neglected	Benign client
Expected level of cooperation in the foreign policy behaviour towards the SCSs	Very low/low	Medium/high
Observed level of cooperation in the EU foreign policy behaviour towards the SCSs	Very low	Medium

5.2.3) Utilitarian Liberalism

The independent variable "EU dominant interests" was not yet analysed given that it must be done separately for each case-study. The organised actors in the EU FDI policy network, their interests and foreign policy preferences (section 5.2.3.1) and the most assertive actors (section 5.2.3.2) are seen in the following.

5.2.3.1) Organised actors

Table 35: Organised actors in the EU FDI foreign policy network

Type	Main actors	Organized in 1980-85 /1995-2000	Foreign policy preferences
Political	a)European Parliament	-yes/yes	-increase FDI and improve its developmental effect
	b)European Council and Council of Ministries	-yes/yes	-advance the national interests and increase their prestige within the EU
Administrative	c)European Commission	-yes/yes	-increase initiatives regarding FDI in general
	d)European Investment Bank	-no/yes	-increase number of FDI financed projects in general
	e)Economic and Social Committee	-yes/yes	-improve developmental effect of FDI
Economic Pressure Groups	f)European Round Table of Industrialists	-yes/yes	-increase profits and market share of EU firms
	g)Mercosur EU Business Forum	-no/yes	- increase profit and market share of EU firms, and promote joint ventures
Political Advocacy Groups	h) Working Group EU-Me	-no/yes	- liberalisation of FDI regime in the SCSs and bilateral agreements

a) European Parliament - an analysis of the most important resolutions regarding the Southern Cone States shows that the EP has continuously expressed its wish to foster cooperation between small and medium-sized enterprises (SMEs) from both regions and the expansion of the activities of the BEI to Latin America, although not as a priority in its agenda. It can be said that the EP was an organised actor in both periods and its general attitude was favourable to cooperation with the Southern Cone States on the issue of FDI.

Table 36: FDI matters in the EP resolutions regarding the SCSs

Resolution	Target	FDI related issues
12-10-83	LA	Demands the creation of a group of experts to study means to promote SMEs in LA (paragraph 14) and suggests the creation of a European-LA bank to finance mutual projects of investment (para 15)
13-06-85	LA	Affirms the importance of EU capitals to LA to the latter's development and equilibrium of balance of payments (para 6); demands LA countries to develop a more favourable environment to EU investments (para 7); demands the creation of an EU-LA bank and the expansion of BEI activities in LA (para 9)
13-06-85	LA	Recognises the difficulties of countries and firms in LA to obtain capital and suggests the expansion of BEI activities to the region (para 24)
14-04-89	Arg	Desires the intensification of the EU presence by the means of investments and joint ventures in Argentina (para 8); demands that Argentina subscribe the MIGA convention to favour EU FDI (para12); demands the expansion of BEI activities to LA (para15&16)
19-11-92	Br	Attributes importance to the increase of mutual beneficial investments and acknowledges the value of the ECIP programme (para 13); acknowledges with satisfaction the approval of BEI activities in LA at ECOFIN in April (para15); demands that Brazil reviews its legislation about investments guarantees and protection of intellectual property (para16)
16-05-95	Me	Supports the inclusion in the Association agreement of the participation of the EU in investment projects in Me by the means of the EC budget and BEI (para 12); emphasises the importance to promote SMEs (para 13)
03-02-97	LA	Calls on the member states of the EU to continue to develop public or private investment policies in the LA region in order to continue to promote vital industrial cooperation and the transfer of technology via small and medium-sized undertakings or joint ventures (para 7); calls on the Commission and the Council to use all possible instruments to promote investment by EU firms, in particular small and medium size enterprises, in LA, for example through the increase of funds for LA-Invest, ECIP and the EIB (para 23)
15-01-99	DVP	Support for an European Code of Conduct of EU firms operating in developing countries

Source: Database in Annex I & IRELA, 1996.

b) European Council and Council of Ministries –the references to Latin America in the conclusions of the European Council Summits can be seen in the following table. FDI is only mentioned once, during the Spanish presidency in 1995, when the Council supported the extension of the EIB's activities to LA.

The relevant Council of Ministries for the case study of FDI would be the General Affairs, the Economic and the Financial Affairs and the Development Councils, but it was not possible to obtain data for the meeting conclusions. It can, nonetheless, be said that it seems that member states have preferred to deal with FDI issues on the national level; most of them have signed Bilateral Investment Treaties (BITs) with the SCSs. In the case of Spain, for instance, who became the major investor in the Southern Cone States since the mid 1990s, the political initiatives in this direction were pursued at the national level.[169]

Table 37: Conclusions of the European Council Summits, emphasis in FDI matters

Year	Presidency	Summit	References to Latin America, FDI in bold
1980.1	Italy	-Luxemburg (April) -Venice (June)	- -
1980.2	Luxemburg	-Luxemburg (December)	-
1981.1	Netherlands	-Maastricht (March) -Luxemburg (June)	- -
1981.2	United Kingdom	-London (November)	-
1982.1	Belgium	-Brussels (March) -Brussels (June)	-Central America -
1982.2	Denmark	-Copenhagen (December)	-
1983.1	Germany	-Brussels (March) -Stuttgart (June)	 -Central America
1983.2	Greece	-	-
1984.1	France	-Brussels (March) -Fontainbleau (June)	- -
1984.2	Ireland	-Dublin (December)	-Central America
1985.1	Italy	-Brussels (March) -Milan (June)	- -
1985.2	Luxemburg	-Luxemburg (December)	-

[169] See for instance EP, 2001, p.3

1986.1	Netherlands	-Hague (June)	- discussed the situation regarding relations between the European Community and LA, in particular in the light of the enlargement of the Community to include Spain and Portugal; reaffirmed its desire to strengthen and develop these relations both on the political level and on the economic and technical level; asked the Commission to submit a document in accordance with the objectives set out in the Declaration annexed to the Accession Treaty; instructed the Ministers for Foreign Affairs to follow this matter closely and to submit reports to the European Council as and when necessary.
1986.2	United Kingdom	-London (December)	-
1987.1	Belgium	-Brussels (June)	-
1987.2	Denmark	-	-
1988.1	Germany	-Brussels (February) -Hannover (June)	- -discussed the situation in LA and underlined the fundamental importance of the rule of democracy and the normal functioning of democratic institutions as a key factor for stability in the sub-continent; Central America
1988.2	Greece	-Rhodos (December)	-
1989.1	**Spain**	-Madrid (June)	-supports the economic reforms in LA; calls for the continuous development of the political contacts and economic, technical, commercial and financial cooperation with LA; invites the Commission to develop cooperation policies differentiated to LA without prejudice against other regions; Central America
1989.2	France	-Strasbourg (December)	-Andean countries; Central America
1990.1	Ireland	-Dublin (June)	-states the interest to develop cooperation with LA
1990.2	Italy	-Rome (October) -Rome (December)	- -states the importance of the Rio Group

			Dialogue
1991.1	Luxemburg	-Luxemburg (June)	-
1991.2	Netherlands	-Maastricht (December)	-
1992.1	**Portugal**	-Lisbon (June)	- underlines the importance it attaches to the deepening of relations between the Community and LA as the means to support economic recovery and consolidation of democracy in that region; welcomes the signature of new framework agreements with Brazil and Paraguay; stresses the importance of supporting the efforts of economic integration which are developed at regional level, such as Mercosul; invites the Commission to present proposals with a view to intensifying and institutionalising relations with Mercosul.
1992.2	United Kingdom	-Birmingham (October) -Edinburgh (December)	- -
1993.1	Denmark	-Copenhagen (June)	-
1993.2	Belgium	-Brussels (October) -Brussels (December)	- -
1994.1	Greece	-Corfu (June)	-reaffirms the importance attributed to the relations with LA and its regional groups; welcomes the accession of Mexico to the OECD; confirms its desire to reinforce the political and economic relations with Mexico and Mercosur.
1994.2	Germany	-Essen (December)	-reaffirms the resolve expressed in the E's "basic paper" on its relations with the LA and Caribbean States to establish a new, comprehensive partnership between the two regions; urges the Council and the Commission, working on the basis of the Council report, to create as quickly as possible the conditions for an early opening of negotiations with the Mercosur States on an inter-regional framework agreement, including a Memorandum of Understanding, and to put ideas on the

			future form of treaty relations with Mexico and on the extension of relations with Chile into concrete form without delay.
1995.1	France	-Cannes (June)	-
1995.2	**Spain**	-Madrid (December)	- stresses the significant progress made in the process of strengthening relations with LA; requests the Council and the Commission to expedite implementation of the conclusions on enhancing cooperation between the European Union and Latin America in the period 1996-2000 (Annex 12); welcomes the signing in Madrid of the Inter-Regional Framework Agreement on Trade and Economic Cooperation between the European Union and Mercosur, the final objective of which is to achieve political and economic association; **it calls upon the EIB to step up its activity in Latin America in line with its financing procedures and criteria;** Central America; Chile; Mexico; Cuba.
1996.1	Italy	-Florence (June)	-notes with satisfaction that relations with Latin America and the Caribbean have increased significantly, notably by: the progress in relations with Mercosur; renewal of the San Jose process between the European Union and Central America, and the Cochabamba declaration; the forthcoming opening of negotiations with Mexico; the perspectives for relations with the Andean Community
1996.2	Ireland	-Dublin (December)	-
1997.1	Netherlands	-Amsterdam (June)	- looks forward to a summit meeting of Heads of State and Government of the EU with Latin America and the Caribbean.
1998.1	Luxemburg	-Luxemburg (November)	-

		-Luxemburg (December)	-
1998.2	United Kingdom	-Cardiff (June) - Vienna (December)	- -
1999.1	Germany	- Berlin (March) -Koln (June)	- - warmly welcomes the first Summit between the Heads of State and Government of the European Union, Latin America and the Caribbean, to be held in Rio de Janeiro on 28 and 29 June 1999. This historic event, in highlighting the excellent and close relations between the two regions, will launch a new strategic partnership, strengthening the political, economic and cultural understanding between our regions; Mexico; Central America
1999.2	Finland	-Tempere (October) -Helsinki (December)	- -
2000.1	**Portugal**	-Lisbon (March) -Sta Maria da Feira (October)	- -
2000.2	France	-Biarritz (October) -Nice (December)	- -

Source: Source: compiled by the author

c) Commission - The competence to negotiate and conclude FDI commitments in agreements with 3rd countries remains with member-states and therefore outside the EU system. The Commission has, however, tried – unsuccessfully - to expand its competences to this area in the end of the 1980s. One of the strategies adopted was the support of the negotiation of a multilateral investment agreement at the WTO instead of at the OECD, given that in the former it expected to have a bigger role in the negotiations. The reasoning was that even if the negotiations succeeded, it would end up being an example of the 4th pillar, in which the EU institutions, and in particular the Commission, would be involved, triggering a process that could be favourable to the transfer of competences in its favour. In order to gain support from developing countries to open the negotiations at the WTO, the EU even supported the exclusion of provisions about preestablishment national treatment, and investor-to-

investor dispute settlement. This was an interesting example of the Commission making a coalition with 3rd countries against its member-states, with the aim of expanding its competences. This informal political influence of the Commission, independently of it formal competences, could be considered as favouring a cooperative approach with developing countries, even if motivated by its interest of increasing its competences.[170] Apart from that, the Commission supported the creation of a number of cooperation programmes to promote EU FDI in the SCSs, as can be seen in the table below.

Table 38: FDI matters in the Commission communications regarding the SCSs

Document	**Target**	**Reference to FDI**
COM (1984) 105	LA	Proposes the access of Latin American countries to the European Investment Bank (EIB).
COM (1994) 428	Me	Proposes the establishment of several regional projects concerning, for instance, transport, energy, environment, telecommunications and information society, to be financed by, among others, the EIB (p.17)
COM (1995) 495	LA	States that European FDI has played its part in the privatisation process in LA (p.10) but that industrial promotion and investment should be strengthened using the ECIP, Al-Invest and EIB lending (p.17) and in the sector of energy via the programme ALURE (p.18).
COM (1995) 504	Me	Promote exchange of information, the development of a legal environment conducive to investment, through the conclusion of BITs between the member states; promotion of joint ventures (Art.12); encourage transfer of technology and investments in the sector of energy (Art.13), transport (Art.14), information society and telecommunications (At.16)
COM (1995) 742	LA	Proposes a Community guarantee to the EIB against losses under loans for projects of mutual interest in Latin American and Asian countries with which the Community has concluded cooperation agreements
COM (1996) 429	LA	Technical issues about implementation of EIB loans to Asia and LA
COM (1999) 105	LA	Mentions that a enhanced cooperation will provide economic operators and investors prerequisites for productive and long

[170] Graham, 2000, p.186; Torrent, 1998, 121.

		term EU investment in LA
COM (1999) 600	Me	-
COM (2000) 670	LA	Prioritise the sector of information society, proposes the programme ALIS to improve investments in this area; implementation procedures stated in Annex 3

Source: compiled by the author

d) European Investment Bank- although the EIB possesses a quite independent structure of decision-making, the approval of specific projects follows technical rather than political criteria. It is not its role to discriminate among regions or productive sectors. Concerning projects in the context of the development policy, it is only responsible for the implementation of projects. It can be said, however, that the EIB has an interest in increasing its operations in general, and in that sense its position can be considered as favouring cooperation with the Southern Cone States.

e) European Economic and Social Committee - The ESC established a dialogue with the Mercosur Economic and Social Consultative Forum (FCES), by means of a Memorandum of Understanding signed in December/1997, with a view to establishing regular exchanges of information and views. These inter-institutional contacts were consolidated during a second visit by an ESC delegation to Montevideo in May/1998. In February/2000 the EU and Mercosur foreign ministers adopted the joint proposal advanced by the ESC and the FCES of establishing a joint committee (JCC) in the framework of the Association agreement in negotiation since 1999 to further their cooperation. Regarding FDI matters it can be said that the ESC position has had a cooperative approach to the SCSs and a focus on the developmental effect of FDI.[171]

Table 39: FDI matters in the ESC opinions regarding the SCSs

Opinion nr.	Date	Target	Reference to FDI
102	26-01-1994	LA	States that in spite of the current efforts, full and effective use is still not being made of cooperation resources, principally because of the rigidity of procedures, and because economic and social operators are unaware of the possibilities available, particularly in the area of economic cooperation and access to EIB funds (para 3.3); that the Latin American countries are trying to attract direct European investment because it can help to

[171] ESC, 2001.

			generate employment, to promote technology transfer and to modernize infrastructure, agriculture and industry. It can also contribute to the economic stability of the recipient country (para 5.1), but that the world recession and investment requirements in the EU itself (arising from the internal market) and in other areas (such as Central and Eastern Europe) could lead to a diminishing flow of direct European investment to Latin America (5.2) and that against this backdrop, EU instruments for promoting cooperation investment, such as the Business Corporation Network and the EU-IIP have an important role to play. More could perhaps be done - e.g. through the EU representations in the various countries - to bring these instruments to the notice of potential investors. Member State financial incentives to encourage companies to invest in Latin America are likewise of primary importance (5.3); the Committee urges the Commission to prepare studies on European investment opportunities in Latin America and, in the light of its findings, to draw up proposals for expanding the range of EU instruments for promoting such investment. Similarly, it calls upon the Member States to take steps to back direct private and public investment in the region. (para 5.5)
1176	25-10-1995	Me	supports an EU-Mercosur accord and states that it could also boost EU investment (para 2.13); states that the presence of European firms in Mercosur has increased significantly in recent years (…) At the same time, the Committee notes recent research that suggests that there are still technical obstacles to the liberalization of capital flows between the EU and Mercosur, and is concerned that the inter-regional agreement should address that issue (para 2.14); states that the Mercosur countries will require large-scale investment, particularly in infrastructure, that the EU can provide support in terms of know-how; and that resources could eventually be provided directly from European Commission budget lines, or through the European Investment Bank(para 3.3)
1163	16-09-1998	Me, Chile	-
459	03-05-1999	LA	Advances that the EU economic objectives in LA should be focused on the stabilisation of markets, international financial flows, and the promotion of direct investment as a stable source of financing for technological innovation and development of production (para 2.8)
477	04-05-2000	Developing countries	States that multinational companies, in their activities in developing and in transition countries, must respect the OECD Guidelines for Multinational Companies and the ILO' s Tripartite Declaration on Multinational Companies and Social Policy (para 4.2)
932	18-07-2001	Me, Chile	States that investments by European firms in Mercosur (and Chile) not only offer these firms opportunities to benefit from the growth of the regional markets and to harness the region's human capital and resources for their productive processes, but also gives them an important role in promoting productive development, job creation, technological innovation and the training of human resources; European investment should be a positive factor in the consolidation of the basic characteristics of the social market economy; EU investors should follow

			the principles set out in the Resolution on EU standards for European enterprises operating in developing countries and the OECD' s guidelines for multinational corporations (para 3.7).
1326	25-10-2001	WTO	States that as regards investment-related objectives, codes of conduct for multinational companies ought to be encouraged, such as those being developed on the basis of the guidelines launched by the OECD. Special attention should be paid to freedom of transfer and protection against expropriation and other nationalisation (para 3.6.8)

Source: compiled by the author

f) European Round of Industrialists – the ERT was founded in 1983 by European industrial leaders with the objective of promoting European competitiveness and growth. Relevant issues are identified, analysed and then passed on to the political decision-makers at the national and European level by means of reports, position papers and face-to-face discussions. At the European level, the ERT has contacts mainly with the Commission, the Council of Ministers and the Parliament, and also with the government holding the Presidency. In 1989, a Working Group on North-South relations was created, Chaired by Mr.Helmut O.Maucher, also Chairman and CEO of Nestle S/A, to address the issue of investments in the developing world. The group's main tasks were to increase the dialogue between European industry and the developing countries and to follow the changes in public policy on investment in those countries. In addition, the ERT wanted to learn from the host countries where they saw problems with investors, so that European industries could improve their cooperation with these countries. Since the first half of the 1990s, the working group on North-south relations has published a series of policy papers about FDI, including: "Survey on Improvements and Conditions for Investment in the Developing World", from May 1993; "European Industry: a Partner of the Developing World – FDI as a tool for economic development", from August 1993; "Investment in the Development World – New Openings and Challenges for European Industry", from December 1996; "European Industry and the Developing World. For a Global Framework of Mutual Interest and Trust", from May 1997; and "Improved Investment Conditions. Third Survey on improvements in conditions for investment in the developing world", from June 2000. Particularly the reports from 1993, 1996 and 2000 offer a very detailed database about the improvements in conditions for investments, remaining

impediments and policy foci for the future regarding most developing countries.[172] Although there is evidence that EU institutions such as the Commission were aware of these documents no evidence was found that they have been specifically used in any policy initiative.

g) Mercosur-European Union Business Forum – the MEBF, on the contrary, advanced some very specific proposals regarding FDI to the Commission since the process of negotiations for the Association agreement started, in 1999.[173] The MEBF Rio Declaration urged the EU and Mercosur governments to issue a comprehensive statement expressing their commitment to strong foreign direct investment protection and to open investment regimes, including: national treatment, common investment rules and procedures at all governmental levels, non-discriminatory access to government funds, civilian research and development programs, free movement of capital connected to an investment including free transfer of profits, elimination of tax legislation, policies and practices which discriminate against foreign investors, modification of tax laws on the treatment of foreign earned income to encourage foreign investment and to prevent double taxation, national security exceptions in investment should be limited, narrowly circumscribed and applied in a transparent manner, and that foreign investment protection agreements should be speeded up. The MEBF also lobbies for support for the modernisation and development of the infrastructure sector in Mercosur and joint efforts to provide financial resources for this purpose, such as from the European Investment Bank (EIB). Finally, the Rio Declaration also asks the EU and the Mercosur governments to provide easier access to investment financing for small and medium-sized enterprises (SMEs), and in that respect to review its programs of assistance, in particular to increase the financial resources allocated to Al-Invest and to simplify the procedures and decision making process of ECIP. [174]

In its official reaction to the MEBF Rio Declaration, the Commission stated that it agreed with MEBF's request to strong FDI protection and open investment regimes, calls upon the EIB and EU member States to finance infrastructure projects in

[172] For details about ERT in general see Homepage: http://www.ert.be and Richardson, 2000. For the documents mentioned see ERT, 1996, 1997 & 2000.
[173] For a brief historical background about the MEBF see Chapter 4, p.

Mercosur, states that despite seeing liberalisation rather than privatisation as the most relevant factor in terms of improving the conditions for doing business, it had newly created an instrument that could facilitate the participation of EU investors in the process of privatisation in Mercosur, namely through new Facility 1B of the ECIP programme; and emphasises that great efforts have been made to improve the payments situation as regards the Al-Invest programme, and that the Commission and Mercosur governments were preparing a new SME cooperation project to be realized under the 1995 Framework Cooperation Agreement.[175]

In the Mainz Statement, the MEBF also expresses support for the development of WTO provisions for the treatment of FDI, and urges EU and Mercosur governments and the EU Commission to take action to fully implement the following commitments (in addition to the ones of the Rio Declaration): free movement of personnel; abolition of the obligation for non-executive directors to have residence in the respective countries; clear stable and coherent support rules for all investors in order not to distort competition; continuation of privatisation processes and availability of information in real-time about these processes; and compliance by public authorities and state owned companies with the obligations of foreign investment public deeds, particularly as regards the deadlines of financial payments, using the banking system, if necessary. In terms of sectoral priorities, the areas of energy, tourism/transportation and information society/telecommunications were chosen.[176]

The EU-Mercosur Action Plan on Business Facilitation, announced by the Commission during the 2nd EU-LAC Summit in Madrid was based to a large extent on the list of business facilitation measures prepared by the MEBF, originally presented to the negotiators of the Association Agreement in Sept/2001, and reformulated it in a final proposal as stated in the Buenos Aires Statement on Business Facilitation. The first list had been much broader, including FDI proposals such as the easing up of work and residence permits, facilitation of remittances abroad, re-launching of financial assistance schemes to promote the creation of joint ventures between the EU and Mercosur SMEs such as AL-Invest and ECIP, which had been suspended,

[174] MEBF, 1999a, p.6-8.
[175] Marin, 1999, pp.10-11.
[176] See MEBF, 1999b.

assistance to build up the capacities of Mercosur countries' national export and investment promotion agencies (such as Fundacion Exportar of Argentina or Proparaguay) following the example of Commission initiatives in other developing countries and transitional economies, grants for feasibility and pre-feasibility studies in infrastructure projects in Mercosur and credits of the EIB to co-finance projects. The Buenos Aires Statement, which was used as a basis for the Commission initiative included only one recommendation on FDI, namely to encourage investments in the electronic commerce infrastructure in Mercosur, and the focus of the Statement was on trade issues such as customs control, standards and technical regulations, and other aspects regarding electronic commerce.[177]

The MEBF Madrid Declaration contains much more detailed recommendations about FDI than the previous declarations. Among the most important are: the support to the negotiation of a multilateral FDI agreement at the WTO and the improvement and update of the TRIMs at the Doha Ministerial Conference; the demand to the EU and Mercosur governments to include a chapter on FDI; the demand to modify their tax regimes and sign new agreements of treatment of investment, investment protection and double taxation avoidance; the demand to provide guarantees for political risks to infrastructure investments and an adequate regulatory framework, the demand to liberalise the movement of personnel; the demand to improve cooperation regarding SMEs, in particular by improving the effectiveness and providing proper funding to Al-Invest and relaunching ECIP (at the example of the new programmes EBAS and Pro-Invest to the ACP countries); the demand to provide technical assistance and funding to investment promotion agencies, especially in Mercosur, and finally; the demand to improve the transparency of government procurement markets and national treatment and non-discrimination for foreign firms. The priority sectors chosen were information society, electronic commerce and telecommunications.[178] It it's interesting to note the exclusion of the sector of energy, which was present in the Mainz Statement. As seen in section 5.1.4.2.2e, the programme ALURE, designed to promote EU FDI in Mercosur in the sector of emery was suspended in 2002. The new emphasis on electronic commerce was also in line with the new focus on the information society on part of the Commission, and the creation of the programme

[177] MEBF, 2001a, pp.4-5 & 2001b, p.15.

ALIS to promote investments in this area. Although it was not possible to find out in terms of timing whether the change in the priority sectors in the development policy was a reaction or stimulus for the change in the priority areas advanced by the MEBF, it can at least be said that both the Commission and the business community shared the desire for change, a position not shared by the European Parliament, who supported the continuation of ALURE and emphasised the importance of the energy sector to foster economic development in the Southern Cone States.[179]

To conclude the observations on the MEBF, it can be said that is was not only an assertive actor in the EU FDI policy network, but also managed to exert a considerable influence in the PAS, especially via the Commission. The Commission was very receptive and supportive of the MEBF from its creation; the reasons pointed out are both the need of expert information, and the need to improve the legitimacy of the proposals as a strategy of addressing the alleged lack of transparency and democratic deficit in the EU policy making process.[180]

h) Working Group EU-Me – the working group has taken a position in favour of liberalisation of the FDI regime in the SCSs and the increase of European FDI to the SCSs. The group recommended that the liberalisation of investments should go hand in hand with that of trade. This is seen not only as a cross sectoral concession between access to the Mercosur market for European industrial products and services in exchange for access to the EU by Mercosur agricultural products, but also within the agriculture sector, for instance, with the opening of opportunities for European agri-businesses to invest in the SCSs and profit from the lower costs of agricultural production. Besides liberalisation, the SCSs should promote stable, non-discriminatory and transparent regulatory FDI frameworks to favour inflows. The Group recommended also the conclusion of a bi-regional investment agreement

[178] MEBF, 2002, p.20-27.
[179] See section 5.1.4.2.2e & EP, 2001.
[180] Other initiatives in that support were the organisation of conferences with representatives from the civil society, business community and academic community in order to discuss and exchange views on the EU-Mercosur (and EU-Chile) association negotiation, such as I and II Conference with Civil Society on the 12th October 2000 and 12 February 2002, respectively, in Brussels, or the Civil Society Consultation on Trade and Investment on the 28th April 1999 in Brussels.

replacing the bilateral agreements between member-states, but it does not recommend specific commitments.[181]

5.2.3.2) Most assertive actors and strength of the dependent variable

After the analysis of the initiatives and activities of the mobilized actors in the EU foreign policy network for FDI, it is possible to conclude that the most assertive actors in the issue area of FDI for the period of 1980-85 were the Parliament, on the side of PAS, and the European Round Table of Industrialists (ERT) on the side of private actors. Despite the low structural position of the former given its lack of powers, the Parliament enjoyed a high situative mobilisation. It has consistently advanced the promotion of European FDI to the SCSs and supported EIB operation in the region. The Commission seems to have addressed this issue, but with less priority. There is no evidence that the Parliament depended on private actors such as the ERT in order to formulate and advance its preferences.

In the period of 1995-2000, the most assertive actors seem to have been the Commission, on the side of PAS, and the Mercosur-European Union Business Forum (MEBF) on the side of private actors. The latter can be said to have a high situative and structural mobilisation. The Commission, despite the lack of formal competencies, also seems to have a high situative and structural position in the FDI policy network. There is strong evidence that the Commission has counted on information and policy recommendation from the MEBF. This could have occurred because of a lack of resources and expertise of the Commission in the area of FDI, given it does not deal with FDI at the domestic (common market) level.

Table 40: Most assertive actors in the EU FDI policy network

Type of actor	**1980-85**	**1995-2000**
PAS	Parliament	Commission
Private	ERT	MEBF

Finally, proceeding to the measurement of the strength of the dependent variable net gains-seeking foreign policy, it can be said that for the period of 1980-85, the societal

[181] Chaire Mercosur, 2002, p.16.

interests in the EU foreign policy network regarding FDI seems to be weak. The only actor which manifested interest in promoting cooperation on the issue was the European Parliament. However, its decision making powers both at the level of bilateral agreements and development policy were insufficient to achieve any significant policy initiative. Among private actors, the ERT showed some interest in promoting FDI cooperation but the efforts were at a quite general level both in terms of policy suggestions and targeted areas.

In the period of 1995-2000 the value of the dependent variable seems to be medium. The Commission, the Parliament, the MEBF, the ESC, the EIB and the Working Group EU-Me have clear, highly pronounced and convergent preferences in the direction of promoting FDI cooperation with the Southern Cone States. Their influence was restricted, however, by their formal competences; the preferences of the dominant actors could not be translated into legal commitments on FDI in the bilateral agreements, but they did have an impact on the design of programmes within development policy, favouring cooperation on FDI matters with the Southern Cone States.

In both periods, the EU policy network for FDI seems to be better defined more as pluralist than monopolist or corporativist, and to fit in the EU regulatory model of the typology advanced by Helen Wallace (see section 4.2.3).

Table 41: Test of Utilitarian Liberalism prediction for the case study of FDI

	1980-85	**1990-95**
Independent variable	Weak societal common interests favouring cooperation	Medium societal common interests favouring cooperation
Expected level of cooperation in the foreign policy behaviour towards the SCSs	Very low	Medium
Observed level of cooperation in the EU	Very low	Medium

foreign policy behaviour towards the SCSs		

5.3) Further observations and explanation of the level of cooperation of EU foreign policy behaviour towards the Southern Cone States

As seen above, the covariance test confirms the predictions derived from the three approaches for an increase in the level of cooperation of EU foreign policy behaviour towards the SCSs in the case of foreign direct investment. Neorealism however does not offer an explanation of the absolute level of cooperation in each period, and further observations actually weaken its covariance findings. The first relevant consideration is that there are no studies or economic simulations indicating that an increase of EU FDI would necessarily lead to a decrease or a barrier to the entrance of new US FDI, and vice-versa, unless this was implemented by means of discriminatory policies, which is unrealistic. Although countries have a limited capacity to absorb FDI, that was not the case of the Southern Cone States in the period under consideration. For developing countries which did not reach the level of saturation of new investments, the economic predictions are, on the contrary, that FDI is attracted by the existence of other FDI, independently of where it comes from. That means that an increase of EU FDI would not necessarily improve the relative power position of the EU. The existence of EU FDI would not disfavour US FDI; on the contrary, it could have the effect of favouring it.[182]

Following this reasoning, EU policies which promote an increase in EU FDI by facilitating the formation of joint ventures and the participation of small and medium-sized enterprises, or policies which aim at improving the quality of FDI to promote economic growth, such as is the case with EU policies regarding FDI within its development policy, do not necessarily contribute to the increase of the relative EU FDI vis-à-vis the US. Policies which could have such an effect would be, for instance, the negotiation of FDI provisions conceding a better access for EU firms

[182] This prediction is confirmed by the patterns of FDI in Eastern Europe, where in parallel to the boom of European FDI in the 1990s, the US FDI also increased from 0,7 billion US$ in 1987 to 8,9 billion US$ in 1997. The case of Mexico is also illustrative; although NAFTA created trade diversion from the EU to the US, the same did not happen in FDI. See for instance Nunnenkamp, 2001, p.141.

engaging in FDI than firms from 3rd countries. But as was seen, this was not the case in the period analysed. Specific FDI commitments were not undertaken by the EU because it did not have the competences for that, which remain with member-states. The EU has not pushed its member-states to negotiate such provisions either; on the contrary, it encouraged them to negotiate BITs regarding FDI protection and promotion and to avoid double taxation, such as stated in Art.12 of the 1995 Agreement with Mercosur. In addition, most BITs signed by member-states have followed the trend to include the non discriminatory and most-favoured-nation treatment.

A second observation that also weakens the Neorealist explanation is that, although the EU has used conditionality in its foreign policy towards the SCSs, its content, i.e. the preservation of democracy and the respect of human rights, was actually shared by the latter. The use of conditionality cannot be seen therefore as a "price" which the target country has to pay in order to get cooperation, as advanced by Neorealism, rather a "gift" to help them to attain their own objective of preserving democrac y and human rights.

Both Identity Constructivism and Utilitarian Liberalism were successful in their predictions about the absolute level of cooperation in both periods and the covariation test.

Table 42: Observed and predicted level of cooperation for the case study of FDI

	1980-85	**1995-2000**
Observed level of cooperation in the EU foreign policy behaviour	Very low	Medium
Neorealist prediction	->	Higher
Identity Constructivist prediction	Very low	Medium
Utilitarian Liberalist prediction	Very low	Medium

Chapter 6 - Case Study 2: Agricultural Trade

6.1) Case description and dependent variable

Agricultural trade in an extremely complex topic, not only on account of its political sensitivity, but also due to its technical aspects. Although the EU also export agricultural goods to the SCS, and the general background information of this chapter covers both EU imports and exports, the case study focuses on EU imports, or SCS exports, since the latter are the object of dispute in the bilateral/bi-regional relations. Different theoretical approaches attribute the role of agricultural exports to economic development differently (section 6.1.1). For most developing countries in general, and the Southern Cone States in particular, agriculture is the major component of their exports, especially towards the developed countries, such as the EU and its member-states (section 6.1.2). Despite the liberal international trade regime as established by the GATT and its successor WTO, agriculture remains one of the most protected areas (section 6.1.3). The EU has a common commercial policy, which, in the case of agriculture is under the exclusive competence of the Community. It has a number of trade instruments which can be used against unfair trade practices or to achieve specific goals, such as cooperation with 3rd countries. The Southern Cone States, however, have not been addressed by these instruments, and on the contrary, have suffered from the use of protective instruments such as high tariffs, subsidies and price controls in the context of the common agricultural policy (section 6.1.4). The level of cooperation of EU foreign policy behaviour towards the Southern Cone States from the period of 1980-85 to 1995-2000, does not seem to have actually changed much. Despite efforts on the GATT/WTO level, and on CAP reform, the substantive effect in terms of opening up the Common Market to agricultural exports from the SCS was negligible (section 6.1.5).

6.1.1) The role of agricultural trade for economic development

According to the prevailing orthodox theory of international trade, the Factor Proportion Hypothesis, or Heckscher-Ohlin Theorem (a reformulation of Ricardo's theory of comparative advantages which takes into consideration opportunity costs), countries should specialize in producing and exporting goods in which their comparative advantage is the greatest, and should import goods in which it is lowest.[183] Given their less advanced stage of development, the competitiveness of the Southern Cone States tends to decrease as the level of technological sophistication of production increases. With a few exceptions (such as the Brazilian aircraft industry, or Argentine and Brazilian footwear industry), most of the products in which the Southern Cone States are competitive in the world market are agricultural (Brazil: coffee, cocoa, sugar, soybean, beef meat, poultry and orange juice; Argentina: beef meat, soy, wheat; Paraguay: soybean and cotton; Uruguay: beef meat, rice and wool). According to orthodox economic theory, therefore, the Southern Cone States would be able to maximise their trade revenues and, therefore, the capital to promote economic growth by maximising their exports of the specific (agricultural) products in which they have the greater competitiveness.

This premise has been contested by structural development theories in the 50s and 60s, which claimed that the decreasing terms of trade between manufactured goods and commodities due to inelasticity of commodity demand, among others, posed an obstacle to the development of peripheral countries. Unlike the developed countries, in which the inadequate use of savings could be corrected by governmental intervention as advanced by Keynesian approaches, the crucial problem of developing countries was held be the insufficient level of savings, which required different remedies. The main developmental strategy advanced was the promotion of domestic industrialisation and the substitution of imports. Exports were important to equilibrate the balance of payments, but not seen as a key variable to promote domestic economic growth. Moreover, instead of focusing on the (most competitive) agricultural

products, diversification should be promoted.[184] The alleged lack of linkages of agriculture in the domestic economic system was also advanced to discredit agricultural export-led strategies of economic growth.[185]

The Southern Cone States pursued the model of substitution of imports as the main strategy to promote economic growth until the late 1980s, and its limited success is very well documented. This acknowledgement, complemented by new studies pointing to positive results concerning the linkages of agriculture, the phenomenon of economic globalisation, and also World Bank and IMF conditionality to solve the debt crisis, among others, led to a revival of export-led development strategies in the Southern Cone States. Since, apart from exceptional cases, agricultural products continue to be the only area in which these countries have a chance to compete in the world markets with developed countries, agricultural exports assumed once more a pivotal position.[186] In order for the new developmental strategy to be successful (according to orthodox theory), two basic requirements must be fulfilled. The first is that, on the domestic side, they promote the liberalisation of economic regimes and privatisation of state-led industries, which has, by and large, occurred, most of all in Argentina.[187] The second requirement is that a free trade system prevails at the international level, allowing countries to realise the benefits of their comparative advantages. While the international trade regime represented in the GATT/WTO promotes the liberalisation of trade, it has been less effective in promoting the liberalisation of trade in agricultural products, as it will be seen in the following.

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[183] See for instance Trebilcock & Howse, 1999, Ch.1; Sirc, 1975; Guillochon, 1979.

[184] The structural economic theory and the model of import substitutions were developed within the ECLAC (UN Economic Commission for Latin America), right after its creation in 1948, mostly in the works of its first General Secretary, the Argentinean Raul Prebish, and other Latin American economists such as Celso Furtado and Osvaldo Sunkel. Its central ideas inspired both the creation of the UNCTAD and the movement for the creation of a New International Economic Order (see section 6.1.3), and the dependency theory; a political vertent which linked the development process with the structure of power and social class behaviour both at the international and domestic level, developed among others by Fernando Henrique Cardoso, Enzo Faletto and Jose Medina Echavarria. For a detailed analysis and legacies of the structural and dependency theories see Bielschowsky, 2000, and Bielschowsky, 1988, Ch.2.

[185] Hirshman 1958 in Valdes, 1991, p.87.

[186] See for instance, Richards, 1997; Blake, 1998;Cruz Junier et al, 1993; Hojman, 1994; Valdes, 1991; Trebilcock & Howse, 1999, Ch.14; Orden et all, 2003.

[187] See for instance the evaluation of the liberalization of agricultural markets in the WTO Trade Policy Reviews Argentina 1999, Brazil 1996 & 2000; Paraguay 1997 and Uruguay 1998. All four countries are praised for the unilateral liberalizing measures, despite some remaining protection specially in Brazil, such as to sugar and alcohol.

6.1.2) Flows and trends of agricultural trade

World trade in agricultural products increased significantly since 1980, especially during the early 1990s in response, among others, to strong economic growth worldwide. Food demand grows faster in the relatively rapidly growing developing economies which show a substantial growth in the income *per capta*. At a certain level of income, diets are changed from largely cereal-based to incorporating more animal products, which further increased demand for animal foodstuffs. When countries become relatively wealthy, however, food demand growth slows. Agricultural trade is therefore highly sensitive to economic performance in developing countries; in fact, after reaching a peak in 1996, flows declined as a consequence of the decrease in demand as a result of the economic crisis in Russia, and the Asian and Latin American countries.[188]

The Southern Cone States are all net exporters of agricultural products; their coverage ratios (ratio between exports and imports) from the period of 1980-1989, and 1990-1997 were 3,8 and 4,4 for Argentina; 2,8 and 2,3 for Brazil; 4,7 and 3,0 for Paraguay; and 3,5 and 3,1 for Uruguay. Among the biggest net importers are Japan and the Southern East Asian countries with a ratio of 0,2 for both periods and some EU countries such as Germany (0,4 and 0,5 for each period), Italy (0,4 for both periods) and the UK (0,5 and 0,7 for each period). [189]

As regards the bilateral flows with the EU, agricultural products are the main component of exports (see table 1, although it refers to 2001, this patterns did not change much since 1980). In this respect, the composition of the balance of trade between the EU and the SCS can be said to follow the traditional North-South patterns, in which the main products imported by the EU are agricultural, and the main products exported are manufactured goods such as machinery, transport material and chemical products. Among the agricultural exports to the EU most are bulk commodities (non processed food stuffs); the main products from Brazil are coffee, sugar, orange, soy and bovine meat; from Argentina, sunflower, soy, wheat and maize; from Paraguay, soy, coffee and sugar; and from Uruguay bovine meat, fish and

[188] Vaillant & Nin, 2002, pp.306-307.
[189] Vaillant & Nin, 2002, p.310.

citrus fruits.[190] Most tropical products exported from the SCS to the EU face low tariffs, with some exceptions such as sugar and bananas which are subjected to special regimes within the EU. Temperate products, such as cereals, and bovine meat and dairy products face higher tariffs or difficulties in market access deriving from EU subsidies and other measures in the context of the common agricultural policy (see below).

Table 43: Main products of EU-LA (in 2000) and EU-Southern Cone States (in 2001) trade in goods (million euro/ % of total)

Products	**Imp. from LA**	**Exp. to LA**	**Imp. from SCS**	**Exp. to SCS**
Agricultural	18.680 (55,3%)	3.086	13.169 (74,2%)	847
Energy	4.292	558	281	181
Machinery	4.401	18.010	1.005	8.241
Transp.Material	3.986	10.418	2.246	4.996
Chemical	1.916	8.724	848	4.360
Textiles & Cloth.	508	1.222	198	351
Total above	33.783		17.747	

Source: EU-DG Trade Homepage

A look at the total flows of trade in goods (agricultural and non agricultural) between the EU and the SCS shows that the percentage participation of the region in both EU imports and exports decreased from 1980 to 2000; and that the trade balance decreased from 1.751 million euros to 173 million euros to the EU (table 2). This same trend can be witnessed in the patterns of EU-Latin America (table 3), although in this case the total balance became positive to the EU in an amount of 5.704 million euros.

Table 44: EU trade in goods with Southern Cone States (Million euro and %)

	1980	1990	2000
Imports (share EU total)	7.705 (2.8)	14.208 (3.3)	24.374 (2.4)
Exports (share of EU total)	5.954 (2.9)	5.657 (1.4)	24.200 (2.5)
Trade Balance	-1.751	-8.551	-173

Source: EU-DG Trade Homepage

[190] Vaillant, 2000, p.18.

Table 45: EU trade in goods with Latin America (Million euro and %)

	1980	1990	2000
Imports (share EU total)	17.809 (6.3)	27.051 (6.1)	48.982 (4.8)
Exports (share of EU total)	14.270 (6.7)	16.939 (4.3)	54.686 (5.8)
Trade Balance	-3.539	-10.112	5.704

Source: EU-DG Trade Homepage

When only agricultural goods are considered, the EU has a long standing trade deficit with the SCS. Still, from 1990 to 1996, SCS agricultural exports to the EU increased by 11,9%, while SCS agricultural imports increased by 237%. As mentioned above, SCS exports are concentrated on a few products, notably soy and derivatives (as animal feed), coffee, tobacco, bovine meat and fruits. EU exports are also concentrated in three groups of products; alcoholic beverages, dairy products and cocoa derivatives.[191]

6.1.3) International cooperation regarding agricultural trade

The first initiatives of international agricultural trade cooperation were not taken by governments, but by national agricultural associations, in the form of periodic congresses held during international exhibitions and fairs, such as the ones of 1848 in Brussels, 1878 in Paris, 1885 in Budapest, 1889 in Paris again and 1891 in the Hague. In the latter, it was decided to create a permanent institution, the International Commission on Agriculture in order to examine the rural economy, provide technical information and to promote the coordination of the production and sale of agricultural commodities. The first governmental initiative was the creation of the International Institute of Agriculture (IIA), in 1905. Although the original proposal by the American David Lublin was to give it the power to manage the international commodity markets, the Institute ended up being a research body responsible for compiling statistical data and organising conferences and congresses. In 1945, it was dissolved and its library and staff were transferred to the Food and Agriculture Organisation (FAO). The creation of FAO developed from the successful demand of

[191] EC, DG-Trade, 1998, pp.6-7.

the "four Geneva colleagues" Frank McDougall, Andre Mayer, Frank Boudreau and John Boyd Orr, addressed to the US President Roosevelt, for him to support the preparation of a United Nations Conference to discuss food and agriculture. The conference took place in Hot Springs, Virginia from May 10th to June 3rd, 1943, and in its final act, the participating states agreed, among others, on the need for international action to increase world agricultural production, individual governmental responsibility to ensure sufficient food, and on the establishment of an interim commission to draw up the Constitution for the organisation. FAO, however, subsequently came to have a predominately technical and advisory function, a predictable result given the incompatibility between the management of agricultural markets at the multilateral level, and the responsibility attributed to national governments to "ensure sufficient food" in their domestic societies agreed at Hot Springs, an incompatibility that contributed to failure of the negotiations to create the International Trade Organisation (ITO). [192]

The ITO was supposed to be the third pillar of the Breton Woods system, together with the World Bank and the International Monetary Fund (IMF). In 1946, the UN Economic and Social Council established a Preparatory Committee constituted of 50 representatives from different countries to draft its charter, which had been negotiated during the UN Conference on Trade and Employment, which took place from 21-11-1947 to 24-03-1948 in Havana, Cuba. The resulting draft, the Havana Charter (UN doc. E/Conf.2/78) was quite ambitious, including rules on employment, restrictive business practices and commodities. Concerning the latter, it included a mechanism to stabilise world prices and to manage surpluses and temporary crisis situations, very much in line with the failed proposal on the creation of a World Food Board by FAO (Chapter VI). Before the charter was approved, 23 of the 50 participants decided to negotiate tariff concessions among themselves, which they did in negotiations which

[192] It is interesting to note that The League of Nations Pact and the Constitution of the International Labour Organisation, created after the 1st War did not make any reference to agriculture. It was only with the overproduction in the context of the crisis of 1929 and consequent collapse of agricultural prices that attempts to strengthen international cooperation and upgrade the IIA took place. The New Deal subsidies for agricultural commodities and the UK Agricultural Marketing Act of 1931 marked the beginning of governmental intervention of the production and trade of agriculture commodities, and the necessity to regulate it at the international level. The 1st International Wheat Agreement was signed in 1933. In 1930, the until then small health section of the League of Nations was extended to include nutrition problems with the creation of a Technical Commission on Nutrition and a Mixed Committee

took place from April to October 1947.[193] The combined package of trade rules and tariff concessions became known as the General Agreement on Tariffs and Trade (GATT), which entered into force in January 1948, while the Havana Charter was still being negotiated. Although the latter was finally agreed in March 1948, the legislative bodies of some countries refused to ratify it, among them, the US Congress. With the faltering of the Charter, GATT remained the only multilateral instrument governing international trade from 1948 until 1995, when the World Trade Organisation (WTO) was established. Rather than substituting the GATT, WTO incorporated it alongside the new agreements on trade in services (GATS), Trade-Related Aspects of Intellectual Properties (TRIPs), and related measures (such as the Trade Related Investment Measures, TRIMs or the Agriculture Agreement, both under the GATT), annexes, decisions and understandings, in one formal international organisation.[194]

The GATT Agreement of 1947 did apply to agricultural trade, but it allowed countries to use import quotas and export subsidies, in contrast to the regime governing industrial goods. As a result, trade in agriculture became highly distorted, as the tariff reductions were practically transferred to non-tariff protective measures. Trade rules and further tariff reductions were negotiated again in subsequent "rounds" (see table 4). In the Kennedy Round (1964-67), agricultural issues were considered for the first time as part of the total package of negotiations, but the achievements were very limited; some tariff cuts and trade limitations were removed for non-basic items, and an arrangement about cereals was concluded. In the Tokyo Round (1973-79), negotiations on bovine meat and dairy products took place, but because they were not accepted by the full GATT signatories, they were informally called "codes". Particularly the dairy code was never very effective since major exporting countries did not sign it. Both codes were terminated in 1997 and their issue areas included in the Agricultural Agreement of the Uruguay Round. Most important, an agreement on tropical products was reached, including reduction of import duties and other trade barriers.[195]

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on food problems, where the "four Geneva colleagues" worked together. Marchisio & Di Blasé, 1991, Ch1.

[193] The 23 founding members were Australia, Belgium, Brazil, Burma, Canada, Ceylon, Chile, China, Cuba, Czechoslovakia, France, India, Lebanon, Luxemburg, Netherlands, New Zealand, Norway, Pakistan, Southern Rhodesia, Syria, South Africa, United Kingdom and the United States.

[194] See WTO, 2001.

[195] For details about the Kennedy Round see Andrews, 1973, Ch.8.

The Uruguay Round (1986-94) included for the first time substantial negotiations concerning agricultural products, including border and behind-the-border trade instruments. Together with the Agreement on Agriculture itself, the Agreement on Sanitary and Phytosanitary Standards and the Ministerial Decision concerning Least-Developed and Net Food-Importing Developing Countries provide a framework for a long term reform of agricultural trade and domestic policies. The Agreement on Textiles and Clothing also provided for the eventual elimination of the Multifibre Arrangement after a ten year transition period. This change is attributed mainly to pressure on the part of the US, which was facing a growing deficit in its balance of agricultural goods, mainly vis-à-vis the EU. The prevailing idea was that despite its lower competitivity, the domestic support of agriculture in the EU, as advanced in the Common Agricultural Policy (CAP) was distorting the market. US dissatisfaction gained support from other major agriculture exporting countries, in particular the members of the Cairns Group.[196] The negotiation were however extremely difficult, and at times risked the successful conclusion of the whole round. Many studies describe these negotiations in great detail, yet, for the purpose if this study it is enough to state that the main breakthrough was the Blair House Agreement, concluded on a bilateral basis between the US and the EU in November 1992. [197]

The specific commitments adopted in the Agreement on Agriculture were largely based on the Blair House agreement, with some modifications demanded by the French government, and to the discontent of other countries, which saw the multilateral agreement being negotiated on a bilateral basis between the US and the EU. The most important final commitments are: a)regarding domestic support (production subsidies to agriculture) – minimum reduction of 20% calculated with base on the Aggregate Measure of Support (AMS), specified in Art.1(a), 6 and Annex

[196] The Cairns Group was formed in 1986 at the initiative of the government of Australia with the aim to coordinate the members position's during the Uruguay Round. After the conclusion of the latter, it continued to work in the promotion the early implementation of the commitments, and has submitted joint proposals to the new round of negotiations. The original members were: Argentina, Australia, Brazil, Canada, Chile, Colombia, Fiji, Hungary, Indonesia, Malaysia, New Zeeland, Philippines, Thailand and Uruguay. They were joined later by Paraguay (in 1997), Bolivia, South Africa, Costa Rica and Guatemala, thou Fiji and Hungary left. For a discussion about the past and future prospects for the success of the Cairns Group as a coalition see for instance Vaillant & Nin, 2002. For details about its activities see http://www.cairnsgroup.org.

3.;exceptions were foreseen to subsidies with no distorting effects, such as early retirement schemes (green box), and some specific cases, such as direct payment to farmers (blue box); b)export subsidies - reduction of 21% in terms of volume and 36% in terms of total cash (modifying the operation of Art.XVI of the General Agreement which permits export subsidies on primary products); c)non-tariff border measures (such as import quotas, VERs and the EU variable import levy) – existing measures must be converted into tariffs (the so-called 'tariffication"), according to calculation methods set in attachment to Annex 5, and new measures were prohibited (modifying Art.XI:2(c) of the General Agreement, which permitted quantitative restrictions on agricultural and fisheries products where necessary to the enforcement of the domestic marketing scheme). In addition, existing measures were to be reduced to the extent required to allow foreign producers a minimum of 3% market access of each product category, rising to 5% in the end of the 6th year; d)tariffs – all tariffs were to be bound (commitment not to increase (later) tariffs above the agreed level); all tariffs (including existing non-tariff border measures that have been converted to tariffs) were to be reduced by a simple average of 36% to developed countries and 24% to developing countries, with a minimum reduction of 15% and 10% respectively on each product category (tariff line), with the exception of those products for which special treatment has been negotiated.

All commitments of the Agriculture Agreement were to be achieved over a 6 year period, with 1986-8 as the base period, for developed countries, and 10 years for developing countries; the least developed countries were exempted entirely. Apart from these commitments, one important provision of the Agreement on Agriculture was the special safeguard measure permitting imposition of an additional level of duty (but not reimposition of non-tariff measures) in the case where imports of a particular product exceed a trigger level in a given year or where the price of imports falls below a trigger price (trigger level and trigger price definition and calculations set in Art.5.5(a)-(c). The agreement created a new instrument: tariff rate quotas (TRQs) to guarantee minimum levels of market access in the face of the higher MFN tariffs resulting from tariffication. TRQs work similarly as quotas, but instead of limiting the

[197] For details about the negotiations see for instance Paarlberg, 1997; Patterson, 1997; Coleman & Tangermann, 1998; Gardner, 1996; Ackrill, 2000.

total amount of imports, they stipulate higher tariffs for imports above the stipulated amount (for details see section 6.1.4.1.2 below).[198]

Despite its achievements, the Agreement on Agriculture recognised its shortcomings implicitly in that it included in Art.20 a mandate for the initiation of further negotiations already one year before the end of the implementation period, i.e. in 1999. Studies show that, as of 2002, the effect of the agreement upon the improvement of market access for agricultural commodities in OECD member countries has been actually insignificant.[199] Following the abortive attempt to launch a comprehensive round of global trade negotiations in Seattle in November 1999, the agricultural negotiations were formally initiated in January 2000.[200] When the new global round of negotiations was finally launched at the 2001 Ministerial Conference in Doha, Qatar, the negotiations on agriculture were incorporated in its agenda as part of the single final undertaking, seen as beneficial on account of it offering the use of cross-issue linkages to overcome deadlocks. Since the agricultural negotiations within the Doha Round are not yet concluded (according to the mandate they must be finished before 1st January 2005), and as, in any case, they exceed the period of time under consideration in this study, they are not included in the analysis.

Regarding the other two agriculture related agreements of the Uruguay Round, the Agreement on Sanitary and Phytosanitary Standards supplemented the Agreement on Technical Barriers to Trade (signed in the Tokyo Round and extended in the Uruguay Round), covering topics specific to agriculture. The agreement encourages members to base their measures on international standards, but allows them to maintain or introduce measures which result in higher standards if there is a scientific justification, or as a consequence of consistent risk decisions based on appropriate risk assessment. Art.5.7 allows temporary measures when scientific evidence is insufficient and requires that additional information be sought. The WTO dispute settlement panel rulings made an important contribution to the interpretation of this

[198] Trebilcock & Howser, 1995, pp.57-63; Matthews & Laroche-Dupraz, 2002; EC DG Trade, 2003.
[199] For critical evaluation of the effects of the Agricultural Agreement see for instance Matthews, 2000b; Priyadaeshi, 2002; Orden et al, 2003; Bouzas & Svarzman, 2000.
[200] External NGO pressure, unresolved differences over the scope of the negotiations among member-states, mainly the US (which advanced a narrowly-focused agenda) and the EU (who supported a more comprehensive agenda) and internal procedural WTO problems have been advanced as causes of the failure in Seattle. Matthews, 2000a, p.3.

agreement. The panel about hormone treated beef, a case brought by the EU against imports from the US (WT/DS26) held with the US that the EU had failed to base its ban of imports on a scientific risk assessment, and ordered the EU to bring its domestic regulations into compliance with WTO law. The ruling, therefore, stipulated that the complainant must prove that a technique is safe, instead of putting the burden on the user of the new techniques, which would be a much more exigent requirement. [201]

The Ministerial Decision Concerning Least-Developed and Net Food-Importing Developing Countries recognises that despite increasing opportunities for trade expansion and economic growth to the benefit of all participants generated by the progressive implementation of the results of the Uruguay Round, the elimination of subsidies in the developed countries and consequent decrease in their domestic production might have negative effects in terms of availability of adequate supplies of basic foodstuffs from external sources on reasonable terms and conditions, including short-term difficulties in financing normal levels of commercial imports of basic foodstuffs (paragraphs 1, 2). As remedies the Decision foresees the increase of food aid commitments; technical and financial assistance to improve these countries' agricultural productivity and infrastructure, favourable treatment in agricultural export credits, access to the resources of the IMF and World Bank to assist during short-term difficulties in financing normal levels of commercial imports (Paragraphs 3,4,5). The Decision is however non-legally binding, and has largely not been followed up.: the Food Aid Convention concluded in 1999 actually lowered the minimum guaranteed quantities donors intend to provide. On export credits, no agreement has been reached on how assistance might be provided. As regards financial access, most countries were already benefiting from IMF/World Bank special facilities, but no further increase was decided.[202] Here the diverging immediate interests of those developing countries which are competitive exporters of agricultural products, such as the members of the Cairns Group (among them the Southern Cone States), who expect to

[201] The international standards recognized by the Agreement are the ones advanced by the FAO/WHO Codex Alimentarius Commission (for food), the International Office of Epizootics (for animal health) and FAOs Secretariat of the International Plant Protection (for plan health). Governments can add any other international organization or agreement whose membership is open to all WTO members. For details about the beef case, and also the dispute about genetically modified foods (GMOs) see Matthews, 2000b, pp.13-15 and Pollack, 2002, pp.19-21.
[202] Matthews, 2000b, pp.12-13.

benefit from the liberalisation, and those countries primarily addressed in the Ministerial decision. should be noted.

Table 46: GATT/WTO Instruments concerning agricultural trade

Place, Year	**Instruments concerning agriculture**
Geneva 1947	-tariffs
Annecy 1949	-tariffs
Torquay 1950-1951	-tariffs
Geneva 1956	-tariffs
Dillon Round 1960-62	-tariffs
Kennedy Round 1964-67	-tariffs -Arrangement on grains -Anti-Dumping Agreement -Arrangement covering cotton textiles in 1962 as an exception to GATT rules
Tokyo Round 1973-79	-tariffs -Arrangement on bovine meat -Arrangement on dairy products -Arrangement on tropical products exported by developing countries -Arrangement on textiles (Multifibre Arrangement – MFA)
Uruguay Round 1986-1994	-Agreement on Agriculture (market access, subsidies, domestic support) -Agreement on Sanitary and Phytosanitary Standards -Ministerial Decision Concerning Least-Developed and Net Food-Importing Developing Countries -Agreement on Textiles and Clothing
Doha Round 2002-(2005?)	-in process of negotiation

Source: compiled by the author

Apart from FAO and GATT/WTO, the United Nations Conference of Trade and Development (UNCTAD) has also dealt with international cooperation in agricultural trade. Since its creation, in 1964, it has been the key developing-country forum for the formulation of principles and policies of development and trade, particularly in relation to agricultural goods. UNCTAD has often taken a critical position towards

the activities and results achieved by both FAO and GATT, in particular their sectoral and technical approach, and lack of priority attributed to address the growing imbalances of trade disfavouring the developing countries. Some of its initiatives were the inclusion of Chapter IV of the GATT Agreement entitled "Trade and Development", in 1965; the inclusion of a waiver to the MFN clause of the GATT favouring the developing countries (enabling clause), in 1971; and the creation of the Integrated Programme for Commodities, in 1976.

The latter was proposed by UNCTAD in the context of the New International Economic Order (NIEO), with the main goal of promoting price stabilisation. The two pillars of the programme were the conclusion of International Commodity Agreements (such as for banana, bauxite, tropical woods, cocoa, coffee, rubber, cotton, copper, tin, hard fibres and jute, manganese, iron ore, phosphates, sugar, tea and meat), by which the producer countries were assigned export quotas, with the global total of such quotas determined in such a way as to sustain world prices at an acceptable level, and some of them including stabilisation funds to purchase surplus productions at times of oversupply; and a System of Export Earnings Compensation, which would provide loans or grants to countries facing a decline below a certain level due to supply and price fluctuations of commodity prices. Both initiatives were not very successful, both due to internal coordination problems and the lack of support from developed countries to create the Common Fund to finance the stabilisation funds and the exports compensations loans. [203]

Chapter IV of the GATT essentially confers a "special and differential status" to developing countries, which are allowed to pursue certain protective measures and face longer periods of implementation for the liberalising measures. Despite the fact that most provisions of Chapter IV do not have a clearly binding or obligatory character, developing countries are encouraged to request consultations with individual developed countries or in the GATT Council when the provisions are not respected.[204]

[203] The NIEO was initially proposed in the Resolution 3202 (S-VI) of the 6th Special Session of the UN General Assembly in May 1974, entitled Programmed of Action on the Establishment of a New International Economic Order. About UNCTAD initiatives see for instance FAO, 1979, p.193; Trebilcock & Howser, 1999, Ch.14; Calvert, 114-116.
[204] Trebilcock & Howser, 1999,p. 371.

The enabling clause was adopted by GATT members on 25 June 1971 (BISD 18S/24), originally for a period of 10 years, and subsequently renewed on 28 November 1979 for an indefinite period of time by the Decision on Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Countries (L/4903). The clause created a legal framework for the Generalised System of Tariff Preferences, under which developed countries were authorised to establish individual Generalised Schemes of Tariff Preferences advancing non-reciprocal preferences towards developing countries. It is important to note that the enabling clause allowed for discrimination in favour of developing countries but no discrimination between them. This rule has created problems for the EU regarding the preferences accorded to ACP countries in the context of the Lome Conventions (see section 6.1.4.1.2). In 1994, WTO members agreed on an Understanding in Respect of Waivers, which explicitly states that requests for new waivers or extensions of existing waivers must describe the measures which the member proposes to take, the specific policy objectives and the reasons which prevent the member from achieving its politic objectives by measures consistent with its obligations under GATT 1994 (Art.1); it further stipulates that any waiver in effect on the date of entry into force of the WTO Agreement shall terminate unless extended according to the procedures of Art.1 and Art.9 of the WTO Agreement (Art.2). The Understanding also explicitly encourages members to bring cases to the WTO dispute settlement (Art3.). The Understanding was complemented by the Decision on Waiver adopted on 15-06-1999, in which the MFN waivers are extended until 30-05-2009 to allow preferential treatment for products of the least-developed countries (as designated by the UN) on a generalised, non-reciprocal and non-discriminatory basis (Art.1,2). The Decision stipulated that the exceptional circumstances justifying the Waiver must be reviewed annually. In short, the new waiver regulations put their use under closer scrutiny, restricting to the LDCs, which are classified according to technical criteria and not in the basis of historical relationships, and in principle for a limited time.[205]

[205] The enabling clause is also the legal basis for regional arrangements and the Global System of Trade Preferences (GSTP), by which developing countries exchange trade concessions among themselves.

6.1.4) Agricultural trade in the EU foreign policy

6.1.4.1) Common commercial policy (CCP)

6.1.4.1.1) General features

The common commercial policy is based on three main principles: a common external tariff, common trade agreements with third countries, and the uniform application of trade instruments across member-states. These principles are set out in Articles 131-134/TEU (ex 110-116/TEC). Art. 131 takes a liberal approach in that it states that the CCP should contribute to the common interest of the member states in promoting the harmonious development of the international trade and the progressive suppression of the restrictions to international exchanges and the reduction of tariffs.

The scope and competences of the CCP are dealt with in Art.133. However, since the article originally contained only an indicative list of component policies, it was actually left open to interpretation. In a series of cases and opinions, such as Commission v. Council (ERTA), Opinion 1/75 (OECD Local Cost Standard), Kramer and others (Fisheries), Opinion 1/76 (Rhine Navigation), Opinion 1/78 (International Rubber Agreement), Opinion 2/91 (ILO), Opinion 2/92 (OECD National Treatment Instrument), and Opinion 1/94 (Uruguay Round), the European Court of Justice (ECJ) clarified the scope and competences of the CCP. The two main effects of ECJ jurisprudence upon the scope and competences of the CCP were: first, the establishment of a parallelism between the internal development of the EU and its exclusive external competence, i.e. the doctrine of implied powers, as established in the 1971 ERTA case; and second, the specification of the component policies. While in most cases the ECJ is said to have taken a pro-integration position, i.e. increasing the exclusive competences of the Commission, in the Kramer case of 1976 and in Opinion 1/94 it favoured the position of member-states vis-à-vis the Commission. The former excluded fisheries from the scope of the CCP. The latter stipulated that the

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See EC DG Trade, 2003; WTO Homepage for original documents, and Trebilcock & Howse, 1999, Ch.14.

areas of intellectual property and trade in services (except for cross border services) remained under mixed competence. [206]

The trend towards limiting the exclusive competences of the Community was codified in the amendments to Art.133 made by the Treaties of Amsterdam and Nice (see table 5). Although the general rule for trade in services, and the commercial aspects of intellectual property remained under exclusive competence, Council unanimity came to be required. This unanimity requirement was also extended to fields in which the Community had not yet exercised its powers, and a list of exceptions was included, such as cultural and audiovisual services. [207]

Although Opinion 1/94 is seen as disfavouring the Commission, given the growing importance of trade in services vis-à-vis trade in goods, it is still the case that with respect to agricultural trade and the application of technical barriers to trade, it confirmed the Community's exc lusive competence. On agricultural trade agreements, the Opinion states that 'the fact that the commitments entered into force under that Agreement (on Agriculture) require internal measures to be adopted on the basis of Article 43 (new Art.37) of the Treaty does not prevent the international commitments themselves from being entered pursuant to Article 113 alone". On the application of technical barriers to trade, the Opinion states that it was not concerned with harmonisation of standards (in which case it would fall into mixed competence given that complete harmonisation in the area had not yet been achieved) but about avoiding unnecessary obstacles to international trade (in which case it falls within the scope of the CCP).[208]

[206] See Young, 2000, pp.102-105; Peterson & Bomberg, pp.90-91.
[207] Cremona, 2000, p.7 Meunier & Nicoladis, 2001, pp.7-8.
[208] Cremona, 2000, pp.9-10. Meunier & Nicoladis, 1999, pp.488-493.

Table 47: Art.133 (ex-113) and its amendments

1. ~~After the transitional period has ended, t~~ **T**he 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 liberalisation, export policy and measures to protect trade such 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~~ **one or more States or international organisations** need to be negotiated, the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. *The Council and the Commission shall be responsible for ensuring that the agreements negotiated are compatible with internal Community policies and rules.* 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. *The Commission shall report regularly to the special committee on the progress of negotiations.* **The relevant provisions of Article 228 shall apply**.
4. In exercising the powers conferred upon it by this Article, the Council shall act by a qualified majority.
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.~~ *Paragraphs 1 to 4 shall also apply to the negotiation and conclusion of agreements in the field of trade in services and the commercial aspects of intellectual property, insofar as those agreements are not covered by the said paragraphs and without prejudice to paragraph 6.* *By way of derogation from paragraph 4, the Council shall act unanimously when negotiating and concluding and agreement in one of the fields referred to in the first subparagraph, where that agreement included provisions for which unanimity is required for the adoption of internal rules or where it relates to a field in which the Community has not yet exercised the powers conferred upon it by this Treaty by adopting internal rules.* *The Council shall act unanimously with respect to the negotiation and conclusion of a horizontal agreement insofar as it also concerns the preceding subparagraph or the second subparagraph of paragraph 6.* *This paragraph shall not affect the right of the Member States to maintain and conclude agreements with third countries or international organisations insofar as such agreements comply with Community law and other relevant international agreements.*
6. An agreement may not be concluded by the Council if it includes provisions which could go beyond the Community's internal powers, in particular by leading to harmonisation of the laws or regulations of the Member States in an area for which this Treaty rules out such harmonisation. *In this regard, by way of derogation from the first subparagraph of paragraph 5, agreements relating to trade in cultural and audiovisual services, educational services, and social and human health services, shall fall within the shared competence of the Community and its Member States. Consequently, in addition to a Community decision taken in accordance with the relevant provisions of Article 300, the negotiation of such agreements shall require the common accord of the Member States. Agreements thus negotiated shall be concluded jointly by the Community and the Member States.* *The negotiation and conclusion of international agreements in the field of transport shall continue to be governed by the provisions of Title V and Article 300.*
7. Without prejudice to the first subparagraph of paragraph 6, 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 intellectual property insofar as they are not covered by paragraph 5.

Note: ~~strikethrough~~ and **bold** are alterations made by TEU

Paragraph 5 *(in italic*) was added by the Treaty of Amsterdam

~~Double strikethrough~~ and *Italic* (except para5) are alterations of the Treaty of Nice

The process of decision-making in the area of trade is also set out in Art.133. The Commission has the power of initiative, as in other areas. It elaborates proposals for the initiation and content of international trade negotiations. In the process of elaboration of proposals the Commission is free to consult interest groups and other EU institutions such as the Parliament or the Economic and Social Committee. Once the proposal is concluded, it is discussed in Committee 133, which is formed by senior civil servants and trade experts from the member-states and Commission representatives. The Committee examines and amends the proposal on a consensual basis and then transmits it to the Coreper. Coreper examines and amends the proposal as well and sends it on to the Council of General Affairs, which then hands out a negotiating mandate to the Commission. The mandate is agreed by qualified majority for most cases, and unanimity for services and intellectual property, as set out in the amendments to the Treaties of Amsterdam and Nice. Commission officials representing the Union under the authority of the designated Commissioner(s) conduct the international trade negotiations, within the limits set by the Council's mandate (note that even in negotiations involving issues of mixed competence the Commission represents the member-states during the negotiations). At the conclusion of the negotiations, the Council approves or rejects the trade agreement, by qualified majority or unanimity. The Parliament has not formal decision-making powers in the agreements concluded under Art.133, although it is normally consulted under the Luns-Westerterp procedure.[209]

Next to trade-only agreements, cooperation and association agreements concluded on the basis of Art.300/TEU (ex-228) and Art.310/TEU (ex-238) respectively often include trade (i.e. tariff) issues, such as the 2nd and 3rd generation agreements signed with the SCS. In these cases, the trade components of the agreements are negotiated according to the procedures of Art.133, but the total resulting agreement must follow the procedures set by Art.300 or Art.310. The main difference is that Council decisions upon the mandate and final approval must be adopted by QMV or unanimity as stipulated in the Articles, and the Parliament has formal powers in that its assent is required.

[209] Meunier & Nicoladis, 1999, p.480; Cremona, 2000, p.19; Woolcock, 2001, pp.378-387. About the

Table 42: Art.300 (ex-228) and its amendments

1. Where this Treaty provides for the conclusion of agreements between the Community and one or more states or international organisations, ~~such agreement shall be negotiated by the Commission. Subject to the powers vested in the Commission in this field, such agreements shall be concluded by the Council, after consulting the Assembly where required by this Treaty.~~ ~~The Council, the Commission or a member state may obtain beforehand the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of this Treaty. Where the opinion of the Court of Justice is adverse, the agreement may enter into force only in accordance with Article 236.~~ **the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary recommendations. The Commission shall conduct these negotiations in consultation with special committees appointed by the Council to assist it in this task and within the framework of such directives as the Council may issue to it.** **In exercising the powers conferred upon it by this paragraph, the Council shall act by a qualified majority, except in the cases *where the first subparagraph 2 provides that the Council shall act unanimously*. ~~provided for in the second sentence of paragraph 2, for which it shall act unanimously.~~**
2. ~~Agreements concluded under these conditions shall be binding on the institutions of the Community and on Member States.~~ **Subject to the powers vested in the Commission in this field, *the signing , which may be accompanied by a decision on provisional application before entry into force, and the conclusion of the agreements shall be ~~decided~~ the agreements shall be concluded* by the Council, acting by a qualified majority on a proposal from the Commission. The Council shall act unanimously when the agreement covers a field for which unanimity is required for the adoption of internal rules, and for the agreements referred to in Article ~~238~~ *310*.** *By way of derogation from the rules laid down in paragraph 3, the same procedures shall apply for a decision to suspend the application of an agreement, and for the purpose of establishing the positions to be adopted on behalf of the Community in a body set up by an agreement* [based on Article 310]*, when that body is called upon to adopt decisions having legal effects, with the exception of decisions supplementing or amending the institutional framework of the agreement.* *The European Parliament shall be immediately and fully informed on any decision under this paragraph concerning the provisional application or the suspension of agreements, or the establishment of the Community position in a body set up by an agreement* [based on Article 310]*.*
3.The Council shall conclude agreements after consulting the European Parliament, except for the agreements referred to in Article ~~113(3~~), *133(3)* including cases where the agreement covers a field for which the procedure referred to in Article ~~189b~~ *251* or that referred to in Article ~~189c~~ *252* is required for the adoption of internal rules. The European Parliament shall deliver its opinion within a time-limit which the Council may lay down according to the urgency of the matter. In the absence of an opinion within that time-limit, the Council may act. **By way of derogation form the previous subparagraph, agreements referred to in Article ~~238~~ *310*, other agreements establishing a specific institutional framework by organising cooperation procedures, agreements having important budgetary implications for the Community and agreements entailing amendment of an act adopted under the procedure referred to in Article ~~189b~~ *251* shall be concluded after the assent of the European Parliament has been obtained** **The Council and the European Parliament may, in an urgent situation, agree upon a time-limit for the assent**
4. When concluding an agreement, the Council may, by way of derogation from paragraph 2, authorise the Commission to approve modifications on behalf of the Community where the agreement provides for them to be adopted by a simplified procedure or by a body set up by the agreement; it may attach specific conditions to such authorisation.
5. When the Council envisages concluding an agreement which calls for amendments to this Treaty, the amendments must first be adopted in accordance with the procedure laid down in Article ~~N~~ *48* of the Treaty ~~of the~~ *on* European Union.
6. The <u>European Parliament, the</u> Council, the Commission or a Member State may obtain the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of this Treaty. Where the opinion of the Court of Justice is adverse, the agreement may enter into force only in accordance with Article ~~N~~ *48* of the Treaty on European Union.
7. Agreements concluded under the conditions set out in this Article shall be binding on the institutions of the Community and on Member States.

Note: ~~strikethrough~~ and **bold** are alterations made by TEU
~~Double-strikethrough~~ and *Italic* are alterations of the Treaty of Amsterdam
superscript was removed and underline added by the Treaty of Nice

Table 48: Art.310 (ex-238) and its amendments

1.The Community may conclude with a ~~Third State, a union of States~~ one or more States or ~~an~~ international organisation**s** agreements establishing an association involving reciprocal rights and obligations, common actions and special procedure. ~~These agreements shall be concluded by the Council, acting unanimously after consulting the Assembly.~~ ~~Where such agreements call for amendments to this Treaty, these amendments shall first be adopted in accordance with the procedure laid down in Article 236.~~

Note: ~~strikethrough~~ and **bold** are alterations made by TEU

The secondary legislation regarding the CCP is the common rules for exports, and the common rules for imports. The common export regime was established by Regulation (EEC) No 2603/1969 (amended by Regulations 2603/69; 2604/69; 234/71; 1078/71; 2182/71; 1275/75; 1170/76; 1934/82; 3918/91) and is based on the principle of freedom of export, i.e. exports are not subjected to any quantitative restrictions (Art.1), with the objective of defining procedures enabling the Community to implement, where necessary, the surveillance and protective measures required. The regulation applies to all industrial and agricultural products covered by the EC Treaty, but regarding the latter it is complementary to the regulation establishing the common organisation of agricultural markets and the special regulations for processed agricultural products (Preamble) - for the CAP, see section 6.1.4.2. Protective measures may be adopted by the Council (by QMV) on proposal by the Commission in order to prevent or remedy a critical situation brought about by a shortage of essential products, or to allow international commitments entered into by the Community or all the member states to be fulfilled, in particular those relating to trade in primary products (Art6&7). Since its establishment and in particular for the period of 1980 to 2000 the legislation for the common export regime did not change much, and in the case of agricultural products, the Community has had exclusive competences to negotiate and implement agreements with 3rd parties.[210]

The common import regime, on the contrary, has been substantially modified since its establishment by Regulation (EEC) No 1439/74. It was amended by regulations 3279/75; 516/77; repealed by 926/79; which was repealed by 288/82; repealed by

[210] EU Homepage, summaries of legislation, commom rules for exports; and Regulation (EEC) No2603/69.

517/94 (covering textiles), 518/94 and 519/94 (covering Albania, CIS, North Korea, China, Mongolia and Vietnam). Regulation 3285/94, which has so far remained in force,, repealed, in turn, regulation 518/94. It applies to all imports originating in 3rd countries, except the cases covered by Regulations 517/94 and 519/94, and on a complementary basis the regulations on agricultural products covered by organisations of the market (see section 6.1.4.2 about the CAP below);and it was amended by regulations 139/96; 2315/96; 2474/2000. It is beyond the scope of this research to analyse all the modifications to the common import regime of the EU. The relevant point is to note that the major modifications reflect to a large extent the re-regulation of aspects of the import regime for which competences were transferred from the member-states to the Community with the implementation of the Common Market, as stated in the Single European Act of 1986 (into force in 1992), and the adaptation to new agreements signed under the GATT/WTO agreements.

A common feature of the regime for the period of 1980-2000 is that the general rule is the free importation, though with three basic exceptions: safeguarding measures, which may be applied to imports that increase in such quantities and are made under such conditions as to cause or threaten to cause serious injury to Community industries, provided there is a Community interest to do so; surveillance measures for the system of automatic import licensing; and the imposition of quotas. In addition imports can be affected by the application of measures against "unfair practices" from 3rd countries, as stated in the Anti-dumping, Anti-subsidy and Trade Barriers Regulations. These instruments are seen in detail in the following.[211]

6.1.4.1.2) Trade instruments

Countries, and for that purpose, common unions, have a number of instruments at their disposal to use in order to achieve economic or political goals. Trade instruments can be classified as traditional border (tariffs, quotas), traditional behind-the-border (on the active side, export and production subsidies, importing licensing, etc; and on the passive side, countervailing duties, anti-dumping, etc), and "new" behind-the-

[211] EU Homepage, summaries of legislation, common rules for imports; and mentioned regulations.

border (technical regulations and standards, rules of origin, competition policy).[212] Under the (liberal) international trade regime of the GATT/WTO, the use of trade instruments is regulated and restricted to particular cases. When a 3rd country is found to promote unfair trade measures, i.e. contravenes against GATT/WTO norms, the affected country is allowed to apply measures to compensate this violation. The measures vary, but usually consist in the suspension of imports from the 3rd country, imposition of import quotas or higher tariffs/duties. The GATT/WTO has rules defining what constitutes unfair trade and setting procedures about how to deal with it. These are reflected in the EU regulations as seen above.

This section will analyse the instruments from the perspective of their cooperative effects upon the SCS agricultural exports. From this perspective, two categories of instruments can be distinguished; the first category is the CCP border instruments, basically tariffs and quotas. The higher the tariffs applied to the agricultural products exported by the SCS, the lower the level of cooperation; the lower the designated quota for SCS in a specific agricultural product, the lower the level of cooperation.

The second category of instruments are the CCP instruments against unfair practices in SCS exports (on account of, for example, benefits through production or export subsidies, or because their prices are dumped). In principle, these instruments should not have a political (cooperative) meaning, i.e. they should be applied technically to the pertinent cases, and their use should be seen as an indicator of SCS uncooperative behaviour, not of the EU's. However, it has been pointed out that in many cases these instruments have been used in a biased manner in order to find perpetrators even where there are none. This has been done either by distortions in the procedures of the EU's internal regulations, or by simply not following them very closely.

[212] Tariffs is here defined as a trade instrument, despite the fact that the CCP differentiates between the "common external tariff" and (other) 'trade instruments ". This differentiation was done because while the EU became to have a common external tariff at the moment that it became a custom union in…, the uniform application of the (other) trade instruments remained under the competence of member states until the completion of the Common Market, in 1992. The „new behind-the-border" instruments are in fact not new at all, the novelty is the acknowledgement that they can be used intentionally as protectionist barriers to trade, and for that reason included in the Uruguay Round.

a) Tariffs and the Pyramid of Preferences

The most traditional instrument of trade policy is tariffs applied to imported products. As a customs union, the EU has unified the tariffs of its member-states vis-à-vis 3rd countries, and created a common external tariff for each product. The importance of tariffs in EU trade policy has been declining; the average MFN tariff from non-agricultural products was only 4,4% in 1999. For "sensitive" products, such as electronics, chemicals, pharmaceuticals and agricultural goods, tariffs are higher, but the average MFN tariff for agricultural products also decreased from 26,7% in 1995 to 17,9% in 2000. Average MFN tariffs are not, however, a good indication of market access for specific products. Some of the most important products for SCS exports face tariff peaks, such as bovine meat (above 80%), grains (above 50%), sugar (above 65%) and fruits. Moreover, when summed up with equivalent tariffs, the final tariffs applied to some of these products reached for instance, in 2000, 108% for bovine meat, 92,3% for rice, 60% for wheat flour, 48,7% for maize, 68% for refined cane sugar, 29% for oranges and 127% for bananas. [213]

A second feature of the EU tariff system is tariff escalation, where tariffs increase with the degree of processing of imported goods. Indicative calculations show that equivalent tariffs on SCSs exports in 2000 are 19% for raw materials, 14% for goods corresponding to the first level of processing; 20% for second level, and 29% for third level processing.[214] No data is available for previous periods, but the Uruguay Round, for instance, did not addresse it, so it is likely not to have changed proportionally much over the period from 1980 to 2000. This system stands accused of hampering the development of the food processing industry in agricultural export countries, a fact recognised by the Commission.[215]

A third feature of the EU tariff system is that tariffs are not applied equally for all 3rd countries, despite the centrality of the MFN principle in the GATT/WTO agreements. The EU has concluded a number of preferential trade agreements with different countries and regions, in which lower tariffs are accorded to them, constituting what

[213] Bureau, 2002, p.330.
[214] Bureau, 2002, p.334.

is referred to as the EU "pyramid of preferences", which reflects its political priorities. In the period from 1980 to 2000, the most beneficial treatment was accorded to ACP countries which are signatories of the Lome/Cotonou agreements (more than 80% of exports enter the EU with duty free on a non-reciprocal basis).[216] In second place were the countries which have concluded free trade agreements (a FTA must include a minimum of 80% of the total exports with reciprocal duty free). In third place came the countries which benefited from specific non-reciprocal tariffs under the SGP (which have an average of 54% of non-reciprocal duty free exports). Last come the countries which were only subject to MFN, with an average of 20% of duty free access.[217]

Apart from the beneficial treatment for some products under the SGP (see below), the SCS have mostly benefited from MFN tariffs only, being located, therefore, at the end of the pyramid of preferences. If the FTA negotiations with Mercosur in the context of the Association agreement succeed, it will represent an improvement in duty free access to the EU market. In March 2003, the tariff offers of the EU reached 91% and of Mercosur 83, 5% of the traded products (see chapter 2, p.24), including tariffs to agricultural products, but this agreement is not yet concluded.

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[215] EC/DG Trade, 2003b, p.4; Bouzas & Svarzman, 2000, pp.18-19; Howell et al, 1992, pp.419-420; Vaillant, 2000, pp.18-19.

[216] The preferences accorded to the ACP countries were originally allowed by the GATT 1947, as long as they remained equal or below on the tariffs existing by the time it entered into force (Art.1(2)). These tariffs were modified at the 1st Lome Convention in 1975, with base on the waiver introduced in the GATT in 1971 (Art 25), which allowed the concession of new preferential treatment to developing countries. This clause however, requires that preferential access are extended to all developing countries. While this "non-conformity" was ignored for years, it was put under strain by the Understanding in Respect of Waivers signed in 1994 , and the panels brought to the WTO dispute settlement against the EU import regime for bananas (WT/DS16; 27; 105; 158). In the Decision on Waiver (WT/L/304), signed in 1999, and Decision on the ACP-EC Partnership Agreement (WT/MIN(01)/15), in 2001, an extension of the exclusive waiver to the ACP was agreed until 2007. These negotiations were reflected in the reformulation of the EU policy towards the ACP, as stated in the Green Paper on the EU-ACP relations of 1996 and the Cotonou Agreement. The latter, concluded in 2000, replaced the Lome Conventions and instead of according trade preferences, foresees the conclusion of free trade agreements with the ACP subgroups. For further descriptive details and analysis of the effects of the Cotonou agreement and this shift of approach (often critical) see for instance: Trebilcock & Howse, 1999, p.373-375; Holland, 2002, Ch.7&8; Döpcke, 2002; Dickson, 2000; Martenczuk, 2000.

[217] In 2001, only nine WTO members were subjected to exclusively MFN treatment by the EU in all products categories, although they accounted for 45.2% of EU's total imports in goods: Australia, Canada, Chinese Taipei, Hong Kong, China, Japan, Republic of Korea, New Zeeland, Singapore, and

b) Quotas and Tariff Rate Quotas (TRQs)

Quotas are the second most traditional trade instrument; until 1993 they were used only at the national level in the EU, not by the Community, but the Uruguay Round prohibited its use shortly after; as a result, quotas were not very much used as a trade instrument by the Community.

Despite the prohibition of quotas, the Uruguay Round continued to allow the use of the system of tariff rate quotas (TRQs), by which higher tariffs are to be paid on imports exceeding the "arranged volumes". TRQs were indirectly introduced in A rt.4, which specifies that "market access concessions contained in the Schedules relate to bindings and reductions or tariffs *and to other market access commitments as specified therein*" (italics added). These other market access commitments were set out in the Agreement on Modalities for the establishment under the Reform Programme, which were never formally adopted, but remained as suggestions or guidelines for the determination and management of TRQs. They explicitly state that TRQs should be introduced on an MFN basis, but that has not been general practice. Art.XIII of the GATT Agreement also sets out rules to govern the administration of TRQs. [218]

The EU established 85 TRQs for agricultural products in its Schedule as a result from the Uruguay Round, and more were added later. It distinguished in its notifications to the WTO between current access (44), intended to safeguard historical quantities imported under special arrangements, minimum access quotas (36), opened to fulfil the minimum access obligations required by the Agriculture Agreement, and non-tariffied product quotas (6), opened for products which did not have to undergo tariffication. Four products stand out with respect to the importance of their TRQs in terms of the volume of imports covered: manioc, arrowroot and sweet potatoes (benefiting Thailand and Indonesia); maize (benefiting the US); bananas (benefiting ACP); and sugar (benefiting the ACP countries and India). Other products where sizeable TRQs have been opened include meats, some dairy products, eggs, fruits and

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the United States. All other countries benefit from some sort of preferential treatment in at least one product. WTO, 2002, p.2.

[218] Matthews & Laroche-Dupraz, 2002, pp.15-16.

vegetables and cereals. In 2001, 14% of the EU's agricultural imports from developing countries were subjected to TRQs, although the fill rate (weighted by value) was 76%; sugar, dairy products and fruit and vegetable being above the average.[219]

TRQs have been held to perpetuate the quota system given the prohibitive out-quota tariffs, and, thus, inhibiting market access to newcomers, even if they are by definition temporary as their value will be eroded by successive rounds of MFN tariff reductions. Moreover, in the case of the EU, the current access quotas are used to maintain previously-existing preferential access arrangements, reproducing its pyramid of preferences and disfavouring countries at its bottom, such as the SCS.[220]

c) Anti-Dumping

Dumping occurs when the price of a product exported from one country is less than the comparable price in the ordinary course of trade for the like product when destined for domestic consumption, or less than the cost of production plus reasonable addition for selling costs and profits. The GATT 1947 Agreement (Art.6), clarified and expanded by the Code on Anti-Dumping Measures of the Tokyo Round, and the WTO Anti-Dumping Agreement, allows the use of anti-dumping corrective measures, such as charging duties corresponding to the differential between the fair and unfair price, when it is proved that the dumping negatively affects producers of the importer country.

The EU introduced a unified anti-dumping regulation in 1968 (EC 459/68) to replace the previously disparate national regimes, which was subsequently reviewed a number of times at its own initiative, or to conform to new GATT/WTO rules. It was amended by Regulation 1681/79, which was repealed by 3017/79, amended by 1580/82, repealed by 2176/84, amended by 1761/87, and repealed by 2423/88, 3283/94, and

[219] Matthews & Laroche-Dupraz, 2002, p.19.
[220] See Trebilcock & Howser, 1995, pp.57-63; Matthews & Laroche-Dupraz, 2002; EU DG Trade Homepage, trade policy instruments (September 2002).

384/96. The current EU provisions, as stated in the Basic Regulation on Anti-Dumping (EC 384/96), require three main tests to apply anti-dumping measures: evidence of dumping, injury or threat of injury to an EU industry, and demonstration that the imposition of anti-dumping duties would be in the interest of the EU. It is the Commission who decides whether the EU initiates an investigation in response to complaints by or on behalf of an EU industry (which must represent 50% of the sector concerned), although member-states are consulted via an Advisory Committee, chaired by the Commission. It is also the Commission who evaluates whether there is a case for imposing anti-dumping measures (in most countries the decision to open a process and the evaluation is done by separate organs), although it conducts hearings and sends out questionnaires to survey the preferences of the industry. Finally, it is also the Commission which determines which remedies will be used, mostly duties, or price undertakings. The Commission has the power to impose provisional anti-dumping measures, which stand for 6 months, with a possible extension to 9 months (unless the Council decides by QMV to reverse the Commission's decision). However, in order to impose definitive action (which can last 5 years) the case must be discussed in Coreper, and approved by the Council of Ministers by simple majority vote (until the Uruguay round its was QMV).[221]

As noted before, anti-dumping is considered a legitimate instrument to be used against unfair trade practices on the part of the exporter. However, it has been pointed out that the EU has often used it as a means to protect the domestic market from external competition, by the use of legal interpretations which bias the calculations in favour of finding dumping. From 1980 to 1990, out of 430 proceedings initiated, 129 (30%) of the cases were terminated without protective measures, an unusually high proportion of accepted cases. From 1990 to 1997 the proportion decreased to about 20% (about 55 cases out of 271). Considering the whole period of 1980 to 1997, most cases were against industries from Eastern Europe (28%), Asian Tigers (11%), China (11%), Japan (8%) and the US (5%). Other developing countries accounted for 21%. In terms of issue area, most cases were in chemicals, iron, steel and machinery; only two cases concerned agricultural products. Criticism of this practice has come from member-states such as the UK, Germany and the Netherlands, fearing the negative

[221] Woolcock, 2001, pp.389-391; Bourgeois & Messerlin, 1998, pp.127-133.

effects that the distorted use of anti-dumping could have on inward FDI, and from the 3rd countries themselves, specially Japan and East Asia during the 1980s. Some of these cases were submitted to dispute settlement in the GATT/WTO, but often a diplomatic solution was attempted.[222]

d) Anti-subsidy

Not all types of subsidies are prohibited by the GATT agreements. A country is allowed to apply countervailing duties to offset subsidies from 3rd parties, only if the subsidies fall into the cases stipulated in the Tokyo Round Subsidy Code, and after the Uruguay Round, the WTO Subsidy Agreement. The latter defined three categories of subsidies, which apply to both industrial and agricultural goods (except when conforming with the Agriculture Agreement), and cover both export and domestic subsidies: a)prohibited subsidies that require recipients to meet certain export targets, or to use domestic goods instead of imported goods; b)actionable subsidies for which the complaining country has to show that the subsidy has an adverse effect on its interests; c)non-actionable subsidies, such as those for industrial research, pre-competitive development activity, assistance to disadvantaged regions, adaptation to new environmental regulations, etc.

The first EU common rules for anti-subsidies were established together with the rules against dumping by Regulation 2176/84. After the Uruguay Round it came to be addressed specifically by the Regulation on protection against subsidised imports, which entered into force on 1 January 1995. The Regulation only concerns imports from outside the EU, providing for imposition of countervailing duties on goods which have been subsidised by the governments of non-EU countries. Three conditions must be met before countervailing duties can be imposed: the subsidy must be specific (it must be an export subsidy, or a subsidy limited to a company, an industry or a group of companies or industries); it must cause material injury to a Community industry (the import sales must have caused or threaten to cause damage to a substantial part of the industry within the EC, such as loss of market share, reduced prices for producers and resulting pressure on production, sales, profits,

[222] Hindley, 1992, pp.89-96; Howell et al, 1992, pp.414-416; Bourgeois & Messerlin, 1998, pp.134-

productivity, etc), and it must be in the interest of the Community (the costs for the Community of taking measures must not be disproportionate to the benefits). As with anti-dumping action, the Commission conducts the investigation, and imposes provisional and definitive measures in the coal and steel sectors, while in other cases the latter must be approved by the Council of Ministers. The complaint and investigation procedures are similar to those governing Anti-dumping actions.[223]

e) Technical regulations and standards

The EU addresses these issues in the Trade Barrier Regulation (EC 3286/94) and its predecessor the New Commercial Policy Instrument (EC 2641/84). These regulations cover a range of trade barriers, such as standards, rules of origin, and competition policy and apply to goods, services not involving the movement of persons, and intellectual property rights where the violation of an international right has an impact on trade between the EU and a 3rd country. The TBR substituted the NCPI by request of some member-states, particularly France, who complained about the lack of efficiency of the latter resulting from the requirements of QMV in the Council for final approval. The TBR, instead, requires only a simple majority, and contains two new additional elements, it covers also the so-called non-violation cases of GATT/WTO (cases that are not illegal but nevertheless harmful), and it allows for individual firms to require the initiation of investigations by the Commission, next to entire industries and member-states.

Some aspects covered by the TBR, such as technical standards, were already addressed in the Tokyo Round with the signature of a Code on Technical Barriers to Trade. The code was expanded in the WTO Technical Barriers to Trade Agreement, and the Sanitary and Phytosanitary Agreement to specific issues regarding agricultural products. With regard to rules of origin the first ever agreement on the subject at the multilateral level was the WTO Agreement on Rules of Origin. It requires members to ensure that their rules are transparent, do not distort or disrupt trade, and set the long term aim for common "harmonised" rules of origin among WTO members, with some specific exceptions. The importance of the rules of origin is that they set the criteria

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used to define where a product was made. While for industrial goods which are assembled with parts which might have been produced in many countries abroad, it can be used as a protective measure, for agricultural products it is less relevant.

The Commission is mainly responsible for deciding and implementing TBRs. Within 45 days after the lodging of a complaint, the Commission rules on its admissibility, after consulting member-states. If it is held admissible, an investigation is formally initiated and announced in the Official Journal. The Commission has then up to 7 months to consider the case, after which it can either terminate the procedure (if the 3rd country voluntarily takes steps to eliminate the adverse effects or injury complained of), suspend it (if the 3rd country agrees to seek an amicable solution, such as to conclude a new agreement), or to initiate an international (WTO or other) dispute settlement against the 3rd country (the latter after consultation with the Article 133 Committee). If the case goes to the WTO and the 3rd party fails to comply with the panel decision, the TBR provides a basis for imposing retaliatory measures, such as sanctions, against the 3rd country, subjected to approval by QMV in the Council. The Commission may also propose retaliatory action in those cases where there is no dispute-settlement machinery. As in the case of anti-dumping, the EU has been accused of using technical regulations and standards with protectionist purposes, to compensate the reduction of tariffs in the GATT/WTO rounds.[224]

f) Safeguard measures

The GATT Agreement allows countries to restrict imports of a product temporarily if its domestic industry is seriously injured or threatened with injury caused by a surge in imports, by means of, for example, import quotas (Art.19). These measures have rarely been used, in most cases governments have preferred to persuade the accused country to "voluntarily" restrain its exports. The WTO agreement on Safeguard Measures prohibited these "grey measures" arrangements an d set time limits (a sunset clause) on all safeguard actions. The bilateral measures which were not modified to conform to the agreement were phased out at the end of 1998. Countries were allowed to keep one of these measures an extra year (until the end of 1999), with the EU being

[223] EU Homepage, DG Trade, Trade policy instruments, Anti-Subsidy (April 2000).

the only one exercise this option, with respect to its restrictions on imports of cars from Japan. If, after investigation, a case of improper safeguard measures is found, the country who is restricting the imports must in principle give something in return to the exporter, i.e. compensation. If both parts do not reach an agreement, the exporter can retaliate by taking equivalent action. Developing countries are to some extent shielded from safeguard measures, since their exports can be restricted only if they correspond to more than 3% of the imports of the specific product, or 9% together with other developing countries.

Safeguard measures are included in the Regulations on the common regime of imports (since 1980): 288/82 (Title V, Arts.15-18), 518/94 (Title V, Arts.14-17) and 3285/94 (Title V, Arts.16-22). They may be applied to imports that increase in such quantities and are made under such conditions as to cause or threaten to cause serious injury to the Community industry, provided that there is a Community interest to do so. At the request of a member state or at the Commission's own initiative, an investigation may be initiated on the basis of which measures may be applied on a case-by-case basis.

g) Surveillance of import licensing

The WTO negotiated an Agreement on Import Licensing, expanding from the Tokyo Round code on the issue, which requires that governments improve information, transparency and efficiency in the concession of import licenses, not taking more that 30 days to deal with an application. As for the case of safeguards, procedures to adopt surveillance of import licensing are included in the regulation on the common import regime (since 1980): 288/82 (Title IV, Arts.10-14), 518/94 (Title IV, Arts.9-13) and 3285/94 (Title IV, Arts.11-15). Where the trend in imports of a product originating in a 3rd country threatens to cause injury to Community producers, and where the interests of the Community so require, imports of that product may be subject to retrospective or prior Community surveillance, for a maximum period of six months. Products under prior surveillance may be put into free circulation only on production of an import document, which must be endorsed by the competent authority designated by member states, free of charge, for any quantity requested and

[224] EC Regulation 3286/94; Woolcock, 2001, pp.391-393.

within a maximum of five working days of receipt by the competent national authority of a declaration by any Community importer.

6.1.4.2) Common agricultural policy (CAP)

The common agricultural policy is not strictly speaking, part of EU foreign policy. It has however a direct impact upon EU agricultural trade, insofar as it complements the regulations concerning common import and common export regimes of the EU. Its instruments, such as export and production subsidies, affect world prices and demand for agricultural products, especially for dairy products, cereals, sugar and bovine meat, with the last three being of particular importance for SCS exports. The higher protective CAP measures, the cheaper internal prices, and the lower the demand for SCS exports. Before analysing CAP effects upon the SCSs exports, this section provides a brief historical background of the CAP and its reforms.

The common agriculture policy (CAP) was established by Articles 38-47 of the Treaty of Rome. Art.39 (1) set out the objectives of CAP, notably to increase agricultural productivity though the promotion of technical progress and the optimum utilisation of factors of production, especially labour, to ensure a fair standard of living for the agricultural community, in particular by increasing individuals earnings of persons engaged in agriculture, to stabilise markets, to assure availability of supplies, and to ensure that supplies reach consumers at reasonable prices. Art.43 (1) requested the Commission to convene a conference of the member states in order to compare member states' agricultural policies, as well as their resources and needs, and this took place in Stresa, Italy in July 1958.

After Stresa, a special committee chaired by the first commissioner for agriculture, the Dutchman Sicco Mansholt, was created to study how to create a common domestic market and, as a necessary consequence, a common trade policy vis-à-vis 3rd countries in this area. In 1962, the committee established a special agency to control and supervise the flows of trade in agriculture in order to set rules and regulation. The original idea was to use mainly three instruments: variable import levies to products such as wheat, coarse grains, sugar and dairy products; import quotas to live cattle; and quality control to fruits, vegetables and wine. In emergency, special purchases,

intervention levies and destruction of surplus would be used to keep the desired prices in the internal market. The prices for each product were to be decided every year in the Council of Agriculture.

The first price policy was announced in 1964, establishing common prices for grains, pigs, poultry and dairy products. Yet, the Agriculture Council approved the agreements only in 1967, after controversial discussions among member-states, mainly between Germany and France. Once implemented, the system effectively isolated the internal market from international competition. This fact, combined with the general economic growth of member-states, and the increase of productivity due to technical improvements, lead to a rapid transformation of the EU from a net importer of agricultural products to an exporter. Moreover, the overproduction led to the accumulation of surpluses. Shortly after the system began to work, it became already clear that some reforms had to be implemented in order to equilibrate the market and contain the increasing costs for the EU. In 1968, Mansholt proposed a plan (Agriculture 1980) in which the emphasis lay on switching away from price support towards structural reforms. The plan was however rejected, especially by Germany, and supported by the Community Farming Pressure Group (COPA). The modified version, proposed in 1969, known as the Mini Mansholt Plan, was approved by the Council in March 1971, parallel to a demonstration which gathered more than 80.000 farmers in Brussels, but was never implemented, on account of poor harvests and an increase in world prices in 1973-4, which took off some of the pressure for reform.[225]

This situation remained until the 1980s, when the distorting effects of CAP were felt by the EU's main trading partner in agricultural products, the United States. The US did also have protective domestic agricultural policies, but in the face of its increasing deficit, and in combination with the perception that its agriculture was actually more competitive than the EU's, it reverted its position and decided to pursue a unilateral and multilateral liberalisation strategy. At the unilateral level, measures such as the 1985 Farm Bill, reducing subsidies by 20%, and the 1990 Budget Reconciliation Act were implemented. At the multilateral level, as was seen above, the US made pressure

to include a broad liberalisation in agricultural products in the agenda of the Uruguay Round.

On the part of the EU, the first sign of a change towards reforms was the establishment of dairy quotas approved by the Agriculture Council in March 1984, and the establishment of budget stabilisers approved by the European Council in February 1988 as part of the measures to contain the increasing misbalance of the EU budget.[226] In July 1991, agriculture commissioner Ray Mac Sherry issued a package of reform proposals based on the communications of the Commission COM (91) 100 & COM (91) 258/3. This proposal was quite radical, and in light of both the internal (costs) and external pressures (US, Uruguay Round) it was approved by the Council in May 1992. The reform covered about 75% by value of EU agricultural production, including cereals, oilseeds, protein crops, tobacco, milk, beef and sheep meet, and its main feature was the partial switch from support based on high prices to support based on direct payments to farmers (partial because prices, although lower, remained above world levels for most cases). This shift implied a move away from prices and market guidance towards an income policy, and a transfer of the financial support from the consumer to the tax payer. [227]

In 1997, the agriculture commissioner Franz Fischler proposed a new major reform to the CAP, as part of the Commission's Agenda 2000 budget package to prepare for EU enlargement. Although the major concern was to accommodate CEE countries, the reform must be seen in the context of the necessity of addressing the shortcomings of the reform of 1992 (budgetary pressure even in the absence of enlargement), and the foreseen pressures from the future negotiations within the WTO. The reforms were adopted by the Berlin Council in 1999, and include an extension of the price cuts advanced by the 1992 reform to the sectors of cereals and bovine meat, new price cuts in the sectors of dairy products, olive oil and wine, and progressive replacement of price support to income support. The reforms can potentially result in greater market

[225] For more details about the historical developments of CAP see for instance George, 1996, pp.172-193; Howarth, 1992; Marsh, 1997; Andrews, 1973, pp.12-24; Ackrill, 2000; Grant, 1997, Ch3.
[226] For details about both measures and the political dynamics of their adoption see for instance Moyer & Josling, 1990, pp.66-99 & Ackrill, 2000, pp.85-92.
[227] For content and political dynamics underlying the MacSherry Reform see for instance Ackril, 2000, pp.92-107.

access for the SCS, but since its implementation exceeds the period of time relevant in the present study, it is not analysed in detail.[228]

Many studies attempt to explain the causality between the EU's liberalisation of agricultural policies (CAP reforms) and the GATT/WTO rounds, with different findings.[229] For the purposes of this study, the important point is to note that since the end of 1980s the EU's trade policy for agricultural products has changed significantly as a result of both the GATT/WTO agricultural negotiations and the CAP reforms. From 1992 to 2001, EU exports subsidies decreased from 25% to 5,2% of the value of farm exports; which had a positive effect on the SCS, since about 19% of export subsides in 1994 were for bovine meat and 17% for wheat, two products in which they are competitive. As regards domestic subsidies, the achievements were not as significant. The EU justifies the maintenance of domestic farm support as a political choice based on the "multifunctionality" of agric ulture.[230] It recognises that the elimination of domestic support would favour some developing countries such as Argentina and Brazil, but that their gains would come at the cost of greater food insecurity and rural deprivation in many other developing and developed countries.[231]

6.1.4.3) Development policy

Since the general features of EU development policy were already examined in section 5.1.4.4, in this section only the specific programmes concerning agriculture are described. Two programmes are of particular interest, the System of Generalised Preferences (SGP), and the programmes relating to cooperation in the area of technical norms and standards, and animal and vegetable health.

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[228] See for instance Akcrill, 2000, Ch4; EP 1999.

[229] For the case of the 1992 reforms and the Uruguay Round see for instance Paarlberg , 1997; Patterson, 1997; Coleman & Tangermann, 1998; Gardner, 1996; Ackrill, 2000.

[230] The "multifunctionality" of agriculture is a concept which attributes to agriculture a number of functions apart from the production of food and fibers, such as the protection of environment, preservation of landscapes and rural employment. In other words, agriculture is seen as producing both commodity, and non-commodity outputs, and some of the non-commodity are considered positive externalities, or public goods. This broad definition of agriculture implies restrictions in the liberalisation of agriculture, as advanced by the GATT/WTO, and is often accused of masking protectionist intentions. It has been addressed as the "Lampedusa effect", in reference to the famous statement in the novel "The Leopard", from T omasi di Lampedusa, "if we want that everything continues to be the same, it is necessary that everything changes". Laurent, 2000, p.50.

[231] EC/DG Trade, 2003b, pp.7-8, WTO, 1994, p.25; Laurent, 2000.

The EU's Scheme of Generalised Preferences (SGP) was created in 1971 based on the GATT enabling clause of the same year.[232] It has been renewed a number of times to accommodate changes on the level of development of benefiting countries and the level of competitiveness of their specific sectors (countries which "graduate" to higher stages of development, or to higher levels of competitiveness of the specific product are excluded from the GSP), as well as changes in the relevant GATT/WTO provisions. The original scheme was renewed in 1980. In 1994 a new regulation was issued (No.3281/94) for 1995-1998, which was replaced by regulation No.2820/98 for 1999-2001, and No.2501/2001 for 2002-2004. Agricultural products were included since 1996 as stated in the EC regulation 1256/96 for 1996-1999. The products and countries benefiting from GSP are listed in the annexes of the regulations. While the SGP originally addressed only developing countries in general, it later included other specific arrangements, such as the special incentives for the protection of labour rights; the protection of the environment; and the combat of drug production and trafficking. In 2002, the Initiative Everything but Arms was created to favour the least developed countries (LDCs). Each arrangement of the scheme must benefit all developing countries covered by the specifications. Different products are covered by each category, and different categories may grant different tariff preferences for the same product. Until 1995, the preferences were implemented in the form of quotas and ceilings for the beneficiary countries and products. Since then, given the prohibition of the use of quotas as a result of the Uruguay Round, the preferences are implemented via reduction of the MFN tariffs. Where the MFN becomes zero, it becomes impossible to grant preferences for the product. [233]

The SCS have been addressed in the general scheme since 1971, but agricultural products (with the exception of some processed ones) were not covered until 1996. The SCSs initially benefited from this scheme, but Argentina, Brazil and Uruguay were excluded in 1999, as they had "graduated" in a number of product categories such as meat and dairy products in the case of Argentina; meat, coffee tobacco in the

[232] See section 6.1.3 p.162.
[233] See EC/DG Trade 2003a and original regulations. For the definition of developing countries see section 5.1.4.2.1, p.105).

case of Brazil and meat in the case of Uruguay. Regulation 2501/2001 removed further tariff preferences of Argentina and Brazil. [234]

The projects on technical standards, and animal and vegetable health were advanced in the 1992 Agreement with Mercosur, and they were also supported in the MEBF Business Facilitation Measures. The latter was initiated in 1993 and focussed on the eradication of foot-and-mouth disease, which has affected the export of meat from the SCS to the EU. The former was initiated in 1994 and aimed at improving the level of harmonisation between the EU and SCS technical standards. Both types of programmes contribute directly to the increase of trade by lifting barriers to trade as a result of increased compatibility between regulatory systems partners, and indirectly by decreasing the probability that these instruments are used distortively. Since the establishment of the Common Market the EU promotes the transfer of knowledge and best practices in the area of technical standards to third countries. Once these achieve compatible regulatory systems, they can sign mutual recognition agreements (which apply to one or more categories of products), but that was not the case with the SCS at least until the end of 2000.[235]

6.1.5) The level of cooperation of EU foreign policy behaviour

In the following, the level of cooperation of each policy instrument regarding agricultural trade: of the EU common commercial policy, the common agricultural policy and the development policy will be analysed. It is important to note, however, that until the completion of the Single European Market in 1992 (initiated in 1985), a number of trade instruments, such as quotas and technical barriers to trade, were under the competence of member states. In terms of trade relations, until 1992, the EU was a customs union, with a common external tariff system under exclusive competence of the Community, but without a full common import and export regime, in terms of internal regulations. Only with the harmonisation of its "domestic" trade regulations, other trade instruments than tariffs were progressively transferred to the EU level. Therefore, only the instruments which have remained under the competence

[234] Regulation EC No.2820/98 Annex II Part I; Regulation 2501/2001 Annex I.

of the Community throughout the whole period of observation will be considered as indicators, i.e. tariff instruments (common external tariff and preferential tariffs), anti-dumping and subsidies in the context of the Common Agricultural Policy to avoid distortions. [236]

As regards tariffs, despite the general decrease of MFN average tariffs for agricultural products resulting from the Uruguay Round, the most important products for the SCS are subject to tariff peaks. The general behaviour of the EU during the Uruguay Round cannot be defined as cooperative vis-à-vis the SCS (represented in the Cairns Group) either. The EU was reluctant to liberalise agricultural trade during the negotiations, and the resulting texts reflected the bilateral negotiations with the US. The SCS considered the Uruguay Round a success only to the extent that it represented an opportunity to rewrite the rules governing agricultural trade, rather than achieving a substantial reduction in protection. As regards the SGP, preferential tariffs to agricultural products were included only in 1996, but some were excluded again in 1999. The lauching of negotiations with Mercosur for the conclusion of an FTA including agricultural products, in 1999, can be said to represent a clear step towards more cooperation. A definitive evaluation of this initiative can only take place after the end of the negotiations, when the specific commitments are known. So far, it has been pointed out that, despite the fact that EU's liberalisation offer has reached 91,5% of the products exported by Mercosur, it does not include some of the products in which the SCS are most competitive, such as meat, sugar, soy oil, tobacco and processed products, and which remain the most protected sectors within the EU.[237]

As seen above, a decrease of the use of anti-dumping measures against the SCSs is considered as an indicator of improvement of cooperation. In terms of the complaints of the EU, only "abusive" complaints should be taken into consideration as an indicator of (un)cooperative behaviour, since in the case of legitimate complaints against unfair trade practices on part of the SCS the EU is only exercising its rights.

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[235]See EU DG External Relations homepage: description des projects de cooperation UE-Mercosur and EC-DG Enterprise, 2000, pp.62-65.

[236] Interestingly enough, despite its enormous effect on extra-EU trade, the Single European Act contained only one mention of the rest of the world; 'the Community's trading partners will not be offered the benefits from the enlarged Community market without themselves being forces to make concession" (Art.??) , and treated the entire initiative as of purely European concern. See Page, 2002, p.130-131; Torrent, 2002, p.216.

[237] See Folha de Sao Paulo, Editorial, 22/03/2003.

The judgement of which complaints were abusive requires a deep knowledge of all cases and their technicalities. Since this data was not available, a second best option can be to look at the number of successful cases brought by the SCS against the use of anti-dumping measures on the part of the EU. A decrease in the number of successful cases by the SCSs indicates an increase of cooperation on part of the EU. As is seen in the following table, there was only one case brought against the use of anti-dumping measures by the EU in 1994 for agricultural products, but the use was found to be legitimate. This indicator can be interpreted as a sign that the EU did not use the imposition of anti-dumping measures in a distorted way in the case of agricultural products. The analysis of non-agricultural products also supports this argument.

Table 49: Trade disputes between the EU and the SCS brought to the GATT(adopted panels)/WTO(adopted panels and disputes going on) dispute settlement mechanisms

Complainant	**Respondent**	**Date *1**	**Code and dispute**
Uruguay #	*2	02-1962 (16-11-1962)	BISD 11S/95; BISD13S/35 & BISD13S/45 Restrictive measures concerning temperate primary products such as wheat, rice, and bovine meat
Brazil	ECs #	10-11-1978 (10-11-1980)	BISD27S/69 ECs export refunds for sugar
EEC #	Brazil	23-12-1992 (28-04-1994)	SCM/179 Countervailing duties on milk powder and certain types of milk
Brazil	EC #	05-04-1994 (12-06-1995)	BISD **Anti-dumping** duties on imports of cotton yarn
Uruguay	EC	17-01-1996 (request for consultation)	WT/DS25 Implementation of Uruguay Round commitments concerning rice
Brazil #	EC	12-06-1997 (13-07-1998)	WT/DS69 Measures affecting importation of certain poultry products
EC	Argentina	15-09-1997 (suspended in 29-07-1998)	WT/DS77 Measures affecting textiles, clothing and footwear
EC	Brazil	20-05-1997 (request for consultation)	WT/DS81 Measures affecting trade and investment in the automotive sector
EC	Brazil	13-01-1998 (request for consultation)	WT/DS116 Measures affecting payment terms of imports
EC #	Argentina	11-06-1998 (14-12-1999)	WT/DS121 Safeguard measures on imports of footwear
EC	Argentina	In consultation since 29-09-1998	WT/DS145 Countervailing duties on imports of wheat gluten
Brazil	EC	11-12-1998 (request for consultations)	WT/DS154 Measures affecting differential and favourable treatment of coffee
EC #	Argentina	04-06-1999 (16-02-2001)	WT/DS155 Measures on the export of bovine hides and the import of finished leather
EC	Argentina	In consultation since 14-01-1999	WT/DS157 **Anti-dumping** measures on imports of drill bits from Italy
EC	Brazil	In consultation since 14-10-1999	WT/DS183 Measures on import licensing and minimum import prices for textiles, sorbitol and carboxymethylcallulose, etc.

EC #	Argentina	06-11-2000 (28-09-2001)	WT/DS189 **Anti-dumping** measures on ceramic floor tiles from Italy
Brazil	EC	12-10-2000 (request for consultation)	WT/DS209 Measures applied under the EC's GSP scheme affecting soluble coffee
Brazil	EC #	07-06-2001 (07-03-2003)	WT/DS219 **Anti-dumping** duties on malleable cast iron tube or pipe fittings
Argentina	EC	In consultation since 04-09-2002	WT/DS263 Measures affecting imports of wine
Brazil	EC	In consultation since 27-09-2002	WT/DS266 Export subsidies in sugar
Brazil	EC	In consultation since 11-10-2002	WT/DS269 Customs classification of frozen boneless chicken

Source: compiled by author with data from WTO & EC/DG Trade Homepages.

# indicates who won the panel, when not indicated, the panel is not yet finished

*1 If not indicated otherwise, date of establishment of panel and (data of panel /appellate body report)

*2 Austria, *Belgium*, Canada, Czechoslovakia, Denmark, Finland, *France, Germany*, *Italy,* Japan, *Netherlands,* Norway, Sweden. (in italic EU members at the time). In the two further reports adopted in 03-03-1965, Uruguay complained about the not fully compliance to the recommendation of the report of 16-11-1962.

As regards the measures in the context of the CAP, it was seen that the EU has been engaging in a process of reforming the CAP since the late 1980s. This is expected to benefit the SCS, since they are competitive in a number of products which are supposed to be liberalised (a reform of the CAP will not necessarily benefit all developing countries; the non-competitive and net food importers will actually be damaged, since it is expected that world prices for the affected products will rise). Even if the effect of the already implemented commitments from the reforms of 1992 and 1999 do not seem to have benefited the SCSs significantly, it is still the case that the reforms must be seen as an improvement in the level of cooperation with the SCSs.

As far as the EU's development policy is concerned, the two programmes described above; technical norms and animal and vegetable health indicate an improvement of the level of cooperation of EU foreign policy behaviour from the first to the second period, since they were initiated in 1994 and 1993, respectively. Although their impact is diffuse, it should not be underestimated, especially in the case of EU imports of meat.

To conclude, the analysis of the indicators shows that the level of cooperation of EU foreign policy behaviour was very low for the period of 1980-85, and increased slightly in the period of 1995-2000, supporting the statement that EU foreign policy

behaviour towards the SCS has become more cooperative although at a very low level. The conclusion of the FTA Agreement, the developments of the CAP reforms, as well the commitments regarding agriculture in the Doha Round, which should take place in the next 5 years, will be decisive to make a more definitive argument.

Table 50: The level of cooperation of the EU foreign policy behaviour towards the SCS in agricultural trade (very low, low, medium, high)

Indicators	**1980-85**	**1995-2000**
Tariffs	High tariffs , bottom of the pyramid of preferences =>coop. very low	Lower tariffs, SGP (thou decreasing after 1999), possibility of FTA =>coop. low
Anti-Dumping cases lost by the EU at GATT/WTO	0 =>no effect to coop	0 =>no effect to coop
CAP	Subsidies =>coop. null	Reforms =>coop. very low
Development policy programmes	No => coop. null	After 1993 animal and vegetable health and 1994 technical norms =>coop. low
Resulting level of cooperation	**Very low**	**Low**

6.2) Independent variables and test of predictions

In order to explain why the level of EU foreign policy behaviour towards the Southern Cone States has become more cooperative from the period of 1980-1985 to the period of 1995-2000 for the case of agricultural trade, the value of the independent variables of the approaches being taken into consideration, and the test of their predictions for each period of time and the covariation test is examined in sections 6.2.1, 6.2.2 and

6.2.3. Section 6.2.4 makes further observations and concludes with the evaluation of the different explanatory approaches.

6.2.1) Neorealism

As seen in Chapter 4, and 5.2.1, the power position of the European Union can be said to have increased from the period from 1980-1985 to 1990-2000, given the change of polarity of the international system and the increase of the EU's relative power position. Since the observed level of cooperation increased from the first to the second period, the covariation test is confirmed. Neorealism, however, does not explain the absolute level of cooperation in each period; it could have been for instance low or very low in the first period, and medium or high in the second.

Table 51: Test of Neorealist prediction for the case study agricultural trade

	1980-85	**1990-95**
Independent variable	High differential in relative capabilities between the US and the EU	Lower differential in relative capabilities between the US and the EU
Expected level of cooperation in the EU foreign policy behaviour towards the SCSs	->	higher
Observed level of cooperation in the EU foreign policy behaviour towards the SCSs	Very Low	Low

6.2.2) Identity Constructivism

As analysed in Chapter 4, and 5.2.2, the role position of the SCSs was evaluated to be the one of neglected in the first period, and benign client in the second. The expected

level of cooperation would be therefore low for the first period and medium for the second. The test of covariation of Identity Constructivism is confirmed, since the level of cooperation increased from the first to the second period. It overestimates, however, the absolute level of cooperation of the second period.

Table 52: Test of Identity Constructivism prediction for the case study of agricultural trade

	1980-85	**1990-95**
Independent variable	Neglected	Benign client
Expected level of cooperation in the foreign policy behaviour towards the SCSs	Very low/low	Medium/high
Observed level of cooperation in the EU foreign policy behaviour towards the SCSs	Very low	Low

6.2.3) Utilitarian Liberalism

The values of tje independent variable "EU dominant interests" was not yet determined given that it must be done separately for each case study. The organised actors in the EU agricultural trade policy network, their interests and foreign policy preferences can be seen in section 6.2.3.1, and the most assertive in section 6.2.3.2.

6.2.3.1) Organised actors

Table 53: Organised actors in the EU agricultural trade foreign policy network

Type	**Main actors**	**Organized in 1980-85 /1995-2000**	**Foreign policy preferences**
Political	a)European Parliament	-yes/yes	-improve market access to SCSs exports

	b)European Council and Council of Ministries	-yes/yes	-advance their national interests and increase their prestige within the EU
Administrative	c)European Commission	-yes/yes	-trade liberalisation subjected to multifunctionality of agriculture
	d)Economic and Social Committee	-yes/yes	-trade liberalisation subjected to multifunctionality of agriculture
Political-Administrative	e)Special Committee on Agriculture (SCA), Committee 133	-yes/yes	-extend policy-making power; increase financial means conditioned to not increase of national contribution
Economic Pressure Groups	f)MEBF g)COPA/COGECA	-no/yes -yes/yes	-trade liberalisation -preserve market protection
Political Advocacy Groups	h)CIDSE	-no/yes	-improve market access to SCSs exports
	i)Working Group EU-Me	-no/yes	-trade liberalisation

a)European Parliament - an analysis of the most important EP resolutions regarding the Southern Cone States indicates that the EP has shown some concerns in respect of the use of the SGP, but as seen, this instrument did not actually include agricultural products until 1986. The first clear concern regarding agricultural trade appeared only in the two resolutions of 13-6-1985, in which the CAP and liberalisation of tropical products at the multilateral level are addressed. It can hardly be considered a mobilised actor in the issue area for the period of 1980-85. In the second period, it addressed the issue a couple of times, but despite the support for Paraguayan exports of bovine meat (resolution of 16-2-89), it can not be said that the EP took a very strong position in favour of an increase of cooperation with the SCSs regarding agricultural trade; the resolution of 16-5-95, for instance, shows general satisfaction with the results of the Uruguay Round.

Table 54: Agricultural trade matters in the EP resolutions regarding the SCSs

Resolution	**Target**	**Agricultural trade related issues**
22-04-82	Argentina	Approves the sanction applied to imports from Argentina in the context of the Falklands War (para 4)
14-10-82	LA	Insists in the possibility of increasing the efficacy of the SPG of the EC, insufficiently used by the Central American countries, and favours the extension of resources and means of the EC to promote the exports of these countries (paragraph 12).
12-10-83	LA	Calls the attention to the decreasing participation of LA in the imports from the EC and asks for improvement in the SPG to Latin-American countries with the aim of abolishing commercial barriers (paragraph 8)
13-06-85	LA	Claims that the EC could perform an essential contribution to LA countries by opening more its markets to their exports (para 3); notes that this objective is conditioned to the efforts to restructure the sensitive sectors from the EC (such as siderurgy and textiles) and restructure the CAP (para 4); regrets that no practical implementation has followed the recommendations of the Final Act of the VI Interparliamentary Conference between CE-LA such as in respect to (d) the improvement of the SPG to LA (para 9).
13-06-85	LA	Insists that the EC assists LA countries to improve their use of the SPG (para 7); calls the communitarian institutions and member states to work in forums such as the UNCTAD an GATT in favour of the improvement of the commercial conditions for tropical products and the conclusion of agreements for commodities (para 31).
16-02-89	Par	Emphasises that more than half of the Uruguayan exports to the EC are agricultural and derivatives and that only 20% of this exports benefit from the SPG, indicating a mismatching between Uruguayan exports and EC demand for imports (para6); shows concerns with the losses of Uruguay in its exports of bovine meat to the CEE and 3rd parties in consequence of the CAP and asks the Commission and the Council to establish quotas to this countries for the exports of high quality bovine meat (para 7);
16-05-95	Me	Urges the Framework Agreement to include the political commitment to negotiate the establishment of a FTA for trade in industrial goods and services, and the progressive reciprocal liberalisation in agricultural goods (para 2); is convinced that the final agreement of the Uruguay Round concerning the liberalisation of agricultural exchanges will have a positive effect to improve the access of Mercosur to the international

		markets (…) and that in this context considers that the space of manoeuvre to offer additional concessions is very limited (para 7)
03-02-97	LA	Considers it vital for the EU to support integration between the emerging countries of LA through the flexible application of advantages conferred by the SGP on a regional basis and, in this sense supports the notion that where an emerging country no longer benefits from the GSP, the system of regional accumulation might continue to be applied to components from that country used by the remaining countries belonging to the same regional grouping (para 15); insists that trade protectionist measures which discriminate against LA products, i.e. agricultural subsidies, need to be addressed within the EU to support and encourage growing trade links between these two regions (para 22)

b) European Council and Council of Ministries - no references regarding agricultural trade with the SCSs were found in the European Council Summit conclusions, as can be seen in the table of section 5.2.3(b). The relevant Ministerial Councils for the case study of agricultural trade would be the General Affairs, the Agricultural and the Development Council. It was not possible to obtain data for the meeting conclusions, but it can be said that, at least in the context of the CAP, it does not seem to be the case that member states were concerned with the SCSs. Even the studies which attribute the main cause of the CAP reforms to the Uruguay Round (and not to domestic factors), emphasise the pressure exerted by the United States, rather than that of the Cairns Group, in the negotiations. This claim is confirmed by the fact that the resulting agreement was to a large extend based on the Blair House Agreement, concluded between the EU and the US only.[238]

It should be emphasised that despite the general effort on the part of Portugal and Spain to develop closer relations with LA, this does not seem to have had a direct positive effect upon EU trade policy (including agricultural trade) with LA. On the contrary, these countries had to renounce all trade agreements previously concluded with 3rd nations, upon their admission, including those with LA. As latecomers into the EU, they were in no position to lay down conditions that would benefit LA in the realm of the CCP, as France and the UK did with regard to their former colonies. In

[238] See section 6.1.4.2.

fact, the reverse happened; membership in the EU required fundamental changes in their commercial policies, several of which have had detrimental repercussions upon LA. Spain, for instance, is a net importer of agricultural products, particular cereals and meet, and with the adoption of the CAP it has increasingly shifted its supply from LA to the EU. Secondly, by joining the Lome Convention, its imports from tropical products such as sugar, coffee, cocoa, were shifted towards the ACP. Thirdly, as a full member of the EU, Spain has been able to expand its exports of traditional manufactured products to the EU at the expense of LA. As a result, Spain's exports to LA dropped from 5.8% of its total in 1985 to 5,6% in 1993; and most importantly, its imports collapsed from 11,4% in 1985 to 4,4% in 1993. One specific trade measure favouring LA countries, attributed to the pressure of Portugal and Spain, was the granting of special tariffs under the SGP to the Andean countries (Bolivia, Colombia, Ecuador and Peru) and Central American countries, under the programme to combat drugs, but this initiative did not affect the Southern Cone States.[239]

c) Commission – In general, the position of the Commission seems to have changed from the first to the second period to a more liberal approach to the EU agricultural policy, both in the context of the CAP and CCP. It did not address however agricultural trade issues in its communications concerning the SCSs before the mid-90s. It was only in 1999 that it demanded a mandate to open negotiations on agricultural matters with the SCSs. As far as development programmes are concerned, it can be seen that the main interests of the Commission has been the promotion of harmonisation of standards and customs matters. The role it played in the CAP is not analysed here, but as in the case of the member-states, it is clear that the Commission did not have the SCS in mind when deciding about the CAP reforms. In general, the attitude of the Commission can be evaluated as almost not mobilised in the first period, and as mobilised and slightly favouring cooperation in the second.

Table 55:Agricultural trade matters in the Commission communications regarding the SCSs

Document	Target	Reference to agricultural trade
COM (1994) 428	Me	Proposes the gradual liberalisation of agricultural trade and cooperation in trade issues; states that the Commission will take care to reconcile the dictates of the CAP with the Community's

[239] Banklanoff, 1996, pp.112-113; Page, 2002, pp.132-134.

		international commitments, including those relating to the WTO; proposes cooperation in the fields of harmonisation of standards, trade policy instruments such as antidumping rules etc (p.16)
COM (1995) 495	LA	States that the EU has done much to counter the trade imbalances with LA via the SGP and exemptions from certain custom duties in the CAP; the reforms of the CAP and the farm-trade provisions of the GATT, the phasing out of the Multifibre Arrangement in 10 years (p. 9) but that the Union must foster freer trade in both direction and offer LA products greater access to its market to promote the smooth integration of those countries into the world economy (p.17)
COM (1995) 504	Me	Supports the establishment of FTA, cooperation in agri-food standards and customs matters (Chapter II)
COM (1999) 105	LA	Supports the establishment of a FTA in general
COM (2000) 670	LA	Only mentions the promotion of trade as a general priority

d)European Economic and Social Committee - The ESC established a dialogue with the Mercosur Economic and Social Consultative Forum (FCES), by means of a Memorandum of Understanding signed in December/1997, with a view to establishing regular exchanges of information and views. These inter-institutional contacts were consolidated during a second visit by an ESC delegation to Montevideo in May/1998. In February/2000 the EU and Mercosur foreign ministers adopted the joint proposal advanced by the ESC and the FCES for the establishment of a joint committee (JCC) in the framework of the Association agreement in negotiation since 1999 to further their cooperation. In terms of agricultural trade, it can be said that the ESC has taken a not very cooperative position towards the SCSs, in that it evaluates the current situation as satisfactory (except from opinion 195) and prioritises the multifunctionality of agriculture and the necessity of keeping a level of self-sufficiency in certain sectors for security reasons.[240]

Table 56: Agricultural trade matters in the ESC opinions regarding the SCSs

Opinion nr.	**Date**	**Target**	**References to agricultural trade**
102	26-01-1994	LA	States that LA demands centre upon improved access to European markets and that the recent GATT Agreement,

[240] ESC, 2001.

			which commits the EU to reduce external agricultural protection and export refunds by the year 2000, will certainly make it easier for agricultural produce from the countries of the South to enter the Community and international markets, but to boost their agricultural exports the Latin American countries will also have to improve quality and market their products more competitively and effectively (presentation, packaging, etc.), and comply more strictly with the relevant plant and animal health standards (para 4.1); accepts that harmonization of technical, environmental and health standards does complicate the entry of products not meeting the established requirements (para 4.2) and that in view of this new situation, the Commission needs to launch a major information initiative among Latin American operators to ensure that they can meet the new requirements and adequately exploit the new market opportunities (para 4.3). This could include an advisory project for LA exporters, not only in relation to the new conditions and standards, but also offering technical advice on how to improve the quality of their products and to meet technical requirements for packaging, labeling, health aspects, etc.; the Committee further recommends that the GSP arrangements for the three Andean Pact and six Central American countries be extended and that an evaluation be made of any (negative) repercussions on the exports of countries not covered by these arrangements (para 4.6)
1176	25-10-1995	Me	states that a trade agreement should be advantageous in terms of longer-term EU trade strategy. Recent initiatives, such as NAFTA and the Miami Summit of 9-11 December 1994, suggest a strengthened US presence in Latin America. The possibility of hemisphere-wide free trade (as envisaged at the Miami Summit) and of continued Mercosur expansion in South America, make an agreement with Mercosur crucial to consolidate the EU' s continued presence in Latin America, and sustain its privileged access to one of the world' s biggest markets (para 2.12); that difficulties might arise in the agricultural sector because all Mercosur countries, in particular Argentina and Uruguay, are exporters of high quality agricultural goods, such as wheat, beef and wine which would compete with the produce of EU Member States. The complete elimination of EU trade barriers to agricultural imports from Mercosur would affect the CAP, and might provoke complaints from third countries exporting the same products to the European Market (para 4.2.4); that the Committee wishes to express its concern that an EU-Mercosur free trade agreement should be compatible with the Union' s international obligations as regards the WTO, while conforming to the norms of the CAP (4.2.5).
459	03-05-1999	LA	States that although the development of trade between the EU and Latin America has generally been satisfactory, there are some structural problems. Despite the growth in EU exports to Latin America, there has been a drop in the EU' s relative share of Latin American foreign trade (…) From the Latin America perspective, the persistence of a growing trade deficit with the EU since 1993 is a cause for concern, and this has prompted demands for better access to European markets, mainly for agricultural products (para 2.7)
932	18-07-2001	Me, Chile	States that a important feature for Mercosur countries of the liberalisation of their trade with the EU would be the opportunity to eliminate or reduce import tariffs on certain

			products, particularly in the agricultural and fishing sectors, which make up the greater part of their sales to the EU and where they enjoy comparative advantages (para 3.6); but that the compliance with the commitments entered into in the Uruguay Round and the completed and foreseen reforms of the CAP should prevent that the problems in the agricultural sector become an insuperable obstacle to the new association agreement (para 4.7).
1326	25-10-2001	WTO	As for agriculture-related objectives, the Committee underlines the need to strike a balance between several essential requirements: increasing world food supply; extending market access for developing countries in particular; quality, food safety and consumer protection requirements; the multi-functional and social aspects of agriculture and not just its economic aspects, as legitimately championed by the EU; the well-being of farm animals; the protection of bio-diversity and traditional know-how; rural environment protection and support for restructuring; and an overall balance in the concessions granted by all the partners in their attempts to secure increased market access. The structured opening up of trade in agricultural products, reductions in import measures and in both internal and external subsidies must be carried out gradually (para 3.6.6)
195	27-02-2002	LA	States that the decision taken at the beginning of 2001 under the Everything But Arms agreement also confirms that the EU is serious about continuing to open its borders to the least developed countries, but this by no means goes far enough and that a greater impact could have been achieved by allowing access for processed agricultural products. It also states that less than 80% of trade concessions for developing countries in the form of tariff-free import quotas for unprocessed agricultural products have been used in the past few years, because of the ever more rigorous EU food safety requirements (para 1.10)
26	23-01-2002	CAP	Notes that: since the last two CAP reforms and the WTO agreements, the EU's degree of self-sufficiency in plant proteins has again fallen, last year sinking to below 25%. This constantly deteriorating situation does raise the question of Europe' s dependence on imports, entailing risks for European livestock farmers' supplies of plant proteins (para 1.5.1); Supply of this commodity is concentrated - geographically speaking - in three countries, namely the United States, Brazil and Argentina, which between them make up 80% of world production (para 3.3.2); the major cut-backs in aid are discouraging farmers from cultivating oilseed and protein crops. This is leading to a situation where the EU is becoming increasingly vulnerable. The Committee therefore remains sceptical about the idea that there would be only benefits and no risks for economic operators in obtaining nearly all their supplies of protein-rich plant substances on the international market; the concentration of supply in certain countries necessarily entails a climatic risk; if this risk should materialise, it could be long-lasting and cause farmers in these countries to alter their output (by reducing the acreage used for such crops). This climatic risk, although a very real one (this was the basis for the 1973 embargo decision), has never been taken into account by the Commission either in its policies or in its decisions. In addition it should be noted that in value terms, purchases of plant protein from third countries constitute a major item of

			the Community' s trade deficit (para 3.8, 3.9)

e) Special Committee on Agriculture (SCA), Committee 133 – the position of these committees is assumed to be in line with the position of the Ministerial Councils, given the difficulties in obtaining specific empirical data.

f) Mercosur EU Business Forum – the MEBF has taken a position in favour of trade liberalisation, including agriculture. The interest in liberalisation is advanced by the import-export firms and also European agri-business firms. The latter, who have been increasingly investing in the SCSs, see opportunity gains from selling their (SCSs produced) products back to Europe at cheaper prices once market access is secured.[241] The most important MEBF recommendations advanced in the area of agricultural trade are examined in the following.

The MEBF Rio Declaration of 1999 contains recommendations on customs procedures, trade facilitation, rules of origin, standards and regulatory cooperation, and trade defence instruments, which were prepared by the Working Group on Market Access. The declaration calls on EU and Mercosur officials to study the document with great care and to incorporate its recommendations into the EU-Mercosur meeting to take place on the margins of the 1st EU-LAC Summit in Rio later that year. The most relevant recommendations are: the elimination of tariff and non tariff barriers to trade; the improvement of the regulatory framework on a high level of protection with respect to health and safety, but without however unnecessarily duplicating of procedures; the improvement of the convergence and modernisation of customs practices and the conclusion of an agreement on a Protocol on Mutual Administrative Assistance on customs matters, support for the work of the World Customs Organisation to harmonise non-preferential rules of origin; the establishment of a permanent channel of dialogue between the authorities of the sanitary/phytosanitary and environment protection areas, in order to increase the transparency of the standard-setting process; the promotion of the harmonisation of standards and technical regulations, based on international standards as laid down, for example, by the International Standards Organisation (ISO); FAO (Codex Alimentarius) etc; and finally, the abstention of using trade defence instruments not compatible with WTO

rules, and apply appropriate instruments such as antidumping in a fair and transparent way.

The response from the Commission to the Rio Declaration welcomes MEBF recommendations, in particular for the development of a transparent and efficient regulatory framework that maintains high levels of protection with respect to health and safety. In that respect the Commission states that it will post a veterinary member of the Food and Veterinary office (FVO) of the DG XXIV with the Commission's delegation in Montevideo as from 16-8-1999 to carry out regular inspection missions to ensure that trade can take place in as safe manner as possible. As to the Protocol on Mutual Administrative Assistance on customs matters, the Commission remarked that it would need to be part of an institutional framework in the bilateral agreement and would require the development of an institutional framework within Mercosur as well. On standards, the Commission emphasised that is had a long experience in these areas and was willing to share it with Mercosur countries as it was doing already in cooperation projects. The Commission thought, however, that the establishment of a permanent channel of dialogue in the sanitary/phytosanitary area would duplicate the work of the WTO Sanitary and Phytosanitary Committee. As to the trade defence instruments the Commission welcomed the recommendations but stated that Mercosur member states must improve their compliance with WTO rules such as in the cases of the Argentine safeguards measures on imports of footwear and anti-dumping measures and the Brazilian failure to undertake mid-term reviews in relation to its application of safeguard measures on the import of toys.

The MEBF Mainz Statement of 1999 basically reaffirms the recommendations of the Rio Declaration, and emphasised the importance of a strong commitment from all parties in the liberalisation negotiations of the Association agreement to cover all sectors including agri-business. Among the new recommendations was the establishment of a bilateral dispute settlement mechanism; the implementation of business facilitation measures independently of the negotiation process; the necessity to remove production and export subsidies and incentive programmes, especially in

[241] Se for instance Chaire Mercosur, 2000, p.9

the agricultural sector; and the avoidance of using environmental standards as non-tariff barriers to trade.

The EU-Mercosur Action Plan on Business Facilitation, announced by the Commission at the 2nd EU-LAC Summit in Madrid was based to a large extent on the list of business facilitation measures prepared by the MEBF, originally presented to the negotiators of the Association Agreement in Sept/2001, and reformulated in a final proposal by means of the Buenos Aires Statement on Business Facilitation. As regards agricultural trade, the first list recommended the simplification of customs procedures and labelling systems; the granting of more favourable GSP status or increasing the amount of tariff quotas granted to products originating in Mercosur countries. The final list is focused on detailed recommendations concerning the harmonisation of customs procedures, standards and technical regulations, and it did not make any reference to GSP or tariff quotas. The Madrid Declaration of 2002 provides detailed recommendations for the removal of tariff and non-tariff barriers to trade between the EU and the SCSs (Ch.2). It states that the serious economic crisis that some Mercosur countries were facing should encourage the two regions to pursue a trade agreement that removes obstacles to trade, allowing both sides to benefit from their competitive advantages, since EU foreign investors and exports could be negatively affected if Mercosur does not reach a current account position which is sustainable in the long term (p.9). As regards subsidies to the agricultural sector, there is a divergence between EU and SCS members of the MEBF; while the former supports the view that they should be negotiated at the WTO level, the latter emphasise that the exchanged liberalisation proposals between the EU and Mercosur were subject to conditionality, such as the phasing out of agricultural subsidies, since the removal of tariffs without the elimination of non-tariff barriers and subsidies has very limited real impact on trade. Despite the different opinions, both EU and Mercosur members of the MEBF emphasise the great importance of a solution to the agriculture issue and encourage the negotiators to make every effort to achieve rapid progress on this matter (p.9-19). As regards non-tariff barriers and measures that distort trade, the MEBF urged negotiators to make this a priority and establish the means to achieve this goal, such as compiling a comprehensive list in which all trade barriers are identified and a standstill clause agreed fro NTBs. (p.10). Other recommendation are that the negotiations between the two blocks should provide

mechanisms for special and differential treatment, including the possibility of asymmetrical trade liberalisation in order to reduce the gap in terms of economic development. (p.11), that tariff peaks should be reduced rapidly in order to eliminate distortions, that import licenses should be granted automatically, customs procedures and documentation are harmonised (in that respect the MEBF recalls its Buenos Aires Statement), that international standards are used as prescribed in the WTO Agreement on Technical Barriers to Trade, that the bilateral negotiations on mutual recognition agreements for sanitary and phytosanitary measures are accelerated, that the antidumping instrument is not used for protectionist purposes, and that labelling requirements and compulsory warehousing are avoided (pp.11-14).

g)COPA/COGECA – The Committee of Agriculture Organisations (COPA) was founded in 1958 as an umbrella group for national farm organisations; the General Committee of Agricultural Cooperation (COGECA) was founded in 1959 as a confederation of agricultural cooperatives. Both organisations merged their Brussels secretariats in 1962, and have a reputation for having a very close relation with the Commission, especially with DG Agriculture. There is a consensus among authors that their influence has been decreasing, especially since the end of the 1980s, which is confirmed by their recent recurrent criticism of the Commission's positions, such as the press release entitled "The Commission goes too far in its first WTO negotiation proposals" from 17-12-2002. The activities of COPA/COGECA are described in detail in the study of the CAP and CAP reform, and will not again be reproduced here. No evidence was found of a direct reference by the COPA/COGECA to the SCSs, but in a press release of November/2000 (PR(00)60F1), they state that the EU should not conclude bilateral trade agreements (such as the one under negotiation with Mercosur) before the end of the WTO round and that these should not result in further concessions by European agriculture (para 8), as well as that, , the EU has already given a large range of trade preferences to developing countries and should not extend duty-free access to EU imports -despite its recognition of the need to ensure that developing countries fully benefit from expanding world trade- (para 9). To conclude, it can be said that the COPA/COGECA interest in maintaining the protection of the

EU agricultural markets must be seen as disfavouring a cooperative approach to the SCSs. [242]

h) International Cooperation for Development and Solidarity – the CIDSE (originally the acronym stood for *Cooperation Internationale pour Developpement Socio-Economique*) is a coordination body for Catholic aid agencies formally established in 1967. Its main aim is to provide more effective aid to the South based on the social teaching of the church, in particular the two Encyclicals on development: *Populorum Progressio* from 1967, and *Sollicitudo Rei Socialis* from 1987. In 2002, it consisted of 15 member organisations from Europe and North America, which develop and implement field projects, but also work in the preparation of studies and policy recommendations, which are made available to the public in printed and on-line publications. It has a Secretariat in Brussels, where the Board of Directors and the Executive Committee meet, but most activities are decided and implemented in a decentralised manner.[243]

CIDSE has a Task Group on EU, Trade and Food Security (TG1) which is charged with the question of the patenting of life forms and the trade in agriculture. The group developed an advocacy work specifically targeted at the European institutions, as part of the lobby coordination among the Brussels-based development and humanitarian aid networks. In the paper Food Security and the WTO, 2001, CIDSE criticises the EU position in both the Uruguay and Doha negotiations on agriculture. It accuses the Uruguay Round Agriculture Agreement to have legitimised the use of subsidies in developed countries, while narrowing the options available to developing countries, which have unilaterally liberalised their trade regimes (often as part of structural adjustment programmes) in reforms they are prevented from reversing by the WTO. It accuses the EU (and the US) of having introduced exemptions into the agreement, enabling them to increase their support to farmers, leading to the dumping of subsidised food on to the world market with damaging effects on southern producers, while at the same time net food-importing developing countries have failed to reap the benefits from lower costs, partly because of corporate control of the global food business. The paper states that CIDSE's members do not support the EU's proposal

[242] About COPA/COGECA see for instance Greenwood, 1997, Grant, 1995 Howel et al, 1992 and their homepage http://www.copa-cogeca.be/ .
[243] For details see homepage: http://www.cidse.org.

for a broad round of negotiations at Doha, and that, instead, the WTO's priorities should include: giving serious attention to the many difficulties in implementing the Uruguay Round of trade agreements, bringing the agriculture negotiations to a successful and pro-poor conclusion, introducing impact assessment as a central activity, both in reviewing past agreements and policies, and in designing new ones; and, in general, it advocates broader institutional reform of the WTO to ensure greater transparency, and more equal participation by developing country member, and a greatly enhanced role for special and differential treatment for developing countries, focusing on measures to end poverty and food insecurity.

In a statement submitted together with Caritas Internationalis in the preparatory committee for the International Conference Financing for Development of the General Assembly, in January 2002, CIDSE advanced the following specific demands with regard to trade liberalisation by developed countries (such as the EU): prevent the abuses of anti-dumping measures; eliminate export subsidies and reduce production subsidies; reduce tariff peaks and eliminate tariff escalation; accelerate the reduction of trade barriers in textiles and clothing. It also proposes that the Conference should explicit mention the negative impact of trade liberalisation on developing countries and the need for flexibility to allow them to protect themselves, particularly with regard to agriculture and food security, and that the requirement of further liberalisation on the part of developing countries should be explicitly linked to progress by developed countries in providing greater market access and reducing support to agriculture.[244] Although not specifically addressed to EU policies towards the SCSs, the CIDSE positions can be said to favour a more cooperative approach on part of the EU towards developing countries regarding its agricultural and trade policies.

i) Working Group EU-Me – the working group has adopted a position in favour of agricultural trade liberalisation. The central argument is that the establishment of a free trade area would allow for more efficient international specialisation that would generate considerable welfare improvements in the Mercosur and some improvements in the EU. Apart from certain European farmers, who would suffer the negative effects of competition from Mercosur imports, producers in both regions would benefit from a better allocation of productive resources and the reciprocal opening of

markets. Partial liberalisation that excluded sensitive sectors and particularly agriculture would have the advantage of minimising the impact of structural adjustment on the sectors exposed to competition, but would reduce collective welfare gains. In order to dissolve the "agricultural deadlock" in the bi -regional negotiations, the Working Group proposes some new solutions. One of such solution concerns the bovine meat and poultry market, and would consist of a segmentation of the European market into an upmarket, supplied by fresh domestic products, and a less demanding market supplied by imported frozen foods.

In addition, the Group advances two specific recommendations: the replacement of European production subsidies and guaranteed prices by direct transfers to European farmers (such as are already in place through CAP reforms); and the linking of trade liberalisation to investment liberalisation for the European agri-business investors in the SCSs. The first policy would pave the way for a compromise, in which Mercosur could accept the very idea of intervention in agricultural markets, justified by the multifunctionality of agriculture as a legitimate requirement of any modern society, but which does not transfer the costs of such a policy onto competitive producers in other areas of the world. The second policy, i.e., the linking of trade and investment liberalisation would help to disassociate the interests of the agri-business from the small farmers; large European agri-businesses could benefit from trade liberalisation as mentioned above, and small farmers can be supported by other means.[245]

6.2.3.2) Most assertive actors and strength of the dependent variable

The most assertive actors in the period of 1980-85, seem to have been the Council of Ministeries, which have, on the whole, been in favour of the protection of the European agricultural market. They enjoyed a high situative and structural mobilisation. The most powerful interested groups were the farmers lobbies such as the COPA/COGECA, which also enjoyed high situative and structural mobilisation. The resulting CCP and CAP have in general not been favourable to the SCSs. The Commission, also seem to have taken a more protective approach to the agricultural

[244] See CIDSE, 2001 and CIDSE 2002.
[245] See Chaire Mercosur, 2000, pp.10, 16-19.

policy, and did not address this question in its documents referring to the SCSs. The Parliament did not address it in its resolutions concerning the SCSs either.

In the period of 1995-2000, the interests advanced by the Council of Ministeriies were less convergent. While some member-states such as France still prioritised the protection of the agricultural market, others, such as Germany, took to a more liberal approach. The Commission also seems to have taken a more liberal stance towards agricultural trade as well; despite its commitment to the concept of agricultural multifunctionality, most initiatives from the Commission in the context of CAP reforms and CCP can be seen as favouring liberalisation and therefore the SCSs. On the side of private actors, the farmers lobbies seem to have decreased its structural mobilisation and influence in the Commission, whereas the MEBF seems to have increased. Advocacy groups, such as CIDSE and the Working Group EU-Me, adopted a cooperative approach to the SCSs but do not seem to have had a strong influence on the Commission.

Table 57: Most assertive actors in the EU agricultural trade policy network

Type of actor	**1980-85**	**1995-2000**
PAS	Council of Ministries	Commission
Private	COPA/COGECA	MEBF

Finally, proceeding to the measurement of the strength of the dependent variable "gain -seeking foreign policy", it can be said that for the period of 1980-85, there was no societal interests favouring cooperation with the SCSs. On the contrary, the societal interests in the EU foreign policy network regarding agricultural trade seem to disfavour cooperation, with the result of a very low level of cooperation, as predicted. In the period of 1995-2000, the value of the dependent variable seems to be "weak", but favouring cooperation, with the result of a low level of cooperation, again as predicted.

To conclude, Utilitarian Liberalism successfully explains both the absolute level of cooperation in the periods of 1908-85 and 1995-2000 and the increase in the level of

cooperation from one period to the other. The agricultural policy network seems to be better described as pluralist, rather than monopolist or corporativist. It seems to fit mostly the community method in the classification proposed by Helen Wallace (see section 4.2.3).

Table 58: Test of Utilitarian Liberalism predictions for the case of agricultural trade

	1980-85	**1990-95**
Independent variable	No societal common interests favouring cooperation; strong societal common interests disfavouring cooperation	Weak societal common interests favouring cooperation
Expected level of cooperation in the foreign policy behaviour towards the SCSs	Very Low	Low
Observed level of cooperation in the EU foreign policy behaviour towards the SCSs	Very low	Low

6.3) Further observations and explanation of the level of cooperation of the EU foreign policy behaviour towards the Southern Cone States

As seen above, the covariation test confirms the prediction of the three approaches on an increase of the level of cooperation of the EU foreign policy behaviour towards the SCSs for the case of agricultural trade. Neorealism does not offer an explanation of the absolute level of cooperation in each period, but further observations support its main prediction. Unlike the case for FDI, a number of economic studies show the trade diversion effects against the EU in the case of a conclusion of a FTAA without any counterpart.[246] Utilitarian liberalism offers an explanation of the absolute level of cooperation of both periods and the covariance successfully. Identity Constructivism

[246] See for instance Giordano & Watanuki, 2000.

does offer an explanation of the covariation, but overestimates the absolute level of cooperation in the second period.

Table 59: Observed and predicted level of cooperation for the case of agricultural trade

	1980-85	**1995-2000**
Observed level of cooperation in the EU foreign policy behaviour	Very low	Low
Neorealist prediction	->	Higher
Identity Constructivist prediction	Very low/low	Medium/high
Utilitarian Liberalist prediction	Very Low	Low

Conclusion

As stated previously, the main objective of the present study has been to answer two questions in particular: whether, or not, EU foreign policy behaviour towards the Southern Cone States has become more cooperative since the mid-to-end 1980s, and why a change, if any, occurred. Another objective has been to address these questions in a methodologically systematic fashion in order to fill the gap in the present literature on the subject.

Two case studies were selected, both for their representativeness of the most conflictuous aspects of the bi-regional relationship, as well as for methodological considerations, namely, foreign direct investment and agricultural trade.

The analysis developed for the first question was based on a descriptive inference of the level of the EU foreign policy behaviour towards the Southern Cone States. This level was analysed on the basis of a number of indicators of the relevant EU policies, and classified as very low, low, medium or high for the periods of 1980-85 and 1995-2000. A comparison of the results of this analysis, as set out in Chapters 5.1 and 6.1, leads to the conclusion that for the case of foreign direct investment, the observed level of cooperation was very low in the first period, and medium in the second period, and that the level of cooperation has, therefore, increased.

For the case study of agricultural trade, the observed level of cooperation was found to be very low in the period of 1980-1985, and low in the period of 1995-2000; even if at low levels, the level of cooperation can be said to have increased as well.

The analysis developed to answer the second question, i.e. why this change occurred, took into consideration the hypotheses advanced by three IR approaches: Neorealism, Identity Constructivism and Utilitarian Liberalism. Apart from being able to be tested empirically, these hypotheses address the three most recurrent theses in the literature about the relations between the EU and the SCSs, namely, the EU attempt to counterbalance US hegemony in the region, the processes of democratisation,

economic liberalisation, and regional integration that took place in the Southern Cone States, and the accession of Portugal and Spain to the EU.

The analysis developed in Chapters 5.2 leads to the conclusion that the increase of cooperation for the case of foreign direct investment can be explained by two groups of factors: the first relates to the processes of democratisation, economic liberalisation, and regional integration, which resulted in the initiation of a process of collective identity formation, as advanced by Identity Constructivism. The second concerns the particular interests of the European Commission, and economic pressure groups such as the Mercosur-European Union Business Forum. The influence of Portugal and Spain does not seem to have played a strong direct influence; although they have supported an increase of cooperative programmes in the context of the development policy, they have ultimately preferred to approach FDI matters at the national level, outside the EU system. The counterbalancing of US hegemony does not seem to have played a role in the increase of cooperation of EU foreign policy in the case of FDI. The cooperative policies advanced by the EU focused on the promotion of joint ventures among small and medium-sized enterprises and the improvement of the developmental effects of FDI, and not on discriminatory policies which could disfavour the FDI from 3rd parties, such as the US.

For the case of agricultural trade, analysed in Chapter 6.2, the counterbalancing effect does seem to have played a major role in the increase of cooperation of EU foreign policy behaviour towards the SCSs. The fact that the EU proposed to open negotiations for a free trade agreement in 1999, including the liberalisation of agricultural products, is clearly a reaction to the expected effects of trade diversion which would result from the conclusion of the Free Trade Areas of the Americas (FTAA). Specific EU domestic interests also seem to have contributed to the increased level of cooperation in agricultural trade, especially the change of position of member-states witnessed in the Council of Ministries and the Commission towards a less protective approach to the domestic market. The decrease of the influence of farmers' lobbies and the increase of that of business lobbies, which include agri-business sectors also seem to have played a major role. As for the FDI case study, Portugal and Spain do not seem to have had a particular strong cooperative influence on the resulting EU foreign policy behaviour.

To conclude, it can be said that the level of cooperation of the EU foreign policy behaviour towards the SCSs did increase from 1980-1985 to 1995-2000 for the case of FDI and agricultural trade. It should be stressed, however, that the increase of cooperation although existent, remained at relatively low levels. Even for the case of FDI, where the increase was greater, the cooperation seems to be more symbolic than substantial, given its low impact considering the total European outflows to the SCSs. Finally, this study hopes to have contributed to the understanding of EU foreign policy behaviour towards the Southern Cone States, and in particular of the forces stimulating and hindering greater cooperation between the two regions.

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Annex: database of primary sources

actor	date	type	reference	title/topic	target
bi	01-01-1970	agreement		agreements 1st generation (MFN clause) - Argentina 8-11-1971, Uruguay 6-11-1973, Brazil 19-12-1973, Mexico 15-07-1975	LA
bi	31-12-1970	dialogue		GRULA-EC Dialogue	LA
bi	18-06-1971	dialogue		CEE-CECLA	LA
bi	15-07-1974	dialogue		Conf EU-PE / Parlatino 1st	LA
bi	01-01-1975	agreement		ACP - Lomé/Suva Agreement	LA
bi	19-11-1975	dialogue		Conf EU-PE / Parlatino 2nd	LA
bi	29-07-1977	dialogue		Conf EU-PE / Parlatino 3rd	LA
bi	01-01-1979	dialogue		GRULA-EC-COREPER Dialogue ps.s until 1982	LA
bi	19-02-1979	dialogue		Conf EU-PE / Parlatino 4th	LA
bi	01-01-1980	agreement		agreements 2nd generation (framework coop)- Brazil 18-09-1980, Andean Pact (Cartagena Accord) 17-12-1983, CACM 1983)	LA
bi	25-01-1981	dialogue	PE 70.767	Conf EU-PE / Parlatino 5th	LA
bi	02-04-1982	war		Falklands (until 04-06-1982)	Arg
bi	13-06-1983	dialogue	PE 85.416	Conf EU-PE / Parlatino 6th	LA
bi	08-09-1984	dialogue		San José Process-1st inf conf	LA
bi	16-06-1985	dialogue		Conf EU-PE / Parlatino 7th	LA
bi	25-06-1987	dialogue		Conf EU-PE / Parlatino 8th	LA
bi	30-01-1989	dialogue		Conf EU-PE / Parlatino 9th	LA
bi	01-01-1990	agreement		agreements 3rd generation (framework coop +democr+evol clause) -Argentina 2-4-90, Bolivia 1990; Venezuela, Chile 20-12-90+21-6-96, Mexico 26-4-91; Paraguay 3-2-92, Uruguay 4-11-91; Brazil 29-6-92; Andean Community (Cartag.Acrod) 23-4-93, CACM 23-2-93; Mercosur 15-12-95)	LA
bi	20-12-1990	dialogue	Declaration of Rome	Rio Group (unoff.1987)	LA
bi	02-04-1991	dialogue		Conf EU-PE / Parlatino 10th	LA
bi	26-04-1991	dialogue		Rio Group 1st	LA
bi	28-05-1992	dialogue		Rio Group 2nd	LA
bi	29-05-1992	agreement		Inter-Institutional Coop Agreem	ME
bi	23-04-1993	dialogue		Rio Group 3rd	LA
bi	03-05-1993	dialogue		Conf EU-PE / Parlatino 11th	LA
bi	22-04-1994	dialogue		Rio Group 4th	LA

bi	28-09-1994	dialogue		San Jose 1st	LA
bi	22-12-1994	declaration		Solemne Joint Declaration	ME
bi	01-01-1995	dialogue		Rio Group Dialogue / Security	LA
bi	17-03-1995	dialogue		Rio Group 5th	LA
bi	19-06-1995	dialogue		Conf EU-PE / Parlatino 12th	LA
bi	15-12-1995	agreement		Framework Coop Agreem	ME
bi	15-04-1996	dialogue		Rio Group 6th	LA
bi	10-06-1996	meeting	press 165 7821/96	pol dialogue EU-ME 1st (Luxemburg)	ME
bi	18-03-1997	meeting		tech. working groups EU-ME 1st	ME
bi	07-04-1997	meeting	press 100 7285/97	pol dialogue EU-ME 2nd (Noordwijk)	ME
bi	27-04-1997	meeting		tech. working groups EU-ME 3rd	ME
bi	24-11-1997	meeting		tech. working groups EU-ME 2nd	ME
bi	12-02-1998	meeting	press31 5920/98	pol dialogue EU-ME 3rd (Panama)	ME
bi	29-06-1999	declaration		"Declaration of Rio" & "Priorities for Action"	LA
bi	24-11-1999	meeting	press 371 13290/99	coop council EU-ME 1st (Brussels)	ME
bi	23-02-2000	meeting	press 45 6446/00	Rio Group 9th (Vilamoura)	LA
bi	06-04-2000	meeting		birreg neg com EU-ME 1st (Buenos Aires)	ME
bi	13-06-2000	meeting		birreg neg com EU-ME 2nd (Brussels)	ME
bi	23-06-2000	agreement		ACP - Cotonou Agreement	LA
bi	07-11-2000	meeting		birreg neg com EU-ME 3rd (Brasilia)	ME
Bi	15-12-2000	Meeting		Ministerial meet Me, Bol & Chile	LA-ME
bi	28-02-2001	meeting		Ministerial meeting (Santiago)	LA-ME
bi	19-03-2001	meeting		birreg neg com EU-ME 4th (Brussels)	ME
Bi	23-03-2001	Meeting		Ministerial meet Me, Bol & Chile	LA-ME
bi	23-03-2001	dialogue		Rio Group 10th (Santiago)	LA
bi	02-06-2001	meeting		birreg neg com EU-ME 5th (Montevideo)	ME
bi	29-10-2001	meeting		birreg neg com EU-ME 6th (Brussels)	ME
Bi	20-11-2001	Meeting		Business Summit EU-LA-Car (Madrid)	
bi	01-03-2002	meeting		birreg neg com EU-ME 7th	ME
EEC-Arg	30-11-1992	agreement		trade - fisheries	Arg
EEC-Urug	06-11-1973	agreement		trade	Urug
EU-C	15-12-199	conclusions	Intergov Conf	relations	LA

			(Cologne)		
EU-C	15-12-199	conclusions	Intergov Conf (Dublin)	relations	LA
EU-C	15-12-199	conclusions	Intergov Conf (Vienna)	relations	LA
EU-C	17-10-1969	declaration		relations	LA
LA	14-12-1970	declaration		BA Declaration	LA
EU-C	15-03-1976	budget		financial & technical coop	LDCs
EU-C	17-02-1981	regulation	442/81	financial & technical coop	LDCs
EU-C	29-03-1982	decision		aid	LA
EU-C	12-06-1985	declaration		relations	LA
EU-C	22-10-1985	decision	2955/85	SGP	LA
EU-C	09-07-1986	resolution		LA	LA
EU-C	22-06-1987	declaration		pol coop	LA
EU-C	27-11-1987	declaration		LA meeting	LA
EU-C	28-06-1988	declaration		LA	LA
EU-C	29-10-1990	decision		SGP drogas	LDCs
EU-C	06-12-1990	decision		SGP Central america	LA
EU-C	20-12-1990	decision	3833/90	SGP prod.agric.	LDCs
EU-C	26-03-1991	declaration		ME	ME
EU-C	03-02-1992	regulation	EEC 319/92	ECIP	LA
EU-C	23-02-1992	regulation	443/92	coop with ALA –financial and technical assistance to and econ coop with	LA
EU-C	21-12-1992	decision	3917/92	SGP prod.ind.	LDCs
EU-C	26-04-1993	decision	1028/93	SGP prod.agric.	LDCs
EU-C	24-06-1994	conclusions	Intergov Conf (Corfu)	proposal agreem	LA-ME
EU-C	31-10-1994	basic doc		relations EU-LA-Caribean	LA
EU-C	09-12-1994	conclusions	Intergov Conf (Essen)	proposal agreem	LA- ME
EU-C	19-12-1994	decision	3281/94	SGP prod.ind & agric.	LA
EU-C	19-12-1994	decision	3282/94	SGP	LA
EU-C	10-04-1995	conclusions	Intergov Conf (Luxemb)	relations	ME
EU-C	01-06-1995	resolution	dev.collecti on v.2	regional econ.integration efforts	LA
EU-C	26-06-1995	conclusions	Intergov Conf (Cannes)	relations	LA
EU-C	15-12-1995	conclusions	Intergov Conf (Madrid)	relations	LA
EU-C	29-01-1996	regulation	EEC 213/96	ECIP	LA
EU-C	24-04-1996	declaration	06723/96	democracy in Paraguay	LA
EU-C	20-06-1996	decision		SGP prod.agric.	LA

EU-C	21-06-1996	conclusions	Intergov Conf (Florence)	relations	LA
EU-C	16-06-1997	SN00150/97 (Presse 0)	Intergov Conf (Amsterdam)	relations	LA
EU-C	19-11-1998	declaration		democracy in Paraguay	LA
EU-C	22-03-1999	decision	1999/279/EC	Framework Coop Agreem	ME
EU-C	22-05-2000	note	9259/00 (8-6-2000)	Global Action Plan on Drugs - 2nd meeting	LA
EU-C	23-01-2001	decision draft	5239/01- Joint Action 1999-34-CFSP	small arms	LA
EU-Cdev	01-06-1995	document	1849 (presse 160)	development cooperation	LA
EU-Cdev	10-11-2000	decision	12929/00 (presse 421)	ECIP	LA
EU-EC	01-01-1958	memorandum		Memorandum of Intention	LA
EU-EC	01-06-1962	communic	COM (1962)	"Programme of action to LA"	LA
EU-EC	01-01-1963	communic	COM (1963)	strategy proposal towards LA	LA
EU-EC	25-05-1964	communic		support of LA memo	LA
EU-EC	29-07-1969	communic		relations	LA
EU-EC	20-11-1981	communic	COM (1981) 737	Central America	LA
EU-EC	01-01-1984	communic	COM (1984) 105	"Orientations for the strengthening.."	LA
EU-EC	02-12-1986	communic	COM (1986) 720	coop	LA
EU-EC	21-01-1987	communic		relations	LA
EU-EC	01-01-1988	proposal	COM (1988) 487	aid	LA
EU-EC	01-01-1990	communic	COM (1990) 176	'Guidelines for Coop with ALA'	LA
EU-EC	01-01-1993	proposal	proj ALA/93/09	AL-Invest	LA
EU-EC	10-06-1993	decision	1442/93	banana regime	LA
EU-EC	10-03-1994	proposal	proj ALA/94/03	ALFA	LA
EU-EC	27-07-1994	communic	COM (1994) 358	ECIP	extension
EU-EC	19-10-1994	communic	COM (1994) 428	"The EC and ME : an enhanced policy"	ME
EU-EC	01-01-1995	working paper		Framework Coop Agreem	ME

EU-EC	01-01-1995	communic	COM (1995) 507	EIB loans ALA	LA
EU-EC	01-01-1995	communic	COM (1995) 742	EIB loans ALA	LA
EU-EC	23-10-1995	communic	COM (1995) 495	"The EU & LA The present situation and prospects for closer partnership 1996-2000" - 1st time separated from Asia!	LA
EU-EC	23-10-1995	communic	COM (1995) 504	Framework Coop Agreem	ME
EU-EC	29-11-1995	communic		San José Process - renovation	LA
EU-EC	20-12-1995	prop f reg	COM (1995) 686	ECIP	extensio n
EU-EC	01-01-1996	communic	COM (1996) 402	trade - anti-dumping	LDCs
EU-EC	01-01-1996	communic	COM (1996) 427	coop drugs	LDCs
EU-EC	01-01-1996	communic	COM (1996) 429	EIB loans ALA	LA
EU-EC	01-01-1996	communic	COM (1996) 432	trade - technical barriers	LDCs
EU-EC	01-01-1996	communic	COM (1996) 564	trade - technical barriers	LDCs
EU-EC	01-01-1996	communic	COM (1996) 695	aid	LA
EU-EC	01-01-1997	communic	COM (1997) 129	debt relief initiative for highly indebted poor countries (HIPC)	LDCs
EU-EC	01-01-1998	communic	COM (1998) 40	technical coop ALA	LA
EU-EC	01-04-1998	working paper		Framework Coop Agreem	ME
EU-EC	01-11-1998	Report	951390	Coop regional integration	LA
EU-EC	18-12-1998	communic	COM (1998) 752	ECIP	Prog report 95-97
EU-EC	01-01-1999	report		"EU interests in ME & Chile"	ME
EU-EC	01-01-1999	communic	COM (1999) 218	development cooperation	LDCs
EU-EC	01-01-1999	communic	COM (1999) 518	debt relief initiative for highly indebted poor countries (HIPC)	LDCs
EU-EC	01-01-1999	proposal for decision	COM (1999) 600	rules of procedure for coop council	ME
EU-EC	01-01-1999	prop f reg	COM (1999) 726	ECIP	Temp ext-2001
EU-EC	09-03-1999	communic	COM (1999) 105	"On a New EU -LA Partnership on the Eve of the 21st Century"	LA
EU-EC	26-10-1999	communic		debt relief initiative for highly indebted poor countries (HIPC)	LDCs
EU-EC	01-12-1999	report	951482	ECIP	
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EU-EC	13-03-2000	report	COM (2000) 135	ECIP	Prog rep 98

EU-EC	13-07-2000	report	COM (2000) 439	ECIP	Prog rep 99
EU-EC	02-10-2000	Speech	SPEECH/00/346	From Comm.Chris Patten	
EU-EC	31-10-2000	communic	COM (2000) 670	Summit LA-Car-EU 1st	LA
EU-EC	01-03-2001	Speech	SPEECH/01/95	From Comm.Chris Patten	
EU-EC	01-08-2001	report	951595	Econ coop	LA
EU-EESC	31-01-1990	declaration		social & econ coop	LA
EU-EESC	26-01-1994	declaration		relations	LA
EU-EESC	03-10-1995	declaration		COM (94) 428	ME
EU-EESC	25-10-1995	declaration		COM (94) 428	ME
EU-EESC	22-01-1996	Doc	OJ C 18	Opinion on EC COM (94) 428	ME
EU-EESC	01-12-1997	Memoramdum		Memo of Understanding for Inst Coop with Me EcoSocConsForum	ME
EU-EESC	16-06-1999	Doc	OJ C 169	Opinion on EU-LA-Car relations	LA
EU-EIB	01-01-2000	loan		Br - Telesergipecelular SA 15.0 EUR mi	Br
EU-EIB	01-01-2000	loan		Br - Telpecelular SA 58.5 EUR mi	Br
EU-EIB	01-01-2000	loan		Br - Volkswagen do Brasil LTDA 91.5 EUR mi	Br
EU-EP	28-06-1963	resolution		relations	LA
EU-EP	24-11-1964	proposal	ps doc 48 1963-64	Martino Inform	LA
EU-EP	25-11-1969	resolution	ps doc 139 69	relations	LA
EU-EP	20-04-1971	resolution	ps doc 27/71	BA Declaration	LA
EU-EP	04-07-1972	resolution		development cooperation	LDCs
EU-EP	26-07-1972	resolution	ps doc 83/72	UNCTAD 3rd	LA
EU-EP	14-11-1972	resolution		relations	LA
EU-EP	11-12-1972	resolution	ps doc 179/72	research mission in LA	LA
EU-EP	15-11-1974	resolution		Conf EU-PE / Parlatino	LA
EU-EP	08-03-1976	resolution	ps doc 469/75	relations	LA
EU-EP	16-01-1981	resolution		econ rel	Br
EU-EP	18-12-1981	resolution		financial & technical coop	LDCs
EU-EP	14-10-1982	resolution	ps doc 1-645/82	econ rel	LA
EU-EP	19-11-1982	resolution		Central America	LA
EU-EP	08-07-1983	resolution		development cooperation	LDCs
EU-EP	12-10-1983	resolution	ps doc 1-	econ rel	LA

			406/81 ; 1-254/82 ; 1-580/83		
EU-EP	13-04-1984	resolution		coop with Cartagena Group	LA
EU-EP	08-04-1985	resolution		LA external debt	LA
EU-EP	18-04-1985	resolution		LA external debt	LA
EU-EP	13-06-1985	resolution		tech coop	LA
EU-EP	13-06-1985	resolution	ps doc 2-1500/84; A2-44/85; A2-45/85	econ rel	LA
EU-EP	17-01-1986	resolution		pol situation in South America	LA
EU-EP	13-05-1986	resolution		coop with Central America	LA
EU-EP	23-01-1987	resolution		econ rel	LA
EU-EP	27-10-1988	resolution		coop with ALA	LA
EU-EP	25-10-1990	resolution		environment -Amazon	LA
EU-EP	22-02-1991	resolution			ME
EU-EP	14-02-1992	resolution			ME
EU-EP	12-03-1992	resolution		colera	LA
EU-EP	12-03-1992	resolution		indigenous peoples	LA
EU-EP	15-05-1992	resolution			ME
EU-EP	19-11-1992	resolution			ME
EU-EP	22-04-1994	resolution	ps B3-0293/93 ; B3-0620/93A3 -0218/94	coop with ALA	LA
EU-EP	22-04-1994	resolution	ps B3-0498/89 ; A3-156/94	cultural rel EU-LA	LA
EU-EP	22-04-1994	resolution	ps B3-1079/90 ; B3-0488/91 ; B-1349/93 ; A3-0140/94	econ rel	LA
EU-EP	16-05-1995	resolution		COM (94) 428	ME
EU-EP	16-05-1995	report	A4 - 0075/95	COM (94) 428	ME
EU-EP	23-04-1996	report	A4 - 0118/96	COM (95) 504	ME
EU-EP	20-10-1996	report	A4 - 0384/96	CSE (95) 607	EU
EU-EP	15-01-1999	Resolution	A4-0508/1998	Towards an European Code of conduct (of EU enterprises operating in LDCs)	LDCs
EU-EP	22-04-1999	report	A4 - 0221/99	multilateral commercial relations	LDCs
EU-EP	22-04-1999	report	A4 - 0230/99	budget - PART C	EU
EU-EP	01-06-1999	working paper	AGRI 118		

EU-EP	06-02-2001	Resolution	A5-0049/2001	Against sub to WTO	LA
EU-EP	06-02-2001	Resolution	A5-0050/2001	Against sub to WTO	LA
EURATOM-Br	09-06-1961	agreement		coop atomic energy EURATOM	Br
LA	01-01-1979	declaration		Decision 44	LA
LA	01-01-1978	inform		Informe de Punta del Este	LA
LA-amb	01-01-1964	memorandum		proposal for a Eufp	LA
LA-cecla	29-07-1970	declaration		Declaration of Buenos Aires	LA
LA-cecla	12-09-1972	declaration			EU
Port/Esp	12-06-1985	declaration	Treaty of Accession	intentions regarding LA	LA

Source: compiled by author

p.s. Some information are incomplete; when only the year of the document was known it was listed as of 1st January of the year, in order to allow the use of the tool "sort" by date.