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European Community/Hungary Relations

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Historically, trade and economic relations among the European Community ("EC")[1] and the Eastern European members of the Council for Mutual Economic Assistance ("CMEA")[2] have been weak. In recent years, however, the EC has shown a desire to improve its ties to the East. There are several reasons why the EC may benefit from closer relations with its Eastern European counterpart. The EC believes that closer relations may produce "[e]conomic interdependence in Europe, generated by more joint ventures, licensing agreements, easier arrangements for reciprocal investment and, above all, a narrowing of the technology gap, [which] can lead to a more permanent stabilization of detente and peace between East and West within Europe."[3]

The relationship between the EC and Hungary is illustrative of this change in policy by the EC, as well as a growing receptive attitude toward economic relations on the part of the Eastern Europeans. This Article will examine the dynamics of the relationship between Hungary and the EC, as well as the basic negotiating positions of the EC and the CMEA. In addition, this Article will explore the special characteristics unique to Hungary which make it especially attractive to the EC as a

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* Resident Partner, Pillsbury, Madison & Sutro, Washington, D.C.; J.D., Georgetown University, 1971; B.A., University of Colorado, 1968.

1 The European Community ("EC") is comprised of Belgium, Denmark, Germany, Spain, France, United Kingdom, Greece, Ireland, Italy, Luxembourg, the Netherlands, and Portugal. THE EUROPEAN PARLIAMENT, ONE PARLIAMENT FOR TWELVE 6-7 (1988). The EC is composed of three separate legal entities: the European Coal and Steel Community ("ECSC"); the European Economic Community ("EEC" or "Common Market"); and the European Atomic Energy Community ("Euratom"). *Id.* at 7.

2 Council for Mutual Economic Assistance ("CMEA") is the official name. It is also referred to as COMECON. There are 10 members in the CMEA: The USSR, German Democratic Republic, Poland, Czechoslovakia, Hungary, Romania, Bulgaria, Mongolia, Cuba and Viet Nam. *See, e.g.*, Memo "Relations Between the Community and the Member Countries of COMECON (1)," May, 1988 (on file at the Case Western Reserve Journal of International Law) [hereinafter Memo].

3 1986-1987 EUR. PARL. DOC. (EER No. A-2-187/86) 32 (1986) [hereinafter WORKING DOC.]. *Cf.* "The EC and Eastern Europe: Economic and Trade Relations," speech by Mr. Willy De Clercq, EC Commissioner for External Relations, in Copenhagen, Denmark (July 17, 1987) [hereinafter Speech]. "In aiming at a normalisation of relations . . . we want to see an end, once and for all, to the Soviet Union's guerilla warfare against the Community in international organisations. We also want to see it dealing with the Community as a Community, instead of trying to pick off our member states one by one in pursuance of some divide-and-rule policy." *Id.* at 8.

negotiating partner. Finally, this Article will describe the recent negotiations between Hungary and the EC which led to the signing of a bilateral trade agreement in June of 1988, and will conclude with an examination of whether the EC-Hungary negotiations may serve as a model for similar agreements in the future.

I. THE EC AND THE CMEA: DEVELOPMENT OF A RELATIONSHIP

The EC was created in the aftermath of the Second World War[4] by a group of twelve states which agreed to forego a portion of their sovereignty to work for the benefit of mutual economic advantage.[5] As was expected, the Union of the Soviet Socialist Republics ("USSR") viewed the creation of an economic coalition of free European states with suspicion and hostility.[6] In fact, the USSR continued to view the EC as a temporary phenomenon until the early 1970s;[7] therefore, it is not surprising that the relationship between the EC and CMEA has developed quite slowly.

Negotiations between the EC and the CMEA had been pursued for several years with little progress, and were broken off by mutual consent in 1980.[8] The disagreement at that point was the CMEA's insistence on the inclusion of trade provisions and the establishment of a joint committee for the supervision of relations with CMEA members.[9] This was unacceptable to the EC because the CMEA has neither a common commercial policy nor a common commercial policy instrument.[10]

The underlying reason for the suspension of talks was the realization that the EC and the CMEA had diametrically opposing views on the proper approach to trade matters. CMEA's proposal provided for trade negotiations on a "bloc-to-bloc" basis.[11] This proposal entailed the conducting of negotiations between the EC and the CMEA as a unit, and not bilateral relations, which are negotiations with the individual member states of either organization. The EC favored bilateral trade relations with each of the Eastern European countries.[12] The EC's preference for

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4 *See generally* OFFICE FOR OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITIES, STEPS TO EUROPEAN UNITY, COMMUNITY PROGRESS TO DATE: A CHRONOLOGY (1983).

5 THE EUROPEAN PARLIAMENT, *supra* note 1, at 7.

6 In reviewing the historical relationship between the EC and Eastern Europe, Mr. De Clercq said, "We were accused of being a capitalist - imperialist creation, of working in the interests of the multinational monopolies and against the interests of the working class. We were also seen as the economic arm of NATO, and indeed as a kind of European subsidiary of America Inc." Speech, *supra* note 3, at 2.

7 WORKING DOC., *supra* note 3, at 12.

8 Speech, *supra* note 3, at 5; *See also* Memo, *supra* note 2, at 1.

9 Memo, *supra* note 2, at 1.

10 *Id.*

11 Speech, *supra* note 3, at 4.

12 *Id.*

bilateral trade relations was motivated by a desire to curtail the influence of the USSR within the CMEA.[13] Proceeding on a bloc-to-bloc basis was also unacceptable to the EC because the CMEA did not possess a common commercial policy.[14] By proceeding on a bilateral basis, agreements could take into account the major differences among the Eastern Bloc economies.[15]

Although official relations between the CMEA and the EC only recently materialized, informal economic contacts between the EC and member states of the CMEA have existed for some time.[16] For example, the EC and member states of the CMEA had previously concluded five textile agreements,[17] as well as voluntary restraint arrangements on steel exports[18] and agricultural products. The EC has not only sought to enhance such bilateral economic relations but made this objective a priority.[19]

The possibility of negotiations was reignited at the CMEA summit in June 1984, when the CMEA expressed a desire to establish relations with economic organizations of developed capitalist countries.[20] The CMEA also expressed a willingness to concede on the issue which had brought an end to the negotiations in 1980. The CMEA would allow bilateral trade and economic relations between the member countries of the organizations rather than by a bloc-to-bloc agreement.[21]

Mr. Sychov, the Secretary of CMEA, proposed relations be established by a joint declaration;[22] the EC accepted this approach.[23] However, the EC emphasized its intention to proceed with building bilateral relations with the individual European member countries of the CMEA.[24] The EC's policy at this point was "normalization" of relations.[25] It wanted to discuss problems, negotiate agreements and have

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13 *Id.*

14 Memo, *supra* note 2, at 1; Speech, *supra* note 3, at 4; WORKING DOC., *supra* note 3, at 13.

15 Trevelyan, *Moscow, East Berlin Ask for EC Ties, Ending 30-year Freeze*, Reuter Bus. Rep., June 10, 1988.

16 Memo, *supra* note 2, at 1; WORKING DOC., *supra* note 3, at 15.

17 Memo, *supra* note 2, at 1. The countries with whom the EC had the agreements are Bulgaria, Czechoslovakia, Hungary, Poland and Romania. *Id.*

18 *Id.* The countries involved were, again, Bulgaria, Czechoslovakia, Hungary, Poland and Romania. *Id.*

19 *Id.* at 2; WORKING DOC., *supra* note 3, at 15.

20 WORKING DOC., *supra* note 3, at 14.

21 *Id.*

22 *Id.* at 15; Speech, *supra* note 3, at 5; Memo, *supra* note 2, at 2.

23 WORKING DOC., *supra* note 3, at 15; Speech, *supra* note 3, at 5; Memo, *supra* note 2, at 2. Possible areas for EC-CMEA cooperation included economic forecasts, statistics, norms and standards, and environmental protection. WORKING DOC., *supra* note 3, at 18.

24 Memo, *supra* note 2, at 2.

25 Normalization, according to the EC, is "willingness to negotiate an overall trade agreement with each country, the accreditation of diplomatic missions with the Community and the abandon-

formal relations with CMEA countries through missions to the Community, as well as encourage normal EC participation in international organizations and conventions.[26]

This normalization was to be achieved through "parallelism."[27] The EC would pursue official relations with the CMEA while at the same time, in parallel, strive to normalize relations with each CMEA member country.[28] Also, the EC invoked a policy of "differentiation," whereby each CMEA country would "be dealt with in accordance with its own characteristics and situation."[29]

In January 1986, Willy De Clercq, the External Relations Commissioner for the EC, sent letters to the member states of the CMEA expressing the EC's desire to normalize relations and negotiate bilateral agreements.[30] Every European CMEA state expressed interest in improving its economic relations with the EC.[31] Because the EC's trade with the Eastern European countries had increased,[32] further trade relations were of heightened importance.

Although the initial conflict over the approach concerning trade and economic relations was resolved, another problem became apparent. The CMEA was unwilling to recognize West Berlin as a territory within the EC.[33] Ultimately, a compromise was reached. The city was not explicitly mentioned, but a clause provided for "reaffirmation of the 1971 convention of the World War Two victorious powers."[34]

In June 1988, an agreement establishing formal relations was signed

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ment of anti-Community disruptive action in international organizations." WORKING DOC., *supra* note 3, at 15.

26 D. F. Williamson, Secretaire General, COMEUR, Telex hebdomadaire No. 345, June 20, 1988, at 14. (on file at the Case Western Reserve Journal of International Law).

27 The Commission defined "parallelism" as "development and normalization of relations with Comecon and at the same time with the member countries of Comecon, priority being given to the latter aspect." Memo, *supra* note 2, at 2.

28 WORKING DOC., *supra* note 3, at 15. *See also* Telex hebdomadaire, *supra* note 26, at 14.

29 Memo, *supra* note 2, at 2.

30 Memo, *supra* note 2, at 2; WORKING DOC., *supra* note 3, at 15.

31 WORKING DOC., *supra* note 3, at 21. The countries which developed further contacts with the EC are Romania, Czechoslovakia, Hungary, Poland, Bulgaria, and the German Democratic Republic. *Id.*; Memo, *supra* note 2, at 2; *see also EEC/COMECON: Mr. Sychov Wants Talks Quickly; Initial Conversations With East Germany,* Agence Internationale d'Information Pour La Presse, Nov. 15, 1986 (initial directives with Romania, Czechoslovakia, Hungary and East Germany).

32 WORKING DOC., *supra* note 3, at 22. Trade with Eastern Europe was 5.3% of the EC's foreign trade in 1960. The amount increased in 1975 to 8.3%, and was 7.7% in 1984. Thus, EC's trade with Eastern European countries falls between their trade with the African-Caribbean and Pacific Island states (5.6%) and the other European states (27.5%). *Id.*

33 Telex hebdomadaire, *supra* note 26, at 15-16.

34 *Id.*

by the EC and CMEA.[35]

II. Factors Favoring Hungarian-EC Bilateral Negotiations

In 1986, the Hungarian Foreign Minister, replying to the letter from De Clercq,[36] indicated his willingness to start bilateral talks.[37] The negotiations between the EC and Hungary were not to be contingent upon the overall success of the talks between the EC and the CMEA.[38]

In expressing its willingness to negotiate, the EC recognized the special characteristics of Hungary as compared to other state-trading countries,[39] and determined factors relevant to negotiations. One such factor was Hungary's movement toward economic reform. Seeking to eliminate central economic planning through the "New Economic Mechanism,"[40] Hungary sought to put in place, "largely free price formation, the fixing of wages and salaries in accordance with the profitability of undertakings, worker participation in undertakings, decisions on production programmes and investment priorities and certain autonomy for companies whilst at the same time restricting the State's influence to the general economic regulators (taxation, credit, etc.)."[41] Social and political factors such as the freedom of movement in Hungary,[42] the Conference on Security and Cooperation in Europe ("CSCE") Cultural Forum,[43] and the new electoral law[44] also affected the relationship. Three other factors also distinguished Hungary from other CMEA states, and made initiation of bilateral negotiations easier: Membership in the General Agree-

35 31 O. J. Eur. Comm. (No. L 157) 35 (1988). An immediate effect will be the establishment of embassies in the respective countries; the EC will establish an embassy in Moscow and the COMECON will establish an embassy in Brussels. *European Parliament Leader Cites "Historic" Agreement*, Associated Press, May 25, 1988. *Id.*

36 Memo, *supra* note 2, at 2.

37 Written question No. 906/86, by Mr. Willy Vernimmen, Answer by Mr. De Clercq on behalf of the Commission, Sept. 12, 1986 (on file at the Case Western Reserve Journal of International Law).

38 *Id.*

39 *Resolution on possible trade relations between the European Community and Hungary*, 14 O. J. Eur. Comm. (No. C 176) 192 (1986) [hereinafter *Resolution*]. The Resolution suggests the special characteristics of Hungary may negate the setting of a precedent with other CMEA members. *See infra* note 105 and accompanying text.

40 *Id.* at 192.

41 *Id.*

42 *Id.*

43 *Id.* at 193. The forum was held in Budapest in 1985. It offered Western visitors opportunities to participate in official talks with Hungarian politicians and a privately organized symposium in which many opposition writers, intellectuals and others freely discussed human rights issues. *Id.*

44 *Id.* Introduced in 1985, the electoral law is designed to establish a socialist democracy. The system allows, for the first time in a COMECON country, election meetings to nominate as many as four candidates for each constituency. *Id.*

ment on Tariffs and Trade ("GATT"),[45] the International Monetary Fund ("IMF")[46] and the World Bank.

A. Hungarian GATT Membership

Hungary's membership in the GATT was an important consideration for the EC.[47] The non-market economy of a CMEA state is inconsistent with the free market philosophy upon which the GATT is based.[48] When a CMEA member is allowed accession into the GATT,[49] concessions are often demanded since a planned economy inherently violates the GATT's ban on quantitative import restrictions.[50] Quantitative import restrictions are limitations on imports expressed in quantitative measures, and are expressly disallowed by the GATT.[51] Because all import decisions in a planned economy are made by the state,[52] such decisions inherently set quantitative import quotas.

Quantitative import quotas are also counter to most-favored nation ("MFN") status. A fundamental concept of the GATT, MFN status dictates that members may not discriminate against other members by means of tariff rates.[53] But again, because tariff rates are essentially meaningless in a planned economy (where the importer paying the duty is also the recipient of the revenues), the state is able to discriminate freely among countries simply through its import decisions.

Hungary received enough support from the GATT members to join

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45 General Agreement on Tariffs and Trade, Oct. 30, 1947, 61 Stat. A3, T.I.A.S. No. 1700, 55 U.N.T.S. 194 [hereinafter GATT].

46 Articles of Agreement of the International Monetary Fund, Dec. 27, 1945, 60 Stat. 1401, T.I.A.S. 1501; amended 90 Stat. 2660, T.I.A.S. 8937 [hereinafter IMF].

47 *Resolution*, *supra* note 39, at 193; WORKING DOC., *supra* note 3, at 24.

48 J. JACKSON & W. DAVEY, INTERNATIONAL ECONOMIC RELATIONS 1174-75 (2d ed. 1986). In a nonmarket economy, goods and resources are allocated by the government, whereas in a free-market economy, prices freely set in a market govern supply and demand. *Id.* The inconsistency arises since many of the GATT rules restrict the types of regulations which governments can impose on international trades but do not aim at regulating the traders themselves. *Id.* at 1179.

49 Article XXXIII of the GATT allows accession of a new contracting party ("CP") with a two-thirds majority vote. GATT, *supra* note 45, art. XXXIII. *See* J. JACKSON & W. DAVEY, *supra* note 48, at 320-22.

50 WORKING DOC., *supra* note 3, at 23-24.

51 Article XI, entitled "General Elimination of Quantitative Restrictions" provides that "no prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained" on the importation or exportation of any product. GATT *supra* note 45, art. XI.

52 *See generally* J. JACKSON & W. DAVEY, *supra* note 48, at 1174.

53 *Id.* Most-favored nation status, in short, is nondiscrimination against trading partners. *Id.* The concept is articulated in article 1 of the GATT. *See* K. DAM, THE GATT: LAW AND THE INTERNATIONAL ECONOMIC ORGANIZATION 18 (1970).

the GATT.[54] Accession brings to the contracting party ("CP") numerous benefits, including a large number of tariff concessions.[55] It does not, however, automatically guarantee such benefits will apply between a CP and all GATT members. Each existing CP has the right to refuse to apply the GATT to the new contracting country.[56] The EC agreed to Hungary's accession to the GATT, but did not want Hungary to reap full GATT article I benefits.[57] In particular, the EC wanted to maintain quantitative import restraints on Hungarian goods as a safeguard to assure that member states were also benefited by Hungary's accession to the GATT.[58]

Hungary initially agreed to negotiate with the EC, but insisted its accession provide it with the full benefits of the GATT with respect to existing CPs.[59] During subsequent negotiations, and in the face of steadfast EC resolve on this point, Hungary abandoned its "nothing to negotiate" posture for a middle course.[60] A quantitative restriction on Hungarian imports was established, to be replaced later by a special tariff arrangement.[61]

B. Membership in the International Monetary Fund

Monetary and trade policy are intimately connected.[62] In a planned economy, the state determines monetary policy by decreeing who may possess and convert foreign currency and at what exchange rate. Foreign debt is totally national debt. By manipulating monetary policy, the state in a planned economy enforces its trade decisions by determining who may and may not purchase foreign products or incur foreign debt.[63]

Because of the inherent differences concerning monetary policy in planned and free market economies, the IMF has been unable to make any direct improvements in trade relations between the two blocks.[64] However, the IMF's ability to ease harsh financial conditions of its members by adjusting the repayment of debt and influencing the availability and marketability of foreign currency indirectly affects trade by increas-

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54 As required by article XXXIII, Hungary received the two-thirds majority vote and acceded to the GATT in 1973. 31 O. J. EUR. COMM. (No. C 318) 56 (1988) [hereinafter OPINION].

55 K. DAM, *supra* note 53, at 345.

56 GATT, *supra* note 45, art. XXXV; K. DAM, *supra* note 53, at 347.

57 M. M. KOSTECKI, EAST-WEST TRADE AND THE GATT SYSTEM 91-98 (1978), *reprinted in* J. JACKSON & W. DAVEY, *supra* note 48, at 1184-87.

58 *Id.* The protocols governing Hungary's accession did contain such safeguard clauses. OPINION, *supra* note 54, at ¶31.

59 M. M. KOSTECKI, *supra* note 57.

60 *Id.*; OPINION, *supra* note 54.

61 OPINION, *supra* note 54.

62 J. JACKSON & W. DAVEY, *supra* note 48, at 826.

63 *See generally id.* at 845-46.

64 WORKING DOC., *supra* note 3, at 24-25.

ing the members' trade attractiveness.[65] Hungary benefited from its IMF membership during economic crises by IMF measures which reduced financial pressure and created conditions which encouraged the flow of private capital.[66]

C. *Membership in the World Bank*

The World Bank exists to "promote growth, trade and balance of trade equilibrium of its members" by facilitating the investment of capital for productive purposes.[67] Membership in the IMF is a prerequisite to membership in the World Bank.[68] In both organizations, Hungary is classified as a "developing country."[69] Members designated as "developing countries" are able to obtain long-term financing from the World Bank for specific projects and structural adjustment loans.[70] As of 1986, only two communist countries, Romania and Hungary, were members of the World Bank.[71] Thus, Hungary's World Bank membership makes it an appealing negotiating party compared with other CMEA member states.

As described above, Hungary is an especially attractive potential CMEA trading partner for the EC because of its membership in the GATT, the IMF and the World Bank. Hungary's accession to the GATT involved important concessions not heretofore offered by a planned economy. Hungary's membership in the IMF and the World Bank as a "developing country" involves certain preferences which encourage the flow of private capital.

III. THE NEGOTIATIONS

Hungary's foreign trade surplus has been growing since the early 1980s.[72] Although the USSR is Hungary's main trading partner,[73] trade with the EC accounts for almost 20% of Hungary's foreign trade.[74] In 1986, Hungary proposed to increase trade with the EC by 10-20% over

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65 *Id.*

66 WORKING DOC., *supra* note 3, at 25.

67 J. JACKSON & W. DAVEY, *supra* note 48, at 279.

68 *Id.*

69 WORKING DOC., *supra* note 3, at 25.

70 *Id.*

71 *Id.*

72 *Id.* at 30. But note, this growth trend was arrested in 1986, and 1987 may show a reversal.

73 Trade with the USSR accounted for 32% of Hungary's foreign trade in 1986. *Id.* In 1988, the USSR remained Hungary's biggest trading partner. *Initialling of a Trade and Economic and Trade Cooperation Agreement Between The Community and Hungary*, Commission of The European Communities Press Release, July 1, 1988.

74 WORKING DOC., *supra* note 3, at 30.

the succeeding five years.[75] The EC supplies Hungary with machinery, vehicles, finished goods and chemical products; Hungary supplies agricultural products and finished goods.[76]

In June 1986, the EC Parliament passed a resolution establishing objectives for a trade and economic cooperation agreement with Hungary to guide the ongoing negotiations.[77] The initial points included:

> (a) the gradual raising of quantitative import restrictions according to a specified timetable, taking into account the sectoral and regional sensitivity of the individual products;
> (b) a safeguard clause giving the Community's internal market adequate protection in the event of changes in economic circumstances;
> (c) customs arrangements on a reciprocal basis for an agreed list of commodities according to a timetable;
> (d) in respect of agriculture, a new approach that takes account of Hungary's need to export, whilst observing reciprocity and respecting the sectoral and regional sensitivity of individual Community products; [and]
> (e) the establishment of an EEC-Hungary joint committee instructed to consider the further expansion of economic relations (e.g. industrial cooperation, joint ventures in transport, technology and research for mutual benefit, and to draw up appropriate proposals).[78]

The resolution also noted that in light of Hungary's special characteristics, liberalization of trade with Hungary was not likely to serve as a precedent for the EC's common commercial policy towards CMEA countries.[79]

Subsequent to the resolution, the Commission[80] proposed an agreement on trade in agricultural and industrial products.[81] That these products are the major Hungarian exports to the EC may explain why the EC's proposal included tariff concessions and the elimination of quantitative import restrictions.[82] The proposal further provided for bilateral cooperation in the economic, scientific, and technological areas.[83] No financial cooperation was proposed.

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75 *Id.*

76 *Id.*

77 *Resolution, supra* note 39.

78 *Id.* at 193.

79 *Id.*

80 The Commission consists of 17 Commissioners of all 12 nationalities. The Commission proposes laws for the Community, administers policies, and monitors compliance with treaties. THE EUROPEAN PARLIAMENT, *supra* note 1, at 8.

81 *Trade and Cooperation Agreement with Hungary,* O. J. EUR. COMM. (Nov. 1, 1986).

82 *Id.*

83 *Id.*

The first round of the EC-Hungary trade negotiations was held in Brussels on June 4 and 5, 1987.[84] Hungary was only the second Eastern Bloc country to negotiate with the EC.[85] The EC's Council of Ministers[86] articulated three guidelines for the Commission during negotiations with Hungary.[87] The Commission was to: "grant Hungary MFN status; liberalize the quantitative restrictions on industrial and agricultural products; [and] conclude an economic, scientific and technological cooperation agreement focusing on information exchange."[88] The Council also recognized factors which provided bargaining strength for Hungary, such as Hungary's membership in the GATT, and the Council's commitment to liberalizing trade.[89]

In the first round of negotiations, Hungary provided a list of products for which it desired import tariff quotas.[90] These products included wines, beef, pork, poultry, cheeses, honey and some vegetables.[91] The Council however, objected to this demand because it did not want to open up EC members' borders favorably for agricultural products in which the EC already had a large surplus.[92] Another point of contention in the negotiations concerned quantitative restrictions on industrial trade, which Hungary wanted eliminated. The Commission indicated the Council of Ministers would only agree to a gradual decrease in these restrictions.[93] Further, the Council of Ministers had designated certain "sensitive" products to which the EC would not commit, including leather goods, footwear and steel products.[94]

Subsequent rounds of negotiations were unsuccessful due to the conflict over the level of quotas the EC would maintain on Hungarian exports.[95] Such quotas were viewed by Hungarian representatives as conflicting with the GATT rules.[96] Hungary wanted complete removal

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84 *Opening of EC-Hungary Negotiations on a Trade and Cooperation Agreement,* EC Press Release, June 4, 1987.

85 *Id.* Negotiations with Romania were opened in May of 1987. *Id.*

86 Ministers from each member government are a part of the Council of Ministers. The ministers present on the Council vary depending on the subject matter under discussion. The Council makes final decisions on laws for the Community. THE EUROPEAN PARLIAMENT, *supra* note 1, at 8.

87 *EEC/Hungary: Trade Agreement Negotiations Begin in Brussels,* EC External Relations Press Release, June 6, 1987.

88 *Id.*

89 *Id.*

90 *EEC/Hungary: First Round of Negotiations Goes Smoothly,* EC External Relations Press Release, June 11, 1987.

91 *Id.*

92 *Id.*

93 *Id.*

94 *Id.*

95 *EEC/Hungary: Between Rounds of Negotiations,* EC External Relations Press Release, Oct. 31, 1987.

96 *Id.*

of the quotas for its exports,[97] but expressed a willingness to compromise.[98]

Concessions in the negotiations were critical to an agreement. The Council of Ministers agreed to shorten the phase of quota restrictions for Hungarian exports from 1998 to 1995.[99] Hungary had wanted the target date to be 1992.[100] When agreeing to reduce the time frame of the restrictions, the EC demanded a safeguard clause, protecting some Hungarian imports, to span from 1996 to 1998.[101] Further, Hungary agreed to improve access and business conditions to aid the EC exporters.[102]

Negotiations ended June 30, 1988 with the initialing of a mutually satisfying agreement.[103] The EC Council approved the Agreement between the European Economic Community and the Hungarian People's Republic on trade, commercial, and economic cooperation on November 21, 1988. The agreement, which is to be valid for 10 years,[104] provides that the restrictions EC members have applied with respect to Hungarian imports will be eliminated in three stages by the end of 1995.[105] The agreement also provides for Hungary's application of nondiscriminatory treatment toward the products, enterprises, and licenses of the EC.[106]

IV. EC-HUNGARY NEGOTIATIONS: A MODEL FOR AD HOC DISPUTE RESOLUTION?

The bilateral negotiations between the EC and Hungary resulted in an agreement to the satisfaction of both parties on trade issues. However, the extent to which these negotiations will serve as a precedent in East-West negotiations remains to be seen. In its earlier resolution, the EC Parliament noted that the unique characteristics of Hungary kept the

97 *EC Urged to Work Harder for Ambitious Accord with Hungary.* Reuter Libr. Rep., Mar. 22, 1988.

98 *Id. Cf. Thatcher Pledges Backing for Hungarian Reforms,* Reuter Libr. Rep., May 5, 1988.

99 *EC Clears Way for Far-reaching Trade Accord with Hungary,* Reuter Libr. Rep., June 13, 1988.

100 *Id.*

101 *Id.*

102 Buchan, *Outlook for EC-Hungary Accord Brightens,* Financial Times, June 14, 1988.

103 *Agreement between the European Economic Community and the Hungarian People's Republic on Trade and Commercial and Economic Cooperation,* 31 O. J. EUR. COMM. (No. L 327) 1-34 (Nov. 30, 1988). The agreement covers trade and cooperation in agricultural and industrial products, but does not affect existing agreements in textiles and steel. *Id.* at art. 3.

104 *Id.* at art. 16.

105 *Id.* at art. 4. The three stages reflect the sensitivity of the products. The first stage abolishes restrictions on non-sensitive products in the first year of the agreement. The second stage abolishes restrictions on fairly sensitive products by the end of 1992, while the third stage provides for abolition in very sensitive sectors by the end of 1995. These very sensitive products account for about 20% of the restrictions and include textiles, fertilizers, wood products, glass and leather goods. *Id.* at 1-2.

106 *Id.* at art. 10.

actual results of negotiations from serving as precedent to concessions with other countries.[107] It is thus difficult to predict if other CMEA members may follow Hungary's lead.

The EC articulated several reasons why it prefers to proceed with each CMEA member state on a bilateral basis. First, the EC wants to finesse the USSR's dominant power in the CMEA.[108] Second, through bilateral agreements, countries' individual characteristics can be taken into account.[109]

It is not as clear why the EC did not proceed in establishing its relations with Hungary through the structure of the GATT. The bilateral approach may signal that the EC views the GATT as too ponderous. Alternately, it may indicate that the EC views the GATT as a mechanism too weak to support a satisfactory agreement.

Regardless of the motive, by continuing on the course of bilateral negotiations outside the structural context of the GATT, the EC may weaken the GATT. After viewing the EC's bilateral successes, other countries may follow suit and similarly by pass the GATT framework and negotiate bilaterally. This may result in a stronger EC at the expense of the GATT.

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107 *Resolution*, *supra* note 39, at 193.

108 Speech, *supra* note 2, at 8; Trevelyan, *supra* note 15.

109 Memo, *supra* note 2, at 2.