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**EEC – COMECON
DIFFICULTIES IN REACHING AN AGREEMENT**

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EEC - COMECON

Difficulties in Reaching an Agreement

On June 25, 1988, an important document - the Joint Declaration on the establishment of official relations between the European Economic Community and the Council for Mutual Economic Assistance - was signed in Luxembourg¹.

One could say that the relations between the EEC and the CMEA, which looked only too bad at the beginning of the 1980's, by the end of this decade seem to have been changing for good. The way to reach a common agreement has been in no way easy and we have to realize that this is only the beginning. The Declaration abolishes great political barriers erected in Europe after World War II. It ends a period of "false hesitation" based on distrust and insecurity between the two political and economic blocs in Europe.

Will the Joint Declaration have a magic effect for overcoming the difficulties and stimulating economic co-operation by granting access to the markets or by increasing trade turnovers? Unfortunately not. Too many problems still wait for mutually acceptable solutions. It seems, however, that Europe is for the first time on the right path - the path of co-operation. The external conditions are not bad either. The deeply significant (one can say revolutionary in some cases) changes in the political and economic structure of most CMEA countries and a favourable climate in East-West relations could open up new possibilities for trade and co-operation. COMECON has got a prospective market of some 400 million consumers and it is natural that the EEC, the most pre-eminent trading power in the world, should carefully look in that direction. Moreover, the two other powers, the USA and Japan, which are free from the problems of integration and harmonization of their economies, constitute serious competitors. The USA has always been strong, and Japan, together with

¹ The text of the Declaration see OJ L 157, June 24, 1988 p. 35.

the other newly industrialized Asian states, has at all times forced the EEC to take protective measures in order to keep European industry competitive².

To increase competitiveness, the European Community could use the potential possibilities which still exist in CMEA countries. These countries have been doing a lot nowadays to make their economies more efficient and competitive, in order to overcome technological and financial barriers and are seriously interested in the increase of co-operation and integration in Europe³.

How important is the Joint Declaration? The Declaration is definitely of great political importance. But apart from that it solves three practical problems:

1. The parties recognize each other. It shows a political will to normalize relations after 30 years and to begin a period of getting to know each other.
2. The two organizations explicitly say that there are things which they might be interested in using together (economic information, planning and forecasting, norms and standards, environment).
3. The way has been opened for CMEA countries to conclude trade and cooperation agreements with the EEC.

After this introduction let us try to briefly show the way of the strategy taken by two organizations to come to an agreement, the difficulties

² See the so-called "Screw-driver" Regulation - Reg. no. 1761/87 OJ L 187 of 1987. See also *A. Bell*, Anti-dumping practice of the EEC: The Japanese Dimension L/E/1987/2 p. 1.

³ At least that has been a policy of most important COMECON countries, USRR, Poland, Hungary and Czechoslovakia.

and development of the mutual relations between EEC and CMEA European member states, existing legal background and some possibilities for the future.

EEC - CMEA AGREEMENT

In order to reveal the strategy of the present agreement it may be useful to recall the recent history of relations between the European Community and the Council for Mutual Economic Assistance.

Generally, this history can be divided into three stages⁴. The first ranges from the creation of the EEC until 1972. Practically, there were no official contacts and the attitude of the USSR and other CMEA countries towards the Community was totally negative.

The more realistic approach to the EEC began with Leonid Brezhnev's statement of 1972 in which he stated that there was a possibility of establishing relations between the CMEA and the EEC.

The first formal contacts between the two organizations took place in 1974. The Secretary of the CMEA invited the President of the EEC Commission to pay a visit to Moscow and discuss the possibilities of improving mutual relations. The invitation was accepted, but that visit never took place. A preparatory meeting between officials of the EEC Commission and the CMEA Secretariat was held in Moscow in February 1975. During this meeting a number of areas where co-operation was interesting for both sides had been identified. Unfortunately, this was the only meeting of that kind. One year later, however, the CMEA submitted a draft of an agreement between the EEC and its member-states and the CMEA and its member countries. The CMEA proposal contained

⁴ See i.e. *J. Maslen*, The European Community Relations with the state-trading countries of Europe 1984-86. Yearbook of European Law 6/1986 p 335.

the provisions on co-operation between the two organizations as well as articles laying down the principles on which the international trade between EEC and CMEA countries should be based⁵. The idea was the following: the basic guidelines for trade would be laid down in the CMEA - EEC agreement. The bilateral agreements between the EEC and CMEA member states would be limited to technical matters only. The CMEA proposal was based on the concept that its member states, in negotiating agreements not with the EEC individual member states as before when introducing CCP, but with the whole Community, would have a much weaker position. The organization representing all CMEA states should have been able to negotiate a better and more beneficial agreement with the EEC. This concept was rejected by the European Community. It said that the CMEA had no legal power to conclude a trade agreement and had no influence on the trade policy of its member states. The Community wanted to negotiate trade agreements with those who were responsible for trade policy, notably the governments of the CMEA countries, and on the other hand was not interested in widening the range of competence of CMEA in the area of trade, practically limited to plan co-ordination. This position is legally justified. Although the statute of CMEA says that CMEA can conclude international agreement with other countries and international organizations⁶, it has been recognized in socialist literature that CMEA has no autonomous legal capacity because all agreements have to be unanimously confirmed at the CMEA session and in practice the organization is only a representative of a group of states concluding an international agreement with another international organization or state⁷. Romania has said explicitly that agreements concluded by CMEA can regulate only external relations of CMEA as such or form a basic organizational framework for the co-

⁵ For details see *J. Maslen*, *The EEC Relations...* p. 336-337.

⁶ See Art. II sec. 2 (b) of the CMEA Statute.

⁷ See i.e. *J. Sandorski*, *Forma prawna integracji gospodarczej państw socjalistycznych (Die Rechtsform der wirtschaftlichen Integration der sozialistischen Staaten)*, Poznań 1977 p. 52.

operation of CMEA member states and third countries⁸.

In November 1976 the European Community put forward a counter-draft concerning merely working relations between the two organizations (primarily an exchange of information), leaving all trade matters to be negotiated by the EEC and CMEA member states.

As becomes clear from what has been said above, the two proposals are in full contradiction with one another. No wonder that the subsequent talks on the two drafts (May 1978 - October 1980) were suspended by mutual consent, because the positions of the two parties were irreconcilable. The CMEA did not want to abandon the idea of controlling the trade relations between the EEC and CMEA countries. The EEC would not accept the CMEA role of intermediary between the Community and particular CMEA states. It was clear that without a substantial change on the side of the CMEA and with a view to the general political situation no agreement would be possible. Once again the differences in the integrational process together with political disparities had blocked further negotiations.

The necessary changes in the CMEA approach could be observed in 1984. In the final communiqué of the CMEA summit in June 1984, it was said that CMEA countries were prepared to conclude an appropriate agreement with the EEC⁹. There were also various indications of interest in renewing the dialogue with the EEC to be observed on the part of CMEA countries. At the beginning, however, all these new approaches failed to bring new elements into the CMEA position. The first such signal came during the visit of the Italian Prime Minister Craxi to Moscow in 1985 (Italy held the EEC Presidency at that time). Mr. Gorbachow said in his speech that finally it was time to organize relations with the EEC. Since

⁸ Osnownyje napravlenija dalniejszego sowierszenstwowanija organizaciji mnogostranniego sotrudniczestwa stran-czlenow SEW i dejatelnosti Sovjeta. (Die Hauptströmungen in den Beschlußgremien der Organisationen für multilaterale Zusammenarbeit der Mitgliedstaaten des RGW und der Tätigkeit des Rates.), Secretariat CMEA, Moscow 1978, chapter V.

⁹ Text of the Communiqué see in Pravela June 16, 1984.

that statement the attitude of all socialist countries has changed. The chance for an international recognition of the EEC by CMEA countries has become realistic.

For further talks this change of the CMEA approach has been fundamental. The main reasons for the change were political and economic reforms carried out in socialist countries. The new policy of Mr. Gorbachov, openness, democratization and a pragmatic line of Soviet foreign policy and finally a clearly improved political climate between the United States and the Soviet Union engendered great progress in the relations with the EEC.

The formal steps to be taken came very soon after the political statement, confirming the will to resume the CMEA - EEC dialogue. In a letter sent by the Secretary of CMEA, Mr. Synov, to the President of the EEC, Mr. Delors, in June 1985¹⁰, the Secretary suggested that official relations should be established between the CMEA and the EEC by adopting a joint declaration. He also suggested a high level meeting. This proposal of the CMEA illustrates a radical change of its position and in fact approved the old concept put forward by the Community during former negotiations in 1980. It was not yet clear whether the CMEA would accept the bilateral trade agreements between the Community and CMEA member states that were part of the EEC proposals. On 26 September, 1988, Mr. Synov sent the CMEA draft of the joint declaration. It was a short text saying that the CMEA and the EEC were to establish official relations with each other by the adoption of that declaration. In subsequent meetings, representatives of the two organizations were to discuss the forms and methods, as well as the areas of future co-operation¹¹. Now it was clear that the CMEA had given up the idea of including into the agreement provisions on trade and relations between the EEC and

¹⁰ Bull. CEE 6/1985 p. 2.3.37.39.

¹¹ Text of the draft has not been officially published. For a version see Agence Europe January 15, 1986, see also *J. Moslen*, *EEC Relations* p. 340.

CMEA member states. The readiness and openness of the CMEA surprised the EEC. In the Community policy concerning the CMEA the two aspects have always been closely linked. The main objective was the normalization of relations between the EEC and the CMEA countries simultaneously with the relations with the CMEA as an organization. If now the EEC accepted the CMEA proposal, it would solve the problems of contacts with the CMEA (organization), but leave open the question of bilateral relations with the CMEA states. To reject the proposal was not acceptable either in the political circumstances. The Community found it quite difficult to give an answer to the CMEA proposal. After the discussion in the Commission and Council it was decided to explain the Community position both to the CMEA and to its member countries. The letters followed in January and February 1986 to the Secretariat of the CMEA and to the Foreign Ministers of the CMEA countries, in which Mr. De Clercq accepted the idea of joint declaration and suggested the preparatory meeting, but at the same time explained the Community's parallel approach. The reply of Mr. Sychov came in April 1986 and was positive. The parallel concept was fully accepted; it was stressed that each CMEA member state would arrange its relations with the EEC according to individual need. All answers from the Foreign Ministers were similar. The CMEA member countries welcomed the will of the organizations to normalize relations, confirmed at the same time the wish to establish bilateral relations with the European Community and to negotiate trade agreements (except the G.D.R.)¹². The earlier insistence on using the CMEA as a intermediary between the EEC and individual CMEA countries had been dropped. The crisis had been overcome and both sides, considering that sufficient progress was being made in bilateral relations, decided to enter into direct negotiations.

Everything started to move very quickly. Soon the EEC began talks with Romania on a co-operation agreement and with Czechoslovakia on a trade agreement for industrial products. In June 1986 informal talks on a trade

¹² G.D.R. only expressed the wish to discuss problems of common interest, Bull. CEE 5/1986 p. 2.2.37.

and co-operation agreement with Hungary were started and in July exploratory conversations with Poland were held.

The first experts' meeting for six years between the CMEA and the EEC Commission was organized in Geneva in September 1986¹³. The discussion focused on the draft declaration which had been proposed by the CMEA one year ago. Generally the overall shape of the text was accepted by the Community although some remarks concerning the wording had been made. The most controversial point turned out to be a question of territorial clause which the EEC delegation wanted to include in the declaration. The Community wished to see acknowledged the fact that West Berlin was an integral part of the EEC. On the other hand, the CMEA equally insisted on the need to stress that the status of Berlin, as laid down by the Four-Power Agreement of September 3, 1971, was not affected.

This first meeting, though fruitful, failed to solve all the differences. W. Synow suggested the second meeting to be held before the end of the year¹⁴. This proposal was rejected by the Community¹⁵ which wished to negotiate further, but after bilateral meetings with some of the CMEA countries (Bulgaria, Hungary, Poland, GDR, USSR) would be held. The negotiations with those countries were to take place respectively in October (with Bulgaria and Hungary) in November (with Poland and G.D.R.) and in January 1987 (with the Soviet Union).

The next meeting of experts of the CMEA Secretariat and the EEC-Commission did not take place until March 1987. At this meeting the Community presented proposals concerning changes of the text and the problem of territorial clause was discussed as well. Various formulae have been put forward and in some points, the parties, have moved closer together, nevertheless it has not been possible to reach an

¹³ Bull. CEE 3/1987 p. 2.2.23.

¹⁴ Letter of November 5, 1986.

¹⁵ See letter of Mr. *De Clercq* of December 3, 1986.

agreement. Too many political differences would be seen and, without decisions on higher level, the further progress has proved to be impossible.

In December 1987 Synow and De Clercq took part in the Colloquium on the relations between the EEC and the CMEA. During that meeting most of the problems have been discussed and finally solved. In their speeches both Synow and De Clercq stated that the parties agreed on all the basic questions and the both sides would do their best to work out the final text of the declaration and sign it¹⁶. It was fully agreed that parallel to the establishment of official relations between the CMEA and the EEC, individual CMEA member states would settle their relations with the Community on a bilateral basis. In doing so, the issues of trade could be settled in a contractual manner on the basis of bilateral negotiations.

Finally, after really long and difficult negotiations, the parties came to an agreement and were able to sign the joint declaration. The document was signed in Luxembourg on June 25, 1988. The Joint Declaration is short and there are only a few little differences compared to the project which has been discussed above¹⁷. It contains the provision on establishing official relations and defines the co-operation in areas which fall within the respective spheres of competence and are of a common interest to both organizations. The areas and methods of cooperation will be developed by the Parties on the basis of the experience by means of contacts between their representatives. In section 5 there is a territorial clause.

¹⁶ See *W. Synow* and *W. De Clercq* closing speeches given during the Colloquium on "Political and Legal Framework of Trade Relations between the European Community and Eastern Europe" - Ghent, December 17-18, 1987.

¹⁷ For the text see supra note 1.

CEEC - CMEA Member States

Legal background

Since 1969, the end of the transitional period, the Community has the exclusive power to negotiate and conclude bilateral and multilateral agreements on commercial matters either with third countries or with international organizations¹⁸. This means that such agreements must now be negotiated and concluded by the institutions of the Community and not by its Member States. The exclusive power of the Community is not limited to trade agreements in the narrow sense, but extended to all matters within the scope of the Common Commercial Policy¹⁹ (C.C.P.).

On December 16, 1969 the EEC Council decided that C.C.P. should apply to CMEA countries in the same way as to the other countries outside the EEC²⁰. Since all the European countries - Members of the CMEA - had trade agreements with particular EEC Member States and most of them were in force, it was decided that as an exceptional measure, the individual Member States would be allowed to continue negotiating bilateral trade agreements until the end of 1972. Any of such agreements should be terminated or expired by the end of 1974.

The EEC Council in May 1974 made a statement emphasising the readiness of the Community to negotiate new agreements with each of the CMEA member states. Then the Commission prepared draft outline agreements with the Community, incorporating most-favoured-nation treatment and covering most important fields of trade. Those agreements were sent in November 1974 to all the CMEA countries as a proposal for negotiations but they practically did not meet any consideration²¹.

¹⁸ See art. 113 of the EEC Treaty.

¹⁹ See European Court Opinions 1/75, ECR 1355 and 1/78 ECR 2871.

²⁰ Reg. FEC no. 109/70, OJ L 19 of June 26, 1970.

²¹ Eventually China and Romania entered the negotiations with the EEC and signed the agreements respectively in 1978 and 1980.

The EEC Council decided that from January 1975 the "autonomous trade policy" towards the CMEA states would be introduced²². The trade provisions would no longer be subject to negotiation but would be unilateral decisions of the Community.

Did the new policy of the Community put the CMEA countries in a worse position than other countries? Generally one can say that this situation was not good. Unilateral decisions are usually worse than bilaterally agreed ones. Unfortunately there was no joint commission or committee which could review the controversial questions and put forward the reasonable solutions.

The EEC during these years has emerged as the major trading power in the world, but the trade with the CMEA constituted only seven percent of all the trade exchanges of the Community.

The situation is just the opposite for the CMEA countries for which the EEC states have always been the main trading partners in the world.

Let us now see what were the new conditions of trade with the EEC.

One of the most important elements of the EEC Members States' agreements with the CMEA countries was the mutual granting of most-favoured-nation treatment in tariff matters. The Community, after the agreements had expired, applied the same treatment *de facto* to all countries, whether members of the GATT or not. The fact is, however, that now, after several rounds of trade negotiations within the framework of the GATT, tariffs are not that much important. The so-called "non tariff barriers" have become the biggest problem for trade, among them quantitative restrictions.

²² Council Decision no. 74/652 (EEC), OJ L 358 of December 31, 1974 replaced later by Council Decision 75/210, OJ L 99 of April 21, 1975.

The agreements with the various CMEA countries had contained lists of quotas applicable to imports from the country concerned in sensitive sectors for the Community. The content of these lists could be negotiated each year in Joint Committees. Then, the quota arrangements for all the CMEA countries were laid down by a Council decision. Of course, if no Joint Committee exists, there can be no negotiation of the quota arrangements with the country affected.

The unilaterally adopted quotas have caused a lot of criticism in the CMEA countries as measures making the access to the EEC market very difficult for some products coming from these countries.

Far from accepting quotas as a good way of regulating international trade, one should avoid exaggeration in their importance for the trade between the CMEA countries and the EEC. At present these quotas affect about five percent of imports coming from the CMEA countries. There are ways of making known the views, either directly or through importers, in favour of increasing or removing particular quotas. Of course to change the quota is not so easy, because it is usually adopted in the areas very sensitive for the EEC market. On the other hand it often happens that quotas are not fulfilled due to smaller than an originally expected export ability of a given country.

Facing the lack of agreement, the EEC trade relations with the CMEA states were based on two sets of regulations adopted by the EEC Council on June 30, 1982 and November 14, 1983²³. Briefly speaking, the 1982 regulations list the products which are free from import restrictions throughout the EEC, the 1983 regulations list the products which are not.

²³ OJ L 195 of July 5, 1982 and OJ L 346 of December 8, 1983.

In addition to these rules, some important measures can be taken under the Communities Anti-dumping and Anti-subsidy legislation laid down in regulation 2324/88²⁴. This problem however, is too broad and it is not going to be discussed here.

Until now we have been speaking about industrial products but for the CMEA countries a very important aspect of the community's trade policy is that relating to agricultural products. It falls under the Common Commercial Policy and most of all under the Common Agricultural Policy (CAP). The rules apply to all countries indiscriminately but they have particularly influenced trade with the CMEA countries, since some of them like Poland for example, have been traditional suppliers of many agricultural products to the Community. Moreover, the instruments in the industrial sector which were discussed above, affect only imports and the CAP enables the Commission not only to control the prices of imports through the application levies but also to control exports by adjusting or removing the refunds paid to Community exporters. One should also bear in mind that the Commission has authority to enforce health regulations which, if improperly used, may affect imports of agricultural products.

Another area of international trade, the one of constantly growing importance, in which the regulation has not been fully developed in the relations between the EEC and CMEA countries, is that of trade in services. Practically, with the exception in the transport field, there are no external policies in the Community Law covering these relations with the CMEA countries. It seems that this part of the bilateral trade should be given more attention in the future bilateral agreements.

Having said all that about the exclusive powers of the Community in the field of external trade, one must add that the EEC member states can negotiate and sign bilateral economic co-operation agreements. Since the decision of December 1969 introducing the Common Commercial Policy towards the CMEA countries, the process of setting up a network of economic co-operation agreements with the member states could have been

²⁴ OJ L 209 of August 2, 1988.

observed. This has expanded over the years and covers all CMEA countries and most of EEC member states. These agreements, however, cannot contain provisions relating to trade and conflict with the CCP.

Now before going into the presently existing agreements between the EEC and the CMEA countries let us have a look at what kinds of agreements the Community has concluded since the CCP was introduced.

All agreements can be divided into groups:

1. Non-preferential general trade agreements concluded under Art. 113 of the EEC Treaty, i.e. first trade agreement with Yugoslavia of 1969²⁵, agreements with China²⁶ and Romania²⁷.
2. General trade agreements establishing free trade areas concluded under Art. 113 of the EEC Treaty, i.e. agreements with the EFTA countries.
3. Non-preferential agreements for commercial and economic co-operation concluded under Arts. 113 and 235 of the EEC Treaty, i.e. the recently signed EEC-Hungary agreement²⁸.
4. Preferential co-operation agreements, providing for economic, technical and financial cooperation and for preferential trade concessions by the Community, mostly concluded under Art. 238 of the EEC Treaty, i.e. the conventions of Lomé with the African, Caribbean and Pacific (ASP) states²⁹ and agreements with the countries on the Southern and Eastern shore of the Mediterranean.

²⁵ Changed later by the agreement of 1973. OJ L 224 of August 13, 1973.

²⁶ OJ L 123 of May 11, 1978.

²⁷ OJ L 352 of December 29, 1980.

²⁸ OJ L 327 of November 30, 1988.

²⁹ For the text of Lomé III Convention see The Courier EEC no. 89/1985.

5. Association agreements with European countries concluded under Art. 238 of the EEC Treaty, i.e. agreements with Turkey³⁰, Cyprus³¹ and Malta³².
6. Agreements within the framework of the GATT, concluded under Art. 113 of the EEC Treaty, i.e. accession protocols of new GATT members and periodical multilateral tariff and trade negotiations (Dillon, Kennedy, Tokyo, Uruguay Rounds).
7. Sectoral arrangements in the area of CCP concluded under Art. 113 of the EEC Treaty, i.e. multilateral agreements on commodities, arrangement regarding International Trade in Textiles (Multifibre arrangement) and various export restraint agreements.

On the basis of the division presented above showing not all but still a great variety of agreements concluded by the EEC, let us see what kinds of agreements the CMEA countries have concluded with the EEC.

The first bilateral agreements with the Community were concluded in the sixtieth; even so the links between the EEC member states and the CMEA countries existed at the time. The first agreements were in the agricultural field and covered a wide range of products.

The next sector in which the CMEA countries were affected by Community Policies was the textile sector.

In 1973 the first Multi-fibre Arrangement signed within the GATT laid the foundation for bilateral voluntary restraint agreements. Such agreements were concluded with *Romania, Hungary, Poland, Bulgaria and Czechoslovakia*.

³⁰ OJ C 113 of December 24, 1973.

³¹ OJ L 133 of May 21, 1973.

³² The original text OJ L 61 of March 14, 1971.

Similarly for textiles in 1977, the increasing problems of the steel industry gave raise to the protective measures in the Community. In the years 1978-79 voluntary restraint agreements were concluded with Czechoslovakia, Hungary, Romania, Poland and Bulgaria setting quantitative limits or minimum prices for certain iron and steel products.

All the agreements mentioned above belong to the group of sectoral arrangements and deal with only a small part of the trade exchanges. The lack of relevant general trade agreements with the EEC has become more and more painful but the way to reach them seems to be even more difficult than the agreement between the two organizations. Let us recall the project of the general trade agreement proposed by the Commission and sent to the CMEA states and have a look at the relations of the particular CMEA states with the EEC.

China

The first country to answer the Commission proposal was China (not a CMEA member, but considered by the EEC as a state-trading country). It accredited a Chinese Mission to the Community in 1975 and three years later concluded a non-preferential trade agreement³³. This agreement was declared by the EEC to be a model agreement to be concluded with so-called state-trading countries. Since then, the EEC-China relations have developed very well. In 1985 the new, wider and more interesting agreement was signed between China and the EEC³⁴.

Romania

The first and, for a long time, the only CMEA country that decided to negotiate a type of agreement proposal by the EEC had been Romania. The talks began in 1976 and in 1980 two agreements were signed³⁵. One

³³ Agreement concluded on April 3, 1978, OJ L 123, 1978.

³⁴ The Agreement signed on May 21, 1985, OJ L 250, 1985.

³⁵ OJ L 352, 1980.

covered all areas of trade in industrial products (except textiles and steel sectors), the other provided for an annual Joint Committee whose aim was to discuss all aspects of the EEC-Romania trade relations. Both sides have not been satisfied with the agreements. For Romania they did not give desired access to the EEC market and the EEC complained that Romania limited its imports and the Community had always a negative trade balance. In 1986 the review was made in order to see the possibilities of concluding a new trade and co-operation agreement³⁶. Presently both parties are discussing different aspects of the eventual agreement³⁷.

The other CMEA countries did not take any interest in the Commission's proposal. They took the position that trade relations should be settled in the agreement between the EEC and the CMEA. Since 1983, they have begun to change this approach. Successive countries such as Czechoslovakia, Hungary, Poland, Bulgaria have shown interest in extending the range of their agreements with the Community. This interest came together with the will of the CMEA to normalize relations with the EEC.

Among above mentioned states, Hungary and Czechoslovakia have already concluded bilateral agreements with the Community³⁸. The other countries are in different stages of negotiations.

Hungary

Hungary began the introductory talks already in 1983. It wanted to negotiate a wide trade and economic cooperation agreement. Until 1986 the EEC did not intend to sign this sort of agreement but then there was a change in its position. In April 1987 the EEC Council opened negotiations concerning the texts for a trade, commercial and economic

³⁶ On EEC-Romania relations see Bull CEE 6/1986 p. 1.1.17 and Bull. CEE 11/1986 p. 2.2.23.

³⁷ See Bull. CEE 12/86, p. 2.2.26 and Bull. 3/1988 p. 2.2.42.

³⁸ Hungarian Agreement signed September 26, 1988 published in OJ L 327 of November 30, 1988, Czechoslovakian Agreement agreed in Brussels in October 19, 1988, not yet published (Bull. CEE 10/1988 p. 2.2.7).

co-operation. After one year of negotiations the agreement was initiated and eventually signed on September 26, 1988. This agreement was concluded under Arts. 113 and 235 of the EEC Treaty. The most important provisions foresee a liberalization of trade. The Community undertakes to abolish the quantitative restrictions in three stages until 1995³⁹ and both parties should make every effort to promote, expand and diversify their trade on the basis of non-discrimination and reciprocity⁴⁰. The Agreement contains provisions on economic co-operation and established a Joint Committee⁴¹. It was concluded for an initial period of 10 years and will be automatically renewed each year.

The Agreement signed with Hungary has been up to now the widest ever concluded with the CMEA countries.

Czechoslovakia

Czechoslovakia started its initial talks in 1983 but at first tended to conclude several concrete agreements on certain branches of industry. The EEC Commission insisted on signing one general trade agreement on industrial products. In April 1986 Czechoslovakia agreed to conclude a trade agreement. The negotiations were finished in October 1988 by initiating the Agreement on Trade in Industrial Products.

Bulgaria and USSR

In both cases only introductory talks took place. Bulgaria showed an interest in a trade and co-operation agreement. The EEC Commission suggested an agreement limited to trade. At present different aspects for possible settlement are being discussed. Various possibilities of co-operation were also discussed during the meeting held by the experts of the EEC Commission and of the Soviet Union.

³⁹ Art. 4 para 2 of the EEC-Hungary Agreement. See also Protocol on the abolition of quantitative restrictions referred to in Art. 4.

⁴⁰ Idem Art. 10.

⁴¹ Idem Arts. 11 and 13.

G.D.R.

In November 1986 the meeting at the experts' level was held but the talks focused on the problem of establishing a G.D.R. mission to the EEC. In the preceding meeting G.D.R. showed no interest in concluding any trade agreement with the EEC.

Poland

Since 1985 Poland has shown a clear interest in negotiating a general agreement which could provide an institutional framework for economic relations with the EEC. The first experts meeting took place in July, 1986. The possibility of signing a broad trade agreement was discussed. The talks went on into 1987 and 1988. Without doubt there is a need for a bilateral agreement and both sides agree to that. What kind of agreement do we have in mind?

From the Polish point of view, the best at the present stage would be a trade and economic co-operation agreement covering all areas of trade and opening new prospects for economic co-operation. The Community would not like to go that far. Its approach remains a "step-by-step" one. It does not, however, exclude the possibility of co-operation on bilaterally pragmatic terms in the future. It seems that the Community needs more information about the Polish economy. The fact is that the EEC would very much welcome an improvement in our exchanges in terms of volume, of diversification, of quality, of supply and services. We hope that the reform process under way in Poland regarding all aspects of economic life and external trade policy will have an encouraging effect on the increase of confidence and mutual exchanges. It is not my task here to speak about the Polish economic reform, but it should be stressed that, at present, a lot is being done to make the Polish economy more efficient and the market more open to foreign investors and products. As a country without a convertible currency Poland is forced to maintain a dual balance of payments. Therefore in order to buy with convertible currencies, Poland (and the other CMEA states) has to earn

those sums through exports or borrow them. Borrowing in the present situation is not a good solution, on the contrary Poland should repay its debts. It leaves only one way out - e x p o r t s .

The Polish economy is not export-oriented yet. The present Poland-EEC agreement could do Poland a lot of good now and would be interesting for the Community, especially in the long term. From all the Western partners the EEC has always been the most important one; and for the Community Poland is one of the biggest trade partners among CMEA countries. Poland, though being now in a state of crisis, has a great potential which, under certain conditions, might be a basis of good and profitable co-operation for both sides.

What would be the main areas to put into the prospective agreement?

1. Discrimination - free trade regime - all the discriminatory practices should be removed from bilateral trade.
2. Mutual tariff reductions on industrial products.
3. Mutual concessions on agricultural products - some regulations in this area are necessary for both sides.
4. Industrial and technical cooperation - in this field a lot could be done. One of the main tasks should be to bring into contact small and medium sized firms of different nationalities which are interested in co-operation or in working closely with each other.
5. Mixed Committee. The Committee should be established as a platform for consultation, in order to ensure that the aims of the agreement are attained and to find joint solutions to any problem which may arise.

It is also necessary to say that in the negotiations on the agreement some particulars of Poland should be taken into consideration. Just to mention a few of them:

1. Special economic system with the more and more open and transparent market.
2. Economic interdependence of Polish exports and imports.
3. Traditional, historical, cultural, and economic links to the EEC member states.
4. Relatively low economic development level.
5. Further development of the economic and political reforms under way.

Difficulties and perspectives

After having presented the difficult way of the EEC and the CMEA to an agreement and existing legal framework, let us try to reflect once again on difficulties and possible perspectives.

The three basic grounds for difficulties in reaching an agreement could be distinguished. Most of the problems were due to the political past and differences, various ways and levels of integration and economic inequalities. Just after World War II Europe was divided into two different political and economic blocs.

The EEC emerged in 1958 practically after the worst period of the Cold War as a voluntary association of states which were more or less at the same level of development (relatively high) and which wanted to increase mutual trade by removing internal customs and building a common market.

The origins of the CMEA were quite different. It came into existence during the Cold War and as a result of limited contacts with Western

Europe. It brought together states with varied levels of economic development (relatively low) different in size and importance. Although they had similar social and political systems, their political culture and historical background differed a great deal. Quite naturally the smaller states fell under the dominance of the biggest and politically most important partner - the USSR.

The accepted model of integration was quite different from that in the Common Market⁴². Each state prepared its own five-year-plan based on its own aims and needs. These plans were co-ordinated at the CMEA meetings but, because there was no supranational mechanism, their effect on national economies was not big. In the CMEA there was no common market, no free movement of currency among the member countries. Capital moved only with the agreement of governments and in the interests of individual states. There was also no common tariff against the outside world. Foreign trade was mainly conducted on the bilateral basis in the framework of governmental agreements.

The CMEA has similar administrative structure to the EEC but the member states have not given up so much of their independence and in practice the ECMEA only could represent their interests when they have consented⁴³.

All these conditions caused different attitudes of particular CMEA member states towards integration. Nowadays there are big changes in the CMEA member countries and there has been a movement on the CMEA side in the direction of more realistic integration.

⁴² For two models of European integration see i.e. *W. Wallace, R. Clarke, "COMECON, trade and the West", London 1986; J. Pinder, Integration in Western and Eastern Europe: Relations between the EC and CMEA - Journal of Common Market Studies, vol. 18 1/1979 p. 114; G.N. Yannopoulos, EC External Commercial Policies and East-West Trade in Europe, Journal of Common Market Studies, vol. 24 1/1985 p. 21; A. Köves, The CMEA Countries in the World Economy: Turning Inwards or Turning Outwards, Budapest 1985 p. 218-232.*

⁴³ See remarks on legal powers of the CMEA above, see supra notes 7 and 8.

The two different models of integration together with different starts and external conditions resulted in various economic developments: The EEC, despite some problems, economically came to be one of the three main powers of the world. The CMEA appear to be generally less successful.

Why should the EEC try to reach an agreement with CMEA countries? Again there are three reasons:

1. Political.

The artificial division of Europe for "*One Europe*" and "*their Europe*" is more anachronistic these days than it was before. Europe has its historical and cultural traditions and there is a need for European unity, for a safe and comfortable home.

2. Economic.

CMEA is a big potential market. For the EEC it could also be interesting to use the reserves of Eastern Europe, in facing a strong competition from Japan and new industrialized countries of South-East Asia. CMEA has still a lot to offer.

3. Environmental protection.

Now it is clear to everybody that in this area only the common solution can save nature because there are no borders for pollution and the costs of protection are constantly growing.

CONCLUSIONS

We witness now a turning point in the relations between the two political and economic organizations in Europe. The Joint Declaration signed by the EEC and the CMEA, the EEC agreements with Hungary and Czechoslovakia, negotiations with other CMEA countries are the signs of a new era. It is a beginning of normalization. What does it mean - normalization? Does it mean that the CMEA countries will have identical relations with the EEC like all the other countries? The answer is yes but not at once. We will be able to discuss any sort of problems, to negotiate agreements, to establish diplomatic relations.

The adoption of the Joint Declaration will not determine a dramatic or spectacular change in the mutual exchanges but it will be the beginning of "getting to know" one another. By the gradual development of contacts we will be able to overcome the mistrust and eventually to put our relations on a higher level.

When one looks at the present level of our relations, at trade, investments of each party in the other's territory or at the reciprocal contacts between our businessmen, one can hardly avoid the feeling that the situation is not good and that a lot still could be done.

Such geographically close neighbours, having interdependent economies, have been rather poor economic partners. Only a few investors from the Community have up to now dared to try a joint venture in Eastern Europe. Trade or economic relations are carried out by some large companies, but seldom by small and medium sized firms. It seems that there are many more possibilities.