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Negotiating in a time of crisis:
The EU's response to the military conflict in Kosovo

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1. INTRODUCTION*

The conflict in Kosovo and the subsequent NATO-bombing campaign of March-April 1999 catapulted the European Union (EU) into South Eastern Europe. Having treated the region as a 'poor and distant cousin' (CEPS, 1999b: 32) the EU now became frantically friendly. Within a period of less than four months, the EU persuaded the international community to participate in a Stability Pact for South Eastern Europe, set up a Reconstruction Agency and launched a Stabilisation and Association Process specifically for the region. To the surprise of many, this new activism was generated by the goal of bringing the region within the EU's circle of potential membership.

This paper aims to trace and explain the internal negotiations in the EU which led to this new inclusive approach to South Eastern Europe. How can one for instance explain why, despite the fact that it was already struggling to manage the existing accession queue of twelve countries, the EU still decided to extend the membership perspective to yet another five countries? Why did it launch a new instrument – the Stability Pact – when there were several EU initiatives, not to speak of international ones, already in place for the region? At a more general level, the article investigates what this case-study tells us about the EU's ability to negotiate in a time of crisis: how does a fifteen member strong, consensus-based system react when confronted by a specifically European crisis?

The central point of the paper is that the EU's new activism cannot be understood within a purely rationalistic theoretical framework (cf. for instance Moravcsik, 1994, Baldwin, 1993). Indeed, what is striking about the case is that EU governments took a number of decisions that seemed to directly contradict their interests. A core explanation for this was the pressure to respond quickly to the crisis. The EU's self-understanding as an organisation which has peace and democracy as its defining values was critical too in determining the policy choices made. It was also striking that it was only after the decisions were reached that EU governments began to think through the consequences of those choices, e.g. how would they fit with the existing policies towards South Eastern Europe and what did they mean for EU enlargement. In fact, the almost jungle-like proliferation of EU initiatives towards South Eastern European soon attracted fire. In one of his first speeches to the European Parliament, the new Commission President, Prodi, warned that:

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“there is a danger that the impact of its [the EU’s] support will get buried in a complex web of competing structures: the United Nations Mission for Kosovo, the Stability Pact, the G7 high-level group for economic co-ordination, the Royaumont Process, the Office of the High Representative in Bosnia, the Special Envoy for the Yugoslav Republic, and so on. This proliferation of decision making undermines the central role that the European Union should play. We desperately need to simplify things” (Prodi, 1999b; see also Patten, 1999).

This case study also finds that a crisis can kick-start the EU negotiation system and generate swift decision-making contrary to the usual protractedness of EU negotiations. Judging from the Stability Pact case, however, even crises do not necessarily lead the EU to launch innovative or creative solutions. In the Kosovo case, the EU could only look into the toolkit of the past and largely re-wrap an existing policy instrument - membership - as its main response. As a matter of fact, the pull of path-dependency was so strong that actors did not even consider whether models designed to fit other non-EU members would be best suited to the needs and capacities of the South Eastern European countries.

This paper falls into two parts. The first part traces the EU’s reaction to the conflict in the Kosovo-region. It focuses on its attempt to find a long-term solution to the security and stability of the Kosovo-region in the wake of the NATO bombing campaign of March-April 1999. The second part looks at the Kosovo-case through a theoretical lens and draws a number of lessons from this rapid reaction of the EU to crisis.

2. THE EU’S RAPID REACTION TO SOUTH EASTERN EUROPE

2.1. The Initial Reaction – a Stability Pact

The rapidly deteriorating situation in Kosovo in 1998-99 forced the EU to once again turn its attention to the former Yugoslavia. As in Bosnia, the role of the EU in the international community’s response to the actual military Kosovo crisis was minor (Duke, 1999: 5). Indeed, in the 1990s, the EU launched a whole range of initiatives which showed that it was to a large extent groping its way towards a clear policy for the region as a whole. Its approach was largely reactive: in the 1990s, it created a European Community Monitoring Mission (ECMM), appointed an EU Special Envoy for the former Yugoslavia and agreed a number of decisions in the framework of the CFSP including an embargo on the export of arms to the former Yugoslavia. As its specific contribution to the Dayton accords, 1995, it developed a regional approach to the countries affected (General Affairs Council, 1996),¹ launched the so-called Royaumont process and was party to the Southeastern European Co-operation Initiative (SECI).² This proliferation of initiatives continued in late 1998 with agreement on a so-called

comprehensive approach to Kosovo and the decision to launch, in the framework of the CFSP, a common strategy for the Western Balkans (European Council, 1998, point 2). Hence, by early 1999, the EU had in place a range of policies and activities towards the former Yugoslavia. A coherent regional strategy was nonetheless absent - first, the reference points for policy-makers differed e.g. some states were included in the EU's enlargement process (Slovenia, Bulgaria and Romania); relations with others developed on the basis of post-Dayton approaches, and other parts of the region simply found themselves 'left-out' of EU policies e.g. the FRY. Second, and in part explained by both fragmented EU policy-making and differentiation in the region, a truly regional component to policy did not emerge.

In March 1999, a new stage in the on-going Kosovo conflict was reached when Yugoslav security forces began a new offensive after peace talks in Rambouillet broke down.³ NATO was finally pressed into action and began a bombing campaign on 24 March. The escalation of the conflict into a military NATO-operation obviously shifted the focus of international involvement away from the European Union - its' weakness in exercising leadership was once again exposed. Yet, many of the member states were implicated in NATO action and the Union as such faced another humanitarian crisis in Europe - one fifth of Kosovo's population had already either fled or been displaced - and the danger of an escalation of the conflict.⁴

The first indications of a policy shift on the part of the EU in response to the crisis⁵ came on 1 April, less than a week after the bombing had started. In a Troika-meeting with neighbouring states affected by the crisis, Germany's Foreign Minister Joschka Fischer launched the idea of a Stability Pact for South Eastern Europe which should open "the door to a long term political and economic stabilisation process". This would aim to prevent ethnic conflict, create stable conditions for democracy, and "anchor the countries of South East Europe firmly in the values of and institutional structures of the Euro-Atlantic Community" (*Agence Europe*, 6 April 1999). The idea of a Stability Pact was not new.⁶ France had twice proposed such an idea - once (successfully) in 1993, for Central and Eastern Europe and a second time in February 1998 (unsuccessfully) in connection with Bosnia (Ueta, 1997; Védrine, 1998).⁷ The novelty of the German approach was that it would offer the countries of the region the perspective of membership in Euro-Atlantic structures. In other words, they were clearly seen to belong or to have a right to belong to this wider community.⁸ The German Auswärtiges Amt clearly felt that the prospect of membership in NATO and the EU was the tool to stabilise the region (*Authors' interview*, Offices of the Stability Pact, October 1999). It was deemed to be effective in anchoring democracy and the market reform process in Central and Eastern Europe - why not repeat the exercise for South Eastern Europe?

The main concern of the Stability Pact was to tackle the underlying causes of instability in the Balkans which had in the 1990s given rise to successive wars of succession, economic crisis and political instability. Immediate concerns about the effects of the Kosovo crisis on Albania and Macedonia, which in early April already received a further wave of refugees (230 000 and some 120 000 respectively),⁹ also inspired the initiative. Moreover, the co-operation of the latter was also of key strategic importance to NATO's bombing campaign. German domestic concerns also drove the initiative. Although the government supported NATO action, the bombing campaign triggered a political crisis in the German coalition government. Chancellor Schröder faced opposition from within his party and his Foreign Minister Fischer had great difficulties in winning over his Green party to NATO action.¹⁰ Their immediate priority was to devise a political approach which could act as a counterweight to NATO's military action, thereby securing Green party support for the latter. Speed was of the essence.

One week after the Troika meeting, on 8 April, the first written draft of the Stability Pact was, without prior consultation, presented to EU Political Directors on the morning of a Special General Affairs Council (Auswärtiges Amt, 1999; see also Annex 1 for the timetable of the initiative). The main elements of the draft, which itself was largely conceptual, are summed up in Figure 1. In drafting the Pact, earlier initiatives, such as the 1994/5 Stability Pact were consciously recalled. It was proposed that the Pact should be established under the OSCE roof, given its aims and its format. This would also allow for US and Russia's participation. The German government believed that the US and NATO¹¹ were critical to the long-term stability of the region. It wanted to bind these and Russia, also considered to be a critical actor, in a common approach. The novelty of the Pact would be that the region of South Eastern Europe would be offered the prospect of integration into Euro-Atlantic structures. A long-term solution to peace was deemed to be one of inclusivity i.e. of embedding the region in those organisational and normative Euro-Atlantic structures.¹²

The EU member states were stunned at the speed with which Germany had responded to the crisis and at its failure to consult beforehand with them (including the UK and France). The initial reaction of the Political Directors (8 April) was reserved: while the objectives of the Plan were laudable, was there really anything new in the German idea? The draft text was vague about how the Pact would work, what its instruments were and who would participate. Indeed, most actors seemed to think that the idea would quickly run out of steam and follow the route of many other proposals to the waste-paper basket (*Authors' interviews*, Council Secretariat, October, 1999). On the other hand, the offer of the perspective of EU membership sounded alarm bells - this was something

new. The Foreign Ministers, on the contrary, without examining the idea in detail and to the frustration of the Political Directors seized the idea. On the sidelines of a meeting which mostly dealt with the refugee crisis, they agreed that a “political solution to the Kosovo crisis must be embedded in a determined effort geared towards stabilising the region as a whole. Southern Europe needs a Stability Pact opening the door to a long term political and economic stabilisation process” (General Affairs Council, 1999a: 3).

Less than a week later, the informal European Council (14 April) also specially convened to consider the Kosovo crisis, agreed to hold a conference on South Eastern Europe to “decide on further measures for long-term stabilisation, security, democratisation and economic reconstruction of the entire region” (*European Report*, No.2400/V, 17.04.99, p.5). This conference would, in accordance with the German proposal, launch the Pact. Also, “in this context, the Heads of State and government underline that all the countries in the region have the possibility of increasing contacts with the European Union” (Ibid). This formulation had the advantage of geographical reach without specifying any membership commitment.

The positive response of EU governments can be explained in terms of a shared view that a) the EU had to act quickly and collectively, and b) it was necessary to secure the continued support of the German government for NATO action. According to one senior official “we had to show the world and our citizens that Europe was doing something while Kosovo was burning. We were not just sitting there. So that’s how the membership perspective and the Stability Pact emerged. You invent the deep soup plate one more time and hope that it will work better” (*Authors’ interview*, member state official, October 1999).

Already, even before the crisis escalated, the EU was considering how to develop relations with Macedonia beyond the existing regional approach. That approach however was largely reactive and the region continued to lurch from crisis to crisis in the 1990s. This time, there was a general feeling amongst the member states that the EU needed a more pro-active, comprehensive approach to Kosovo and the region. In addition, they felt that the EU needed to assert its capacity to lead. Leadership had been conceded to the US. Therefore the collective influence of the EU in Europe and its credibility as an international actor were seen to be at stake in its response to Kosovo.

Member state positions on the Pact itself as the appropriate response were somewhat schizophrenic - some feared that it would duplicate existing efforts, that it could get out of hand or even create a Frankenstein (*Authors’ interviews*, Coweb, October 1999). France and to some extent the UK were also miffed that they had not been formally consulted before the idea was tabled at EU level.

Figure I

The main elements of the Stability Pact (draft Presidency plan, 8 April 1999)

The EU should develop an initiative for the Stability Pact within the OSCE
The Pact should be launched by a high-level conference

The Pact should institutionalise talks through:

- A regional round table for South Eastern Europe
- A number of sub-tables (e.g. on border and minority issues; return of displaced persons and refugees, economic questions and the promotion of civil society)

These should lead to the conclusion of bilateral and multilateral agreements and domestic accords. The Pact would also bring under one roof existing initiatives for regional co-operation (SECI, CEI etc.)

Participation:

The EU, WEU, NATO and Council of Europe must use incentives and disincentives to encourage participation in the Pact

The draft does not explicitly identify participants in the Pact but refers to OSCE members, the FRY once it meets conditions, and representatives of relevant international organisations and regional initiatives

EU and NATO contribution to the Pact

EU - raise visibility and effectiveness in the region; agree the Stability Pact as an CFSP initiative, give a clear and repeated commitment that the countries of the region have a membership perspective, extend the prospect of association to these countries e.g. to FYROM
NATO: keep the door open to membership in the long term, retain a long-term presence in the region and with, as a last resort, the threat of use of force

Supporting activities

Organisation of a donors conference, arms control, development of the private sector

Following acceptance of the idea of the Stability Pact, the German government engaged in diplomacy with its EU partners, the US and other relevant parties in the region in fleshing out the detail and organisation of the initiative. The success of the Pact however, required not just EU support but that of ‘outsiders’. The Schröder government had been in close contact with the US since its formation in October 1998 on the international community’s response to Kosovo. It was closely engaged in the work of the Contact Group and later, the Quint (Germany, France, Italy, the US and UK). Of note here was NATO’s support, April 1999, of “the need for a comprehensive approach to the stabilisation of the crisis region in south-eastern Europe and to the integration of the countries of the region into the Euro-Atlantic community” (Nato 1999a, point 15). It supported the Stability Pact as part of a comprehensive strategy for

the region which includes other regional initiatives. This method of conflict prevention could also reduce the risk that NATO would face a similar Kosovo-like test again.

2.2. Negotiating under pressure – the devil is in the detail

Once the General Affairs Council approved the idea of the Stability Pact on 26 April, the next step was to flesh out its wording and substance. This had to be done before two international meetings of the Pact on 27 May (preparatory) and 30 July (conference of Foreign Ministers which was to formally adopt the Pact).¹³ This meant that the EU had to agree a common position on the Pact and agree its content within one month. The Council's working group on the Western Balkans, the so-called Coweb group, with some involvement of the OSCE group, was designated to hammer out the details. The Coweb met eight to ten times on the issue. The drafting process involved a re-reading of old Stability Pact ideas and a re-packaging of old ideas in new wrapping. The EU's aims for the Pact reflected the original ideas contained in the Balladur Plan and the Royaumont process, including that of establishing good-neighbourly relations. The Pact's exact relationship with the OSCE was unclear beyond the statement that the OSCE "must act as an umbrella for a process of ... stabilisation" (Auswärtiges Amt, 1999: 11). The proposed structure of the Pact was to convene a South Eastern Europe regional round table and possibly other specialised fora or working groups (Ibid: 11).¹⁴ The aim was to institutionalise talks which could lead to bilateral and multilateral agreements (as the 1994/95 Stability Pact done). This suggested an somewhat open-ended formula which owed much to older ideas and experiences. The following were the key issues to arise in 'internal' EU negotiations:

The membership perspective - seeing is believing?

The question of an EU membership perspective, which by now had caught the imagination of Fischer and Blair, was the main point of contention in internal EU negotiations. Technical experts were concerned that this could overload the already difficult EU enlargement process; that an upgrading of ties with Macedonia and Albania could be to the detriment of Romania and Bulgaria, and that EU membership was not a realistic (medium if even long-term) option for countries such as Albania. "We cannot offer the same thing to Albania as to Romania", acknowledged French Foreign Minister Védrine (*Reuters*, 17 May 1999). For Coweb experts then, the dilemma was that it was asked to "open more doors, when we had no idea about how things would go with the first enlargement wave. We feared that it would have repercussions for the second wavers. But the political pressure from the ministerial level was simply too strong to resist. We couldn't say – but have you thought about the tariff problem?" (*Authors' interview*, Coweb, October, 1999). Hence, the trick was to

present the promise of membership without actually forcing the EU to deliver on it in the medium-term, at least.

As a result, several member states (spearheaded by France) set out to dilute the membership perspective that Germany had proposed. France could not accept a reference in the Stability Pact to Article 49 of the EU Treaty, since this would look very much like an invitation to apply (*Authors' interview*, Coweb, October 1999). The compromise reached (and sanctioned by the General Affairs Council on the 17 May) was a vaguely formulated membership perspective. This avoided any reference to Article 49, but referred instead to the Amsterdam Treaty and the Copenhagen criteria. It was agreed that the EU:

“will draw the region closer to the perspective of full integration of these countries into its structures through a new kind of contractual relationship, taking into account the individual situation of each country, with a perspective of EU membership on the basis of the Amsterdam Treaty and once the Copenhagen criteria have been met” (General Affairs Council, 1999b).

Immediately after the compromise was reached, the member states tried to play down the membership perspective. The Spanish Foreign Minister, for instance, insisted on the need to respect EU entry criteria. Even Fischer drew back from a firm commitment on membership “if you talk about the general prospects for integration, that’s what the Stability Pact is proposing, but it doesn’t go into too much detail. We’re certainly not talking about accession dates” (*Reuters*, 17 May 1999).

A leading role for the EU

While the member states were clearly supportive of a leading role for the EU in the Pact (for reasons of prestige, credibility and legitimacy), some such as France were wary of the possibility that it could lead to backdoor obligations or commitments, for instance with regard to future enlargement. In general, there was a feeling that the US was using the Stability Pact to increase pressure on the EU to enlarge its membership (*Authors' interview*, Commission, October 1999). Several member states and the Commission were anxious to preserve the autonomy of EU institutions. This anxiety also arose in connection with the funding of the Pact. The EU could incur unforeseen costs given the then unclear scope and timeframe of the Pact. Second, such expenditure might lie outside the control of the EU. These concerns explain the fact that the EU consciously *launched* the initiative but did not own it and that the Office of the Special Co-ordinator of the Pact was independent of the EU, although appointed and financed by it.

Figure II

The Stability Pact, Cologne, 10 June 1999

Norms and Principles

The Pact sets out the principles and norms underlying its approach to peace and stability in the region of South East Europe. Its objectives are to build peace, democracy, respect for human rights and economic prosperity in order to achieve stability.

The countries in the region “commit themselves to continued democratic and economic reforms... to advance their integration into Euro-Atlantic structures” (paragraph 8)

Bilateral and multilateral agreements on good neighbourly relations will form an essential element of the Pact

Mechanisms

Special Coordinator:

- chairs South Eastern Europe Regional Table
- responsible for promoting the Pact, ‘supported by appropriate structures tailored to need, in close co-operation with the governments and relevant institutions’
- provides periodic progress reports to the OSCE

South Eastern Europe Regional Table

- acts as clearing house for questions concerning the substance and implementation of the Pact
- co-ordinates activities of working tables
- reviews progress, carries the Pact forward and provides guidance

Working tables (agreed to establish 3)

Aim provide a multilateral framework for discussions, identify projects to achieve agreements etc, in conformity with the Pact.

1. Democratisation and human rights - including refugee issues,
2. Economic reconstruction, development and co-operation
3. Security issues - justice and home affairs, arms control and defence/military issues.

Roles of participants

The Pact outlines the roles of countries in the region, other key states, the EU, NATO, UN, international organisations and regional initiatives.

EU (see below)

OSCE: Pact is placed under its auspices; contributes expertise and instruments.

NATO: to increase co-operation with the countries of the region and commitment to openness regarding EAPC, PfP. NATO and many others ‘note in particular its recent decisions to reach out to countries of the region’.

Countries in the region: ‘recognise that its successful implementation, and the advance towards Euro-Atlantic structures for those seeking it depend decisively on their commitment to implement the objectives of the Pact’.

Donor mobilisation

The World Bank and EU Commission are responsible for co-ordinating a comprehensive approach for regional development and necessary donor conferences

Implementation and Review

Presidency of EU to convene inaugural meeting of Regional Table and Working Tables. Regional Round Table meets periodically to review progress of working tables.

Participants:

Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Hungary, Romania, the Russian Federation, Slovenia, FYROM, Turkey, the US, OSCE Chairman in Office, Canada, Japan, UN, EU member states, European Commission, Council of Europe, IMF, EIB, UNHCR, NATO, OECD, WEU, World Bank, EBRD, representatives of the Royaumont process, BSEC, CEI, SECI and SEECF.

Participation in the Pact

Coweb-negotiations also focused on who should actually participate in the Pact. Initial drafts of the Pact had been rather vague on this point yet the negotiating process revealed that inclusivity would be the hallmark of this new approach to the region. This would be its added value. Questions to be answered included what status, if any, should Montenegro have? Should the FRY be included? Should the Ukraine be involved? In the end, a number of categories of membership were invented which involved Japan and Canada as facilitators; international financial organisations and representatives of regional organisations as observers; and Montenegro as a guest of the Chair. The language of early drafts of the Pact concerning the FRY was amended to emphasise its right to belong once it met the necessary criteria.¹⁵

The EU's role in the Pact was finalised as that of a) launching the Pact; b) drawing the region closer to the perspective of full integration into its structures; and c) its readiness to develop new contractual relations with the countries of the region.¹⁶ The EU would also convene the South Eastern Regional Working Table and its three sub-tables to further the work of the Pact (the latter concerned democratisation and human rights, economic reconstruction, and security).¹⁷ It agreed that the Special Co-ordinator of the Pact, to be appointed by the EU after consultation with other participants, would be responsible for chairing the regional working table, promoting the "achievements of the Pact's objectives within and between the individual countries, supported by appropriate structures tailored to need" (General Affairs Council, 1999b).

Once the EU agreed its Common Position on Pact, 17 May, the focus of negotiations shifted to the multilateral level and to non-EU states and international organisations involved in the Pact. To be sure, the German Presidency had been careful to consult these parties already during the process of internal EU-negotiations.¹⁸ After all, their involvement was critical to the success of the Pact. Several officials pointed to the important role of the US in supporting the Pact and to the importance accorded to the Balkans in President Clinton's final year in office (*Authors' interviews*, Coweb, October 1999). The most contentious issue in these negotiations was the wording of references to NATO. It was of no surprise that Russia refused to accept a clear reference to any future expansion of NATO-membership. The inclusion of such a perspective was of major importance to the countries of the region and, in the final hours before the Stability Pact was signed on the 10 June, foreign ministers still struggled to find a compromise which would both satisfy Russia and the NATO-aspirant countries (*Authors' interviews*, Offices of the Stability Pact and Representation of Macedonia to the EU, October 1999).¹⁹ Another NATO-related concern, raised by the UK, was that a strong emphasis on military

security in the Pact could compromise NATO. This resulted in some dilution of the security table and a shift its emphasis to issues of internal security.²⁰

The Stability Pact was formally adopted at a summit in Cologne on 10 June, which was held back-to-back with that of the G8. The agreed document set out the basic objectives of the Pact, its founding principles and mechanisms. The very fact that a final text was concluded and that its main ideas and structures were broadly in line with the German paper of the 8 April, underlined German agenda-setting power (Cameron, 1999: 10; Figure II). Participants were won over to its inclusive nature, to its umbrella-like structure and objectives to coordinate activities, rather than duplicate them, and to identify gaps in assistance to the region.

2.3. The Commission Bounces Back: Part I - From Stability Pact to Stabilisation and Association Agreements

The EU's common position of the 17 May (above) referred to a new kind of contractual relationship with the countries of South Eastern Europe (see endnote 1 for a list of countries). At the time, however, that the decision was reached, the EU did not have definite idea as to what these new contractual relations should be. This, and the very fact that it was the Commission's task to report on conditionality and ways to upgrade relations with SEE carved out a space for the Commission to influence policy.²¹ Up to this point, given that it was a lame-duck after the collective resignation of the Santer-college, the Commission's role had mainly been one of a concerned spectator of German agenda-setting.

To be sure, the Commission, since February, had already been preparing its regular conditionality report as part of the EU's regional approach to South Eastern Europe. Not surprisingly, the war in Kosovo and the Council's decision to launch new contractual relations complicated its task. As underlined by Commission officials, the Commission's internal deliberations constantly had to keep pace with the emerging Stability Pact text and the promises it contained. As a matter of fact, had it not been for the conflict and the political momentum to act, the Commission would not have proposed a new type of agreement as a means to up-grade relations. Also, officials within the Commission argued that the regional approach already implicitly offered a membership perspective (*Authors' interview*, Commission, October 1999).²² Yet, it sent out mixed signals concerning the up-grading of relations: Commissioner Van Den Broek was quoted as referring to the possibilities of an association agreement while written communications stressed the need to move *towards* an association agreement (see *Uniting Europe*, 5 March, 7 April 1999). The drawback with the association agreements, however, was that those created for Central and Eastern Europe were generally understood to pave the way for EU membership and, in

effect, were doing so (cf. Phinnemore, 1999). As highlighted above, many EU governments and especially the Commission were opposed to extending these agreements to South Eastern Europe, given the background of an already lengthy queue of accession candidates. When it got down to it, it was “never contemplated that they would be given Europe Agreements. They were supposed to get something in between a partnership and co-operation agreement [i.e. those offered to countries other than the Baltic States of the former Soviet Union] and a Europe Agreement” (*Author’s interview*, Coweb, October 1999).²³

At the Coweb level, policy-makers were also conscious of the fact that the countries of the region were not in any sense ready to fulfil the requirements of an association or Europe agreement. It was clear to many of them that, for example, even the less ambitious concept of a free trade area, while politically attractive, would, unless accompanied by a compensatory mechanism, have been disastrous for some countries such as Albania which relied almost exclusively on tariffs for state revenue. Hence, the Commission had difficulties in filling in the content of an upgraded form of relationship - it drafted over 20 versions of its proposals before they were finally agreed in May 1999 (*Authors’ interview*, Commission, October 1999). CEPS (1999a, b) however, in a working group which included key policy makers from the Commission and which was chaired by the Co-ordinators of SECI and the Rouaumont process, presented a number of detailed proposals for closer relations over the period March-May.

The Commission proposals were tabled on 26 May (although they had been ready to be adopted by the Commission on 10 May), shortly before the July Summit meeting to adopt the Stability Pact. The Commission resolved its policy dilemma by proposing a new form of agreement - a Stabilisation and Association Agreement (SAA) for which all countries of South Eastern Europe would be eligible (EU Commission, 1999a). This would include a membership perspective without at the same time specifying a Treaty base for it. To have done so, in the words of one official, would have given the game away (i.e. to rely on Article 238 of the Treaty would have indicated that association and hence membership was on the cards for the countries concerned) [*Authors’ interview*, Commission, October 1999]. Mention of other legal bases would have prompted comparisons with other forms of agreements with clear EU ‘outsiders’ and, thus, was also to be avoided.

The Commission proposed that the SAA would replace existing co-operation agreements. They would be the core element of a broader Stabilisation and Association Process designed to add a new multilateral dimension to relations with the region - henceforth, they would all be involved in a *process* of developing closer ties with the Union. The Commission emphasised the need to develop intra-regional co-operation. While the Commission’s rhetoric suggested

a qualitative shift in the EU's relations with the region, its substance was somewhat unclear. The proposals echoed the relationship between the EU and the states of Central and Eastern Europe insofar as it set in place a process with both multilateral and bilateral dimensions. The proposed headings of the SAA mirrored those of the Association or Europe Agreements. They envisaged co-operation in areas such as political dialogue, justice and home affairs, so-called 'association-oriented assistance' and regional co-operation. The use of conditionality clauses was also similar - the Commission proposed that negotiations on a SAA could be *opened* when the conditions required for opening contractual relations were met (i.e. those conditions already being used under the regional approach). The *conclusion* of such negotiations would depend on the capacity of the partner state in question to meet its increased obligations. The thrust of the Commission's approach then was to propose a regional approach - the stabilisation and association process - with the possibility of tailoring relations to the capacities of individual countries of the region through the instrument of the SAA.

As a first step in this new approach, the Commission proposed that it launch a feasibility study concerning the readiness of Macedonia to open negotiations on a SAA. This could be followed by a preliminary study for Albania. It stated that these steps could not even be considered with respect to Bosnia Herzegovina or Croatia as they had not met the necessary pre-conditions.

The Council, which had little time to study the Commission proposals, nonetheless 'welcomed' them one week after they were tabled (General Affairs Council, 1999c). They were attractive to the member states for a number of reasons - they could constitute the EU's contribution to the Stability Pact; they offered a means to upgrade relations short of association agreements and they were open to the region as a whole. It was however anything but clear as to what the SAA's would lead to - would they lead to Europe Agreements or straight to accession negotiations? Ironically, for a country like Macedonia, the nicely phrased SAA's could constitute yet another step in the ladder to EU accession.²⁴ It was also not clear that the SAA provided the necessary balancing device in EU relations with the broader region. The member states were concerned to maintain some kind of balance in relations with especially Albania and Macedonia and to some extent Croatia. In practice however, the divergences between them placed real limitations on the development of relations with the EU.²⁵

2.4. The Commission Bounces Back, Part II: The Reconstruction Agency

Just before the European Council in Cologne, the Commission made its second move to strategically place itself in the policy-making process with respect to South Eastern Europe. In a letter to German Chancellor Schröder, Commission President Santer launched the idea of a Community Agency to oversee the reconstruction of the Balkans. This idea had been around in the Commission for some time (with Director General Lamoreaux, DGIA, to be precise). The aim of the Agency was to learn from the experience of heavy, inflexible bureaucracy in the case of EU aid to Bosnia (and corruption) by setting up an Agency to deliver reconstruction assistance quickly and effectively. The Agency, to be managed by the Commission, would identify priorities and allocate funds on behalf of the Community. The Cologne European Council requested the Commission to present detailed proposals, before the end of June, on the organisation of assistance so that the Agency could become operational before the end of the summer (European Council, 1999).²⁶ Already on the 23 June, the Commission presented its detailed plans for a European Agency for Reconstruction and Development (EU Commission, 1999c). It proposed that it be based in Pristina, close to the area of need and suggested that it might prove necessary to establish a presence in Skopje or “other places in the region” for operational needs (Ibid). The Agency should initially limit itself to assisting reconstruction in Kosovo, but “later, when conditions apply” it could extend its assistance to other parts of the Federal Republic of Yugoslavia’ (Ibid, p.2).

Almost immediately after the Commission proposal was launched, it became entangled in an inglorious scrap over the allocation of seats and the appointment of associated special envoys and co-ordinators. Indeed, at this time in May 1999, the Council was deadlocked on the issue of who should be appointed Special Co-ordinator of the Stability Pact. There were strong arguments for the appointment of Roumeliotis who was the then Special EU Co-ordinator for the Royaumont Process as his functions largely overlapped with those proposed for the Stability Pact Co-ordinator. At a special meeting of the Heads of State and Government in Rio de Janeiro (28 June 1999), the two issues were connected when Greece threatened to block the appointment of Schröder’s candidate, Bodo Hombach to the Stability Pact post.²⁷ As a result, Schröder was forced to horse-trade: in order to get Hombach through, he had to give Greece something, namely the location of the headquarters of the Reconstruction Agency in Thessaloniki. Later, the European Parliament, also very critical of the location of the Agency, was to withhold its opinion on the establishment of the Agency (*European Report*, 18 September 1999, p.12)

Hombach's appointment was confirmed in a joint action agreed by EU Foreign Ministers on 29 July (General Affairs Council, 1999f). The restricted timing of his mandate - until end of 1999 - and his resources reflected traditional disciplinarian tendencies of member states concerning CFSP finances, but also some member states' 'recovery of ground' after being steamrolled in the appointment of Hombach. They also attempted to re-open the deal on the Reconstruction Agency.²⁸ The Council, despite reservations as to the necessity or value of such, agreed to Schröder's plan to host a special summit to launch the Stability Pact in Sarajevo on 30 July. Later, the Dutch, French and Belgians strongly criticised this summit as being for the most part 'visual construction'. Moreover, they felt that better things could be done with the estimated cost of hosting it (Euro 1.5m). The Summit nevertheless took place.²⁹

In the meantime, the Council found itself obliged to continue preparations, in the context of the CFSP, for a common strategy for the Western Balkans (as called for by the Vienna European Council, 1998). By this time, there was a divergence of views about the necessity for such a strategy, its linkage to other EU initiatives and to the Stability Pact. There was also a question mark over the very concept itself.³⁰ Commission sources were supportive of a common strategy if it would indeed bind the member states more firmly to EU policy guidelines and bring some greater coherence to its activities. Some member state representatives, on the other hand, doubted its necessity but felt that the Council had no choice but to devise one.

The Rio decisions (above) and the seeming proliferation of initiatives towards the Balkans prompted Commission President Santer, then nearing the end of his term in office, acting with the support of incoming Commission President Prodi, to write to EU heads of government (unpublished letter, 16 July 1999). By now, the UN had also established UNMIK (United Nations Mission in Kosovo) to oversee the administration, the economy, democratisation and humanitarian action in Kosovo. Santer called for some order with respect to EU policy towards South Eastern Europe. He argued that the proliferation of initiatives undermined the clarity and visibility of policies led by the EU. International bureaucracies proliferated without any overarching logic or framework and their functions often overlapped. These initiatives and their relationship to the EU are outlined in Annexes 1 and 2. This proliferation had implications for the EU and the member states who were contributing personnel and resources to these bureaucracies whilst also pursuing their own initiatives. Santer suggested too that the EU should not multiply its special envoys to the region and, in this connection, drew particular attention to the possibility of re-grouping the work of the Royaumont Process with that of the Pact. He underlined the need to preserve the autonomy of decision-making of the EU and its institutions. Finally, he noted the lack of transparency with respect to the

financing and control of these initiatives. He called on the Council and European Parliament to analyse in a more transparent way the EU contribution to the Kosovo/South Eastern Europe with a view to setting guidelines for its responsibilities, priorities and the limits of its financial contributions.³¹

In sum, The Stability Pact emerged without an overall coherent strategy on the part of the EU towards either the Kosovo or other conflict areas in the region. In this respect some of the lessons of previous responses of the international community have not been learned (see Clement, 1997 and Sharp, 1998). Ambivalence with respect to the EU and international community's attitude to a political settlement for Kosovo remains. The Pact itself does not constitute an overarching strategy for peace and security in the region but is effectively a clearing house and facilitating device for initiatives. These missing elements and the critical importance of implementation mean that the signing of the Stability Pact was also anything but the final stroke of the pen.

3. THE EU NEGOTIATING SYSTEM RESPONDS TO CRISIS - LESSONS FROM THE STABILITY PACT CASE

The above account concentrates on negotiations which led to the EU to develop a long-term response to the crisis in Kosovo. The following section offers some explanations for its activism and what they tell us about the nature of the EU as a negotiating system. We focus on this reference frame rather than the Common Foreign and Security Policy (which is usually used to assess its responses to crisis management - cf. Hill, 1997; Jorgensen, 1997; Peterson and Sjørnsen, 1997; and Regelsberger et al 1997). The paper confines itself to the study of the EU's attempt to find a long-term solution to the security and stability of the Kosovo region in the wake of the NATO bombing campaign. It reveals the extent to which certain features of negotiations with respect to 'internal' EU matters are also present when the EU considers action towards the 'Europe' outside. These are seen to be even more relevant when one stands back from the phase of negotiations which took place during the time of crisis (25 March - 4 June 1999) and sets the EU's response in the broader context of continuous sets of negotiations (i.e. including pre-negotiation and post-negotiation phases). Within this perspective, one sees the significance of path-dependency; incrementalism; the interaction between different levels (domestic politics; EU politics and external crisis) and the post-negotiating phase in explaining outcomes. Moreover, the case study underscores the point that the EU's response cannot be fully explained on the basis of a purely rationalistic framework where it is assumed that governments enter negotiations with clearly (exogeneously) defined preferences.

3.1 The EU and crisis-management – rational or not?

The first thing which is striking about the case study, is that crisis-situations *can* kick-start the EU's negotiation system and create windows of opportunity which counteract the usually protracted nature of its negotiations (cf. also Scharpf, 1988). In what can only be characterised as 'turbo-charged diplomacy', the EU actually managed to agree upon a Stability Pact, a Stabilisation and Association Process and an Agency for Reconstruction within less than four months. Moreover, this cannot be explained by theories of rational decision-making, although it does provide some explanatory power. Some elements of the EU's response fit a rational framework insofar as actors preferences were defined with reference to *Realpolitik* concerns of power and prestige. First, without a speedy political initiative that balanced the NATO bombing campaign, the German coalition government could very well have fallen apart. Such a development would not only have weakened the international community's response to Milosevic, but could also have triggered similar developments in other coalition governments, such as Greece and Italy, where the military action was hotly disputed. It was also clear to EU actors that something had to be offered to Macedonia to maintain its support for NATO.

In important respects, the response confirms Lucarelli's (1997) findings about earlier crises in the former Yugoslavia. First, actors' responses were shaped by two levels of concerns - the domestic and the international. Second, few of them had strong preferences. In 1999, off the member states, Germany, in particular, demonstrated a strong interest in exercising leadership with respect to Kosovo. Lucarelli's conclusion that "given the low level of risk to national interests that west European leaders perceived coming from Yugoslavia, the priorities emerging from the interaction between domestic and international demands and constraints shaped their response to the Yugoslav crisis more than considerations tailored on the definition of an efficient conflict-solving policy" (Lucarelli, 1997: 63). Actors including the Commission tried to carve out a role and prestige for themselves - witness the scramble for seats and key appointments; insistence on autonomy of action and belated efforts by the Commission to position itself at the forefront of policy -responses).

This case study also shows that the nature of the EU as a negotiation system also shaped its response. Although this case study confirms that the EU *can* respond swiftly to a crisis, it underscores its limitations when dealing with military crises.³² In fact, the EU had little option but to focus on a long-term preventative strategy if it wanted to exercise leadership in the region. Its policy instruments also dictated the nature of its response. Even in a crisis situation like the Kosovo, the EU could only look into the toolkit of the past and largely re-package existing measures or ideas. This confirms Peterson who states that in

times of crises, “almost instinctively, the EU becomes highly conservative and tends to fall back on some type of past policy, even if it is clearly no longer appropriate” (1997: 130).

The real surprise in 1999 was that it chose the instrument of membership as the core element and novel feature of its response. This was surprising for two reasons: a) this could greatly overload the existing enlargement process and bring even greater pressure to bear on the EU governance system; and b) the countries of South Eastern Europe were in a far weaker position to accept the obligations of association, yet alone membership, than even the weakest country of Central and Eastern Europe. The idea of extending membership as a stabilising tool was directly taken from the EU’s experience with Central and Eastern Europe.³³ The idea of the Stability Pact was inspired by the earlier Balladur Plan for Central and Eastern Europe. Similar plans for South Eastern Europe had been aired in the context of the Royaumont process. Moreover, the key features of the Stabilisation and Association Agreements echoed the EU’s Europe Agreements. The urgency of coming up with an immediate policy response to Kosovo was so strong that actors did not even take the time to consider whether this kind of path-dependency was actually suited to the needs and capacities of either Kosovo or the region itself. To quote a member state negotiator:

“There was no time to consider whether it was a wise idea to offer the South Eastern European countries a Stability Pact similar to the one of the Central and Eastern European countries, although these countries were in a completely different situation. We simply had to come up with something” (*Authors’ interview*, Coweb, October, 1999).³⁴

Moreover, the path-dependent approach triggered policy towards South Eastern Europe which was characterised by enormous duplication of functions and overlapping institutions (see Annex 1 for an overview of EU initiatives).³⁵ It was only *after* the crisis was over that EU actors began to consider how its initiatives could constitute a coherent policy. To quote another negotiator:

“Throughout the negotiations there was no time to think through how the various initiatives would fit with the EU’s already ongoing policy, not to speak of other institutions. Now we have to sit down and figure out how the cogwheels can actually work together” (*Authors’ interview*, Coweb, October 1999).

This outcome reflects the nature of a negotiating process dominated by path-dependency rather than one guided by rational, pre-fixed preferences. This only reinforced by the great uncertainty as to the effects of the Pact on the region and of the responses on the EU itself. It will be very difficult for the EU to effect a post-hoc rationalisation and simplification of policy. To put it differently,

promises made or decisions taken cannot be easily undone - they may wither but spring back to life at a later stage.³⁶ Once adopted, initiatives quickly become intertwined with institutional and other self-interests. A key example is the Royaumont Process. Although almost all actors involved in EU policy-making towards South Eastern Europe had concluded that the Royaumont process and the Stability Pact overlapped so much that they should have been folded into each other, yet this did not happen. Indeed, at the very time when a joint action was being prepared to appoint an EU Co-ordinator for the Stability Pact, the member states decided to upgrade the position of Roumeliotis as Co-ordinator of the Royaumont process. They breathed new life into a process which initially faltered but was later kept alive by the Greek government (which financed Roumeliotis). The relationship between the Co-ordinators can in theory be revisited when the EU mandates and funding dries up (both have been agreed for the period up to 31 December 1999 only).

Another example of proliferation is the Agency for Reconstruction: after having struggled hard to host the Agency, Greece can be expected not only to fight hard to maintain it, but also to expand its role to the entire region (*Authors' interviews*, Commission and Council Secretariat, October 1999). This, as one Commission official put it, is "simply one of the factors of multilateral decision-making which we have to live with. Other member states will refrain from objecting to such decisions since they know that they could be the next in line protecting special interests". However, past experience suggests that it is likely that once they are in operation, they will take on a life of their own which will be difficult to rein in later. Hence, it is likely that once these initiatives are in operation, they will take on a life of their own which may hinder policy rationality. Moreover, the issue of streamlining extends beyond the EU itself to concern other institutions such as the UN and NATO, inter-state and inter-institutional high-level groups - all of which want to be seen to play a key role in the reconstruction process (for an overview of all the initiatives, see Annex 2). One important area of weakness is the absence of hierarchy with respect to the High Level Steering Group and the Stability Pact. Thus, the problem of lack of coherence and hierarchy in EU policies is reflected in international approaches to the region (cf. OSCE 1999).

A second reason why initiatives once launched are not easily withdrawn is that to do so could damage the credibility of the actors involved. For example, no matter how much the EU now tries to downplay the membership perspective, the membership-genie has left the bottle. For the countries of South Eastern Europe, the next step is EU membership (*Authors' interviews*, Macedonian Mission to the EU, October, 1999; *European Voice*, 30 October 1999). Indeed, judging from the earlier experience of issuing promises to the countries of Central and Eastern Europe, the EU could very quickly find itself 'rhetorically

entrapped'. Thus, even if countries such as Macedonia are in a relatively weaker negotiating position vis-à-vis the EU (in terms of traditional resources of power and capacity to act), they can rely on the very rhetoric of EU promises to argue for closer ties and eventually membership. The EU response has been presented and argued in normative terms - i.e. that the EU has a moral and political responsibility to act; that Southern and Eastern Europe *belongs* to Europe and action/inaction therefore goes to the heart of the *raison d'être* of the EU. Hence, the countries of SEE can demand that the promise be carried out on the grounds not only of political or legal commitments but also on the basis of legitimacy. For these reasons and in order to maintain momentum in the reform process, the EU can expect strong pressure to draw the South Eastern European countries closer and closer to membership. This could echo the development of its relations with the countries of Central and Eastern Europe (see also Schimmelfennig, 1999).³⁷

3.2 Membership - a crucial, but difficult tool of foreign policy

The EU's response underlines the crucial role of EU expansion as an instrument of its foreign policy. Although many scholars were convinced that the enlargement instrument was nearing its 'sell-by' date i.e. that none of the member states were really interested in extending the membership perspective to more countries, the EU still ended up doing exactly this (Smith, 1999: 2). The point here is that the EU does not possess a tool in its foreign policy toolkit that rivals the membership perspective. Therefore, no matter how creative EU officials were, only a membership perspective was likely to make a difference to South Eastern Europe and thus to make the Pact work. As pointed out by a Macedonian government official, "the Stability Pact would not have had any value in itself if it did not contain the membership perspective" (*Authors' interview*, Macedonian representation to the EU, October 1999). This message was clearly received clearly by Joschka Fischer and Tony Blair. It had also been encouraged to play this card by academics and think-tanks (cf. Clement 1997, Kintis, 1997; Kofos and Veremis, 1998 and CEPS, 1999a,b). The decision to play it indicated some learning from past international policy towards the former Yugoslavia and, if matched by implementation, would represent a major shift in policy towards the region.

The two great unknowns however are whether, given the entirely different starting points for South Eastern Europe compared with Central and Eastern Europe, the membership perspective can work, and whether the shift in EU engagement with South Eastern Europe policy has been one of rhetoric only. As to the first, the starting points are not propitious: the political and economic destruction left by war; unresolved ethnic tensions; latent possibilities for further ethnic and political tension in the region (Pierre, 1999). Moreover, it is clear that

many political leaders in Serbia and Bosnia Herzegovina at least have quite different, negative understandings of concepts of 'stability' (i.e. stability if understood as maintaining the existing status quo is contested by many), 'European integration' and 'Europe'. Thus, in the short term at least, there are real political limitations to the development of intra-regional co-operation and relations with the EU. The membership perspective may not have as much power as it has for Central and Eastern Europe. Beyond the conflict areas, the question remains as to how realistic it is to extend the membership perspective to a country like Albania, which will clearly not be able to fulfil a fraction of the *acquis* in the medium-term? Can a membership light, which flickers at the end of such a long tunnel, really be effective in meeting the objectives of the Pact?

This Achilles heel is certainly recognised at the technical levels of policy-making and in on-going discussions of the mandate for the Stabilisation and Association Agreement with Macedonia. Commission President Romano Prodi (clearly inspired by the CEPS papers on the subject) referred to it when he launched the idea of 'virtual membership':

"I believe we should hold out to these countries the prospect of eventual EU accession provided certain conditions are met. Meanwhile, we should devise new and innovative forms of co-operation with these countries, in the form of what I have called 'virtual membership'. By this I mean giving them access to the stimulus and advantages of close co-operation even before they are ready for full membership. In this way, we should make it clear to Albania and the countries of the former Yugoslavia that we see them as members of the European family of nations" (Prodi, 1999b).³⁸

The key issue remains that of devising incentives to bridge the credibility gap concerning membership - this will be the test of EU commitment to the region. There is a danger that the failure to meet expectations could have serious domestic political consequences for not only Macedonia but also Bulgaria and Romania which supported NATO action at considerable political risk. Already in October/November 1999, their government leaders criticised the EU and international community for failing to live up to their commitments.

3.3 Malleable boundaries – an important defining characteristic of the EU

The case study emphasises that malleable boundaries are one of the defining characteristics of the EU's role in Europe. Unlike a state, it does not have relatively stable boundaries which draw a clear line between insiders and outsiders (see also Smith, 1996, Friis and Murphy, 1999). Precisely because this is the case, potential if not actual shifts in boundaries constitute an important intervening variable in EU interaction with outsiders.

The military conflict in Kosovo and the refugee waves it unleashed actually shifted the EU's perception of its geopolitical boundaries. Having previously perceived the countries of the region to be 'Balkan' (with the exception of Romania and Bulgaria) and hence outsiders, they were now considered to be part of Europe - at least in rhetoric. The Stability Pact deliberately uses the terminology of 'the countries of South Eastern Europe'.³⁹ The use of such language has important psychological and political effects in terms of inclusion and exclusion. As Joschka Fischer stated:

"There are no political, economic, cultural, religious or any other reasons why we should refrain from giving the people in Dubrovnik, Sarajevo or Belgrade what people in Dublin, Frankfurt and Warsaw already have, namely a firm place in Europe....If the awful conflict in Kosovo has brought something good with it, it is that we understand our belonging together far better" (Fischer, 1999; *authors' translation*).

Since the countries of South Eastern Europe were now perceived as being 'part of us', the EU lost its main argument for denying them a membership perspective. If they were inside the geopolitical boundary, why should they not be eligible to join the club? This change in perception or emphasis now allowed the EU to play the membership card. Moreover, this changed perception may in fact have the knock-on effect of reshaping the Union's collective identity and defining more closely the geographical boundaries of its membership. It is now very clear that those countries which have partnership and cooperation agreements with the EU, namely Russia and the Ukraine, do not belong to Europe in the same way (see Bretherton and Vogler, 1999: 236-237)

Underlining the crucial role of boundaries, the shift in perception of this boundary immediately had a knock-on effect on other countries wishing to develop closer relationships with the EU. Indeed, one can argue this had a domino effect, which (independently of actors preferences) pushes the EU deeper and deeper into an enlargement process (see also Friis and Murphy, forthcoming). First, the decision to extend the membership perspective to South Eastern Europe triggered substantial concerns among the so-called 'second wavers' in the EU's enlargement process. Bulgarian actors voiced their fears of being effectively relegated to a third division: instead of being part of the accession process, they could suddenly find themselves in the same division as newly promoted Macedonia and Albania. Precisely in order to defuse this concern, several member states (already during the Kosovo crisis) agreed to promote the entire second wave of enlargement candidates into the first wave. On 13 October, with clear references to the 'dramatic changes in Europe', the European Commission proposed that the second wavers should all be upgraded to the first group (Commission, 1999d).⁴⁰

Secondly, the decision to do more for both the South Eastern Europeans and the second wave also triggered concerns amongst some of the first wavers. Would they now be forced to wait for the slowest ship in the convoy before joining the EU? (see for instance *Financial Times*, 3 October 1999). This resuscitated the old debate about target dates for EU membership. In order to allay their concerns, the Commission suggested that the EU should agree a target date for when it (the EU) would be ready to enlarge and that it should differentiate more clearly between the candidates.⁴¹

Finally, the domino effect reached out to Ukraine and Moldova, on the one hand, and to Turkey on the other. Ukraine in particular feared that new EU initiatives towards South Eastern Europe could create a new dividing line in Europe. To quote the Ukrainian foreign minister Boris Tarasyuk, “we consider it unfair and even dangerous to keep Ukraine out of the European perspective. It is not so much the issue of reconstruction but of the ultimate involvement in Europe and the invitation to integration into Europe” (*Reuters*, 22 June 1999). Precisely to diffuse Ukrainian and Moldovan fears of being excluded, the EU is likely to be forced to expand its policy towards this region as well. Turkey too is not untouched by these developments as the upgrading of ties with other states leaves it in a relatively weaker position (regardless of the internal brakes on its ties with the Union). Hence, balance should be maintained in its relations with Turkey too - the Commission, 13 October, took the first step in this direction by proposing that Turkey be treated as ‘accession candidate’.

3.4 Self-understanding matters

Fourthly, the case study confirms the point that EU action is also influenced by the norms and values that define the EU-project. This point has recently been driven home by two scholars who work on EU enlargement: Sedelmeier (1999) and Schimmelfennig (1999). To quote the latter, “in an intersubjectively structured environment, rational political actors need legitimacy and must take into account common values and norms, but manipulate them through the strategic use of arguments. Thereby they are able to modify the collective outcome that would have resulted from constellations of interests and power alone” (Schimmelfennig, 1999: 2).

In the Stability Pact context, the importance of the above argument (which largely draws upon sociological institutionalism) already became clear the day Germany published its first draft on the Stability Pact. One of Germany’s arguments as to why the EU should develop a Stability Pact was precisely the need to ‘maintain the credibility’ of the Western institutions, such as the EU (Auswärtiges Amt, 1999). If the EU just passively accepted the conflict in Kosovo, it would be extremely difficult for it to maintain its self-

understanding as an organisation centred on peace, stability and democracy - it simply could not stand on the sidelines. The generally recognised failure of EU policy with respect to Bosnia, its failure to enact an effective conflict prevention strategy with respect to Kosovo (cf. Bildt, 1998) and the fact that it had once again ceded ground to NATO no doubt triggered this concern about the EU's credibility. This history, coupled with aspects of institutional rivalry and co-operation with NATO and the US (necessary to the Stability Pact) influenced actors. This point was repeatedly driven home by both Joschka Fischer and Gerhard Schröder. To quote the latter: "it is unacceptable for the EU to do nothing when human rights are being trampled upon only an hour's jet flight away" (Schröder, 1999). Hence, instead of negotiations being dominated by exogenously given preferences, we see a process where endogenously developed preferences played an equally important role.

3.5 Agenda-setting matters – also to foreign policy

The case study indicates that agenda setting (unlike what is often assumed)⁴² can also play a substantial role in a high politics context. Germany was able to use the triple Presidency (EU, WEU, G-7) to get support for an idea which, at the outset, no one except the US really favoured (*Authors' interviews*, Commission and Council Secretariat, 1999). Germany's astute timing, ability to team up with third countries such as the US and its deliberate strategy of 'parachuting' ideas from the highest political levels down were critical to the successful adoption of the Pact. Indeed, had the German government chosen a 'bottom-up approach' and channelled the idea of the Stability Pact through the Coweb, it would probably never have seen the light of day. As pointed out above, almost all participants in the Coweb were highly critical of the idea which was classified as 'old wine in new bottles' (*Authors' interviews*, Council Secretariat, October 1999).⁴³ The same can be said of Schröder's idea to appoint Bodo Hombach as the EU's special co-ordinator and the decision to place the Reconstruction Agency in Thessaloniki. Several negotiators claimed that the 'dirty deal' done in Rio would never have happened if it had taken place in a more formal negotiation in the presence of foreign policy advisers (*Authors' interviews*, Council Secretariat, October 1999). Indeed, after Rio, the General Affairs Council tried to repair the damage by reopening the deal. Instead of a pure victory for Thessaloniki, the operational centre for the Agency was located in Pristina.

To be sure, the above agenda-setting point can also be tied directly to the potential influence of the Presidency as an institution in foreign policy. To quote an experienced civil servant working in the Council Secretariat: “What the German Presidency has taught me is that if you have an idea, you need to be bold and embark upon a strong leadership – then you can actually get it through” (*Authors’ interview*, Council Secretariat, October 1999).

Secondly, confirming the work of Pollack and others, supranational agenda-setting should also be taken into account as a potential intervening variable between preferences and outcomes, even in a foreign policy context (Pollack, 1997, Friis, 1998a). As highlighted several times in this paper, the case of the Stability Pact was characterised by the fact that EU governments were anything but certain about how they should respond to the Kosovo-crisis. This carved out a space first for Germany but later for the European Commission to set the agenda. Subsequent policy initiatives took the Pact as their reference point.⁴⁴ By defining what the ‘new contractual relations’ should look like in general, the Commission was able to leave its fingerprints on policy towards South Eastern Europe. The same goes for the idea of the Agency for Reconstruction, which was launched and agreed upon within an extremely short period.

3.6 Post-negotiation matters

Finally, the case study illuminates that the implementation and post-negotiation phases of policy-making should not only be left for so-called low politics scholars to investigate, but are also relevant to scholars working on high-politics (Friis, 1998b). Here too, actors can agree an idea whose precise formulation and implementation requires lengthy post-negotiations *and* which also permits actors to re-open the original deal. As pointed out by several negotiators, the Stability Pact and the Stabilisation and Association Process were basically “headlines, which had to be filled out afterwards” (*Authors’ interviews*, Coweb, October 1999). The member states can for instance re-open the battle about the membership perspective in negotiations on the Stabilisation and Associations Agreements with Macedonia. Those eager to strengthen the membership perspective could, for example, press for a Treaty reference to association in the new agreement. Conversely, those that feel that the EU has gone too far can insist on very narrow legal basis for the agreement, so that it does not automatically evolve into an association agreement. In addition, the Pact has yet to prove itself - at the time of writing it was too early to say whether commitments made would be implemented once the political momentum which inspired the Pact ebbed away. On the positive side, outside pressure including that from the US may be an important stimulus to effective implementation - the US places much emphasis on the fact that the Stability Pact is a test case for the

EU and the CFSP. As Chris Patten, Commissioner with responsibility for external relations stated:

“I come back from my first visit to the US keenly aware that we are, to a considerable extent, going to be judged by others on how effective we are in making a success of the Stability Pact” (see *Financial Times*, 21 October 1999).

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Endnotes

¹ This was agreed in 1996 for Albania, Croatia, Bosnia Herzegovina, the Former Republic of Yugoslavia (FRY) and the Former Yugoslav Republic of Macedonia. The approach allowed for the upgrading of ties with the EU once certain conditions were met.

² Both SECI and the Royaumont process are children of the Dayton agreements (November 1995) and emerged out of failure of the US and EU to agree a single approach. SECI, primarily sponsored by the US, promotes economic and environmental cooperation in the region and specifically aims to involve the private sector in these efforts. Its participants are: Albania, Bosnia Herzegovina, Bulgaria, Croatia, Greece, Hungary, Moldova, Romania, Slovenia, the Former Yugoslav Republic of Macedonia and Turkey. Financing is provided by the supporting states of US, Austria, Italy, Switzerland and Russia (see SECI webpage: <http://www.unece.org/seci/>). The FRY is excluded. The Royaumont Process, an EU initiative, aims to promote regional dialogue, confidence building measures, regional cooperation and economic reconstruction. It was originally envisaged that this process, clearly inspired by the earlier Stability Pact for Europe (1994/95), could develop within the context of the OSCE. The participants are: fifteen EU states, Russia, the US, Albania, Bosnia Herzegovina, Bulgaria, Croatia, FRY, FYROM, Hungary, Romania, Slovenia and Turkey. In November 1997, the EU appointed Panagiotis Roumeliotis as Special EU coordinator for the Royaumont Process (his activities were financed by Greece) (see (Royaumont, Process 1995-99).

³ See Clement (1997), Kofos and Veremis (1998) for earlier phases of the Kosovo conflict and the response of the international community.

⁴ The Irish government reported that, between March 1998 and March 1999, over 440 000 persons - one fifth of the population - had fled or had been displaced by the conflict "Of these some, 65 000 were displaced in the past month and 25 000 since the peace talks broke down on 19 March" (*Seanad Debates*, 26 March 1999, <http://www.irlgov.ie:80/debates-99/s26mar99/sect3.htm>). These figures, even if they can be disputed (as was the case with those concerning refugee flows after the bombing NATO campaign started) indicate why there were fears about a humanitarian disaster at the time.

⁵ We refer to the crisis period as being that which coincided with NATO military action (March - April 1999). This clearly marked a new phase in international involvement (from civilian to military intervention), saw a dramatic increase in refugee flows from Kosovo and seriously threatened political stability in Macedonia. The NATO campaign also provoked a crisis within the German government over the use of military force. We interpret the EU response as being in fact directed to both crises (Kosovo and that triggered within the German government).

⁶ On 6 April, Fisher (1999a), when presenting a six-point plan for resolving the crisis, reiterated the need for such a long-term approach to a peace settlement. He stated that bloody nationalism could only be overcome when the Europe of integration took responsibility for the region as a whole (authors' translation). That meant a peace settlement which should be largely focused on three baskets: 1) security guarantees for the states and minorities of the region; 2) economic development and 3) democratisation. Fischer argued that one of the deficits of the Dayton agreements was the absence of a long-term strategy. The Pact, he said, drew inspiration from proposals of Spanish Prime Minister Gonzalez which included the perspective of European integration.

⁷ Foreign Minister Védrine (1998) aired the need for a Pact of Stability and Confidence for the region of South Eastern Europe which would include the states of the region, other OSCE states and international organisations (as observers). This could complement other initiatives.

This idea does not appear to have been seriously followed up. Earlier, in connection with the Dayton accords, there was some discussion of broad Marshall Plan-like assistance to the region.

⁸ This marked a change of emphasis in that, for example, EU policy for developing the Royaumont process did not contain any reference to European integration but aimed at strengthening relations and stability in the region only (cf. Council, 1996)

⁹ German government figures, 6 April (Fischer op cit). The Kosovo crisis risked destabilising the already delicate ethnic balance in Macedonia (total population 1.2m). Also, a significant proportion of Macedonia's population was Serbian - thus its government, in responding to the crisis, risked provoking further tension within its own population and with Serbia for example when it gave permission to NATO to base some NATO troops on its territory. Albania too sheltered a numerous NATO force (18 000) and it was an important source of support for KFOR operations.

¹⁰ Lankowski (1999) notes that this was the first time that German combat troops operated outside NATO without being part of a UN contingent - hence "it was necessary to make the case for German responsibility through Europe and with the Americans to sceptics in his [Schröder's] own party and to the political class generally". (Lankowski, C. (1999) 'Germany's 1999 EU Council Presidency' *ECSA Review*, Fall, p.4) The broad transatlantic perspective of the Pact afforded a role for both the US and EU.

¹¹ As the German draft text stated "the international community's conflict management in the crisis countries in the region must continue to rely on avoiding bloodshed, with the threat- as a last resort - the use of force. The military potential of NATO thus remains indispensable to the credibility of western diplomacy in the region" (Auswärtiges Amt, 1999 (English text, p.12).

¹² During the crisis, the countries of the region aired their interests in joining both the EU and NATO in order to achieve security "only the consolidation of NATO's Southern flank, through the soonest extension of an invitation for Romania, Slovenia and Bulgaria to become full members can assure it in the long term" (Constantescu, 1999).

¹³ The format of the conference was to be that of the Royaumont process which included representatives from all states in the region including the FRY, the US and Russia. Representatives of Japan, Canada and international organisations were invited to attend. By 26 April, it was becoming clear that the Stability Pact could act as an umbrella for bilateral and multilateral initiatives in the region.

¹⁴ In contrast, the relationship between the Royaumont process and the OSCE was not clarified at the outset. Formal organisational links with both the OSCE and SECI proved difficult to establish inter alia due to the different status of FRY in SECI (excluded) and the OSCE (suspended membership). Note that the idea of constituting a regional table was also voiced in the Royaumont Declaration (1995).

¹⁵ Moldova and Ukraine (to their dismay) were not given observer status. Note that Moldova is a full participant in SECI.

¹⁶ The Pact also made clear reference to the autonomy of the Union to act (this point was emphasised in Guidelines for EU participation in the activities of the Pact and in its bodies (European Parliament, 1999)

¹⁷ Note that justice and home affairs issues are included in the security table. The OSCE was not closely involved in the early discussions on the Pact, but clearly given its membership, goals and founding principles could not remain outside it.

¹⁸ This paper does not address the details of these consultations although the authors are conscious of the significance of coordination between the US and Germany in particular in framing the Pact and on NATO's role in it.

¹⁹ The final wording was as follows: “We note NATO’s decision to increase cooperation with the countries of South Eastern Europe and its commitment to openness, as well as the intention of NATO, the Euro-Atlantic Partnership Council and the Partnership for Peace to work in cooperation with other Euro-Atlantic structures, to contribute to stability and security and to maintain and increase consultations with the countries of the region” (Stability Pact, 1999). In April 1999, NATO set up a consultative forum with the seven neighbouring states of the FRY and affirmed that their security “was of direct and material concern to Alliance member states and that NATO would respond to any challenges by Belgrade to the neighbouring states resulting from the presence of NATO forces and their activities on their territory during the crisis” (NATO, 1999b). The Washington summit (April 1999) also reiterated NATO’s commitment to further enlargement: “no European democratic country whose admission would fulfil the objectives of the Treaty will be excluded from consideration, regardless of its geographical location, each being considered on its own merits” (NATO 1999c).

²⁰ Another point of discussion was whether the Pact should be a once-off quasi-legal document or a process. The process-option was chosen but the question of concluding some kind of Treaty was subsequently mooted (Busek, 1999)

²¹ Under the EU’s regional approach, the Commission provided bi-annual reports on the extent to which conditions for developing closer ties with the EU were met by the individual countries of the region (Albania, Macedonia, Bosnia Herzegovina, the FRY and Croatia). On this basis, countries could be eligible for autonomous trade preferences, financial aid and, finally, contractual relations. By 1999, Albania and Macedonia were the only countries to have contractual relations with the EU i.e. co-operation agreements (since 1992 and 1997 respectively).

²² Article 45 (evolutionary clause) of the cooperation agreement between the EU and Macedonia stated that the contracting parties “shall examine in due course, when conditions are met, the possibility of strengthening their contractual relations, bearing in mind the aspiration of the Former Yugoslav Republic of Macedonia for an advanced relationship towards association with the European Community.”

²³ A British plan for the region for example, provided for a gradualist approach which would lead “in time, to tailored Association Agreements, and eventually the perspective of EU membership” (cited in CEPS, 1999b: 29).

²⁴ On 16 June, the Commission (1999b) presented its feasibility study on Macedonia. It found that Macedonia was ready to begin such negotiations. On 21 June, the General Affairs Council (1999d) approved the main elements of Commission plans for the Stabilisation and Association Process. It requested the Commission to present a draft negotiating mandate for a SAA with Macedonia.

²⁵ For example, Austria and Germany wished to maintain a balance with Croatia while Italy insisted on balance between Albania and Macedonia. The net effect of these preferences was the ratcheting up of the relationships of all countries with the Union. This connectivity between divergent states caused frustration for those working at the technical levels of EU policy-making who had to square the circle of a) what kind of bilateral relationship was feasible from an EU perspective; b) reflected the different capacities of the countries of the region, and c) maintained balance in the EU’s approach to South East Europe and the wider Europe.

²⁶ In the meantime, another side of the Commission house prepared, with the World Bank, a Donors Conference for South Eastern Europe. They created a joint high level group to coordinate economic reconstruction in the Balkans.

²⁷ The decisions were made in the context of a general round of appointments, EU and international, to the region. Member state officials were furious at the nature of the deal which did not involve prior consultation concerning Hombach's candidature. Commission officials were furious that Santer, who participated in the meeting in Rio, had failed to block the horse-trading.

²⁸ The General Affairs Council (1999e) of 19 July gave its political agreement to the draft regulation concerning the Agency.

²⁹ In retrospect, some the Summit was important in the sense that it provided visibility and encouragement to states to launch aid packages (as the US did) (*Authors' interviews*, Commission, October 1999).

³⁰ The need for such a strategy arose from earlier decisions taken in the context of the CFSP to develop common strategies for the EU's near abroad (Russia, Ukraine, the Mediterranean and the Western Balkans). Misgivings concerned the utility of the instrument and a conceptual problem with the common strategies i.e. although they were intended to be a political instrument for the CFSP, they were of a legally binding nature, and hence could have important repercussions for policy-making in other non-CFSP areas of the Treaty.

³¹ This letter was no doubt prompted by a sense that the EU was left carrying the can for initiatives promoted by others. There was some duplication of activities including those promoted by the EU itself. There was a real concern that the Commission itself could effectively be tasked by the Stability Pact to act or finance certain things. This letter may also have been influenced by certain political rivalries and misgivings about appointments made to key positions.

³² The limited ability to respond to a military crisis re-ignited the discussion on a defence dismission for the EU. Already in late 1998, doubts about continued US readiness to engage in military action in Europe and its reluctance to commit ground troops (also a lesson from Bosnia) were factors that prompted a change of attitude. Tony Blair drew the lesson from Kosovo that the EU had to obtain a military capacity. That a 'Chinese wall had fallen' in Britain's European policy became clear when Britain accepted, and indeed initiated, an EU debate on a merger between the WEU and the EU (Cook, 1999; Duke, 1999; and Whitman, 1999). Key developments were the adoption of the St Malo declaration (November 1998), the Vienna strategy on a European Security and Defence Identity (11/12 December 1998) and decisions of the Cologne European Council, June 1999. Informal meetings of defence ministers of the EU also took place in 1998/99.

³³ To quote the German proposal for a Stability Pact, "The perspective of EU-membership is, as the development in Central and Eastern Europe has shown, an important transformation-incentive" (Auswärtiges Amt, 1999, english text).

³⁴ There was a major difference however - the CEEC had not been at war with each other. Therefore there was a major question mark over the effectiveness of such an approach to South Eastern Europe (for the Balladur Plan, see Schneider, 1997 and Ueta, 1997).

³⁵ Strikingly, in October 1999, Commission and Council struggled simply to obtain an overview of how many EU-related and international initiatives were actually in operation and how they related to each other (*Authors' interviews*, EU Commission and Council, October 1999).

³⁶ As Pierson argues, "the evolution of EC policy over time may constrain member state governments not only because institutional arrangements make a reversal of course *difficult* when COGs [chiefs of governments] discover anticipated consequences or their policy preferences change. Individual and organizational adaptations to previous decisions may also generate massive sunk costs that make policy reversal unattractive" (Pierson, 1998: 45)

³⁷ To be sure, the EU's crisis management was also affected by another feature of the EU negotiating system namely , the existence of a bureaucratic reflex to a) defend territory and b) seize opportunities to extend influence. As was highlighted in the first section of this paper, this point refers both to member states and the Commission.

³⁸ Concretely, Prodi suggested that the South Eastern European countries could become eligible for virtual membership if they 1) recognised each other's borders, 2) settled all outstanding issues relating to the treatment of minorities, 3) set up a regional co-operation organisation, in which the Commission would be associated (Prodi, 1999b).

³⁹ Interestingly, the key policy making instance in the Council, the COWEB refers to the Western Balkans.

⁴⁰ Prodi articulated the effects of the Kosovo-conflict on the second wavers as follows: "In the changed political landscape of Europe, especially the Balkan region, some countries may also slip in the progress they have made towards democracy and human rights, and the European Union will have seriously failed the people of those countries" (Prodi, 1999b).

⁴¹ Prodi suggested that the accession negotiations should rights, and the European Union will have seriously failed the people of those countries" (Prodi, 1999b). be conducted in a 'fully-flexible, multi-speed' way. The EU should end the practice of opening an equal number of negotiating chapters with all candidates so that some candidates could speed ahead and hence differentiate themselves from others. (Ibid and Commission, 1999d).

⁴² See for instance Richardson, 1996.

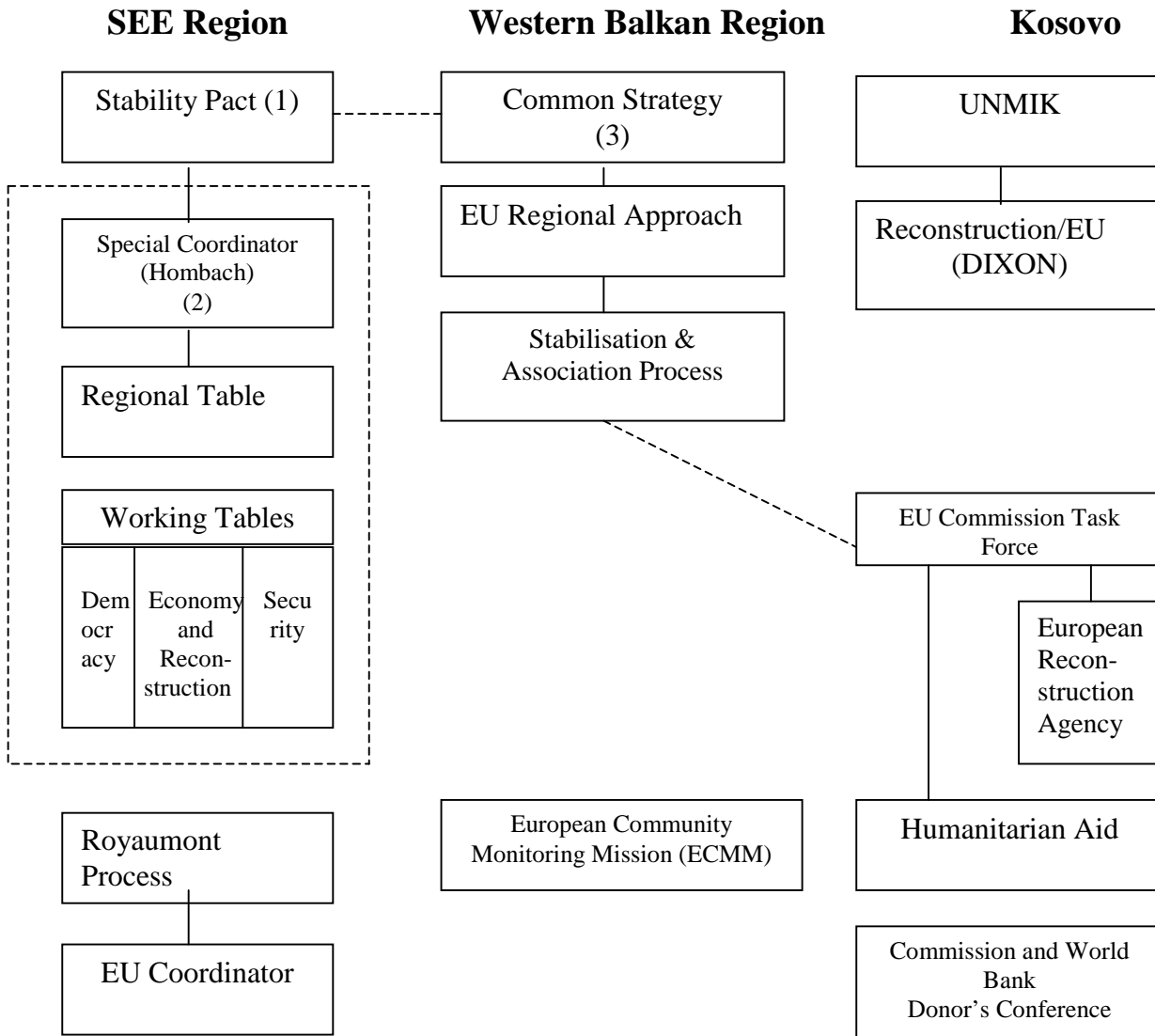
⁴³ The above point also feeds into the ongoing academic debate on unitary actors: in our case study, the crucial conflict line often ran within countries (dividing politicians and civil servants) and not between countries.

⁴⁴ For example, Greek and British plans for reconstruction and stabilisation.

Annex 1: From a German idea to EU-policy, April - July 1999

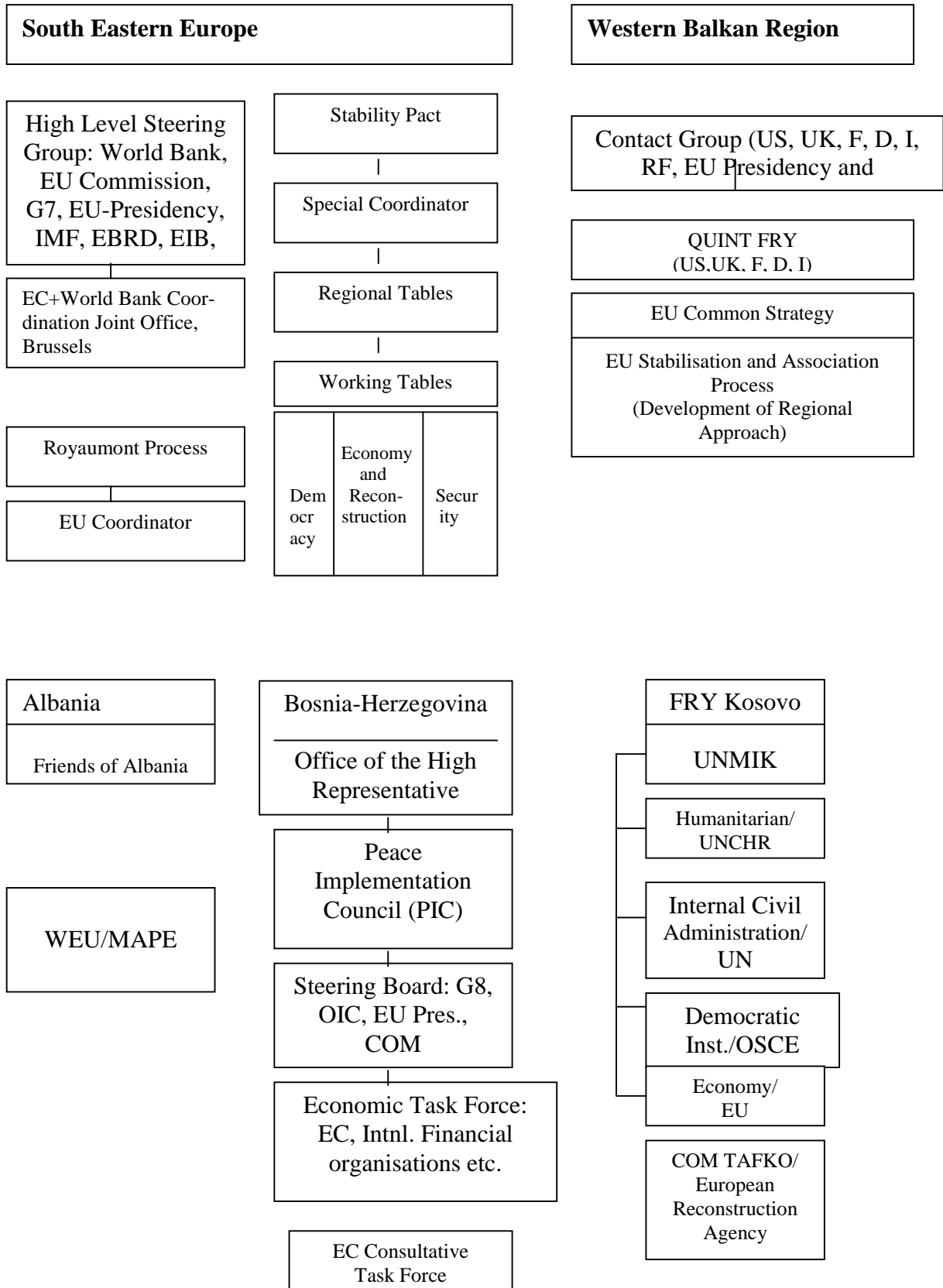
- 24.3 NATO bombing campaign begins
- 1.4 Joschka Fischer airs the idea of a Stability Pact for South Eastern Europe.
- 8.4 Germany presents a proposal for a Stability Pact to the Special General Affairs Council in Luxembourg, which supports the idea. Greece proposes a Balkan stabilisation and Development Plan.
- 14.4 Special European Council in Brussels sanctions the Stability Pact idea.
- 26.4 General Affairs Council agrees to start preparations for the Stability Pact. A Conference is to be convened by the EU in Bonn on the 27th of May.
- 13.5 UK proposal for a Balkan Regeneration Plan
- 17.5 General Affairs Council agrees Common Position on Stability Pact
- 25.5 Political directors from 30 countries meet in Bonn to finalise the Pact
- 26.5 Commission issues communication on a 'Stabilisation and Association Process for the countries of South East Europe' (SAA).
- 27.5 Foreign ministers of 30 countries, representatives of international organisations and relevant bodies meet in Petersberg to prepare signature of the Stability Pact
- 31.5 General Affairs Council welcomes Commission Communication on SAA. Santer proposes Community Agency for Reconstruction of the Balkans
- 3/4.6 European Council, Cologne. NATO bombing campaign ends. European Council asks Commission to develop proposals regarding Reconstruction Agency. Offers to head interim administration for Kosovo. Agrees to EU should take the lead re. Stability Pact - will appoint a Special Coordinator, agrees that Montenegro should be a beneficiary of the Pact from the outset
- 10.6 Stability Pact is signed, Cologne.
- 16.6 Commission feasibility study on SAA for Macedonia
- 21.6 General Affairs Council approves Stabilisation and Association process. Requests draft negotiating mandate for Macedonia
- 23.6 Commission adopts proposal to set up European Agency for Reconstruction (EAfR) to be based in Pristina.
- 28.6 Heads of State and Government, Rio, agree appoint Bodo Hombach as Special Coordinator of the Pact and to base the EAfR in Thessaloniki.
- 1.7 Commission sets up internal Task Force for Reconstruction (based in Pristina)
- 16.7 Santer letter to Heads of state calling for a streamlining of the EU's policy towards South Eastern Europe.
- 19.7 General Affairs Council approves location of EAfR in Thessaloniki. Adopts joint action on EU financing of Sarajevo summit.
- 21.7 Commission President Elect Prodi criticises the proliferation of EU initiatives concerning reconstruction policy in a speech in the EP.
- 27.7 General Affairs Council adopts joint action on financing the Special Co-ordinator of Stability Pact.
- 30.7 Sarajevo Summit.

Annex 2: EU initiatives in place since Kosovo as of October 1999



- (1): Linkage between Stability Pact and Common Strategy is disputed
- (2): Hombach acts also as EU Special Representative for the Stability Pact
- (3): European Council calls for Common Strategy in Vienna December 1998. Not yet decided – unclear how it relates to the Stability Pact.

Annex 3: Main International Structures in South Eastern Europe



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