

Robert Schuman Centre for Advanced Studies

Origin and Implications of the European Union's
Enlargement Negotiations Procedure

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European Forum

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This Working Paper has been written in the context of the 2001-2002 European Forum programme on “*Europe in the world: the external dimensions of Europeanisation*” directed by Professor Helen Wallace with Mark Pollack and Professor Jan Zielonka as Directors Associates.

The Forum examined the various ways in which the European Union’s policies and practices are exported to neighbours, partners and associates. Over the year Fellows involved in the Forum looked at particular policy issues, particular patterns of association, especially the enlargement process, and some elements of the transatlantic relationship. Papers presented explored the range from substantive policy to broad norms and values as they impact on how the EU addresses the challenge of partnership with third countries.

ABSTRACT

This paper analyzes the history of the procedure for negotiating accession to the European Community/Union (EC/EU), with particular focus on the British and Spanish cases, because they shed light into the current negotiations with Central and Eastern Europe and reveal the main implications for the functioning and legitimacy of the future enlarged Union. The rules governing enlargement negotiations were first put in place to deal with Britain's "conditional" application for membership in 1961, and as a result, the negotiating procedures were overtly defensive of the still emerging and fragile EC rules and of the cohesion among the member states. In spite of a new "unconditional" British application in 1967, the Community tightened up the rules for negotiating enlargement between 1969 and 1972. The success of such procedure in safeguarding the member states' interests and preserving the Community's upper hand during accession negotiations meant that they were used again between 1977 and 1985 to deal with Spain which, being overwhelmingly pro-European, constituted the opposite type of candidate. Thus the paper argues that procedure has remained almost unchanged (if not tighter) over successive waves of enlargement and has become the "Community method" of negotiating it, regardless of the nature and approach of the candidates. With very few (and not really substantive) alterations, it is now being followed to negotiate with the candidate countries of Central and Eastern Europe.

The paper shows that, despite its usefulness in protecting the member states' interests and Community rules, the procedure has had important drawbacks. First, the "bilateral" format, which ensured that "member states came first" and controlled the agenda, had the downside of "under-representing" future members, thus storing up trouble for after accession, when they sought to redress the "imbalances" they had accepted while in a weaker position. Second, it had the effect of shaping the negotiations as a mirror-image of the Community's decision-making structures themselves, in particular, the Community's weak inter-sectoral co-ordination mechanisms. This allowed the "difficult" chapters (i.e. redistributive issues like agriculture and the budget) to be insulated and left until the end-game when, under pressure to conclude negotiations, candidates were pushed to accept "tough" EC proposals. Third, the "bilateral" procedure also made Community negotiating positions inflexible and often left the candidates in a "take it or leave it" situation. Finally, the decision in 1961 that enlargement negotiations should not preclude the development of the Community turned the *acquis communautaire* into a "moving target", as the EC proceeded to modify those parts of the *acquis* that it did not want to see extended to the new members. This was the main cause of delay and misapprehension during Britain's and Spain's accessions and could yet cause problems in the negotiations with Central and Eastern European countries today.

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INTRODUCTION

This paper analyzes the origins and implications of an important –although often overlooked- aspect which has influenced all enlargement processes of the European Community/Union (EC/EU): the negotiating procedure. Vaguely stated in the Treaty of Rome, this procedure had to be properly specified in 1961 to deal with the first concrete case of enlargement negotiations of the EC: those with Britain, Denmark, Ireland and Norway. As such, the procedure was born with traits that responded to the particular characteristics and historical circumstances of this first enlargement, especially to a “conditional” British application. This produced a very defensive approach on the part of the Six which, fearing the dilution of the still young and fragile EC, decided on a negotiating procedure that privileged existing arrangements above the aim of including new members. It is thus indispensable for a clearer understanding of the way in which the EU is relating today with the candidate countries of Central and Eastern Europe (known as the CEECs), to review some key aspects of the negotiations between Britain and the EC, when the main problems of enlargement arose from the first time. It was then that three important decisions which would condition the path of further enlargements were taken: the decision to conduct negotiations following a “bilateral” method; the decision that Britain should adopt the *acquis communautaire* in full with a minimum number of derogations; and the decision that enlargement talks should not prevent the Community from carrying on with the integration process. Together, they created a cumbersome procedure which accounted for many of the delays, frustration on the part of the prospective members who were under-represented in crucial parts of the process, and the linking of enlargement talks with the EC’s “internal” problems, notably the reform of the Common Agricultural Policy (CAP), which has also been a recurrent problem in all enlargement rounds.

These decisions were tightened up during the second round of negotiations between Britain and the EC (1969-1972). They have subsequently been followed to structure all other rounds of enlargement talks, including those with Greece (1976-1981), Spain and Portugal (1978-1986), Austria, Finland, Sweden and Norway (1992-1995), as well as those currently going on with the CEECs. The paper focuses on the discussion of the British and Spanish cases, the biggest countries involved in the first and second waves of EC enlargement. The revision of the Spanish case is relevant, not least because some of its characteristics (democratization, structural economic reform, lesser level of development, linking of its accession to CAP reform, etc.) strongly resonate today in negotiations with the CEECs. In addition, the overwhelmingly “pro-european” attitude of

Spanish élites and public opinion during transition to democracy (as well as the fact that Spain “had nowhere else to go”) translated into an approach to EC accession which contrasted starkly with that of Britain. Yet, the procedure remained the same, if not tighter. Other cases are mentioned along the text, when appropriate.

Taking a historical perspective which covers the accession of these two states (which constitute “most different cases”) therefore reveals the important drawbacks of the “negotiating procedure” which, from the point of view of the applicants, reduced the legitimacy of the negotiated “terms of entry”, especially with regard to re-distributive arrangements (CAP, Budget contributions, Structural Funds). This, in turn, led the new members, once inside the Community, to try to redress the perceived unsatisfactory outcomes of their accession negotiations, causing what could be called “enlargement indigestion”: the British negotiated twice a rebate to their budgetary contribution, seriously paralyzing the EC the second time, while the Spanish fought to reverse the effects of a “tough” deal in agriculture through secondary legislation and later conditioned their approval of the 1988 “Delors 2” budgetary package to receiving a large chunk of Structural Funds.

The paper discusses four specific drawbacks in the procedure which weakened the legitimacy of the negotiated outcomes in the past. First, the “bilateral” format, which ensured that EC “came first” and controlled the agenda, had the downside of “under-representing” future members, thus storing up trouble for after accession, when they sought to redress the “imbalances” they had accepted while in a weaker position. Second, it had the effect of shaping the negotiations as a mirror-image of the Community’s decision-making structures themselves, in particular, the Community’s weak inter-sectoral co-ordination mechanisms. This allowed the “difficult” chapters (i.e. redistributive issues like agriculture and the budget) to be insulated and left until the end-game when, under pressure to conclude negotiations, candidates were pushed to accept “tough” EC proposals. Third, need to compromise among the member states first made Community negotiating positions inflexible and often left the candidates in a “take it or leave it” situation. Finally, the decision in 1961 that enlargement negotiations should not preclude the development of the Community turned the *acquis communautaire* into a “moving target”, as the EC proceeded to modify those parts of the *acquis* that it did not want to see extended to the new members as they stood. This was the main cause of delay and misapprehension during Spain’s accession and is again an important cause problems in the negotiations with Central and Eastern European countries today, thus storing up trouble for the future of the enlarged Union.

1. THE PARTICULAR CIRCUMSTANCES OF THE FIRST BRITISH APPLICATION

It is outside the scope of this paper to discuss the reasons for the British self-exclusion during the first years of EC history, and the changes that lead to the application for membership in 1961, all of which have been extensively analyzed elsewhere (Camps, 1964; Lieber, 1970; Griffiths and Ward, 1996, 7-32). It is enough to note that the first British approach to the EC was based on a calculation of what would be acceptable for Parliament, the European Free Trade Association (EFTA) and Commonwealth governments, and that this was at the origin of the “conditional” approach that the Macmillan government took towards joining the Community (Deighton, 1996, 42-43; Deighton and Ludlow, 1995, 111-112). In its application of 31 July 1961, British membership of the EC was made dependent on the terms of accession the Community would be willing to grant, i. e. the UK government would not make its final decision about joining the Community, until suitable exceptions to the Treaty of Rome had been obtained to protect EFTA, Commonwealth trade and its own farmers (Ludlow, 1997, 40-41). In addition, Norway and Denmark were also constrained domestically on the terms of entry that would be acceptable to their domestic constituencies and had approached the Community following Britain, with some reluctance.¹ This attitude, apart from feeding into the misapprehensions of French President Charles de Gaulle about the British incapability of becoming “true Europeans”, proved counter-productive when negotiations actually started and had many consequences. The most important one was that the large number and complexity of British requests for exceptional treatment prompted a defensive attitude on the part of the Six and the Commission, which were anxious that the British entry might undo the compromises reached by the Six in the Treaty of Rome, and the nascent CAP in particular.²

However, the defensive attitude on the part of the EC was not solely due to British “mismanagement” of its application, because there were other crucial factors that intervened and that kept re-appearing afterwards, despite important changes in the British attitude during the second application, which came in April 1967, when Labour Prime Minister Harold Wilson secured parliamentary and cabinet backing to replace the previous application with a new “unconditional” one. The first of these factors was that, EC rules, especially those of the CAP, were still being put into place simultaneously to enlargement negotiations. The second one was that the British system of agricultural support (based on a low-cost food policy and a relatively liberal regime for overseas imports) was radically different from the ones existing in the Continent (based on external protection and aiming at self-sufficiency).³ So, the British requests to maintain its trade with the

Commonwealth put in the spotlight the protectionism of some of the member states, and was used by the Commission and the Dutch government to argue in favour of the creation of a more liberal CAP than the rest of the member states wanted, in particular France and Germany (Ludlow, 1997, 97).⁴ Therefore, although the first reactions of the Six to the British application were very positive at the highest level, there were already doubts from continental farmers about what the CAP would look like if it were set up by an enlarged Community which included Britain, which had such a different system of agricultural support (Ludlow, 1997, 45-57). These concerns were the first manifestation of a phenomenon which was to become recurrent in future negotiations with Britain, with Spain, and with all other acceding countries, including the CEECs today: sectoral interests, in particular agricultural ones, went against the higher political and strategic aims of including a new member in the EC. In this way, one of the recurrent phenomena of enlargement negotiations was born: their challenge to the nature of the CAP, and their linkage to the internal disagreements about it, particularly between the Commission and some of the member states.

In sum, the structural differences between Britain and the Six were aggravated by two specific contextual factors: the conditionality of the British application and the youth of the EC integration process. They were in the minds of decision-makers in the Council of Ministers when, during the first six months after the British application was received in 1961, they devoted themselves to specifying the procedure to conduct enlargement negotiations. Together, they explain why the Council opted for the solutions that were most defensive of the cohesion among the Six, and why they took a similar approach during the second round of negotiations with Britain from 1967 to 1970, when the negotiating procedure was revised.

The fact that the procedure for negotiations was so “sensitive” to the specific circumstances and characteristics of the British application stemmed from the fact that the Rome Treaty was vague on this respect, as it only stipulated in Article 237 that:

Any European State may apply to become a member of the Community. It shall address its application to the Council, which shall act unanimously after obtaining the opinion of the Commission.

The conditions of admission and adjustment to this Treaty necessitated thereby shall be the subject of an agreement between the member states and the applicant State. This agreement shall be submitted for ratification by all the contracting states in accordance with their respective constitutional requirements... (*Treaty of Rome*, 1958, Art. 237).

The need to better define the negotiating procedure triggered in 1961 a long and heated discussion among the Six, as everyone involved knew that this

procedure would have a decisive impact on the fate of negotiations, and shape the way in which enlargement would be reconciled with the protection of existing and emerging EC rules.

2. THE “BILATERAL” FORMAT AND ITS CONSEQUENCES

The first and most consequential decision was taken on 16 October 1961, at a Council meeting, when it was agreed that negotiations should be “bilateral”, that is between the member states acting *with a previously agreed Common Position* (CP) on the one hand and Britain on the other. This format was “bilateral” in two senses which need to be unpacked for the sake of conceptual clarity. First, negotiations were “bilateral” in the sense that they were carried on the basis of a Common Position (“CP-based”) on the part of the Six, the crucial point being that, from the EC side, the member states spoke collectively, instead of individually. Second, negotiations were “bilateral” in another sense, because the Community negotiated with each of the four individual applicant countries *separately*.

The “CP based” approach prevailed over a Dutch proposal which had envisaged an intergovernmental committee of representatives and experts from the seven states, following the model of the Spaak committee which had drafted the Treaty of Rome. Although such proposal would have allowed the candidate country to be represented on equal footing to the member states, probably enhancing the legitimacy of the negotiated outcomes, it would have also introduced a high degree of uncertainty as it entailed the risk of re-opening the debates that had been settled with such difficulty by the Treaty of Rome.

Having to agree on a common position *à Six* before engaging with Britain was intended to prevent it from exploiting the EC’s internal differences during the negotiations. It was also deliberately intended to privilege the protection of the *acquis communautaire* over the inclusion of Britain and its special requests, and to make clear to the applicant that the Treaty of Rome was not open to re-negotiation (Ludlow, 1997, 53-56; Deighton and Ludlow, 1995, 109). The formula proved effective in protecting the Community’s rules and the member states’ interests against the danger posed by Britain of intervening in the ongoing debates among the Six about the setting up of the CAP, so, for the same reasons, the Six decided at the Hague meeting of 1969 to negotiate as a bloc during the second round of talks with Britain (Lord, 1993, 62). The “CP-based” format was used with Spain as well, and proved effective at keeping it at arms length from the discussions about the agricultural and budgetary re-arrangements of 1984. This format has been retained for all other enlargement negotiations (with

EFTA and CEECs) and, today, it has ensured that the current candidates do not interfere directly with the ongoing projects inside the EU, notably Economic and Monetary Union (EMU), the reform of the CAP set out in “Agenda 2000” and the institutional reforms of the Nice Treaty.

Several consequences ensued from this procedural choice made in 1961 and influenced the way in which subsequent enlargement negotiations were to be conducted: member states “came first” and controlled the agenda; Community positions were inflexible; and Community sectoral biases got projected into the negotiations. I shall analyze them in turn.

2. 1. The EU “comes first” and controls the agenda

At first sight, to state that the EU “comes first” might seem a gratuitous value judgement (if interpreted as “selfishness”), because in all international negotiations each side’s positions correspond to their interests, and it is obvious that each side would try to make their views prevail. Even more so, when analyzing enlargement negotiations, because these are characterized as different from other EU agreements with third parties by the fact that the latter are trying to join an already established “club”. So it only seems natural that the members of that club control its admission criteria. Yet, the aspect of the negotiations analyzed in this section is not about substantial “interests”, “positions” or “admission criteria”, but about *process*, and about how the way in which the structure of interactions between the parties has the effect of favouring the representation of some interests over others in the final outcome. It is important pointing out that all procedures imply “biases” of one kind or another, and that pointing them out and analyzing their consequences does not necessarily imply a value judgement or, indeed, the suggestion of a “better alternative”.

The first consequence of the “bilateral” nature of the enlargement negotiations procedure is related to the control of the agenda and timing of the process. By requiring existing members to formulate a united “Community position” before presenting it to the applicant country, this procedure meant that the crux of enlargement negotiations took place *among* existing members states. So, in terms of timing, for example, most of the delays in the negotiations were mainly due to the Community’s internal disagreements which sometimes resulted in its inability to present its “common position”, while the applicants’ delegations literally waited outside the room where the member-states were sorting out their differences.⁵ It also resulted in the exclusion of the applicants from a large number of decisions and discussions that were related to their accession (O’Neill, 2000, 27).⁶

Despite these provisions, the Six felt that in 1961 the British had been able to profit from the bitter disputes which divided EC members by forming favourable coalitions with some of them. Therefore, the revision of the negotiating procedure in 1969 reinforced the need to find a consensus among the Six which would now be *represented by a single spokesman* “at all levels and in all aspects” of the negotiations before engaging with Britain, in order to remove any opportunity of exploiting intra-Community debates that had been available in 1961. Sir Con O’Neill, British deputy negotiator during the second round, explained in his report of the negotiations that, in 1961, despite the bilateral formula the Community had not confined talks with Britain to a single spokesman at the negotiations Conference,

where representatives of each member state were free to express their views... But it led to a strong feeling on the part of some of the member states of the Community, and not only the French, that an undesirable consequence of this state of affairs had been that we were given opportunities of “dividing the Six”. The French were determined, and on the whole the others tended to agree with them, that we should not be given such opportunities again (O’Neill, 2000, 27).⁷

Thus, at the first deputies meeting in 1970 the Dutch Permanent Representative, experimented by venturing a few words though not in the chair; after which, he was jumped on by his French colleague and the rule was never broken again. Not even the Commission had –as in the 1961-62 negotiations- the right to speak; it had been made clear by the Six that the Commission should regard itself as the servant of the member states and not of the Conference.

The reinforcement of the “bilateral” nature of the negotiating procedure was expressed in paragraph 13 of the Hague Communiqué of 2 December 1969, where it was left clear that the heads of state and government of the Six “indicated their agreement to the opening of negotiations *between the Community on the one hand and the applicant state on the other*”.⁸ This change was reflected in the change of the name of the negotiating conference itself, which in 1961 had been “Conference between the Member States of the European Communities and other States which have applied for membership of the Community” to “Conference between the Communities and the States which have applied...”, as announced by Pierre Harmel, Council President, during the first ministerial meeting of 30 June 1970.

In the context of a “CP-based negotiation”, applicants could only aspire to be “sponsored” by the member states, and to make pressure through contacts with each member government and the Commission, but, as the British soon realized, this fell very short of having a voice in the discussions themselves. Assurances obtained by the British from individual members

were quickly diluted by the need to compromise first with the other Community partners, and second with the sectoral subdivisions, both inside the member states and the Community institutions (Ludlow, 1997, 70-71). During the Spanish negotiations, this problem was also noted by the Spanish Foreign Minister, Fernando Morán (Morán, 1990, 165).

This situation created an incentive for applicants to resume negotiations as quickly as possible, since only full membership could provide them the voice and vote to try to modify existing arrangements, as exemplified by the British re-negotiations under the Wilson government in 1974-5, and the British budget dispute in the early 1980s under the Thatcher government. Equally, the terms pressed on Spain for the adoption of the CAP and of the Common Fisheries Policy (CFP) at the time of negotiations led the Spanish to take a hard line in seeking side-payments after accession, as well as trying to modify specific discriminatory aspects through changes to secondary legislation (*El País*, 22/10/85). As Morán noted in his memoirs, the most important part of the Treaty of Accession was not to be found in its contents, but on the fact that it opened the way for Spain's participation in the decision-making process (Morán, 1990, 299). Perhaps the most dramatic example of this difficulty was provided by Norway's first round of negotiations, with whom talks were paralyzed from the first meeting at which the Community presented its position on fisheries, which the Norwegian delegation rejected but was unable to modify over successive meetings (*Agra Europe*, 7/10/1970, EN/4).

With regard to the present enlargement, as Avery and Cameron (1998, 27) indicate, the text of the procedural rules to conduct negotiations set out in 1997 "has hardly been altered since it was first formulated in 1970". There have been minor changes to take account of the Maastricht and Amsterdam Treaties, but all in all, although enlargement has made the EC change, the rules for negotiating accession have become more entrenched (Preston, 1997, 22) over time. Today, they have had similar effects in terms of leaving applicants with the impression that their interests are not properly reflected. As Mayhew (2000, 18-19) has put it: "early entry into the Union is considered the best way of defending national interests", which has led the first group of candidate countries (the so called "Luxembourg group") to reduce the number of transition periods requested to the minimum in order to speed up the negotiations.

This incentive was foreseen by the Commission which noted, in its 1969 "Updated Opinion" on UK accession that negotiations should concentrate on the "essentials" leaving to the institutions of the enlarged Community the task of settling less important problems. However, this

approach would open the door for endless re-negotiations after accession and possible reversals of the original agreements through secondary legislation. So, as soon as negotiations with Britain started in 1970, it became clear that the Community as whole, and in particular the French, would have none of it. Every foreseeable aspect of accession should be dealt with during the negotiations, and the end of the transition periods agreed in advance, even if this made the talks long, detailed and tedious. In March 1970, the French Permanent Representative, M. Boegner, told the British Ambassador in Brussels, Sir J. Marjoribanks: “we must not be too concerned if by going into the details ... the negotiations were to last three or four months longer” (O’Neill, 2000, 39).⁹

During Spain’s accession negotiations, the insistence on making sure that every point was neatly tied up before accession was stepped up. The claims of Carlos Tió Saralegui (Spanish negotiating expert in the agricultural sector) that the delays in Spain’s accession negotiations were largely due to French determination to “overregulate” every aspect of their future membership, were confirmed by the French President, François Mitterrand in a speech in 1984: “We have to ensure that as many agreements, as many mutual obligations as possible are contacted before the enlargement decision... rather than do as in 1972, when we brought Britain in before reaching agreement, with the result that all the difficulties rose afterwards and are still with us today.” (Tió Saralegui, 1986, 21; Mitterrand, 1984).

On this point, there seems to be no change of attitude on the part of the EU with regard to the present negotiations with the CEECs; if anything, the Union’s stance has become harsher, as the applicants are now expected to apply the *acquis* before the end of negotiations themselves! Recently, it has been suggested that a system of monitoring and fines could be introduced in the period between the signature of the treaties of accession and their entry into force (*Financial Times*, 25/07/02). There are, of course, reasons for this stricter approach on the part of the EU, not least because the Single Market legislation which arrived in the 1990s became a basic tenet of the EU in a way that was not the case when Britain and Spain joined. Also, the current applicants are seen by the Union as different from previous ones, because of their lower level of economic development, and of the poor public administrations and regulatory voids they inherited from the Communist period, which could easily lead to the *acquis* being adopted, but not really implemented, putting the member states at a competitive disadvantage. Without such enforcement mechanisms, enlargement negotiations could be unduly prolonged, and retard the opening of member states’ markets with long transitional periods. This mistrust is not completely unjustified given the experience with some member states’ rate of compliance with EU

regulations, in particular that of Greece, another late-comer which was also less developed in economic and administrative terms.

Despite these powerful reasons, the idea of a treaty being implemented by a sovereign state before it has signed and ratified its contents is unheard of in international law, and raises interesting questions about legitimacy and participation. This tension can be summarized thus: is it possible to have “implementation without representation”? Here it must be noted that this novelty led the Commission to insist in “Agenda 2000” on the participation of applicants in Community programmes and mechanism as they progressively start adopting the *acquis*, with the added advantage of starting to familiarize them with the way in which the Union works. However, it is clearly stated that “this does not imply giving decision-making power to countries which are not yet members of the Union” (“Agenda 2000”, quoted by Avery and Cameron, 1998, 117).

Another crucial decision taken by the Six in 1961 –although not so noticed at the time- was that negotiations would be carried out separately with each applicant, not only foreclosing their potential for forming an “applicants’ coalition”, but also, opening the door for the Community to play one against the other.¹⁰ It was only near the end of negotiations that the impasse with regard to fisheries led the applicants to meet amongst themselves before organizing “multilateral” talks with the Community (*Agra Europe*, 26/11/1971, EN/1). It is envisaged in the present negotiations with the CEECs that multilateral meetings between the EU and several applicants can be arranged on an *ad hoc* basis by the Presidency and the Commission to discuss “accession-related issues of a horizontal nature”, but most issues will be treated on a “bilateral” basis (Avery and Cameron, 1998, 115). This “bilateral” aspect of the negotiations format did not only work as a “divide and rule” advantage for the EC; it was actually welcome by the applicants, for example during the Mediterranean enlargement, as Greece did not want to sacrifice its chances of an early accession by having to wait for the Spanish to sort out their much more complex terms of entry. Exactly the same preference has been voiced by the applicants from Central and Eastern Europe, which in the context of intense competition for early entry (or undue delays due to others’ problems), argue that each candidate’s date of accession should be judged on its own merits.

Last, third country observers would not be allowed in the negotiating sessions in order to insulate the Community from “foreign” pressures, i. e. Britain’s Commonwealth and EFTA partners, which could press for the dilution of the principle of Community Preference.¹¹ Traditional trade relations between Spain and Latin America also suffered from this approach,

as did other Mediterranean countries, like Israel and Morocco, who saw their access to the Community's markets reduced as a result of Spain's accession in 1986.¹² This is even more complicated in today's enlargement negotiations, as there will surely be some disruption of sub-regional trade with countries left to the East of the EU's new border, aggravated by the fact that it is not yet clear which countries will join first and which later – although it seems increasingly likely that a “big bang” approach will be followed, with ten new members joining at the end of 2002.

2. 2. Inflexibility of the Community's positions

A second consequence of the “CP-based” nature of this procedure was the “inflexibility” of the Community's positions, which were virtually non-negotiable. The fact that the Community could speak with only *one voice* meant that the Six could only speak after they had decided what that voice was, and this in turn made an extended dialogue impossible. It frequently took months before the Community could react to any of the British and Spanish proposals presented at the conference. Moreover, the fact that unanimity was required for the adoption of these “negotiating mandates” prolonged the search for a compromise and, once agreed, because they enshrined such delicate bargains in themselves, it was very difficult for the applicants to question specific parts, thus leaving them in a “take it or leave it” situation. When rejected, the whole process of formulating a new mandate had to be enacted again, sometimes taking several months, and often resulting in a new proposal which differed only marginally from the preceding one, since there was often only a narrow margin separating different possible solutions.¹³

Common positions became more complex to formulate by the time of the Spanish negotiations, not only because consensus had to be found between more members (Nine and later Ten, instead of Six), but also because it coincided with a period in the history of the Community of near internal paralysis with the agro-budgetary dispute (among the member states on the one hand, and between the Council, the Commission and the Parliament on the other) and international economic recession. This complexity has again increased substantially with regard to the present enlargement, as the EU's policies and number of members have grown considerably during the 1990s with the introduction of the Single Market and the EFTA enlargement in 1995.

Two further procedural factors ended up working in favour of the Community. First, the applicants were asked to give their proposals first, while the Community only reacted to them. In this way, it was not easy for

the applicants to “play their cards close” and keep their best negotiating assets until the end-game. Second, partly as a way to show progress at each ministerial meeting and partly due to the incapacity of the Community to define its common positions on controversial issues quickly, it has been customary to address the easy chapters first, leaving the most complex and controversial ones until the end. Although this is a common method of negotiations that, to a certain extent, is in the interest of both sides, as it allows to get minor problems out of the way, in the end it works against that party which is most under pressure to conclude negotiations. Thus, it gave the Community the upper hand, as it put the applicants in a “take it or leave it situation”. At least for the cases of Spain and Britain, accepted the difficult terms of accession proposed by the Community in the controversial chapters of Agriculture, Fisheries and budgetary contributions, as they were dealt with under extreme time pressure, in marathon sessions, and they could not be allowed to wreck the whole accession process. In a similar way, the EU has presented its proposals on Agriculture to the CEECs at the end of January 2002, pending as they were on internal agreement about CAP reform presented in “Agenda 2000”. Substantial negotiations are to take place during the second half of 2002, leaving little time to sort out this difficult chapter if enlargement is to be completed by 2004. Together with the Structural Funds and Budgetary contributions, Agricultural direct payments constitute the core of the end-game in the current negotiations.

A fourth source of inflexibility came from the fact that, as a result of the numerous British requests for exemptions from the obligations of the Rome Treaty, the EC took an “all or nothing” approach to membership, insisting that the applicants should adopt the *acquis communautaire* in full, without any permanent opt-outs, and limited substantial accession negotiations to the design of “transition periods” for a gradual adaptation of the new member to the Community. Therefore, negotiations consisted in devising the pace of adjustment to the *acquis*, while the core ideas enshrined in the Treaties were not to be questioned. In this sense there was actually little left to negotiate (Avery, 1995, 15).¹⁴

These views were reinforced by the Commission’s response to the second “unconditional” British application, in its preliminary “Opinion” of September 1967, in which it stressed again the immutability of the *acquis*, reminding Britain that, as an applicant it would have to carry the costs of adaptation:

Today, belonging to the Communities necessarily means accepting not only their original charters -the Treaties- but also the objectives of political unification... Similarly, new members will have to accept the decisions taken since the Treaties were adopted. These decisions are the fruit of an often hard-won compromise between the

Six... It would be impossible and illusory to attempt to call them into question. Consequently, as a general rule, a solution to the concrete problems will have to be sought by working out transitional measures and *not by amending the existing rules*. (CEC, 1967, § 9, emphasis added).

At a Council meeting on 22 July 1969 which discussed the re-opening of negotiations, French Foreign Minister Maurice Schumann declared to his colleagues that the irreversible character of the Community had to be confirmed by deciding the end of the transition periods during the negotiations, since any other course of action would necessarily give the impression that the Community could still be put into question (SEC (69) 3014, 1).

The 1969 “updated Opinion”, presented on 2 October, indicated that the points made in the 1967 document were, in the Commission’s eyes, still valid. In particular, the tension between maintaining existing arrangements and including new members, present during the first round, was highlighted, and it was clear that the desire to preserve the *acquis* prevailed over enlargement (CEC, 1969, 5). At the first ministerial meeting, Harmel reminded the British delegation of the same point in his opening statement, which later became the paradigm for the opening of all subsequent accession negotiations. So, after the second round of negotiations, the British deputy negotiator, Sir Con O’Neill (2000, 40) reported that “the negotiation was one to admit new members to the existing Community, not one for joining with them to found a new Community... We had to “swallow the lot, and swallow it now”.

The same attitude was taken with regard to Spain, Greece and Portugal. The Commission indicated in the “Fresco” that it would “be necessary, in order to reconcile the Community’s fundamental objectives and its political will to accept three new members, not to let the bases and objectives of the Community be called into question...” (CEC, 1978a, 1, § 7). In the “Opinion”, it was repeated that Spain would have to “swallow the lot” of the *acquis*:

...accession requires the applicant country to accept the whole of the “*acquis communautaire*”... a fundamental rule from which there can be no derogation upon accession except in the form of exceptions that are strictly limited as regards both scope and duration... This rule governed the establishment of the Community ... and subsequently determined the detailed rules adopted for the accession of new Member States (CEC, 1978b, § 53).

On 5 February 1979, during the first ministerial meeting with Spain, Council President and French Foreign Minister, Jean François Poncet,

repeating Harmel's formula of 1970, insisted on the immutability of the *acquis* to the point of irritating the Spanish negotiators, who had already acquiesced to the principle and, unlike Britain, had not given any signs of attempting to challenge it (Bassols, 1995, 202; 220-221). Opposite from "conditional", the Spanish application for EC membership faced no domestic opposition and had no viable alternative, like EFTA or the Commonwealth or even a special relationship with the US to cherish. Rather than being formulated as cost-benefit calculation, the rationale for joining the EC was overall political in the case of Spain, an as it is today for the CEECs: "re-joining Europe" was tied to the process of transition and consolidation of democracy, at least in the initial stages, and later also to economic development.¹⁵ Spain (as the CEECs) did not overtly intend to change the EC as Britain did, but to change itself following the "European model".

Another relevant point for the present negotiations is that, internally, the youth of the Spanish representation mechanisms, still in their formative phase after the breakdown of the authoritarian regime did not present the panorama of "vested" interests -apart from the army and the *Guardia Civil*- present in the British and other European countries, notably in the agricultural sectors (Jones, 2000). This facilitated the adoption of Community policies and rules, as part of the more general re-arrangement of the Spanish institutional order, without encountering much organized opposition.¹⁶ Mayhew (2000, 19) has observed for the current negotiations that some of the CEECs' requests for transition periods reveal their lack of knowledge of the real impact of accession, the fact that they have been drawn out by governments with little or no public debate, and the weakness of interest groups in most of these countries.

However, it must be noted that as time passed, the new structures settled, and the concrete consequences of accession were becoming more apparent, the Spanish government's room of manoeuvre became more reduced, and this should be taken into account for the present enlargement, as constant delays in the date of accession and the realization of its concrete implications have already led some movements and political parties in the applicant countries of Central and Eastern Europe to openly question the benefits of joining the EU. The most dramatic and clear example of this is the recent mobilization for a "no" to the referendum that is to take in Poland over accession, around the specific issue of agriculture (Epstein, 2002).

The differences between Britain, Spain and the CEECs in terms of power is also considerable, with Britain in 1961 head of the Commonwealth and still considered as a Great Power, while Spain had been a poor and isolated authoritarian state for almost forty years. Britain could apply limited

pressure, but Spain's main negotiating "asset", according to Tsoukalis (1981, 157) was its economic weakness and the threat of its domestic political destabilization. Its potential as a market and strategic value were important incentives for the member states to go ahead with enlargement, but could not easily be used to apply pressure to speed up negotiations. All this should sound familiar to the CEECs, which have already experienced the difficulties of putting pressure to accelerate negotiations, as the losers from economic enlargement inside the Union are more visible and united than the winners from peace, stability and development in those countries.

Despite all these differences between the first and the second waves of applicants, it did not even appear necessary for the EC to think about a different procedure that could speed up negotiations with Spain: the one already in place had proved effective in protecting the *acquis* or, at least, subjecting its reform to the firm and exclusive control of the existing Community. This explains why the defensive reflexes that the Community had developed in its dealings with the specific problems posed by the British negotiations re-appeared during negotiations with Spain and again today with the CEECs, despite the very different nature of the applicants. This, despite the fact that Britain's negotiations brought considerable "enlargement indigestion".

Furthermore, by situating the crux of negotiations in the formulation of the Community's position and the preservation of the consensus among the member states, rather than on the talks with the applicant, the "CP-based" procedure ensured that successive enlargements produced only marginal changes to existing EC rules, rather than the recasting of the original bargains which the inclusion of such diverse members as Britain or Spain might possibly have entailed. This situation has much larger dimensions today, given the large number of candidates, their much lower level of development, and their communist past. The insufficiency of the changes introduced to the CAP to cope with enlargement illustrates this point (Ardy, 2000), as does the limited extent of the reforms of decision-making procedures over the two successive Inter-Governmental Conferences (IGC) of Amsterdam and Nice to make the enlarged Union work. Whether the Laeken process will produce the necessary "great leap forward" remains to be seen.

In this way, the aim of accession negotiations, which according to Avery (1994, 29) is not about "relations between 'us and them', but relations about the "future us" was distorted by the bilateral negotiating procedure which marked a clear distinction between existing and prospective members. This procedure, which crystallized into what Preston (1997) calls the

“Community method of enlargement” created an asymmetrical system of negotiations, with a bias in favour of the interests of existing members and Community rules. Although these biases appeared necessary to deal with the “British awkward partner”, they seemed somewhat excessive for dealing with weak and pro-European Spain, as they do with the much poorer and numerous CEECs -at least from the point of view of the applicants.

3. THE PROJECTION OF COMMUNITY STRUCTURES IN THE NEGOTIATION PROCESS

The “bilateral” procedure also allowed the internal structures and decision-making procedures of the Community to have a greater impact in shaping the negotiations, than a mere inter-governmental procedure would have. This was mainly due to the fact that the formulation of the Community’s position was done following “quasi-community procedures”, in which the Commission and a variety of other actors were involved. It was also the result of the need to break down the broad aim of “enlargement” into manageable and concrete negotiable issues in order to put it into practice that made it necessary to organize the negotiations conference in a way that mirrored the internal multi-level decision-making structure of the Community.

3. 1. The role of the Commission

Article 237 of the Rome Treaty was vague with respect to the Commission’s role in the negotiation process, apart from the need to have its “opinion” delivered to the Council. A first reading of the article suggests that a treaty of accession to the EC would differ little from the inter-governmental nature of any other international treaty under the Vienna Convention on the Law of the Treaties: negotiated, signed and ratified by sovereign states. Only after the unanimous acceptance of an application by the Council of Ministers, was the Commission required to deliver its “opinion”. Then, the Council of Ministers was to discuss both the opinion and the membership application and to agree on a date for the start of the negotiations. These Council discussions were about whether any member government would veto enlargement explicitly (Wallace, 1993, 15). The Commission did not have such a veto power, it could only delay the start of negotiations by retarding the issuing of its opinion for up to three years, and its recommendations were not even mandatory as the case of Greece showed.¹⁷ Thus, formally, national governments were the principal actors in the negotiations, leaving the Commission with the role of advisor.

The unanimity requirement in the formulation of the Community’s

positions remains today, despite the introduction of Qualified Majority Voting (QMV) in many EU policy areas, because, like in the IGCs that have been convened among the member states to discuss EU institutional reforms, the end-products of accession negotiations are treaties which the existing and future member states have to ratify at home. In all the various discussions about simplifying the EU Treaties, and moving from unanimity to majority voting no-one has ever suggested streamlining the accession procedures, which remain one of the last bastions of the intergovernmental procedure - and fully covered by confidentiality despite the calls for transparency in EU affairs.

These two factors have been behind the notion that *enlargement negotiations are essentially inter-governmental processes*. Unlike other negotiations with third parties, notably in the area of trade where the Commission represents the EC, for the case of enlargement, applicants negotiate directly with the Council. In fact, enlargement negotiations are IGCs between states, with the European Parliament totally excluded, and the Presidency of the Council (not the Commission playing the role of spokesman for the Union. In the present enlargement (as in previous ones) an IGC on accession has been established with each candidate, to emphasize both the inter-governmental and the bilateral nature of the negotiations (Mayhew, 2000, 68).

Once the negotiations started with Britain, however, the role of the Commission became a matter of controversy among the Six and was not settled until the Council meeting of 25-7 September 1961. While the Commission invoked its role as “guardian of the Treaties” to insist on being involved in negotiations with Britain, the Committee of Permanent Representatives (COREPER) first rejected the idea in its meeting of September 19. After a week of intense discussion, it was decided that the Commission would participate as “counselor” of the Six and that, in order to protect the *acquis*, it would be fully involved in the elaboration of the Community’s positions.

This decision meant that the common positions were to be formulated following quasi-normal decision-making Community procedures, which gave an important role to the Commission as agenda setter and broker of compromises, and gave EC decision-making processes and structures, especially its sectoral fragmentation and the participation of national and transnational interest groups, some influence in enlargement negotiations. As with Britain, most agreements reached with Spain were based on Commission proposals, which, in turn, emerged from a meticulous process of consultation with member states and organized interests at the Community

level.

This decision on the Commission's role brought important qualifications to the supposedly "inter-governmental" nature of the accession negotiations. Since the method of negotiations implied constant re-drafting of the Community's position, it was bound to require the services of the Commission, and therefore involve the non-state actors which have access to it in the framing of proposals. At this stage of the decision-making process, the Commission played the role of "honest-broker" between member states. It also worked closely with the applicants to gather information and to screen legislation, making it a "go-between" for the future members and the Council, a role that has become far more prominent during the present negotiations.¹⁸ In addition, the almost exclusively technical nature of the Brussels negotiations placed the Commission, with its expertise, in a unique position to identify and design package deals, and allowed it to link enlargement with its own agenda, notably on the reform of the CAP.¹⁹

Apart from its central and indispensable role in the articulation of the common position, the Commission's presence at the negotiating sessions with the applicant as advisor, turned it into a close follower of the process, gathering information and giving continuity. Moreover, the Commission was the main representative of the applicants' views in the internal decision-making processes of the Community. This however, did not mean that the Commission was inherently in favour of the applicants or that it always acted to speed up the enlargement process; it could also delay it. As "guardian of the Treaties", the Commission often sided with France and did not always play in favour of the British in 1961-1962 (Ludlow, 1996, 148). Also, disputes inside the Commission itself prevented it from presenting to the Council its proposals on the common position on agriculture for Spain until 1983 (*Agra Europe*, 29/2/1980, P/8).

It must be noted that in 1970 the role of the Commission was diminished from what it had been in 1961, in part as a result of a nine-months controversy which the Commission itself had started. In its "1969 Opinion", it strongly argued that it should be entrusted with the conduct of negotiations, although obviously based on a Council Mandate. The idea was to take the lead "on the problems posed by common policies already in operation (Common External Tariff, Common Agricultural Policy and so on)" following the pattern of negotiations with third parties in the area of trade. In a second phase, the Council would "decide on the acceptability of the results achieved during the first phase" (CEC, 1969, § 59). The member states kept postponing the discussion of this point until shortly before the opening of negotiations, because the proposal encountered opposition from

the Italian, German and Dutch representatives, while the other members found it difficult to reject so a “communautaire” proposal, and the Belgians were the only ones in favour. As time passed, the Commission’s proposal became increasingly unpopular and was finally rejected in April 1970 by COREPER (SEC (69) 4322, 3; SEC (69) 4733, 3; SEC (70) 84, 1; SEC (70) 370, 1). Yet, the idea that this time the Community should negotiate as such and not as a collection of member states, as it had done in 1961, came to support the French proposal of having a single spokesman “at all levels” – only that, instead of the Commission, this role would be fulfilled by the Council Presidency.

In this respect, as in the rest of Community life, the effectiveness of the role played by the Commission in enlargement negotiations has varied with time and depending on the issue area, quite apart from the formal role attributed to it. After the “empty chair crisis” of 1965 and the Luxembourg compromise that followed, the Commission’s attitude became more timid in general, so despite its attempts to regain ground, its role in enlargement negotiations was diminished by the revision of the procedures for the second round of talks with Britain in 1969 (O’Neill, 2000, 25-27; Cini, 1996, 51, 67-68, 72). Yet, in the field of agriculture, it remained a key player, not only as manager of the policy, but also due to its expertise in this complex technical area. And given that agriculture was the main area that dominated these negotiations with Britain, the Commission’s part in them was still influential. Its role also varied considerably during the Spanish accession negotiations. It was difficult for Commissioner for Enlargement, Lorenzo Natali, to depart from what was the consensus in the Community and still acceptable to the most reluctant member states. Morán indicates that Gaston Thorn, President of the Commission, did not play any role at all, unlike Davignon who invented some creative formulas to get out of some impasses (Morán, 1990, 297). When Delors came to head the Commission in 1985, he helped to solve the most pressing issue on the agenda at the time, i.e. to conclude negotiations with Spain and Portugal, by taking personal charge of the funding of the Integrated Mediterranean Programmes. Commissioners Davignon and Cockfield also proved central to the drafting of the White Paper for the completion of the Single Market, which was the cornerstone of the package deal that solved Spain’s accession puzzle (*Agra Europe*, 1/2/ 1985, P/6; Sandholtz and Zysman, 1989, 96).

With regard to the ongoing enlargement, Mayhew (2000, 8) has argued that the Commission has been far less a leader than a follower, damaged as it was by its fights with the European Parliament in the mid 1990s which led to the resignation of the Commission and the reinforcement of the Council as the dominant EU institution. This has not diminished its crucial role in

carrying out unofficial negotiations with the candidate countries, providing advice on the implementation of the *acquis*, and becoming to a limited extent, the ally of the candidates who negotiates with the member states and, conversely, the “friend who tells them the truth”. Finally, the EU’s demand that the implementation of the *acquis* begins before accession (a new feature of the present enlargement) has increased the Commission’s political leverage, because it is in charge of its verification as part of its yearly evaluation of the candidates (annual reports).

In sum, the role of the Commission –although varying- shows that the negotiations for enlargement are not an inter-governmental process only, as it seems at first sight. Another aspect which qualifies the inter-governmental nature of enlargement negotiations is evidenced by the projection of the fragmentation of EC decision-making into multiple levels and sectors on the enlargement process.

3. 2. Sectors and levels

The procedure for negotiations themselves mirrored the Community’s internal decision-making structures in the sense that they were organized at multiple levels, and the drafting of the treaty of accession was broken down into chapters which corresponded to the sectoral policy areas of Community activity.

The functionalist inspiration of the European integration project, based on the idea of depoliticizing issues by breaking them down functionally to make them susceptible of “rational” policy-making (the “Monnet method”), is at the origin of the strong lines which divide the Community’s institutions sectorally.²⁰ Hence, the functional divisions within the Commission into a number of sectorally defined Directorate Generals, and of the Council of Ministers into the corresponding specialized Councils. Furthermore, rules and regulations in each sector are of very different nature, and these institutional partitions allow them to evolve more or less independently. Hence also, the fact that not all parts of the *acquis* are equally important or difficult to negotiate with regard to enlargement, some are easier to adapt to a larger number of members than others.

Thus, once the decision to open negotiations with a prospective EC member has been taken at the highest level, and formal substantial talks get started, the broad objective of enlargement has to be “unpacked” into a set of more manageable and concrete negotiating issues. The way in which this “unpacking” occurs is strongly determined by the institutional configuration of the EC, as the *acquis communautaire* to be adopted by the applicant varies

from one policy-area to another. The fact that accession negotiations are broken down into different “chapters” which correspond with such functional divisions which cut across the EC and national levels is an example of how organizational structures affect the shape of the enlargement process. It is during this process of “unpacking” that technical details and sectoral interests rise to a prominent place in the negotiations. Putting them back into place and making sense of the whole again is however the most difficult part, because the final “package deal” has to be balanced not only across states, but also across sectors and, at the EC level, inter-sectoral co-ordination mechanisms are weak, in contrast to national settings, where the potential influence of particular sectoral interests is supposed to be moderated by electoral mechanisms, the work of political parties and the head of the executive.²¹

With regard to levels, in 1961, it was established that the monthly ministerial meetings which constituted the core of the negotiations conference were to be attended by foreign ministers of the Six and the British chief negotiator. On those occasions, when the specialized nature of the issues demanded it –particularly towards the end of the process- they had to be accompanied by other ministers. The Commission President was also present, often accompanied by other specialized Commissioners.²² The work of these sessions, which was the equivalent of the Council of Ministers meetings inside the EC, was prepared at deputy-level weekly meetings, where most of the preliminary (and real) negotiations took place, imitating the role of COREPER in the Community.

Given the complexity and technicality of most issues, these meetings still necessitated the preliminary work of a third level of discussion, composed of working groups of “experts”, where national civil servants and Commission officials could deal with the highly technical issues which were obscure to deputy and ministerial representatives (Ludlow, 1997, 70-71). This three-level structure was reproduced during the second round of negotiations with Britain (O’Neill, 2000, 27). It is important to note here that the decision since the British first application to leave outside of the negotiations the “great issues” of European integration and to make the Brussels talks concentrate on “technical” adoption of an immutable *acquis*, made these committees of experts crucial. This was particularly true for the case of agriculture, which occupied a lot of time and energy in both the British and the Spanish negotiations: the highly complex nature of most agricultural issues which were incomprehensible for ministers and diplomats dropped a lot of the substantial discussions into the hands of experts in this policy area, many of them inside the Commission’s DG VI.

Moreover, since the negotiations conference consisted in the presentation of proposals to be answered in the next session, it was really between sessions that the teams worked, analyzing the proposals, preparing their answers and modifying their initial positions. For these reasons, the strongest disagreements appeared at the technical level, where the concrete implications of enlargement were being assessed, and a more continuous dialogue could take place. Another reason behind the apparent “conflictiveness” of discussions at the “expert” level was that deals would often not be made at lower levels even when possible, in order to leave at least some agreement to record at each of the ministerial meetings.

The same structure, fragmented into sectors and levels, was essentially reproduced during negotiations with Spain. Ministerial meetings, were attended by the foreign ministers of the Nine/Ten, represented by the rotating Council President, and the Spanish chief negotiator, who, the Community insisted, should be the head of the Ministry for Relations with the EC (known as “La Trinidad”), in charge of co-ordinating the Spanish positions in the different areas.²³ Like their counterparts in the EC, on many occasions the chief negotiator had to be accompanied by other specific ministers, notably, agricultural ones (Jaime Lamo de Espinosa under the Unión de Centro Derecha (UCD) government; Carlos Romero under that of the Partido Socialista Obrero Español (PSOE)) who were in the most difficult political positions, given the concessions that Spain had to make in this area. The Commissioner for Enlargement, Natali, who was one of the few individuals to oversee the entire process from beginning to end was also present at these meetings, accompanied when necessary by the Agriculture Commissioners.

As in the British case, at these formal monthly sessions, which consisted of exchanging documents that outlined both sides’ positions (often on different issues) no real negotiations took place until the final “sprint” of 1985, when the pressure to conclude the process turned them into a semi-permanent marathon session, at which many of the final decisions were made and bargains struck on the spot. But before that final sprint, most of the real work with the Community was done by Marín at deputy level, while Morán was in charge of bilateral contacts with the foreign ministers of the member states, notably with France.

At deputy and lower levels, where contacts with the EC developed on a weekly or even day-to-day basis, Marín considered the role of experts in the Spanish negotiating team as “fundamental” (Author’s interview). These “technicians” who became known as the “*Doce magníficos*” (the “Magnificent Twelve”) were knowledgeable in the intricacies of the *acquis communautaire*. They were civil servants from “La Trinidad” and

representatives from other specialized departments, like Carlos Tió Saralegui, an academic in charge of agriculture. Morán recalls long hours of tutorial sessions before ministerial meetings, “because it was essential that the Foreign Minister was not surprised in bold ignorance of the subject matter” (Morán, 1990, 45-47). Morán indicated that the most difficult bit of the negotiations was to make a coherent whole of these diverse technical aspects, a job that was carried out by Carlos Westendorp.²⁴

With regard to the present enlargement it has been suggested that the limited administrative capacity and the lack of sufficient knowledgeable personnel in EU affairs on the part of the candidates, has made their position even weaker (Mayhew, 2000, 18).

On the Community side, internal co-ordination was of paramount importance. Given the highly technical nature of negotiations, many of the elements that were to be part of the Community’s position were first decided by the specialized Councils, and only rounded up at the General Affairs Council (GAC) attended by Foreign Ministers, where a more global perspective prevailed. Yet, without a formal hierarchy between the specialized Councils, informally, agriculture took precedence by the sheer size of the organizational resources it commanded. The Council of Agriculture Ministers (CAM) could not be effectively checked by the finance ministers (ECOFIN) during Spain’s accession. As a result, inter-departmental log-jams were serious, making the formulation of the Community’s position extremely complex. One of the main causes for delay in the Spanish accession was that the Community could not reconcile the views of its own agriculture and budgetary sectors. Thus, many decisions had to be referred “upwards” to the European Council, which is in charge of “political arbitration” among sectors. But there, national divisions seemed to conspire in favour of the over-representation of sectoral interests, as some member states defended their “preferred policies”.

Inside the Commission, Directorate General I (DG I: External Affairs) was in charge of co-ordinating the work of other DGs in preparing proposals of the common positions for the Councils to discuss. The collegiate decision-making system ensured at least some degree of co-ordination, and in theory, the President could prioritize between issue areas. But still, DG VI was (and remains) among the most powerful and it was not easy to make enlargement or finances take precedence over agriculture. At lower and more technical levels, like in the committees that manage the different commodities, the incorporation of non-agricultural considerations was almost null.²⁵

In short, the fragmentation of accession negotiations into sectors and levels can make it difficult to achieve progress. This difficulty is not specific to the accession process: it reflects the structure of the Council, with its specialist compositions, which poses a constant problem for the EU. The strong segmentation of EC decision-making processes into sectors and levels was reproduced in the negotiation conference and structured the organization of the Spanish and British teams themselves.²⁶ In this context, decisions had to be reviewed from a diversity of angles, which ranged from the global to the particular in each policy area, thus making co-ordination mechanisms crucial to the proceedings. Over successive rounds of negotiations, the General Affairs Council (i. e. Ministers of Foreign Affairs) has succeeded in the end (but not without trouble) to keep control of the accession agenda, despite sectoral interests. The weakness of co-ordination mechanisms at the EC level gave the leadership of the Presidency an important role to play, as explained in the next section.

3. 3. The role of the Presidency as chair of the meetings

The difficult but crucial role of co-ordinating the Community's position would fall on whoever would be responsible for chairing the ministerial meetings, a decision which became extremely controversial in 1961. A definite agreement proved impossible before negotiations with Britain started, and proposals varied from a senior personality, like Paul-Henri Spaak, to the Commission, or the Presidency of the Council. Short of a decision, Ludwig Erhard, the German Foreign Minister, then Council President, chaired the first meeting with Britain in October 1961. By December, the issue was still not settled among the Six, and this *ad hoc* formula was extended for the second meeting with Britain. The need to settle the issue before negotiations progressed further, forced the Six to formalize this *interim* solution, and it was decided to follow the rotating chairmanship which corresponded with the order of the Council Presidency.

The fact that this central political role was not given to a single body like the Commission or to one person, but rotated among the member states, meant that the Community's performance in the negotiations varied considerably, depending on each Presidency's administrative capacity, political leverage, and attitude towards enlargement. By the summer of 1962, the importance of a skillful Presidency which all the parties trusted and who pushed for difficult compromises and knew how to manage the agenda, was to become evident (Ludlow, 1997, 67, 136; O'Neill, 2000, 19).

Despite this drawback, this *ad hoc* decision was retained for subsequent negotiations including those with Spain. It was the German Presidency of early 1983 which broke the stalemate in the negotiations at the Stuttgart summit, by sorting out the internal financial bankruptcy of the Community. Equally, the skill and decisiveness showed by the French Presidency of early 1984 finally opened the way for the negotiation of the agricultural chapter with Spain. This contrasted with France's previous performance in 1979, plagued as it had been by doubts about the desirability of Spain's accession.

An important difference between the Spanish and British negotiations in this respect was that the European Council meetings of heads of state and government, which had by 1975 become a feature of the Community's decision-making processes, had not yet been institutionalized during the British negotiations. The Hague summit of 1969 had been especially rallied for the discussion of Britain's second application and issues related to it, but after that, there was no periodic EC summit to which issues could be brought at the highest level of national authority to get "political guidance". This function was fulfilled by the bilateral meeting between Heath and Pompidou in May 1971. In contrast, during the Spanish negotiations, major "breakthroughs" were announced at these meetings. Their success, however, largely depended on whether the heads of state and government had already done their homework, i. e. co-ordinating and prioritizing among the different sectoral and political interests at the domestic level, as exemplified by the failure of several consecutive European Council meetings to solve the internal EC crisis and/or carry forward the enlargement talks (e. g. Luxembourg, April 1980; London, November 1981; Athens, December 1983). Moreover, concerned to make their Presidency a "success", the member states held back the announcement of more accommodating attitudes towards enlargement until it was their turn to hold the Presidency (Germany in 1983, France in 1984). Conversely, France delayed the discussion of enlargement in 1979, wanting to keep these controversial issues out of the spotlight for the duration of its Presidency.

Equally, during the present negotiations, all major initiatives that have brought forward enlargement have been announced at European Council meetings: the spelling out of the "Copenhagen criteria" in 1993, the announcement of a "preaccession strategy" in Essen in 1994, the decision to ask the Commission to study the implications for the EU's budget and policies which led to "Agenda 2000" was formulated in the Madrid summit of 1995, the decision to begin negotiations was announced in Luxembourg in 1997 and the official opening took place under the British presidency in the Spring of 1998. The package of "reforms" of the CAP and the Structural Funds was announced at Berlin in March 1999, and the decision to open

negotiations with a second group of candidates was taken at Helsinki in December 1999.

In sum, the 1961 accession negotiations had created a complex procedure, composed of several layers that mirrored those of normal Community decision-making structures. By the time of the Spanish application, complexity had increased with the addition of new members, policies and procedures, and this again has multiplied considerably by the mid 1990s, when the process of enlargement to Central and Eastern Europe became a real one. The political initiative necessary to cut through the impasses created by the “community method”, technical and sectorally fragmented, mainly come through decisions of the European Council, with the effect referring issues upwards and concentrating decisions “at the top”.

There remains a further aspect of the enlargement negotiating procedure which worked in favour of the Community. The *acquis communautaire* was not as immutable as it might seem at first.

4. THE ACQUIS COMMUNAUTAIRE: A MOVING TARGET

As already mentioned, the fact that the British application came at such an early stage of Community life, when some of its policies and the CAP in particular, had only been outlined in general terms, was a crucial factor that influenced the way in which the enlargement rules of the game were constructed, notably those of the CAP which the Treaty of Rome had left at the level of objectives. For this reason the Council decided in 1961 that enlargement negotiations should not delay the Community’s own progress (Ludlow, 1997, 54-65). This was important because it meant that the Community was allowed to create new rules simultaneously to enlargement negotiations, thus expanding and changing the *acquis communautaire* that the applicants would have to adopt. Although this is reasonable because the EC/EU has always been engaged in enlargement negotiations and it would be unworkable to stop the internal agenda while negotiations go on, it is worth noting that such decision was to have two major consequences for enlargement negotiations.

First, this was to be the main source of delays, because it meant that enlargement negotiations could easily be tied up with other internal and sometimes apparently unconnected developments inside the Community, well beyond the control, influence or even opinion of the applicants. The British negotiations, for example, did not progress at all in the substantive issues until the battle among the Six for the definition of the “agricultural code” which specified the principles of the CAP was finally settled in

December 1961.²⁷ During the second round of negotiations the British also had to wait until the last one of the member states had ratified the Budget Treaty of 1970 (O'Neill, 1997, 15).²⁸

The Spanish negotiations, were to be an even more striking example of this problem, with substantial discussions being held back by the disagreements inside the Community about how to reform the CAP and the budget, until the second half of 1984. In this way, large amounts of time were spent by the applicants “watching and waiting for the internal politics of the EC to be resolved” (Preston, 1997, 16) The slow progress of the Spanish negotiations in the agricultural sector also brought the suggestion to change the method of negotiations, and several “marathon” Council sessions were scheduled from November 1984 onwards to conclude the process in time (*Agra Europe*, 7/9/1984, P/3; *El País*, 20/10/1984). This certainly rings the bell amongst the CEECs, which have witnessed from outside the haggling among the member states with regard to the reforms in the areas of agriculture and the structural funds, and the introduction of new policies and instruments, like the Euro or the Common Foreign and Security Policy.

So this decision was a source of misapprehension and estrangement for the applicant countries, because it meant that the *acquis communautaire* that they were being asked to adopt in full kept on growing and changing, while they were still outside and had no voice and vote in these re-arrangements. And this has been (and still is) particularly problematic for the cases in which certain rules were hastily established (or changed) before their accession, with enlargement in mind, to allow the EC/EU a to create new rules which work in favour of the existing member states.

For Britain, this was the case with regard to the 1961 “agricultural code” (in particular, the principle of Community Preference), the budget regulation of April 1970, and the CFP, none of which suited the candidates’ needs, and which they would have surely opposed had they been represented in the discussions. The suspicious timing of the setting up of the CFP constituted the clearest attempt to establish a regime before the new members came in, not just “raising the threshold” for accession, but utterly creating rules that were blatantly unfavourable for new members. Projects for a CFP had been discussed by the Six for some years because the Treaty of Rome established that fish and fish products should be treated in the same way as Agriculture, but with little results. Agreement among the Ministers of Agriculture was reached, suspiciously, on the same day of the opening of negotiations with Britain, Ireland Denmark and Norway in 1970. While the Community argued that this was mere “coincidence” (!), it was blatantly clear that the deadlock inside the Council had been broken thanks to the

prospect of bringing in four new members with substantial fishing resources. This provoked angry protests from all applicants about both the timing and the substance of the agreement which did not take account of their interests, notably Norway, with whom negotiations were deadlocked from the first ministerial meeting (*Agra Europe*, 7/10/1970, EN/4).²⁹ As the applicants sought exceptional treatment under the new regime, near the end of negotiations, the Six agreed *among themselves* that the new system had to be the same for both old and new members, leading again to confrontation between the applicants and the Six.

The principle that enlargement negotiations should not prevent the Community from carrying on with the integration process emanated from the fear of “dilution” as a result of enlargement, a theme that occupied much time in the minds of Commission officials and members of the Council in 1969. It was easily agreed that “enlargement” had to be accompanied not just by the “completion” of the existing programme but also by a “deepening” of Community policies, but there were long debates about their sequence. Postponing enlargement until after completion and deepening was the equivalent of setting up *préalables*, which no one except the French wanted – an identical discussion took place about *préalables* when Spain announced it wanted to join the EC. It was thus decided that all three had to run in “parallel”... but this left room for the rapid creation or revision of common policies on issues where the member states could lose out from the accession of the new members. The Commission had been fully aware of the dangers of this attitude in 1970, when Mansholt advised the Council not to create a regime on mutton and lamb yet, given the prospective enlargement, which would change the situation and therefore require revision of the whole problem again.³⁰ But the budget Treaty, also introduced in 1970 in view of British accession was the root of subsequent “enlargement indigestion”: once in, the British insisted on re-negotiating the terms of accession in 1974 and then demanded a budgetary rebate from 1979 onwards.

This practice was again used during the Spanish accession negotiations, as reforms were made to the regulations of the Mediterranean agricultural *acquis* which were intended to protect and/or compensate the existing members and their national farmers’ groups from the prospective costs of Spanish competition, often passing on the costs of enlargement to the Spaniards. Paradoxically, the whole problem about the CAP and Spain’s accession was that the Community *did not want Spain to adopt the acquis* as is stood, because it would benefit from large financial transfers and create strong competitive pressures for the member states’ own producers. It was therefore necessary to modify the *acquis* first, before asking the Spanish to adopt it!

The latter were aware of this problem and as early as 1981, the Spanish Foreign Minister Pedro Pérez Llorca had presented Claude Cheysson, the French Foreign Minister, with a demand for participation before accession in the agricultural and budgetary reforms of the EC.³¹ In 1982, Morán attacked the Community's policy of sorting out the problems of the Mediterranean *acquis* before negotiating with Spain. While accepting that the EC had to sort out its internal problems, he insisted that it should be done on the basis of discussions with Spain (*Agra Europe*, 17/12/1982, P/5). At a meeting of Socialist leaders, President Felipe González threatened to take a less pro-Community stance if the EC altered its policies without taking into account Spain's interests (*Agra Europe*, 21/10/1983, P/2; *El País*, 30/4/1984; *El País*, 16/5/1984). All these pledges were, of course, to no avail.

The Commission criticized those member states that tried to reform the CAP in such a way as to keep Spain out or make it unable to compete after accession, by stressing the fact that "economic rationalization entails fair conditions of competition being respected throughout the Community" (CEC, 1982, 10). In an internal document, it reminded the member states that if the CAP was not reformed with fair consideration of the accession of Spain and its interests, then the Community could find itself facing another round of re-negotiation such as that carried out by the UK in the early 1970s (*Agra Europe*, 6/8/1982, P/3). In spite of the Commission's warnings, the revision of the wine, olive oil and fruit and vegetables regimes before Spain came in, combined with long transition periods to make sure that, at least for a number of years, the EC entered the Spanish market, but not the other way round. As a result, the Spanish were contemplating the re-negotiation of the duration of the transition periods once they became members of the EC (Morán, 1990, 300; *El País*, 11/6/1985). And so they did.

Today, the recent reforms to the CAP have introduced a number of direct income support to farmers as a compensation for a reduction the guaranteed prices they used to get which, in the original plan set out in "Agenda 2000" would not be extended to the new member states. The EU paper for Agriculture and enlargement, presented on 31 January 2002, softened this point, as it proposed to "phase in" this payments so that new member would not get the full amount until the year 2013 This angered the applicants to a considerable extent, as it puts their own agriculture in an unfavourable position in competitive terms, as well as giving the impression of a two-tiered system in which they are treated unequally as existing members (Ardy, 2000, CEC, 2002; *El País*, 29/01/2002). During the month of July, there has still been heated discussion among the member states

principle of extending such payments, as a group of them (Britain, Sweden, Germany and the Netherlands) is opposed to the idea.

CONCLUSION

Although opting for a defensive “bilateral” format was a reaction to the particular characteristics of the British application, this decision was to remain in place for all subsequent enlargement negotiations, despite the fact that, later on, other applicants approached the Community without so many reservations. This was especially true for Spain where the domestic consensus in favour of joining the EC was virtually total.³² Subsequent revisions of the procedure, especially after the failure of the first round of negotiations in 1963 did nothing but reinforce the nature of the negotiating procedure.

Setting up the procedure for negotiating with Britain resulted in the creation of a complex bilateral, multi-level process inside the Community while the applicant and its interests were relegated to the sidelines. Given the role of the Commission in the following of quasi-normal decision-making procedures, and the decision that enlargement should not intervene with the Community’s own development, most delays came from inside the Community, where the formulation of the common position got tangled with other issues being discussed. Furthermore, the decisions of what was to be asked from Spain or Britain were often held back by internal disagreements among existing members on how to establish or change the *acquis* before their accession. In the case of the present enlargement, the EU has been too busy with the ratification of the Maastricht Treaty first, and EMU and and the CFSP, with the result that enlargement has advanced more slowly than ever.

The power asymmetry compounded by the negotiation procedure was also visible in the fact that, although the EC reserved itself the right to extend and revise the *acquis* while negotiations for enlargement were going on, the applicants were not allowed to un-pick it or question its principles. This reluctance to open old debates about existing rules is understandable, because they represent delicate bargains, but is very problematic because enlargement means that the diversity of interests to be governed by such rules increases and therefore requires revision. But during their revision, the Community’s failure to take on board properly the prospective members’ views and interests made the stringent conditions imposed on the applicants problematic after entry, when having become full members they had obtained a voice and a vote and sought to redress some of the imbalances. In this sense, the question that arises today with regard to the CEECs is whether

the EU can afford a new round of “Ms Thatchers wanting their money back” and paralyzing the decision-making process while they get their “grievances” re-dressed.

Given that enlargement negotiations are different from most other international negotiations because they result in the “fusion” of the two negotiating parties, the creation of unnecessary resentment for the applicants during the process can generate a negative back-lash afterwards for the enlarged entity. It is true that being a “late-comer” to a club that has already been created has its costs, as the correspondence of one’s characteristics and interests with the established rules can be far from optimal. But this is very different from the club changing such rules or creating new ones while admission is negotiated, especially if these new elements have blatant discriminatory effects against the new-comers, which is in no way inevitable. This happened to the British with regard to the Budget Treaty and the CFP of 1970, storing up large problems for the enlarged Community. It happened to Spain as well in the area of Agriculture, justifying their claims for large chunks of the Structural Funds of the enlarged Community.

Finally, the procedure also had the effect of allowing the sectoral divisions, and sometimes inconsistencies, that separate policy areas inside the Community to get in the way of the formulation of the common positions, thus creating the major problems in Spain’s enlargement negotiations: that of inter-sectoral co-ordination inside the EC. In this respect, the institutional insulation of agricultural decision-makers from non-agricultural considerations, which is characteristic of the CAP inward-looking procedures, was to plague decisions about enlargement as well, as does still today. It is true that the CAP has been reformed but not to take into account the candidates’ interests, and it is not going to be applied uniformly, at least in the foreseeable future. On the contrary, the candidate countries are under the impression of being treated as second-class members, which rises problems of legitimacy and therefore efficacy of the institutions of the enlarged Union. These tricky issues are still awaiting a definite discussion and their solution has been left until the “end-game”, when stringent conditions become more acceptable, as they could not be allowed to block an almost finished accession process. The big question mark hangs now over whether the populations of the candidate countries will ratify what their representatives are being constrained to accept at the negotiations table, the obvious case in point being Poland. In contrast to the Spanish and British cases where there was no referendum about accession (in Britain this happened after the renegotiations in 1975), most of the CEECs will hold one as part of their internal ratification process, opening up the way for a “repeat” of the Norwegian experience.

The aspects of the enlargement negotiating procedure that in 1961 were introduced by the member states of the EC to gain the upper hand in their dealings with the British and their “oblique” approach remain in place today. The procedure seems to have turned more defensive of the *acquis* and of the member states over successive rounds of enlargement, instead of changing to better accommodate the needs of an enlarged, and therefore more *diverse*, Union. Yet, this is hardly surprising because the procedure has ensured the successful protection of member states’ interests and their past bargains.

Which opens a further question: what led the emerging democracies of Southern and Eastern Europe to think that, in their attempt to “rejoin Europe”, they would be treated any differently from Britain in the 1960s and 1970s? If there were strategic, political, economic and moral reasons to believe that was the case, they have had no bearing in the choice of the procedure for negotiating enlargement.

Notes

¹ For the Danish case see Laursen (1996), and for Norway see Eriksen and Pharo (1996).

² The British government regarded the CAP as an inefficient and inadequate system which they wanted to avoid applying and if possible they wanted modified, while the Six and especially the French regarded this as a more general sign that Britain was not ready to accept Community rules as they were. And these rules reflected the trade-off that France had accepted of opening its market to the competition of German (and now also British) industrial products in exchange of becoming Europe's main food supplier. The French feared that if Britain was allowed into the Community without a firm commitment to respect the established rules, that they would try to water down the CAP and this delicate trade-off. Ludlow (1997, 52 and 189); Deighton (1996, 40).

³ In terms of modernization, Britain's agriculture had already undergone a painful process of restructuration and mechanization in the XIX century and, in this sense, the agricultures of the Six were still comparatively archaic, and their systems of support were incompatible, see Tracy (1989, 254-269, 330-342). For how these differences influenced the British negotiating position with regard with its adoption of the CAP see Ruano (1999, 11-16).

⁴ For French and German preferences on the creation of the CAP see Hendricks (1999, 139-150), and Webber (1999, 45-57).

⁵ At the end of June 1971, the discussion among the Six were prolonged in search of an agreement on what would be the Community's position on Britain's contribution to the EC budget, New Zealand agricultural imports and fisheries, while Mr. Rippon, the British chief negotiator, 'spent much of the day playing bridge with his fellow negotiators' (*Agra Europe*, 23/6/1971, EN/11). Sir Con O'Neill, British deputy negotiator, recalls that discussions inside the Community 'probably took up twenty or thirty times as much time, during the 19 months of the negotiations, as they did with us' (O'Neill, 2000, 35).

On October 3, 1984, the debacle inside the Community about the formulation of the Community's position was such, that it left the Community with nothing to present to the Spanish and Portuguese negotiators. After several postponements and hours of waiting, only two EC Foreign Ministers showed up to talk to Spanish Foreign Minister, Fernando Morán, who protested formally and cancelled the meeting (*El País*, 4/10/1984).

⁶ For example, during the 1971, the routine fixing of agricultural prices discussed at the Council of Agriculture Ministers (from which Britain was obviously excluded) would affect the costs of UK entry, one of the most contentious points of accession (*Agra Europe*, 21/7/1971, EN/1; 29/9/1971, EN/5). See below, section 4.

⁷ On this point see also De la Serre (1987, 35 and Young (1973) 9.

⁸ 'Communiqué of the Hague summit meeting of December 1969', official English version reproduced in O'Neill (2000) 420-422. Emphasis added.

⁹ Yet, such precautions did not suffice to prevent the re-negotiations of 1975, nor the budget dispute of the early 1980s.

¹⁰ For example, during the second round of negotiations, the British were unwilling to commit themselves on the issue of fisheries, without knowing what terms the other applicants had obtained; this was due to the likelihood that Norway would get preferential treatment (*Agra Europe*, 15/9/1971, EN/7).

During the Iberian enlargement, Portugal felt that its linkage with Spain delayed its own accession, *Agra Europe*, 7/9/1984, P/3; Graham Avery, 'The European Union's enlargement negotiations', *The Oxford International Review*, vol. 5 (1994), n. 3, p. 31.

During the last enlargement, this 'divide and rule' nature of the negotiations allowed the Union to obtain concessions from one candidate which the others were then under pressure to follow. Graham Avery, 'The Commission's perspective on the EFTA accession negotiations', *Sussex European Institute Working Papers*, n. 12, University of Sussex, 1995, p. 10.

An example of this for the present enlargement is that Poland is now under pressure to reduce its proposed eighteen-year transition period on the controversial issue of foreign ownership of farmland, as Hungary, the Czech Republic and other front-running candidates have agreed on a seven-year transition period. As Poland's progress on accession will be scrutinized by the Commission's annual report of mid-November, Polish officials are now talking of settling for a ten or twelve-year transition period. 'Poland looks to history as it holds the line over land', *The Financial Times*, 30/10/2001, p. 6.

¹¹ According to O'Neill (2000, 150), the pressure from some Commonwealth governments was such that Britain 'negotiated more with New Zealand than with the Community'.

¹² As negotiations with Spain were drawing to a close in February 1985, the Israeli President, visiting Brussels and Strasbourg, warned that EC enlargement without a special deal for third countries, threatened Israeli agriculture. He called for a new trade agreement to be established *before* January 1986 (*Agra Europe*, 15/2/1985, E/3). However this agreement started to be studied by the Community *after* enlargement negotiations had concluded (*El País*, 26/11/1985). With regard to Latin America, the Spanish expressed deep disappointment at the treatment offered by the Community for certain traditional Latin American exports to Spain (coffee, cocoa, black tobacco) during the negotiation of the 'threads' (*EC Bulletin*, 5/1985, 2. 2. 8.).

¹³ When Carlos Romero, Spanish Agriculture Minister, summarized the negotiations he indicated that Spain had made many concessions and revised its initial positions many times concerning its sensitive sectors while the Community consented to very little regarding its own (*Le Monde*, 12/6/1985).

¹⁴ In turn, Lord (1993, 67-74) shows how 'the suitability of the *acquis* itself to British interests had not even been up for discussion'. The same point has been noted for the present enlargement by Mayhew, (2000, 12).

¹⁵ These facts were recognized by the Commission, which stated that the Spanish domestic unanimity in favour of joining the Community 'makes it all the more desirable that Spain should play its part in European integration' (CEC, 1978a § 1; CEC, 1978b, § 3).

¹⁶ In Spain, the freedom of association introduced in 1977 fragmented the previous Francoist union (*Hermanidad Nacional de Agricultores y Ganaderos*- HNAG) into at least five new unions, leaving the sector in a state of disorganization. The weakness and divisions of the unions meant that the Ministry of Agriculture and Fisheries was not 'captured' by their views during negotiations with the EC (*Agra Europe*, 1980, 104-108).

¹⁷ In the case of Greece, the Commission's opinion stated that Greece was still not economically ready to join the EC and proposed a pre-accession stage of unlimited duration, before any specific transition periods came into effect, during which economic reforms could be implemented. The Council of Ministers, sympathetic to the security and democracy arguments, ignored the Commission's opinion, and negotiations were opened in July 1976 (Preston, 1997, 50-53).

¹⁸ For the British case, see De La Serre (1987, 35). For the CEECs' case, see Mayhew (2000, 68) and Avery (1998, 117).

¹⁹ For Britain see Ludlow (1996, 140). In its '1967 Opinion' about the second round of negotiations with Britain, the Commission insisted that enlargement made it 'more urgent to complete the structural side of the CAP' envisaged in the Mansholt Plan, and insisted again, in its '1969 updated Opinion', that the Community should 'establish new guidelines for agricultural policy, on the basis of the proposals for reform already submitted to the Council, before negotiations are begun' (CEC, 1967, § 59; CEC, 1969, 7-8).

When enlargement to Southern Europe appeared on the agenda, the Commission again insisted that the structural reforms it had been advocating since the 1970s on the CAP needed to take place, not least because the EC was running short of cash: the 'Opinion on Spain' stressed that 'in the case of Spain's accession it will be necessary to press ahead, before accession, with Community action in the field of structures and certain market organizations' (CEC, 1978b, § 58). On the Commission's role during Spain's negotiations see also Morán (1990, 56).

For the 1995 enlargement, see Avery (1995, 3). For the current enlargement, the Commission concluded the agricultural section of "Agenda 2000" thus: 'Adjustment in present support policies would therefore probably be needed. In general a reorientation of the CAP with less focus on price support and more on direct income support as well as rural development and environmental policy can be expected in the medium term as has been suggested in the Agricultural Strategy Paper of 1995' (COM (97) 2000, § 4.4.)

²⁰ Preston (1997, 8) says that the difficulties in resolving the tension between enlargement and the preservation of the *acquis* are 'integral to the "Community method of integration" developed by the early pioneers of integration... [who] sought to identify *sectoral policy areas* where member states' interdependence gave them strong incentives to cooperate'. Emphasis added.

²¹ For an overview of the problems in co-ordinating the work of the different specialized Councils, see Westlake (1995, 164-168). The issue of co-ordination at the EC level has just recently been addressed; see Kassim, Peters and Wright, (eds.) [forthcoming].

²² For example, Commissioner for Agriculture, Andriessen, and other personnel from DG VI were present at the final marathon session of negotiations with Spain.

²³ The State Secretariat for Relations with the European Communities, was created on 10 February 1978 and was headed by Leopoldo Calvo Sotelo (February 1978-September 1980) who later became Spanish President; Eduardo Punset (September 1980-February 1981); Raimundo Bassols (February 1981 - October 1982); Manuel Marín (October 1982). Under the government of President González it was decided that, given the priority assigned to accession to the EC in Spain's foreign policy, the chief negotiator should be the Spanish Foreign Minister himself, Fernando Morán, with Marín as deputy negotiator.

²⁴ For the British, the inter-departmental co-ordination of their negotiating positions had represented a more arduous task, because it was accentuated by the divisions which cut across both political parties (Deighton and Ludlow, 1996, 108).

²⁵ For a detailed analysis of the composition of agricultural committees, see Gray (1989, 490-498). For co-ordination and consultation mechanisms inside the Commission see Cini, (1996, 154-160).

²⁶ For the organization of the British team see O'Neill (2000, 42-51).

²⁷ By the summer of 1962, the stalemate in the negotiations led to a proposal by the Dutch and Belgians to reassess the procedure for negotiations. Together with the Germans, they

argued that, since the 'agricultural code' had been established, priority should now be given to concluding negotiations with Britain, but France, Italy and the Commission preferred the agreed procedure as it would not allow enlargement negotiations to interfere with progress in other Community affairs (Ludlow, 1997, 117).

²⁸ See also the discussion of the '*préalables*' raised by the French to the decision to negotiate 'bilaterally' with Britain in De la Serre (1987, 32-34).

²⁹ For Britain, other regimes which, like hops, had been included in the *acquis* during the negotiations, were the last 'threads' discussed before entry, after formal negotiations had closed (*Agra Europe*, 15/12/1971, EN/8; 5/1/1972, EN/6).

³⁰ Away from negotiations, at its meeting of September 29, the CAM decided that the Six would go ahead with plans to include in the CAP three products requested by the French government (sheep meat, bananas and spirits) and one (hops) by the Germans (*Agra Europe*, 7/10/1970, EN/1), to which the Commission objected.

³¹ This was refused. Instead, the Spanish were offered a less precise concertation in the industrial field and on broader international issues (*La Vie Française*, 6/7/1981).

³² Despite stringent conditions imposed on Spain, the *Cortes* ratified the accession treaty by a unanimous vote in July 1985 (*EC Bulletin*, 7/8-1985, 2. 2. 2.).

REFERENCES

PRIMARY SOURCES

Press

Agra Europe

Agra Europe (1980), 'The agricultural implications of EEC enlargement. Part III: Spain', *Agra Europe special report*, n.6, London.

El País:

4/10/1984: "La CE se mostró incapaz por tercera vez en un mes de presentar una oferta global a España".

30/4/1984: "España intenta impedir en la CE la aplicación del nuevo reglamento hortofrutícola".

16/5/1984: "Según Carlos Romero, Ministro de Agricultura, el reglamento hortofrutícola del Mercado Común es inaceptable".

22/10/1985: "Oposición Española a que los cítricos del Magreb se vendan en Europa al mismo precio que los españoles".

26/11/1985: 'Decisión comunitaria de compensar a los países del Magreb por el ingreso de España y Portugal'.

11/6/1985: 'Posibilidad de renegociación de los términos del acuerdo, nada más producirse el ingreso español'.

29/01/2002: "Los Países candidatos a la UE se rebelan contra el plan de retrasar hasta 2013 las ayudas agrícolas".

Le Monde

La Vie Française

European Community/Union Documents:

Treaty Establishing the European Economic Community and Connected Documents, Brussels, Publishing Services of the European Communities, 1958.

Commission of the European Communities (CEC) (1967), "Opinion on the applications for membership received from the United Kingdom, Ireland, Denmark and Norway", *EC Bulletin Supplement*, 29 September 1967.

CEC (1969), "Updating the Commission's Opinion on the enlargement of the Community", *EC Bulletin Supplement*, 11/1969.

CEC (1978a), "Enlargement of the Community: general considerations"; *EC Bulletin Supplement*, 1/1978.

- CEC (1978a), “Transitional periods and institutional implications”, *EC Bulletin Supplement*, 2/1978.
- CEC (1978a), “Economic and sectoral aspects”, *EC Bulletin Supplement*, 3/1978.
- CEC (1978b), “Opinion on Spain’s application for membership”, *EC Bulletin Supplement*, 9/1978.
- CEC (1997), “Agenda 2000: the challenge of enlargement”, COM (97) 2000, *Supplement to the Bulletin of the European Union* 5/97.
- CEC (2002) “Enlargement and agriculture: An integration strategy for the EU’s new member states”, CEC Press release IP/02/176, 30 January 2002.
- Council Secretariat (SEC) (69) 3014: Summary of the 76th session of the Council made by the Secretariat for circulation among the members of the Commission.
- SEC (69) 4322: Summary of the 533rd session of the Committee of Permanent Representatives made by the Secretariat for circulation among the members of the Commission.
- SEC (69) 4733: Summary of the 93rd session of the Council made by the Secretariat for circulation among the members of the Commission.
- SEC (70) 84: Summary of the 540th session of the Committee of Permanent Representatives made by the Secretariat for circulation among the members of the Commission.
- SEC (70) 370: Summary of the 542nd session of the Committee of Permanent Representatives made by the Secretariat for circulation among the members of the Commission.

Other primary sources:

- Author’s interview with Manuel Marín*, Madrid, April 2000.
- Mitterrand, François (1984), Speech: “Excerpts from the speech of Mr. F. Mitterrand at a luncheon with representatives of regional farming organisations”, *Service de Presse et d’Information* (Ambassade de France à Londres), 11/10/1984.

SECONDARY SOURCES

- Ardy, Brian (2000), “Agriculture and Enlargement” in Gower, Jackie and John Redmond (eds.), *Enlarging the European Union: The Way Forward*, Aldershot, Ashgate, 88-103.
- Avery, Graham (1994), “The European Union’s enlargement negotiations”, *The Oxford International Review*, vol. 5, n. 3.

- Avery, Graham (1995), "The Commission's perspective on the EFTA accession negotiations", *Sussex European Institute Working Papers*, n. 12, University of Sussex.
- Avery, Graham and Fraser Cameron (1998), *The Enlargement of the European Union*, Sheffield, Sheffield Academic Press, Contemporary European Series, n. 1.
- Bassols, Raimundo (1995), *España en Europa: historia de la adhesión a la CE, 1957-85*, Madrid, Política Exterior.
- Camps, Miriam (1964), *Britain and the European Community, 1955-1963*, London, Princeton University Press.
- Cini, Michelle (1996), *The European Commission: leadership, organization and culture in the EU administration*, Manchester, Manchester University Press.
- De la Serre, Françoise (1987), *La Grande Bretagne et la Communauté Européenne*, Paris, Presses Universitaires de France.
- Deighton, Anne and Piers Ludlow (1995), "A conditional application?: British management of the first attempt to seek membership of the EEC, 1961-3", Deighton (1995) (ed.), 111-112.
- Deighton, Anne (1995) (ed.), *Building postwar Europe: national decision-makers and European institutions, 1948-63*, London, St Antony's College and St Martin's Press.
- Deighton, Anne (1996), "The United Kingdom application for EEC membership, 1961-1963" in Griffiths and Ward (1996) (eds.), 42-43.
- Deighton, Anne and Alan S. Milward (1999) (eds.), *Widening, Deepening and Acceleration: the EEC 1957-1963*, Baden-Baden, Nomos.
- Epstein, Rachel (2002), "International Institutions and the Depoliticization of Economic Policy in Postcommunist Poland: Central Banking and Agriculture Compared", Paper presented at the ECPR Joint Sessions, Workshop #4: *Enlargement and European Governance*, Torino, Italy, April 2002.
- Eriksen, Knut Einar and Helge Ø. Pharo (1996), "The Common Market issue in Norway" in Griffiths and Ward (1996) (eds.), 229-245.
- Gray, Oliver William (1989), *Pressure groups and their influence on agricultural policy and its reform in the European Community*, D. Phil., University of Bath.
- Griffiths, Richard T. and Stuart Ward (1996) (eds.), *Courting the Common Market: the first attempt to enlarge the European Community 1961-1963*, London, Lothian Foundation Press.
- Griffiths, Richard T. and Stuart Ward (1996), "The end of a thousand years of history?: the origins of Britain's decision to join the European Community", in Griffiths and Ward (1996) (eds), 7-32.

- Jones, Rachel (2000), *Beyond the Spanish State: central government, domestic actors and the European Union*, Basingstoke, Macmillan.
- Kassim, Hussein, B. Guy Peters and Vincent Wright, [forthcoming] (eds.), *The co-ordination of EC policy*, Oxford, Oxford University Press.
- Laursen, Johnny (1996), "Next in line: Denmark and the EEC challenge" in Griffiths and Ward (1996) (eds.), 211-227.
- Lieber, Robert J. (1970), *British politics and European unity: parties, elites and pressure groups*, Berkeley, University of California Press.
- Lord, Christopher (1993), *British entry to the European Community under the Heath government of 1970-4*, Aldershot, Dartmouth,.
- Ludlow, N. Piers (1996), "Influence and vulnerability: the role of the EEC Commission in the EEC enlargement negotiations", in Griffiths and Ward (1996) (eds.), 139-155.
- Ludlow, N. Piers (1997), *Dealing with Britain: the Six and the first UK application to the EEC*, Cambridge Studies in International Relations: 56, Cambridge, Cambridge University Press,.
- Mayhew, Alan [2000], "Enlargement of the European Union: an analysis of the negotiations with the Central and Eastern European candidate countries", *Sussex European Institute Working Papers*, n. 39, University of Sussex.
- Morán, Fernando (1990), *España en su sitio*, Barcelona, Plaza y Janés.
- O'Neill, Sir Con (2000), *Britain's entry into the European Community: report on the negotiations of 1970-1972*, London, Whitehall History Publishing, Frank Cass.
- Preston, Christopher (1997), *Enlargement and integration in the European Union*, London, Routledge.
- Ruano, Lorena (1999), "Elites, public opinion and pressure groups: the British position in agriculture during negotiations for accession to the EC, 1961-1975", *Journal of European Integration History*, vol. 5, n. 1.
- Ruano, Lorena (2001), *Institutions, the Common Agricultural Policy, and the European Community's enlargement to Spain, 1977-1986*, D. Phil Thesis, University of Oxford.
- Sandholtz, Wayne and John Zysman (1989), "1992: recasting the European bargain", *World Politics*, vol. 42, n.1.
- Tió Saralegui, Carlos (1986), *La integración de la agricultura española en la Comunidad Europea*, Madrid, Ediciones Mudi-Prensa.
- Tracy, Michael (1989), *Government and agriculture in Western Europe: 1880-1988*, 3rd ed., London, Harvester Wheatsheaf.
- Tsoukalis, Loukas (1981), *The European Community and its Mediterranean enlargement*, London, George Allen & Unwin.

- Wallace, Helen (1993), *Widening and deepening: the European Community and the new European agenda*, RIIA Discussion Paper n. 23, London, RIIA.
- Webber, Douglas (1999), “Franco-German bilateralism and agricultural politics in the European Union: the neglected level”, *West European Politics*, vol. 22, n. 1.
- Westlake, Martin, (1995) (ed.), *The Council of the European Union*, London, Catermill.
- Young, Simon Z. (1973), *Terms of entry: Britain’s negotiations with the European Community, 1970-72*, London, Heinemann.