European University Institute

Law Department

AFTER THE COLD WAR: DOES INTERNATIONAL TRADE AND FINANCIAL LAW MATTER?

Thesis submitted for assessment with a view to obtaining the degree of Doctor of the European University Institute

- Vassil Breskovski -

Florence, July 1998

European University Institute

Law Department

AFTER THE COLD WAR: DOES INTERNATIONAL TRADE AND FINANCIAL LAW MATTER?

Thesis submitted for assessment with a view to obtaining the degree of Doctor of the European University Institute

- Vassil Breskovski -

Florence, July 1998

Бресковски

DOI: 10.2870/33363

PREFACE

The subject of this thesis was broached by Bentham when he was writing his "Principles of International Law". The citizen of the world, the enlightened defender of the "greatest happiness of the greatest number" principle in domestic law and politics, contemplating a universal international code had in mind the common and equal utility of all nations. In the intervening centuries the exercises in calculus of pains and pleasures, costs and benefits have so far predominated in the learned world over the profounder enquiries of the philosopher and the lawyer into those processes of human faculty which, by determining reasonable preference, guide the nations' and individual choices. Thus, international law is oftener reckoned with mathematics and calculus than with logic and social psychology. There is much here in this doctoral thesis, therefore, which is novel, and, being novel, unsifted, inaccurate, or deficient. I propose my systematic conception of the vast subject of the post Cold war international economic law and international economic practice for criticism and enlargement at the hand of the jury members and others.

I want to express my gratitude to my supervisor, Professor Francis Snyder, for his patience and 'invisible' influence over the years. I have also benefited from comments, discussions, corrections and reactions from Professors Giuliano Amato, Paolo Baratta, Richard Buxbaum, Claus-Dieter Ehlermann, John H. Jackson, Thomas Heller, Joseph H.H. Weiler, Dr Jozef van Brabant, Matteo Gnes, Andrew

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

Martin, the late Andrei Savkov, James Turpin, Dan Oakey, and Alison Weston. Throughout these years I have been influenced by many colleagues from San Domenico di Fiesole, that is to say by the European University Institute. The latter, despite its location and short history, directly follows the tradition of its older counterparts in Europe and America and that of Descartes, Leibniz, Hume, Beccaria, Austin, Keynes, Kelsen, who in spite of their differences of doctrine, are united in a preference for what is matter of fact, and have conceived their subject and the law as a branch rather of science than of creative imagination.

Vassil Breskovski

European University Institute
San Domenico di Fiesole (Florence)
July 1998

 DOI: 10.2870/33363

TABLE OF CONTENTS

1 INTRODUCTION

There are occasions, in the words of Edmund Burke, of public necessity so vast, so clear, so evident that they supersede all laws. Laws and institutions are only made for the benefit of the community and cannot in any one of its part resist a demand which may comprehend the total of the public interest. It may be argued that the period of perestroika, the fall of the Berlin wall, the re-unification of Germany, the establishment of the new democracies in Central and Eastern Europe, the disintegration of the Soviet Union and the appearance of the Russian Federation and other independent and striving for democracy states in Asia and Europe were such events - the final signs of a long process that had kept Europe divided between two economic doctrines and two ideologies for more than 70 years. The end of the totalitarian system in Eastern Europe has raised the hopes of lasting peace, unity of aims, laws and institutions both in East and West. The ordinary person with his/her almost indefinite and sincere belief expected that
MAGNA VIRUM MATER
solidarity is not just a word, and Europe, the mother of a civilization, culture, art and modern capitalism, would lead the world into the next century. But have politicians, as masters of the possible and inside opinion, acted in a way that was in harmony with the long term future of Europe or considered international

relations a power game, like some political scientists have done[1]? Or rather, have the new realities provided for a radical change in public opinion?

My main general assumption is simple and should be obvious. It runs as follows: the economic interdependence and solidarity of Europe and the world, or globalisation to use a currently fashionable term, is a matter of fact. Moreover, the equilibrium of international trade is based on a sophisticated balance between the agriculture, the services, and the industries of the different countries, and on specialization by each country in the employment of its labour and capital.

The Post Cold War international institutions and law, as I perceive them, have been trying to destroy this balance by making impossible demands for mostly sums of money and have offered a new illusionary equilibrium for the whole community. It seems bizarre that it has been forgotten that the role of money in the international exchange is only that of intermediary that should facilitate trade and the creation of wealth. As three centuries ago, the British political philosopher and economist David Hume asserted: "Money is not properly speaking, one of the subjects of commerce; but only the instrument which men have agreed upon to facilitate the exchange of one commodity for another. It is none of the wheels of trade: It is the oil which renders the motion of the wheels more smooth and easy..."[2]

The thesis comprises a case study. I will focus on the economic relations of

---

[1]In 1651, Thomas Hobbes argued with conviction and assumed in his *Leviathan* that "[p]ersons or sovereign authorities... are in continual jealousies, having their weapons pointing, and their eyes fixed on one another... which is a posture of war". See *Leviathan*, Chapter 13.

[2]See Hume, David (1741) *Of Money, Essays: Moral and Political.*

 DOI: 10.2870/33363

the Russian Federation with Germany, France, Italy and the others that form the institution of the European Communities, or now the European Union. I cannot, however, neglect to cast a glance on parallel economic developments between and within these and other parts of the world and thus I will take a world view. By economic relations I mean interdependence created through trade and financial flows.

Therefore, I will rely on the method of induction and will try to deduce general maxims from particular instances, starting from a particular case and then making an attempt to generalise. The other method, where a general theory is first established and is afterwards branched out in many inferences and conclusions, may be more perfect in itself, but as Bentham and Hume noted, it suits less the imperfection of human nature, and "is a common source of illusion and mistake in many subjects".[3]

I use a contextual approach and can claim the thesis to be a hybrid work on the borderline of European Union and international law, international relations, history, economics. Thus, I will endeavor to look at facts and trace events that happened over a long enough period in European and world history. Next, I will also attempt to describe part of the international trade and financial law and policy that emerged through the years after the disintegration of the Soviet Union. Finally, I will try to provide statistical analysis of patterns of trade and cash flows and advance an argument that the above legal agreements and institutions are not sustainable in their long-term implementation.

[3]Hume, David *An Enquiry Concerning the Principles of Morals* Oxford University Press 1998 edition, at 17.

I set myself two tasks: on the one hand, I will describe and analyse international trade and financial agreements and their probable consequences. On the other hand, I will make an attempt to be a censor and propose in the conclusion a plan and new world institutions which would simplify the state of affairs and would take account of the general interest and prosperity of the greatest possible number of nations in the world. Although I dedicate most of the writing to the first assignment, I would be rather more solicitous with the second one. I assume that public opinion both in the East and West, North and South is ready enough to accept a radical change.

My point of view is that of an outsider as far as the main players in the case study are concerned, and in the following pages I will advance facts and arguments that would be open to discussion, examination and critique. Nevertheless, it will probably be observed that the author has been influenced by the great events in the late 1980s and 1990s and although he is a Bulgarian, he also feels himself a European. The object of this doctorate is not in any way to make definite predictions, but to bring out some of the data which are required for an informed judgement, as the prospects for the future and the next century gradually unfold. I also realise that it is risky, as in many other contexts, to project available statistics into so greatly changed and changing a post-Cold war world. But some current conclusions on the matter of international trade and financial law and the actual situation may be based too much on general impressions and too little on the examination of the details, with the result that the problem is not seen in the right perspective, that the orders of magnitude involved are not rightly apprehended, and, as a result, that the difficulties ahead of us are exaggerated.

* * *

Sweet peace, where dost thou dwell? I humbly crave,
Let me once know.
I sought thee in a secret cave,
And ask'd, if Peace were there.
A hollow wind did seem to answer, No;
Go seek elsewhere...

GEORGE HERBERT

The peace, as defined by international treaties and arrangements in the trade and financial area, after the Cold war and that was imposed on the new democracies in Eastern Europe and in the Soviet Union can be characterized by its justice and by its expediency. This doctorate is mainly concerned with the expediency of the legal acts, although a brief examination of the certain aspects of the justice might be useful.

The nature of the terms which Western Europe and the United States was entitled to impose on the former USSR and its former allies, depends, in part, on the responsibility of the country for causing a calamity resulting from spreading an ideology, an economic system and totalitarian regimes that are generally acknowledged led to the sufferings and even deaths of millions of people, wars, coups, impoverishment, gulags, the Berlin wall, the division of Europe and the world, nuclear armaments and the fears of the Cold War. In my opinion, it is not possible to lay the entire responsibility for the state of affairs out of which the state socialism and the Cold war arose on the whole Russian people, or on one nation. The Cold war was engendered, in part at least, by the essential character of international politics and rivalries during the 1970s and 1980s, by armaments everywhere (certainly in the Soviet Union and in the United States of America), and by the universally-practiced policy of economic imperialism. But it is my belief, however, that the USSR, and more particularly Russia, bears a special responsibility for the Cold war and the totalitarianism. Even so it is my opinion that the public must look more to the future than to the past, and distinguish between the former communist rulers of the Soviet Union and its common people and unborn posterity. Therefore, wisdom is a much more important guide for action than hatred and revenge. It may be argued that it has been proper for the victors to feel and practise some measure of humility at the end of the Cold war, and not to elevate themselves and their allies to a level of morality and disinterestedness in international relations. But above all, was the future peace and prosperity of the world the highest and guiding motive of governments and the public? Was universal justice and perpetual peace the aim rather than its relentless enforcement?

Another aspect of the justice which will be instructive to examine is the question of promises, in reliance upon which the USSR had capitulated. Only thus, in the judgment of the considered wisdom of the world, only by establishment of the rule of law as between nations, can national egotisms be tempered and the stability of international and global institutions be preserved. But this earthly aspect is beyond the scope of the doctorate which will require detailed analysis of the history of the negotiations in the period between 1986 and 1992.

Expediency of Post Cold War Peace

With these brief comments I pass from the justice of the Post Cold War settlement, which cannot be ignored even when it is not a central topic, to its expediency. Since 1992, the international trade and financial agreements between the Russian Federation and the countries of Western Europe comprise complex, and at first sight unrelated, documents of international law including the Energy Charter Treaty, the Partnership and Cooperation Agreement, numerous voluntary export restraints agreements in textiles, steel, aluminium, anti-dumping measures and undertakings and a number of foreign loan, financial assistance, debt rescheduling deals. In the first place, my argument is that taken as a whole, the legal framework ignores the economic interdependence of Europe and the world, and by aiming at the destruction of the economic life in Russia it threatens the health and prosperity of the European Union countries and the new democracies in Central and Eastern Europe and Asia.

In the second place, by making demands for debts payments the execution of which is in the literal sense impossible, the legal framework impairs itself. It leaves Europe more unsettled that it was before the Berlin Wall or the years of the Cold war. Therefore, all international legal acts have in practice settled nothing and have not provided for a permanent solution. The true settlement still remains to be made out of the ashes of the present and the disillusionments of the future. The following chapters will provide my academic speculations of the further unfolding of the great historic drama before and little after the Cold war that destroyed great institutions, but may also create a new world.

2 THE ASCENT AND COLLAPSE OF THE SOVIET UNION - RUSSIA, EUROPE AND THE WORLD

The future never resembles the past or the present, despite statements that history repeats itself as a farce or a tragedy. But, generally speaking, one's imagination and knowledge are too weak to tell what particular changes to expect. Nobody knows what particular changes to anticipate. Nevertheless, as living and thinking creatures, people are forced to act. They tend, therefore, to substitute the knowledge which is attainable for certain conventions, the chief of which is to assume, contrary to all likelihood, that the future will resemble the past or the present. This is how individuals act in practice. Though, it was, in my opinion, an ingredient of the tranquility of the 1950s and early 1960s, some scientist in the world studying human nature accepted the achievements and the extraordinary apparatus of mathematics and the rational expectations theories were created. Individuals were assumed to be one hundred per cent rational and to have all relevant information. Numbers were attached to different courses of actions and the probability of their following the course of action in question. In this way a mythical system of probable knowledge and cost-benefit analysis have been employed to reduce the future to the same calculable status as the present. No one, I guess, has ever acted on this theory, although even today our thoughts are influenced by some pseudo-rationalistic ideas. My optimistic hypothesis underlying the following historical account is that the future will be different from the past,

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

at least from the most recent one.

RUSSIA AND EUROPE BEFORE THE SECOND WORLD WAR

The empire of the Russian tsars stretched from the Baltic Sea to Vladivostok, and was reckoned to be among the world industrial powers at the end of the nineteenth century.[1] From being predominantly agricultural and almost self-sufficient, in the early nineteenth century Russia had been rapidly transforming itself into an industrial machine to become an active participant in the global market. This process was rendered possible by loans and technology from other European countries, predominantly Germany. Russia was one of the largest suppliers of agricultural products to the more industrialised countries of Europe, while importing from them manufactured goods. Between 1860 and 1913 Russian industrial output grew at the impressive annual average rate of 5 per cent, and in the 1890s the rate was closer to 8 per cent. Its steel output on the eve of the First World War had overtaken France's, Austria-Hungary's, and Italy's. Russia became the second largest producer and exporter of oil in the world. There happened a late development of the chemical and electrical industries as well as armaments. Enormous factories employing thousands of workers sprang around the major cities, including St. Petersburg and Moscow. The railway system was constantly

[1]See Kennedy, Paul (1988) *The Rise and Fall of the Great Powers*, London: Unwin Hyman, at 232-233. Hereinafter, I draw substantially on the economic data and historical facts offered by Professor Kennedy in the above book. The book of Professor Alec Nove is also an excellent account of events marching toward their fated conclusion and probably unaffected by the cerebrations of statesmen. Nove, Alec (1989) *An Economic History of the U.S.S.R.*, London: Penguin.

expanding. Foreign trade flows and internal prices stabilized after the Russian ruble was adhered to the gold standard in 1892. Exports to the European countries nearly tripled between 1890 and 1914, when Russia became the world sixth's mercantile nation. By 1914 Russia could have been ranked as the fourth industrial nation in a world whose globalisation was considered almost complete.[2]

The nineteenth century laisser faire individualistic capitalism was and is still for some economists and politicians an economic 'Eldorado'. In this, perhaps, utopian system of free trade and markets the rights of private traders and private property were guaranteed. Traders were free to come and go, organise, invest and trade almost as freely and safely abroad as at home. They travelled without passports and visas, could buy or rent property, employ labour, invest capital and take legal proceedings on an equal footing with nationals. Customs formalities were simple. Exchange rates were stable because the national currencies were convertible and pegged on gold. The greater part of the population worked hard and lived at a low standard of living, yet was, to all appearances, reasonably contented with this lot. Nevertheless, there were factors that made the economic equilibrium of the Russian Empire and that of other countries of Europe rather unstable before 1914. Its population was nearly three times that of its more industrialised partner Germany and nearly four times that of Great Britain and was rapidly increasing. The first Russian census was taken in 1897 and recorded a population of 129 million, of which 94 million were in Europe. It should be noted

[2]Although Russia was the fourth-largest industrial power before 1914, it was eclipsed by Germany, Britain and even, but not so much, by the United States. In the indices of its steel production, energy consumption, share of world manufacturing production, it was well behind the above three industrial nations, but outpaced in its economic performance France and Italy.

that some 80 per cent of the population derived its livelihood from agriculture. Next, in order to afford the vast flow of imported goods and pay interest on the growing foreign debt, Russia had to ensure that either its exports of cereals and food were steadily increasing, even in periods of famine, thus causing general detriment to the standard of living of its population, or that it sold its industries to foreign investors.[3] In the early twentieth century estimates show that Russia had incurred the largest foreign debt in the world[4], while 90 per cent of the mining, almost 100 per cent of oil extraction, 50 per cent of the chemical industry and 40 per cent of the metallurgical industries were owned by foreigners.[5]

There is no need to assume that everything that happened in Europe during and after the First World War was inevitable because it happened. The First World War, which had its seeds deep in the nineteenth century history of Europe, engendered by the essential character of international politics and rivalries during the late nineteenth century, by militarism everywhere and by the universally practised policies of economic imperialism, monopolies, restrictions and exclusions. Moreover, the Bolshevik revolution of 1917 began a terrible economic and political experiment that would isolate Russia and divide the world ideologically hereafter. The following civil war in Russia and the appearance of the Soviet Russia

---

[3]Smith, Alan (1993) *Russia and the World Economy*, London: Routledge, at 18-19.

[4]The national debt of Russia, state or state-guaranteed, amounted on 1 January 1914, to $6,568 million, of which from 44 per cent to 50 per cent was in foreign holdings. Of the total interest, about $199 million, paid annually on the external part of the debt, from 62 per cent to 79 per cent was remitted to France, which was the main foreign investor in Russia.

[5]Munting, R. (1982) *The Economic Development of the USSR*, London: Croom Helm, at 34.

coincided with a general deterioration of the standard of living throughout Europe in the early 1920s, a period of diminished expectations, inflations and successive defaults on reparations and inter-allied debts.[6]

Bolshevik Russia got a clean start by repudiating all the internal and foreign debts of the Tsarist Russia, and refused either to restore the properties of foreign companies or to pay compensation for their seizure.[7] However, the Soviet

[6]The Peace Treaty of Paris of 1919 and ~~the~~ its following revisions did not guarantee a restoration of economic and financial stability in Europe and the world. Germany, Austria, Bulgaria, and Hungary owed reparations to the victorious allies. All the European allies were in debt to Britain, and to a lesser extent France, while Britain was in debt to the Unites States, which became the world creditor nation. As Paul Kennedy writes: "With the Bolsheviks' repudiation of Russia's massive borrowing of $3.6 billion, with the Americans asking for their money back, with France, Italy, and other countries refusing to pay off their debts until they had received reparations from Germany, and with the Germans declaring that they could not possibly pay the amounts demanded of them, the scene was set for years of bitter wrangling". See Kennedy, Paul (1988), *The Rise and Fall of the Great Powers*, at 281.

[7]Almost eighty years later, in 1996, the Russian Federation and France reached an agreement on how the heirs of the French investors would be at least partially compensated by the offsprings of the Russians who lived in the turbulent years of the Bolshevik revolution. As the British newspaper *The Independent* of 27 November 1996 reported:

> France and Russia dispatched a large chunk of unfinished historical business in Paris yesterday with a 'final settlement' of all mutual financial claims dating from before 1945, including the contentious issue of Tsarist bonds held by French citizens.
>
> The vexed question of the bonds, which date from between 1822 and 1913, had impaired relations between the two countries ever since the bonds were cancelled by the Bolsheviks after the Russian revolution. But it has been a particular obstacle during the past five years, as post-Soviet Russia has opened up to foreign investment.
> The late French President Francois Mitterrand obtained an undertaking from Mikhail Gorbachev in 1990 that the bonds would be reimbursed, which was repeated by the Russian government in 1992. But no agreement was reached.
> Yesterday's accord takes account of French claims for reparations following its intervention in the Russian civil war and for the return of gold awarded to France under the Treaty of Versailles, and the matter of the Tsarist bonds. It provides for France to recover what remains of its gold, and to receive US$ 400 million (2 billion francs). A commission is to be formed in France to decide how the bonds will be reimbursed. The French bondholders'association, set up in 1955, had claimed a total of 160bn francs for the 4 million bonds held in France, but unless the French government substantially tops up the amount agreed with the Russians, bondholders are likely to receive sums little higher than those received by British holders of Tsarist bonds 10 years ago.
> At a press conference to present the accords, the Russian prime minister, Viktor

governments continued the industrialisation started under the tsars which this time was financed entirely by sacrifices from the Soviet people. In the late 1920s and 1930s, during the period of national self-sufficiencies in Europe and the world, Soviet Russia under Stalin made its Great Leap Forward.[8] Starting in 1929 Stalin rapidly and ruthlessly enforced the collectivisation of agriculture and the further industrialisation. The first five year state plan was a horrible experiment whose material and human costs were millions of deaths from famine and related diseases, casualties among the "class enemies" of the regime. As Professor Nove observed:

> "[y]et a great industry was built. It should be added that morale in Russia itself, and the impact of her achievements internationally, were affected by the co-incidence of the Great Depression. Russia was growing, the Western capitalist system was apparently collapsing, with massive unemployment and social disruption, culminating in America with the paralysis of 1932-3, in Germany with six million unemployed and the triumph of Hitler. The worst period of Russia's own crisis coincided with crashes and bankruptcies in the 'capitalist' world, and at least Russia's troubles could be seen

---

Chernomyrdin, was in ebullient form, pledging that the Russian government would pay its debts, and all the debts incurred by its predecessors. 'When you are in debt, you have to pay up. It is a matter of honour,' he said. 'Russia will pay, and we will always pay what we owe.'

[8]Upon the Wall Street crash of 1929, the European countries went through deflations, defaults on foreign debts, competitive depreciations of their currencies, import restrictions, and capital controls. Insufficient demand among the industrialised countries hurt producers of foodstuffs and raw materials, who responded desparately by increasing supply and then witnessing collapse of prices - making it impossible for them to purchase manufactured goods. By the summer of 1932, industrial production in many countries was only a half of that in 1928, and world trade had shrunk by one third. For the analysis of these events see Kindleberger, Charles (1973) *The World in Depression 1929-1939* Berkeley: University of California Press.

as growing pains. It is as well to remember that the West was no sort of model for Russia or anyone to follow in the years (1929-1932)..."[9]

I would add that Soviet Russia and Stalin in the 1930s could hardly be reckoned a model for the people of any state or its political leaders to follow.

Soviet Russia was assisted in its industrialisation efforts by imports of machinery and heavy equipment from the United States, Great Britain, Germany and other industrialised countries in Europe, while exporting to them in return crude petroleum, timber, grain, furs, flax and caviar. Exports were strictly limited, due to acute domestic demand, lack of essential machinery or transport, and were only made to pay for indispensable imports.[10] Among the trading partners of the USSR, Germany was predominant up to 1933 in which year it supplied 42.5 per cent of Soviet industrial imports and took 17.3 per cent of Soviet exports. In 1938 the chief supplier were the United States (28.5 per cent) and Great Britain (16.9 per cent). The latter was also the best customer, taking 17.6 per cent of Soviet exports

[9]Nove, Alec (1989), *The Economic History of the USSR*, at 214.

[10]In the period after 1934 Soviet Russia had been followed in its economic experiment by the others industrialised countries in the world. A trend toward autarky and self-sufficiency gradually evolved. The nineteenth century laisser faire capitalism and free markets came to an end. The role of the state in providing economic and social stability would become paramount when the US launched the New Deal and Nazi Germany commenced its programme of creating a self-sufficient Reich in which foreign trade was reduced to barter agreements. The cosmopolitan world order of the nineteenth century and the gold standard had dissolved into various competing regional currency and trading blocks: a sterling block, based upon British trade patterns and enhanced by imperial preferences; a gold block led by France; a yen block, dependent upon Japan, in the Far East; a US dollar block after the US was the last country to decry the "sacra fames" of gold. Nevertheless, it is worth noting that after the Great Depression those regional trade blocks allowed the expansion of trade between their members.

 DOI: 10.2870/33363

in 1933, 32.7 per cent in 1937 and 28.2 per cent in 1938.[11] In 1939 the outbreak of the Second World War cut off the Soviet Union from its western trading partners, but the Molotov pact with Nazi Germany caused a large increase in exports and generally in trade with Germany in the period between 1939 and June 1941, just before Nazi Germany invaded Soviet Russia. Thus, from being agricultural and mainly self-supporting in the 19th century, in the 1930s the USSR completed its transformation into a vast and complicated industrial machine, dependent for its functioning on the equilibrium of many factors outside the country as well as within.

[11] *Encyclopaedia Britannica 1963*, volume 19, Chicago, London, Toronto: William Benton, at 743.

 DOI: 10.2870/33363

Table 1: Russia's and Soviet Union's Foreign Trade, 1909-1938 (In million of roubles)

	1909-13	1921	1924	1930	1938
Exports	6,514	89	1,476	4,539	1,332
Imports	4,994	923	1,139	4,637	1,423
Balance	1,520	-834	337	-98	-91

Source: *Encyclopeadia Britannica 1963*, volume 19, Chicago, London, Toronto: William Benton, at 743; Zlobin, I. (1947) *Finances of the USSR*, Moscow.

Note: The average for 1909-13 and the figures for 1921 and 1924 in 1913 prices; figures for 1930 and 1938 in current roubles.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

Table 2: **Soviet Russia's Export and Import Trade with Germany (million of roubles)**

	1938	1939	1940
Exports	85.9	61.6	7,365 or 736.5
Imports	67.2	56.4	419.1

Source: *Vneshanaya torgovlya 1918-40*, at 23; Nove, Alec (1989) *An Economic History of the USSR*, London: Penguin, at 252.

Table 3: **Estimated Distribution of the Soviet Foreign Trade (Exports plus Imports, in million of US dollars)**

	1937	1948	1954
Eastern Europe	50	850	3,290
Other eastern countries	15	400	1,610
Western Europe	510	545	830
Overseas countries	205	705	520

Source: United Nations (1954, 1955) *Economic Survey of Europe*; *Encyclopaedia Britannica 1963*, volume 19, Chicago, London, Toronto: William Benton, at 743.

Note: The term eastern Europe comprises Germany or German Democratic Republic, Czechoslovakia, Poland, Hungary, Romania, Bulgaria;
The term other eastern countries comprises China, Mongolia, Northern Korea and Albania;
The term overseas countries includes the United States.

THE SOVIET UNION AND THE WORLD AFTER 1945

The Soviet Union and the United States of America emerged in triumph from the trials and turbulences of the Second World War to fulfil the prophecy of Alexis de Tocqueville:

> "There are at the present time two great nations in the world, which started from different points, but seem to tend towards the same end. I allude to the Russians and the Americans. Both of them have grown up unnoticed; and while the attention of mankind was directed elsewhere, they have suddenly placed themselves in the front rank among nations, and the world learned their existence and their greatness at almost the same time. All other nations seem to have nearly reached their natural limits, and they have only to maintain their power; but these are still in the act of growth. All the others have stopped, or continue to advance with extreme difficulty; these alone are proceeding with ease and celerity along a path to which no limit can be perceived... Their starting point is different and their courses are not the same; yet each of them seems marked out by the will of Heaven to sway the destines of half the globe."[12]

[12] "Il y a aujourd'hui sur la terre deux grand peuples qui, partis de point différents; semblent s'avancer vers le même but: ce sont les Russes et les Anglo-Américains.
Tous deux ont grandi dans l'obscurité; et tandis que les regards des hommes étaient occupé ailleurs, ils se sont placés tout à coup au premier rang des nations, et le monde a appris presque en même temp leur grandeur.
Tout les autres peuples paraissent avoir atteint à peu près les limites qu'a tracées la nature, et n'avoir plus qu'a conserver; mais eux son arrêtés ou n'avancent qu'avec mille efforts; eux seuls marchent d'un pas aisé et rapide dans une carriere dont l'oeil ne saurait encore apercevoir la borne ....
Pour atteindre son but, le premier s'en repose sur l'interêt personnel, et laisse agir, sans les diriger, la force et la raison des individus.
Le second concentre en quelque sorte dans un homme toute la puissance de la société....
Leur point de depart est différent; leur voier sont diverses; néanmoins, chacun d'eux semble appelé par un dessein secret de la Providence à tenir un jour dans ses mains les destinées de la moitie du monde."

 DOI: 10.2870/33363

The United States and the Soviet Union defined a bipolar world, divided by an Iron Curtain, and became the only nations to "sway the destines" of the globe.[13] The general assumption underlying world trade after the Second World War was to expand rather than contract the volume of trade. This happened after a short trial period in which the Soviet Union realised, just like the United States did, that it would be unwise to extract on a permanent base reparations and resources from its satellites and debtor countries. Starting in 1948 it extended export credits to the countries of Poland, Bulgaria, Czechoslovakia and Yugoslavia through a similar kind of a Marshall Plan and gradually wrote off Hungarian, Romanian, and East German reparation debts. In January 1949 the Council for Mutual Economic Assistance (COMECON) was set up in Moscow. After Stalin's death the process of further normalising relations with many newly-independent countries received impetus. Thus, economic agreements were signed with China, North Korea, India and Argentina, and later with many new independent countries in Africa, Asia, and Latin America.

Only by operating its industrial machine and exploiting its enormous natural wealth, could the Soviet Union find employment for its population, whose numbers increased from 170 million immediately after the Second World War to 280 million in the 1970s, and the means of purchasing their subsistence from abroad. The Soviet industrial machine was like a space rocket which to maintain

Tocqueville (1835) *De la démocratie en Amérique I.*

[13]The end of the Cold war has been considered by many, as one Russian academic and politician stated in public, as the worst unfairness a former enemy could inflict on its counterpart. Of course, the argument and the philosophy which this doctorate sets out with is contrary and cannot be reconciled with this hypothesis.

its equilibrium had to progress faster and faster. Since the 1950s the USSR has transformed itself into a net importer of food and agricultural products. Most of the Soviet/Russian population has been concentrated in the European part of the Soviet Union and official sources have estimated it as around 100 million people, not including the population of the former Soviet republics and the now independent states of Ukraine, Belarus, and Moldova. It goes without saying that these numbers if deprived of the means of life are a serious danger to the life and security of Europe and probably the rest of the world.

The delicate, although inefficient by Western standards, organisation by which the peoples of the USSR and its socialist neighbours lived depended on complicated arrangements, including central planning, state ownership, internal price controls, and monopoly of foreign trade. These factors of order, security and uniformity, facilitated the organisation of expanding trade, transport, coal and energy distribution which made life possible in the growing dense industrial centers in Eastern Europe and the Soviet Union. In the post Second World War period, round the USSR, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania, and later Cuba and Vietnam, grouped themselves in the trade organisation of the Council for Mutual Economic Assistance. The prosperity of the Central and Eastern European countries mainly depended on the prosperity and productivity of the USSR. Foreign trade between the USSR and its satellites was conducted for the most of the time in the form of bilateral clearing agreements. Thus the USSR gave its neighbours an outlet for their products, in exchange for which the largest country in the world supplied them with their chief requirements for raw materials at low and stable prices. The United States dollar was used as a means of payment between the USSR and the developed countries and some of the developing countries. Over this vast area, comprising one fifth of the world territory and uniting over 150 cultures and ethnic groups, there had been almost absolute security and order provided by the system of communist ideology and central planning. The Soviet Union was a major producer of most types of minerals and in many instances was one of the world's leading producers and exporters of fish, petroleum, natural gas, coal and timber. The USSR was the second largest producer and exporter of gold, accounting for 15 per cent of the world output in 1989. By that time the Soviet Union accounted for more than 20 per cent of the world's production of base metals, including chronium, nickel, iron, manganese, mercury, tungsten, for about 15 per cent of world production of aluminium, cadmium, cobalt, copper, lead, silver, and zinc.[14]

The statistics of the economic interdependence of the USSR and its socialist neighbours and partners were overwhelming. It was the first source of supply of coal, petroleum and minerals and a major supplier of machinery to all of them. In 1988 nearly 60 per cent of Soviet trade was with the European socialist countries. Bulgaria, East Germany, Poland, Czechoslovakia, Hungary, Cuba, and Vietnam sent more exports to the Soviet Union than to any other country outside Eastern Europe. The Soviet Union not only furnished countries in Eastern Europe and the Third world, including India, Syria, Angola, Egypt, and Mozambique with trade but, in case of some of them, supplied some part of the capital for their development. By the system of "peaceful penetration" and "aid" it gave the

[14]For more detailed statistics the reader may be referred to the publication Economist Intelligence Unit, *USSR/Russia: Country Profiles*, different years.

 DOI: 10.2870/33363

developing countries not only capital but, what they needed hardly less, organisation.

Although not on the same scale, the economic interdependence of the USSR and the capitalist countries of Western Europe, most of them united in the European Economic Communities, was not to be underestimated. The Soviet Union was, for example, one of the main customers outside the EC for Germany and Italy and the main supplier of petroleum and natural gas to most of the EC countries.[15] Although the economic openness of the Soviet Union was rather low in comparison with other countries in the world, the internal factors tending towards self-sufficiency would not have been enough to enable the Soviet Union's population to support itself without the co-operation of external factors and to certain general dispositions common to the whole of Europe and the world. Despite the fact that Europe was divided by two ideologies and an Iron curtain, it was a part of the global market and as such procured rising living standards and expectations for the people both in the East and the West who considered this state of affairs normal, permanent, or changing towards the better.

---

[15]Thus, the USSR was the largest source of supply of mineral fuels to Germany, and the second largest source of supply to Italy and France between 1984 and 1989. Organisation for Economic Co-Operation and Development (1989) *Commerce Extérieur*, Paris: OECD.

 DOI: 10.2870/33363

Table 5: **Western Europe's Dependence on Soviet/Russian Natural Gas**[16] **as a Percentage of Total Gas Consumption and as a Percentage of Total Energy Consumption**

	1979		1990	
	Gas	Energy	Gas	Energy
West Germany	14	2	29	6
France	0	0	23-28	4
Italy	29	5	29	5

Source: "Proposed Trans-Siberian Natural Gas Pipeline," Hearings in the Committee on Banking, Housing, and Urban Affairs, US Senate, November 12, 1991, at 113 as cited by Crawford, Beverly (1993) *Economic Vulnerability in International Relations*, New York, Columbia University Press, at 160.

[16]About 40 per cent of world reserves of natural gas are in the former USSR. As Professor Crawford pointed out this is equivalent to the volume of Saudi Arabian share of the world oil reserves. Thus, between 1968 and 1979, the Soviet Union had established itself as a major gas exporter, tripling its exports to Western Europe. See Crawford, Beverly (1993) *Economic Vulnerability in International Relations*, New York, Columbia University Press, at 166.

 DOI: 10.2870/33363

But there were external factors which rendered the economic equilibrium of the USSR, the rest of Europe, and the world insecure. It will assist the reader to appreciate the character and consequences of the Post Cold war settlement, if I elucidate a little further some of the chief unstable elements, already present when the Berlin wall fell.

In the 1950s it gradually started to become clear that the USSR, as one of the major industrial countries in the world, might not be self-sufficient in its food production as well as technology.[17] Since that time, the USSR depended on imports of cereals and other food products first from China, and then, from Bulgaria, Hungary, Romania, Poland, some of the countries in Western Europe, the United States, Argentina, Australia, New Zealand, and newly-independent countries in Asia and Africa. Limited imports of new technology and machinery had been rendered possible through commercial links with the industrialised nations of Italy, the United States, the United Kingdom, Germany, Japan, France or by the COMECON partners. After the Second World War, the proportions of the population of Asia and Africa and Latin America, and consequently of their local requirements, to those of Europe, including the USSR, and the United States was relatively balanced. As the population in the world gradually increased, and in Europe, America, Asia the number of people involved in agriculture decreased, the USSR claim on the agricultural resources of others was becoming unstable.

---

[17]This was despite the fact, as the statistics indicated, that the USSR was the leading producer of wheat and the second largest producer of cereals in the world. See the tables in Alexandratos, Nikos (ed.) (1995) *World Agriculture: Towards 2010, An FAO Study*, Chichester, New York: John Wiley & Sons.

Some events in history were often due to changes in the growth of population and other fundamental economic reasons, as the British economist of the early nineteenth century Robert Malthus observed. Thus, many civil conflicts, epidemics or wars, including those recent vast upheavals in Algeria, Cambodia, Somalia, Afghanistan, Iraq, may have been due to the deep influences of expanding numbers than to religions or authorities like Pol Pot, Mao, or Saddam Hussein. In order to clarify in broad terms the problem of population, it would be informative to consider the increase in the industrialised world and in the developing countries. In both cases the figures have risen as the statistics reported by the International Monetary Fund' s *International Financial Statistics Yearbooks* and the United Nations's *Monthly Bulletin of Statistics* reveal. In 1966, the United States had a population of 196 million that followed the baby boom of the 1950s, Japan - 99.8 million, Western Germany - 59.5 million, Italy - 52.3 million, France - 49.16, the United Kingdom - 54 million. By 1995, the population of the United States has grown to 263 million, Japan - to 125 million, Germany, after its re-unification - to 81 million, Italy - 57 million, France - 58 million, the United Kingdom - 58 million. This increases were rendered possible not only by excess of births over deaths, but are also probably due to immigrants from developing countries or former colonies. However, one of the most significant facts of recent years, which has not been widely noticed in Europe, is that it was the countries of the developing Third world that experienced inordinate growth in their populations. China almost doubled its population from 745 million to 1,200 million between 1966 and 1995, India - from less than 490 million in 1966 to 900 million in 1995, Brazil - from less than 80 million in 1966 to 160 million in 1995, Mexico - from 44 million in 1966 to

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

almost 95 million in 1995, Indonesia - from 107 million in 1966 to 193 million in 1995, Algeria - from 12.66 in 1966 to 28 million in 1995, Iraq - from 8 million in 1966 to 20 million in 1995.[18]

The law of diminishing returns commenced to reassert itself in the 1970s, a period of oil shocks and rising prises of food, but also inflation and rising unemployment in the industrialised countries, and was making it necessary year by year for the USSR to offer a greater, or at least the same, quantity of commodities to obtain the same amount of bread.[19] Moreover, as the engine of productivity started to slow down in the United States and Western Europe as early as the 1960s, and as new sources of oil and food supply emerged or were developed, the USSR found itself in a situation to offer greater quantity of metals, petroleum, gold, and diamonds to purchase machines and new technology. The Soviet Union, therefore, could by no means afford the disorganization of its principal sources of supply. And since 1960s it had started to run chronic trade deficits; it commenced to borrow in hard currency from the western world and to extend credits to developing countries for its exports of machinery and arms.

Much else might be said in an attempt to portray the economic peculiarities of the Socialist system, before its collapse in the late 1980s and the beginning of 1990s. I have summarised some of the greatest factors of instability, which were common to the whole Socialist system, as follows:

---

[18]The economic historian Paul Kennedy in one of his recent books further elaborates on the economic problem, i.e. the relationship of aggregate resources to aggregate numbers. See Kennedy, Paul (1994) *Preparing for the Twenty-First Century*, London: Fontana Press.

[19]The Soviet Union and the socialist countries resolved temporarily the problem of unemployment at the expense of efficiency and personal liberties.

(1) The instability of an excessive population dependent for its living on a complicated and artificial, mainly non-competitive, industrial organisation;

(2) The instability of the USSR's claim, coupled with partial if not almost complete dependence, on technology and on food supplies from developed countries and on food from the developing countries;

(3) The socio-psychological instability of the labour and the communist *nomenklatura*.

Above I have discussed in some detail factors (1) and (2). As far as the psychology of socialist society is concerned, the Soviet Union and the socialist countries of Eastern Europe were so organised socially and economically as to secure the maximum accumulation of capital. While there was some continuous improvement in the daily life of the population, society was so framed as to throw a great part of the increased income into the control of the state, or more exactly into the hands of the communist *nomenklatura*. The communist administrators were not brought up to large expenditures, and preferred to invest and rejected the pleasure of immediate consumption. In fact, it was precisely the equality of the distribution of wealth which made possible those vast accumulation of fixed investment and of capital improvements which launched Sputnik and Gagarin into space. Herein lay, in fact, the main justification of the socialist system in Eastern Europe. If the communists leaders had spent the national wealth lavishly, the majority of the peoples of the Soviet Union and other socialist countries would long ago before 1970s or 1989, depending on the country under discussion, found such a regime intolerable. The immense accumulation of fixed capital which, to the great benefit of the Soviet, Hungarian, Czech, Slovak, Polish, Romanian,

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

Hungarian, Serbian, Croatian or German people were built up during the first decades after the Second World war, could never have happen in a state where wealth was divided without equity. The railways, highways and subways, the palaces of sports and culture, the stadiums, the monuments and the mausoleums, the space stations, which the peoples of the Soviet Union and Eastern Europe built and operated were like 'obelisks' showing the way for the future generations. They were not less than the cathedrals and palaces of the Renaissance, which were the work of labour which was not free to consume immediately the full equivalent of its efforts. The labour accepted this state of affairs from ignorance or powerlessness, or was compelled, persuaded by the well-established order of the society. The duty of "saving" was a virtue and the growth of the pie (or the national income) the aim of socialism. Saving was for pensions, the children or rather for the golden age called communism when the rivers will flow milk and the tempest will be removed from nature, there will be no property nor money, avarice, ambition and selfishness will disappear, and everyone will consume from the national pie according to his needs.[20] This was, however, only in theory - the characteristic of the pie was that it was never to be consumed. To summarise, the principle of accumulation based on equality was a vital part of the socialist and Soviet system, and this principle depended on unstable psychological conditions. It was not normal for a population of whom so few, who were more equal than

[20]Communism, despite its claim to be scientific, re-created the poetical fiction of the golden age and was just like any religion that raises heaven above the people.

others, or no one enjoyed the comforts of life, to accumulate so much.[21] The gradual economic reforms in the 1960s and 1980s, have revealed the opportunity of consumption to some, but not all, while the final move to capitalism and free markets, usually called a Big Bang or a shock therapy, in 1989 or 1992 has disclosed the possibility of consumer society to all and the senselessness of absistence to many. Thus, the labour would not be willing to make so great sacrifices, and the communist *nomenklatura*, no longer confident of the future, might seek to enjoy more fully their position to consume much more than the average person, and thus profiting from its position to enrich itself.

BEYOND THE COLD WAR

The Cold war ended with euphoria and optimism and a talk of perestroika and peace both in the East and West. But did the period afterwards and the settlement of Europe after the socialist system tumbled offered solutions for excessive population, decaying organization and impaired food supplies?

For reasons of historical experience, which are easily understood and everybody must sympathise, there were powerful influences in Paris, Bonn, Amsterdam, Madrid, Rome, and London demanding that the new settlement and security of Europe should preserve the *status quo* by destroying the left in the

[21] After the Second World War and during the first years of socialism there was equality and unsignificant private possessions or property. However, people's different degrees of art, care, and industry have gradually broken this situation. The state of equality from a beneficial and useful principle of regulation of property has later become impracticable and even detrimental to the wealth of the society as a whole.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

economic life of the socialist system comprising of the ex-USSR countries, and its neighbours in Eastern Europe. Therefore, the European Union countries would deal to their former enemy as well as to themselves and their neighbours in Central and Eastern Europe a severe injury, if they persevere with their financial and economic demands.

The Soviet, and now the Russian, economic system, depended on the following factors: international trade and investment; the exploitation of her huge mineral and energy resources; its system of central planning, state ownership and foreign trade monopoly. The international legal framework of financial and trade agreements signed by Russia and its European partners has aimed consciously or sub-consciously at the systemic destruction of all three, but principally of the last two in the vain hope that the economic *status quo* would be preserved in Western Europe.

First factor: By the early 1990s, just before its disintegration the USSR's foreign investment and trade with many developing countries from Africa and Asia was in a state of deterioration and finally collapsed. Moreover, the same process of breakdown was experienced within the COMECON, thus forcing all of its allies to re-direct commercial links toward the EC countries.

Second factor: Since 1992, the Russian Federation, the countries of Eastern Europe and some of the newly-independent countries have launched radical economic reforms, usually called 'shock therapy', based on the triad: price liberalisation, foreign trade liberalisation, and privatisation. It is not hard to discover a causal link between the fresh, but meager new conditional loans and export credits coming mainly from Western Europe through the International

Monetary Fund and European Union and the chaotic move to a free market economy in the period after 1992.

Third factor: The USSR's economic power was built more truly on coal, iron, steel, and energy resources than on totalitarian, communist ideology. The exploitation of the great mineral resources in Siberia and Ural mountains made possible the development of the steel, petrochemical, and energy industries, which established her as a leading industrial nation in the world. The Soviet Union's steel output, a mere 12.3 million tons in 1945 soared to 148 million tons in 1980 making the country the world's largest producer. Electricity output rose from 43.2 million kilowatt-hours to 1.294 billion during the same period.[22] Moreover, one-third of the Russian population lives in towns and cities of more than 20,000 people, an industrial concentration which is only possible on a foundation of heavy and mining industries.

I will examine in the following chapters the actual character of the trade and financial agreements that were concluded by the Russian Federation and its former "enemies" behind the Iron curtain in the years after the end of the Cold war.

[22]See Kennedy, Paul (1988) *The Rise and Fall of the Great Powers*, at 429.

 DOI: 10.2870/33363

3 THE LEGAL FRAMEWORK OF TRADE RELATIONS BETWEEN THE RUSSIAN FEDERATION AND THE EUROPEAN COMMUNITIES COUNTRIES

INTRODUCTORY

The institution of the European Communities, or now the European Union, which currently unites fifteen European countries, cannot be understood apart from the world in which it has grown, changed, and prospered. The European countries have used the European Union and have related to the world economy. Thus, the EU countries have been in the world through the development of the institution of the European Union as a primary international actor. What has happened between the EU countries and between the EU countries and the rest of the world has been of crucial importance, since Europe has not been an island of itself.

The European Communities were born into a post Second World War world which was divided by an Iron Curtain, and their members have been intensively affected by the changes in the East-West relations from the 1950s to the present day.[1] From their establishment, the Communities of states have manifested a tension between internalisation and externalisation: between the desire of the

[1]The preamble of the European Coal and Steel Community Treaty notes that the original six founders resolved 'to substitute for age-old rivalries the merging of their essential interests' and 'to create, by establishing an economic community, the basis for a broader and deeper community among peoples long divided by bloody conflicts.'

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

ers for greater mutual integration and co-operation, and the need to relate to the outside world. It may be argued that the major patterns of the Communities external relations are economic in character.

The broad features of the European Communities countries approach to international trade are stated in Title VII (articles 110 - 116 of the Treaty of Rome, which was signed in 1957).[2] Article 110 of the Treaty expresses the Communities trade policy objectives as follows:

> "By establishing a customs union between themselves Member States aim to contribute, in the common interest, to the harmonious development of world trade, the progressive abolition of restrictions on international trade and the lowering of customs barriers.
> The common commercial policy shall take into account the favourable effect which the abolition of customs duties between Member States may have on the increase in the competitive strength of undertaking in those States."

Therefore, since 1958 the Western European countries have pursued the following trade policy objectives through the institution of the European Communities.

First, the EC countries have been committed to a liberal approach to trade - they have adhered to the multilateral trading and financial system in the world, as established by the post Second World War Institutions of the International Monetary Fund, the World Bank and the General Agreement on Tariffs and Trade,

[2]Title IX of the Consolidated version of the Treaty establishing the European Community incorporating the changes made by the Treaty of Amsterdam of 1997.

since they have built their and others' prosperity on export-oriented growth. This objective has been linked with an effort to aid the development and industrialise the countries in Asia and Africa, especially the non-European countries and territories which for historical reasons of their colonial past have had special relations with the member states, and to reduce trade barriers among the industrialised countries. Since the 1970s, upon the collapse of the Bretton Woods system, the productivity slowdown in the industrialised world, and the steady rise in real costs of food and raw materials, the EC member states have signed numerous preferential bilateral trade agreements with the developing countries and created the so called EC pyramid of preferences (See Annex 1 at the end of this Chapter). After the collapse of the socialist system in Eastern Europe this process has been further developed and probably culminated in the decision to launch the first international currency since the days of the Byzantine Empire.

Second, the EC countries have formed a customs union and through integration efforts have gradually created a common market. This market has regulated and limited imports from third countries while facilitating trade between the member states. Customs unions have been allowed under Article XXIV of the GATT/WTO. Again, since the 1970s the EC countries have been using a number of bilateral trade policies, such as voluntary-exports agreements and anti-dumping measures, which have arguably been in conflict with the spirit of a free-trade multilateral system, but smoothed the consequences of falling efficiency and rising unemployment in the so-called sensitive sectors of Western Europe.

These two trade policy objectives, however, must be interpreted only in the context of the broader aims with which the European countries vested the

 DOI: 10.2870/33363

institution of the European Communities and which epitomize the so-called European social model or ideal:

> "[t]o promote throughout the Community a harmonious, balanced and sustainable development of economic activities, a high level of employment and of social protection, equality between men and women, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the quality of the environment, the raising of the standard of living and quality of life, and economic and social cohesion and solidarity among Member States."[3]

One of the central policies of the European Community, as stated in the Treaty of Rome, was the establishment of a common commercial policy towards third countries.[4] Article 133 reflects on common trade principles throughout the member states: a common external tariff, common trade agreements with the rest of the world, and the uniform application of trade policy instruments on both

[3]Article 2 of the EC Treaty. I will cite the articles if the Consolidated version of the Treaty establishing the European Community including the changes made by the Treaty of Amsterdam, as signed, but not yet ratified by the national parliaments, on 2 October 1997.

[4]The other policies and activities, as claimed in Article 3 of the Treaty of the European Community, are: free movement of goods; common policies in agriculture and fisheries; common policy in the sphere of transport; a system ensuring competition in the internal market; the approximation of the laws of Member states to the extent required for the functioning of the common market; the promotion of coordination between employment policies; environmental policy; promotion of research and rechnological development; the strengthening of the competitiveness; health protection, a contribution of education; development cooperation policy; the association of the overseas countries and territories; consumer protection; measures in the sphere of energy, civil protection and tourism. The closed coordination of economic policies and the introduction of a single currency is currently the priority policy of the member states.

export and import sides.[5] It is not a purpose of this thesis to examine to what extent and how the above abstract principles have been implemented collectively or individually by the member states since 1958. I believe that this is a matter of concrete facts and not of abstract legal reasoning. I will attempt, however, to describe how these objectives were legally executed by Germany, France, Italy and the rest as far as Russia is concerned in a period that followed the end of the Cold war, the re-unification of Germany and the establishement of new democracies and states in Eastern Europe. This period was also marked by budget deficits, public debt, and high unemployment levels in Western Europe and the industrialised world and huge foreign debts in Eastern Europe and in the developing countries. The commercial policy of the European Communities countries in respect with the Russian Federation comprises bilateral and multilateral agreements (which might be sectoral or general) and autonomous or internal rules of Community law. I will focus on the most important measures adopted at European Union level which have affected Soviet, now Russian exports, including the Trade Cooperation Agreements, the voluntary-exports agreements in textiles and steel, the Energy Charter Treaty, and the anti-dumping measures.

[5] I have benefited from the forthcoming book of Professor Francis Snyder *International Trade and Customs law of the European Union* London: Butterworths, which discusses the legal framework for the common commercial policy. See also Eeckhout, Piet (1994) *The European Internal Market and International Trade: A Legal Analysis*, Oxford: Clarendon Press.

1. *BILATERAL AGREEMENTS*

A. USSR-EC Cooperation Agreement of 1989

In the 1980s, the USSR and the European Communities gradually made their first steps toward formal cooperation and a position of acknowledging each other as fully fledged international actors, but it was not until perestroika and the new political thinking of Mikhail Gorbachov when diplomatic relations between them were established. In November 1988 the first exploratory contacts to discuss the possible contents of a bilateral agreement between the Community and the Soviet Union took place. These negotiations produced a trade and cooperation agreement relatively quickly, which the EC and the USSR signed in December 1989.[6]

The 1989 Agreement was basically a trade agreement and part of a network of similar agreements concluded earlier by the EC with the eastern European countries, then members of the soon to disappear Council for Mutual Economic Assistance. It came into force on 1 April 1990. It was negotiated under Article 113 of the Treaty establishing the European Economic Community by the European Commission[7] and was approved by the European Council on 26 February 1990.[8] In May 1990 the Council of Ministers adopted a Regulation to implement the

---

[6]Agreement between the European Economic Community and the European Atomic Energy and the Union of Soviet Socialist Republics on trade and commercial and economic cooperation, [1990] OJ, L 68/3 [hereinafter 'The 1989 Agreement'].

[7]Article 113 of the Treaty of Rome provides for conclusion of agreements relating to the Common Commercial Policy by the EC.

[8]Council Decision [1990] OJ L98/1.

Agreement in effect lifting certain quantitative restrictions on imports from the USSR.[9] It should be pointed out that most of the provisions of the 1989 Agreement, which although bearing some similarity to the GATT provisions, were drafted in such a manner that they could accommodate the Soviet monopoly on foreign trade and its system of central planning. The disintegration of the USSR and the Russian move to a market economy was still to come. The proclaimed aims of the Agreement, as stated in the Preamble, can be conveniently summarised as follows: "favourable conditions for the harmonious development and diversification of trade"; to increase "the volume of trade"; to complement the bilateral trade relations between the USSR and the individual member states.

It may be argued that the cornerstone of 1989 USSR-EC accord was a most-favoured-nation (MFN) clause.[10] It was applicable to trade in all goods, except for textiles and those covered by the European Coal and Steel Community Treaty.[11] Nevertheless, article 1(2) explicitly stated that it was a non-preferential trade accord, and thus placing the agreement at the bottom of the EC pyramid of preferential arrangements. Accordingly, article 3(2) stated that the MFN clause did not apply to advantages accorded to countries with which the EC was pursuing a customs union or a free-trade area, to neighbouring countries, or to measures allowed under GATT or taken to meet obligations in favour of developing countries. The clause was more restrictive than the MFN clause in the GATT, and

[9]Council Regulation (EEC) No. 1434/90, OJ [1990] L138.

[10]Article 3 of 1989 Agreement.

[11]See Agreement between the European Economic Community and the Union of viet Socialist Republics on trade in textile products, [1989] OJ L397/2.

placed the Soviet Union in a relatively disadvantageous position compared to the rest of the EC trading partners.

However, it is the provision of article 7 that best summarized the rational attitude of the parties where they stood in 1989 and where they wanted to go in their mutual trade:

> "[e]ach Contracting Party shall accord the highest possible degree of liberalization to imports of the other's products. The process of liberalization shall take into account of the development of trade between the Contracting Parties, market conditions, changes in the rules concerning trade in the Community and the USSR..."

Starting from article 7, the Agreement elaborated specific commitments.

On one hand, a provision was incorporated, which in practice could hardly be implemented by a non-market economy with a monopoly on foreign trade. The provision obliged the Soviet Union not to discriminate against EC imports using its current discriminatory instruments of quotas, licenses, or allocation of hard currency to buy for such imported goods.[12]

On the other hand, EC committed itself to "make efforts to ensure progress towards the progressive abolition" of its discriminatory quantitative restrictions.[13] Some of them, listed in Annex I of the accord, were to be eliminated; others, listed within Annex II, were to be suspended within one year; and "remaining specific quantitative restrictions" were to be abolished by the end of 1995.[14]

---

[12] Article 5 of the 1989 Agreement.

[13] See article 8 of 1989 Agreement.

[14] See Article 11 of the 1989 Agreement.

The 1989 Agreement contained an exemption clause, similar to Article XX of GATT, allowing both parties to impose trade sanctions on grounds of public morality, law and order and public security, protection of life and health of humans, animals or plants, and intellectual property infringements, "rules relating to gold or silver or imposed for the protection of national treasures of artistic, historic or archeological value".[15] The measure, however, should have not been "a disguised restriction on trade between the Contracting parties" or "a means of arbitrary discrimination.

Article 15 of USSR-EC accord was a safeguard clause. Unlike GATT's article XIX, where increased imports of one of the countries caused a serious injury to domestic producers of similar or like products, the requirement here to invoke the clause was only injury.

Furthermore, the 1989 Agreement contained general provisions on commercial and economic cooperation. The two parties committed themselves to commercial cooperation involving measures to develop and diversify trade; to facilitate the exchange of commercial and economic information. The language of the accord stated that economic cooperation should be aimed at strengthening and diversifying economic ties; improving economic growth and living standards; supporting environmentally sound economic policies; promoting scientific and technical progress.[16] Cooperation was to be encouraged in a wide range of areas including statistics, raw materials, mining, energy, science and technology, banking,

[15]Article 16 of 1989 Agreement.

[16]See article 17 and 20 of 1989 Agreement.

financial services, tourism, and transport.[17]

A joint committee, meeting annually, was established to oversee and ensure the proper functioning of the agreement and to act as a forum to facilitate dialogue, cooperation and to settle potential disputes through consultations.[18]

B. The Partnership and Cooperation Agreement of 1994

The disintegration of the Soviet Union, followed by currency disorders, inflations and the collapse of the Soviet and the Eastern European countries trade, called for a review of the agreement of 1989, which did not last the 10 years as expected by politicians and the public.[19] As an emergency measure, Russia took over the rights and obligations of the Soviet Union, and EC applied the 1989 agreement by means of exchanges of letters.[20]

On 24 June 1994, after almost two years of negotiations, the European Communities and its Member States signed the Agreements on Partnership and Cooperation with the Russian Federation.[21] The agreement had a mixed character

---

[17]Article 20(2) of 1989 Agreement.

[18]See Article 22 of the 1989 Agreement.

[19]See Article 25 of the 1989 Agreement.

[20]Bull. EC 7/8-1993, pt. 1.3.18.

[21]There are two types of Partnership and Cooperation Agreements which EC signed with the former Soviet Republics: those with Russia, Ukraine, Moldova and Belarus, and those concluded with the non-European former Soviet republics. The latter agreements are less detailed. Because of that some lawyers might conclude and probably are right that the European Union countries place different kind of emphasis on its relationship with the European countries than with those located in Asia.

and required ratification by all parliaments of the EC member states and the Russian Duma.[22] An Interim Agreement incorporating and further elaborating the trade and trade related chapters of the Partnership and Cooperation Agreement was signed on 17 July 1995. The former entered into force in February 1996.[23] The EC member states delayed the conclusion and implementation of the Interim Agreement because of Russia's intervention in Chechnya and the human rights violations committed there. I have descibed in Annex 2 of this Chapter the controversial negotiations that led to the signing to this very important trade agreement for the the Russian Federation and the European Union. The Partnership Agreement entered into force on 1 December 1997.[24] The PCAgreement is sometimes considered a central plank in the strategy of the West to embrace Russia in the new world that emerged after the Cold war. And studying its provisions and language might evoke the impression that this is true. However, it is my opinion that the PCAgreement did not stand by itself and should be considered together and in relation to other international agreements and obligations of Russia, but also of the Western European countries. It has been my purpose in this doctorate to examine these relations and, hopefully, to throw more light on issues which are more complex than they might seem if analysed from a purely legal standpoint.

[22]The Partnership and Cooperation Agreement first appeared in COM (94) 257 and then in OJ [1997] L227/3 and is based, as was the 1989 Cooperation Agreement with the Soviet Union, on Articles 113 and 235 of the EC Treaty.

[23]OJ [1995] L 247/1.

[24]Agreement on Partnership and Cooperation establishing a partnership between the European Communities and their Member States, of one part, and the Russian Federation, of the other part, OJ [1997] L327/3.

 DOI: 10.2870/33363

The following will provide a brief analysis of the Partnership and Cooperation Agreement and the Interim Agreement, focusing mainly on trade issues.[25]

On one hand, it should be noted that the Partnership and Cooperation Agreement (PCAgreement) is much broader in scope that USSR-EC Agreement of 1989, covering not only trade, and is similar to other partnership and cooperation agreements concluded by the European Community. It consists of 11 titles, including 113 articles, and 10 annexes and 2 protocols, 33 joint declarations, 2 exchange of letters inside the Agreement, and 2 exchange of letters outside the agreement.[26] The 11 titles of the Agreement are as follows: general principles; political dialogue; trade in goods; provisions on business and investment; payments and capital; competition, intellectual, industrial and commercial property protection; economic cooperation; cooperation on the prevention of illegal activities; cultural cooperation; financial cooperation; and institutional, general and final provisions. The Annexes to the Agreement refer to specific reservations by the parties.

On the other hand, the Interim Agreement deals only with trade, contains 36 articles and the following titles: general principles; trade in goods and trade in

[25]The reader might also wish to consult the more detailed comparative legal analysis of the European Community Association and Partnership Agreements with the Central and Eastern European countries in the excellent article of Maresceau, Marc & Montaguti, Elisabetta (1995) *The Relations Between the European Union and Central and Eastern Europe: A Legal Appraisal*, 32 Common Market Law Review 1327-1367.

[26]It may be argued that the role of international law has gradually grown in comparison with the 1989 USSR-EC Agreement, which contained only 26 articles and 3 annexes.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

nuclear materials; payments, competition and other economic provisions; institutional, general and final provisions. The agreement also includes four annexes, 2 protocols, 12 joint declarations, 5 unilateral declarations; one exchange of letters.

The high language of the Preamble of the PCAgreement contains references to "partnership and cooperation which would deepen and widen" relations, to "historical links" and "common values", to "international peace and security", to "peaceful settlement of international disputes", to the creation of "a new climate for economic relations", to "development of trade and investment, which are essential to economic restructuring and technological modernization", to trade liberalization, based on the principles of non-discrimination rather than on its exceptions.

It is also important to note that the Preamble of the Partnership and Cooperation Agreements contains a "political conditionality" clause, which did not exist in the 1989 Agreement. This clause is very similar to those present in the European association agreements with the countries of Eastern Europe and Turkey.[27] Hence, the parties declare that they are "convinced of the paramount importance of the rule of law and respect of human rights, particularly those of minorities, the establishment of a multiparty system with free and democratic elections and economic liberalization aimed at setting up a market

[27]This new practice of the European Community, which has tried to act as a beacon of democracy and the guardian of human rights, has evolved after the fall of totalitarian regimes in Eastern Europe. See Cremona, Marise (1996) "Human Rights and Democracy Clauses in the EC's Trade Agreements" in Emiliou, Nicholas and O'Keefe, David (eds) (1996) *The European Union and World Trade Law, After the Uruguay Round*, Chichester, West Sussex: John Wiley & Sons.

economy". A reference to "respect for the democratic principles and human rights as defined in the Helsinki Final Act and Charter of Paris for a New Europe" makes an essential element of the PCAgreement.[28] If one of the parties fails to respect this provision, a possibility arises for the other to suspend unilaterally the Agreement, since human rights violations are considered a case of special urgency justifying such an intervention even without prior notification and consultations within the Cooperation Council.[29] In Annex 2, I examine how the Chechen crisis and war in 1995 affected the behaviour of the governments of Germany, France, Denmark and others as far as human rights violations are concerned. The case proved that in the short-run the Member States governments were right to exert pressure on Russia. In the long run they recognised, however, it was impossible to be doctrinal. Therefore, they did not follow blindly the letter of the law when the general interest and prosperity of the whole continent, and the security of its oil supplies, were threatened by a small minority of militant separatists.

Interestingly enough, the PCAgreement contains a provision on mutual cooperative efforts for the approximation of Russian legislation toward the existing and adopted EC norms. The provision is not as detailed as those in the Europe Association Agreements with Central and Eastern European countries, but still Russia makes an explicit pledge to ensure that its legislation would gradually be

[28]Article 2 of the PCA and article 1 of the 1995 Interim Trade Agreement.

[29]Article 107 of the PCA and Joint Declaration in Relation to Article 1 and 32 of the Interim Agreement.

made compatible with that of the Community.[30] The legislative cooperation efforts are aimed at approximating the areas of law in which the European Community member states have arguably achieved a high level of harmonization and uniformity, including company law, banking law, company accounts and taxes, protection of workers at the workplace, financial services, competition law, environmental protection, technical rules and standards, nuclear laws and regulations, transport. Since the foundation of the Community the ingenious efforts and energy of some European lawyers and politicians have been directed to reach uniform legal standards in all member states, which are now eagerly strived and copied by the European Union associated countries in Eastern Europe. However, it should be realistically admitted, probably recalling Montesquieu and his *De l'esprit des loix*[31], that the application of the banking laws in Italy still differs from that in Germany, the competition laws in Denmark are in many ways very unlike those of the United Kingdom, the amount of taxes collected in Spain is not the same from that collected in Greece.

As far as trade is concerned, the PCAgreement and Interim Trade Agreement clauses and terms are worded and defined in accordance with GATT/WTO principles and contain many references to respective GATT/WTO articles. Moreover, in its preamble the PCAgreement states that the parties are committed to liberalize trade based on GATT and WTO principles. Thus, for the first time, EC recognized that Russia was no longer a state-trading country but "a

[30]Article 55 of PCA.

[31]According to Montesquieu the laws of a country have, or ought to have, a constant reference to the constitution of government, the manners, the climate, the soil, the religion, the commerce, the situation in each society.

country with "an economy in transition".[32] However, this language of semi-equality hardly serves the declared purpose of the agreement to "develop trade". As Maresceau and Malaguti wrote in 1995: "Although declared no longer to be a state trading country, Russia still falls under relevant rules as far as anti-dumping and safeguard measures are concerned".[33] Although this situation might have changed, I will examine below the relevant provisions and the discretionary power of the EC Commission and the EC Council to impose duties on Russian exports to the Common market.

The PCAgreement starts with a vaguely worded evolutionary clause which, however, might be considered an improvement in comparison to article 7 of the 1989 USSR-EC Agreement. The clause stated that the European Community and the Russian Federation "undertake to consider development of the relevant titles of the Agreement" with a view to the establishment of a free trade area.[34] Nonetheless, this evolutionary clause, similar to the declaration of "an economy in transition" is of more symbolic than any real economic significance. Currently a free trade area sounds more than a wishful thinking. The parties will "examine together in the year 1998 whether circumstances allow the beginning of negotiations on the establishment of free trade area". As of May 1998, I am not informed of any negotiations under way. The role of the clause is of no more than symbolic value and has more short-term political than any real effect on trade

[32]Preamble, recitals 14 and 13 of PCA.

[33]See Maresceau, Marc & Montaguti, Elisabetta (1995) *The Relations Between the European Union and Central and Eastern Europe: A Legal Appraisal*, 32 Common Market Law Review, at 1365.

[34]Article 3 of PCA.

flows and prosperity.

The PCAgreement and the Interim Trade Agreement provided for most-favoured nations treatment[35] and refer directly to GATT Article I paragraph 1, which might be considered a legal improvement in comparison to the 1989 Agreement MFN clause.[36] Nevertheless, the provisions in the PCAgreement and the Interim Agreement state explicitly that these are non-preferential trade accords and provide for exceptions to the MFN treatment as far as custom and free trade areas are concerned.[37] The reader should be probably reminded that since 1991 the European Community has expanded its network of free trade agreements to include the former socialist countries in Eastern Europe and some of the former Soviet Republics. The Russian Federation receives a waiver from the MFN that would not extend to the EC specific advantages granted to former countries of the Soviet Union for a transitional period of five years after PCA enters into force.[38]

[35]Article 11(1) of PCA and article 3(1) of the Interim Agreement.

[36]GATT Article I(1) reads as follows:

> "With respect to custom duties and charges of any kind imposed on or in connection with importation or exportation or imposed on the international transfer of payments for imports or exports, and with respect to the method of levying such duties and charges, and with respect to all rules and formalities in connection with importation and exportation, and with respect to all matters referred to in paragraph 2 and 4 of Article III [*i.e. direct or indirect internal taxes or other internal charges; laws, regulations and requirements affecting the internal sale, offering for sale, purchase, transportation, distribution or use applied to like domestic products*] any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be accorded immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties."

[37]Ibid. article 11(2) of PCA and 3(2) of the Interim Agreement.

[38]Article 2 of the Interim Agreement and Article 5 of PCA. These special advantages in favour of the former Soviet republics are listed Annex I of PCAgreement and concern import and export taxation, quota allocation and licensing procedure, export prices of some energy products, transit and customs clearance fees. Interestingly, *The Economist* of May 9, 1998 reported that Lithuania, Latvia, Estonia

But Russia must waive those advantages when it joins the WTO.[39] Therefore, both for imports and exports, and as regards tariffs, regulations, and prohibitions, Russia has in effect bound itself to accord most-favoured nation treatment to the west Europeans. But it would not be entitled itself to receive such a treatment.

The Interim Agreement and the PCAgreement contain a national treatment clause arguably borrowed directly from GATT or the Treaty of Rome. Thus, articles 11 (1) and 11(2) of PCA, articles 4(1) and 4(3) of the Interim Agreement read exactly like articles III(2) and III(4) of GATT.[40] The parties undertake that internal taxes on imported products would not be in excess to those applied to domestic goods as well as they would avoid using regulations and other "requirements affecting...[the] internal sale..." of imported products. Russia and the EC did not consider it necessary to refer to the general statement of policy contained in the first paragraph of Article III of GATT.[41] As far as exceptions to the national treatment obligation are concerned, Russia received a waiver to preserve its excise duties that *de facto* discriminate against the EC goods, but it assured that the duties would be in compliance with the national treatment obligation no later than 1 January 1996.[42] Consequently, both parties agreed on a provision that government

---

handled about 40 per cent of the Russian foreign trade in 1997.

[39]Article 5(2) of PCA and article 2(2) of the Interim Agreement.

[40]At the same time article 11(3) of PCA and article 4(4) of the Interim Agreement state that article III, paragraphs 8, 9, 10 of GATT will be applied with the necessary changes ("*mutatis mutandis*") in compliance with the Uruguay Round Agreements.

[41]Moreover, the important phrase obligating contracting parties to avoid using taxes or regulations "so as to afford protection to domestic production" has been omitted.

[42]Article 4(2) of the Interim Agreement.

procurement would be excluded from national treatment obligation.[43] The national treatment provision might be argued is an injurious provision, by which the Russian Federation is prevented from taking necessary steps to conserve its limited resources for the purchase of necessities and in servicing its foreign debt. As a result of the existing distribution of wealth in Russia, and of financial wantonness among individuals, the uncertainty, Russia has been deluged with luxuries and semi-luxuries from abroad. During the years of central planning Russia and the other Eastern Europeans have been starved of whisky, perfumes, stereo or video recorders for years, but the chaotic influx of luxuries might be argued contributed to exhaust or diminish their small foreign exchange reserves.

The principle of freedom of transit was stated as "essential" for attaining the objectives of the accord and the Interim and PCAgreement referred to the rules of article V paragraphs 2, 3, 4 and 5 of GATT.[44] This article will much depend on the interpretation of the phrase, "essential for attaining the objective" of the Accord.[45]

Next, the relevant provisions of GATT on valuation for customs purposes, marks of origin and publication and administration of trade regulations govern

---

[43]Article 4(4) of the Interim Agreement refers to GATT articles III paragraph 8.

[44]See Article 5 of the Interim Agreement.

[45]In 1996, the EC Commissioner responsible for EU relations with the former Soviet Union, Mr Hans van Broek, voiced protest and serious concern against a transport tax imposed on goods and cargos entering and leaving the Russian Federation. He did not "think that this kind of measure is in the interest of Russia and the EU, since both sides are concerned to foster economic relations". Interestingly enough, Mr van den Broek did not mention the dire straits of the Russian Federation's budget and its debt obligations. See "Russia: EU row over new transport tax", *Financial Times*, 12 December 1996.

trade relations between Russia and EC.[46]

Article 8 of the Interim Agreement is a general statement that trade between Russia and EC would be conducted without quantitative restrictions. However, the exceptions to this rule are numerous including trade in sectors such as textiles, steel, and nuclear materials. These sectors have been usually called sensitive for the European countries, but could be also considered essential for the Russian Federation and its budget revenues.

Until Russia joins the WTO, the parties are to hold consultations in the Joint Committee on their import tariff policies, in particular prior to the increase of their tariff rates.[47] This subtle stand-still provision, if interpreted literally, makes it difficult, if not impossible, for Russia to impose duties higher than those existent at the time when the Interim Agreement entered into force. Moreover, Russia needs to reduce its tariff rates, as the member states of the World Trade Organization would require before it joins the world trade club. It might be argued that this provision strikes at the authority of the Russian government to ensure economy in consumption of luxuries, such as carpets, champagne, and silk, or to raise revenue during a critical transition period marked by enormous social disparities, increasing privation for many and a huge foreign debt.

Similar to GATT Articles XX and XXI, there are provisions elaborating security and general exceptions to liberal trade policies.[48] The general exceptions

---

[46]Article 6 of the Interim Agreement refers to article VII of GATT that deals with valuation for customs purposes, article IX - with marks of origin, and article X - with publication and administration of trade regulations.

[47]Article 9 of the Interim Agreement.

[48]Article 25 and 12 of the Interim Agreement.

include governmental measures, i.e. import restrictions and prohibitions, justified on grounds of public security or public morals; protection of human, animal or plant life or health; protection of intellectual property protection; gold or silver trade; conservation of natural resources; protection of national artistic, archeological or historic treasures.[49]

The Agreements contain extensive safeguard clauses, in which the wording is a likely 'improvement' to the 1989 Agreement safeguard provision and is developed along the lines of GATT Article XIX. When goods are imported in such increased quantities and under such conditions as to cause, or threaten to cause, "substantial injury" to domestic products of like or directly competitive products, a party may take appropriate measures.[50]

The Agreement also provides for anti-dumping measures, following GATT Article VI, the WTO Agreements on Implementation of Article VI and on Safeguards, or related EC or Russian legislation.[51]

A protocol to the Interim Agreement contains provisions on mutual administrative assistance for the correct application of customs legislation.[52]

---

[49]Article 12 of the Interim Agreement.

[50]Article 10 of the Interim Agreement. Before taking any measures, however, the party must supply the Joint Committee with all relevant information with a view to seeking a solution. If no agreement is reached within thirty days of the referral, the party requesting consultations is free to restrict imports of the products concerned or to adopt other appropriate measures to the extent and for such time as is necessary to prevent or remedy the injury.

[51]Article 11 of the Interim Agreement.

[52]Protocol 2 of the Interim Agreement.

 DOI: 10.2870/33363

2. *SECTORAL AGREEMENTS*

A. Textiles

An agreement between the USSR and the EC in trade in textile products was signed immediately after 1989 Trade and Cooperation Agreement.[53] The Soviet Union was not a signatory to the Multi-Fibre Arrangement (MFA), but the 1989 Textile Accord, as a typical voluntary export restraints agreement, followed closely the substantive provisions with the above multilateral treaty.

Before and upon the disintegration of the Soviet Union, the textile accord was applied on a provisional basis. It was replaced by the Agreement on trade in textiles between the Russian Federation and the European Community which was implemented as of January 1993, but was initialled on 12 June 1993.[54] As was its earlier predecessor, the latter was a MFA type accord. It was applied until the end of 1994, then was extended automatically for one more year.[55]

The preamble started with the clause that the parties "take the fullest

---

[53] Agreement between the European Economic Community and the Union of Soviet Socialist Republics on trade in textile products, [1989] OJ L397/2.

[54] Agreement between the European Economic Community and the Russian Federation on trade in textile products, [1994] OJ L123/528.

[55] Agreement in the form of an Exchange of Letters between the European Community and the Russian Federation concerning the renewal of the Agreement between the European Economic Community and the Russian Federation on trade in textile products initialled on 12 June 1993, as amended by the Agreement initialled on 12 April 1995, [1996] OJ L 81. See also Council Decision of 22 December 1995 on the provisional application of an Agreement in the form of an Exchange of Letters between the European Community and the Russian Federation on trade in textile products, [1996] OJ L 81.

possible account of the serious economic and social problems at present affecting the textile industry" in the EC member states and the Russian Federation. Moreover, the Agreement, as stated, was to promote "security for trade", and "orderly and equitable development of trade in textiles". Thus, the European Community countries textile and clothing industries experienced serious adjustment pressures over the last ten years. The number of employed in the sector has decreased by more than a million. The industrial production, however, was seriously affected because of the recent phenomena of "outward processing" in countries like Poland and the Czech Republic.[56] In comparison, the industrial production of the textile industry in the former Soviet Union dropped by more than 50 per cent. It is hard, if not impossible, to measure the unemployment in the Russian Federation.

The Russian Federation committed itself to respect specified quantitative limits on exports, which in addition were subject to a double-checking system.[57] In particular, upon request by the EC a specified proportion of the quantitative limits was to be reserved to the EC textile industry by means of contracts.[58] Exports of products, which were not listed in the Agreement, might have been made subject to quantitative limits.[59] As was the case with the earlier accord, any

[56]For discussion of the outward processing in the European Union see Pelegrin, Julie (1997) *International Business and the European Integration Process: The Example of Outward Processing Traffic Between the European Union and the Central and Eastern European Countries*, Ph.D. thesis, European University Institute, Florence, Italy.

[57]Article 2(1) of the 1994 Textile Agreement. The quantitative limits are laid down in Annex II. As to the double-checking system, see Protocol A, Title III.

[58]Ibid. Article 2(2).

[59]Ibid. Article 5.

quantitative limits on imports into the Community were not to be broken down by the Community into regional shares.[60] However, procedures are elaborated to deal with regional concentration or sudden changes in imports.[61]

On its part, the EC undertook to liberalize trade in certain textile products under specified conditions.[62] The EC suspended the application of quotas with respect with this group of textiles.[63] The 1994 Textile Agreement contained a provision that goods imported into the Community for inward processing by the member states textile industry were not subject to quotas.[64]

The origin of textiles covered by the Agreement was to be determined by the rules in force in EC[65], while the procedures for implementing the rules of origin were laid down in the Protocol A to the Agreement.

Under the safeguard clause, if the EC considered that a textile product was being imported from Russia at a price abnormally lower than the normal competitive level, and was for this reason causing or threatening to cause serious injury to Community producers of like or directly competing products, it might have requested consultations.[66]

---

[60]Ibid. Article 7(1).

[61]Ibid. Article 7(2), (3), (4).

[62]Ibid. Article 1(1). The textile products subject to liberalization are listed in Annex I of the Agreement.

[63]Ibid. Article 1(3).

[64]Ibid. Article 3(1).

[65]Ibid. Article 11(2).

[66]Ibid. Article 10. If following consultations it is acknowledged by common accord that the relevant conditions exist, Russia is required to take, within the limits of its powers, the necessary steps, in particular in respect of prices, to remedy the situation.

 DOI: 10.2870/33363

In 1998, the Russian Federation and the EC signed an Agreement on trade in textile products which stated aims are the same as the previous voluntary-export restraints accords: "predictability of trade, mutual expansion and orderly and equitable development of trade in textile products".[67] Article 1(1) the 1998 Textile Accord states that "the provisions of the Partnership and Cooperation Agreement shall apply to trade in textiles and clothing products". Thus, it will depend on the interpretation of above phrase whether Russian textile products will receive the same favourable treatment as other trading partners of the EC countries, including those in Eastern Europe, or will be in effect discriminated. It should be noted that the Europe association agreement deliberate for the establishment of a free trade in textile between the countries in Eastern and Western Europe. The Agreement mentions as fundamental objective of the Textile Agreement the cooperation between the textile and clothing industries in the Community and Russia.[68] The parties to the 1998 Textile Agreement will also abolish all quantitative restrictions in their trade.[69]

If consultations fail, the Community can temporarily refuse consignments. In exceptional and critical circumstances, the Community may temporarily suspend imports.

[67]Agreement between the European Community and the Russian Federation on trade in textile products, [1998] OJ 169/2. The Agreement is applied on a provisional basis from 1 May 1998.

[68]Ibid. Article 1(2).

[69]Ibid. Article 1(3).

 DOI: 10.2870/33363

B. Steel

It took more than a year upon the conclusion of the PCAgreement before Russia and EC signed a bilateral agreement on trade in some steel products.[70] Similar to the Textile Agreement, the ECSC Agreement is a bilateral voluntary-export restraints accord which set quantitative limits on the entry of certain Russian steel products to the Community market.[71] These products are considered to represent about 20 per cent of all steel trade between Russia and the Community. As far as the remaining steel products, covered by the European Coal and Steel Community, are concerned, they would not be subject to quotas.[72]

Russia was to respect specified quantitative limits on its exports of certain categories of flat and long steel products established for each calendar year.[73] The parties made a pledge to "cooperate in order to prevent sudden and prejudicial changes in traditional trade flows resulting in regional concentration of direct

[70]Agreement between the European Coal and Steel Community and the Russian Federation on trade in certain steel products initialled at Brussels on 3 March 1995, [1996] OJ L 5. The ESCS Agreement is foreseen by Article 21(1) of PCAgrement and Article 14 of the Interim Agreement.

[71]These products covered by ECSC are listed in Annex I of the Agreement and are flat-rolled products, i.e. coils and heavy plates, and longs, i.e. beams, wire rod and other longs.

[72]Ibid. Article 1(2). However, the safeguard or anti-dumping provision of 1994 PCA or the Interim trade Agreement could be invoked in case of sudden and prejudicial changes in traditional trade flows.

[73]Ibid. Article 2. According to Annex II the quantitative limits were as follows:
- for flat products: 210,000 tonnes for 1995, and 240,000 tonnes for 1996;
- for long products: 95,000 tonnes for 1995, and 109,000 tonnes for 1996.
Provisions were made for carry-over of quantitative limits.

 DOI: 10.2870/33363

imports into the Community."[74]

Thus, these Russian exports would be subject to a "double-checking system" implemented both in the Russian Federation and the Community.[75] Protocol A contained the main provisions of the double-checking system, which incorporates the issue of export licenses by the Russian authorities and import authorization by the Community (including a procedure for control of the origin of ESCS products).

Procedures to prevent circumvention and abuse of the double-checking system were spelled out in detail.[76] The Agreement also provides for safeguard measures by the Community. If the ECSC considered that the "sensitive" steel products were being imported at a price lower than the normal competitive level and is for this reason was causing or threatening to cause serious injury to Community producers or like products, it could request consultations.[77] However, the Community was not precluded from taking safeguard or anti-dumping measures, while consultations were under way.[78] The origin of the ESCS products would be determined according to the relevant Community rules.[79] The 1995 ECSC Agreement was applied for 1995 and 1996, and was extended until 30 June 1997.

Negotiations were started between the EU and Russia on a new "steel"

---

[74]Ibid. Article 5(2).

[75]Ibid. Article 2.

[76]Ibid. Article 4.

[77]Ibid. Article 6.

[78]Ibid. Article 6(3).

[79]Ibid. Article 2(2).

agreement in the beginning of 1997.[80] The EC Commission received a mandate from the ECSC Council that the new agreement was to be concluded for a five-year period. The Community position was that the new accord should cover the same groups of steel products that are currently subject to quantitative import restrictions.[81] The quotas would continue under the new agreement, but they would be phased out during the lifetime of the agreement, if Russia began to apply appropriate competition, state aid and environmental protection disciplines. The future agreement, according to the Commission, should also contain a protocol on the application, by Russia, of rules in competition matters, state aid, etc., similar or identical to those in force in market economies. In other words, if Russia slashes all subsidies and closes down most of its steel works quotas will be removed and a lot of savings will be realised. This act of liberal free market intervention in the internal economic affairs of Russia, if entertained to the end, will probably transform Russia in a mining country, leaving its steel workers without employment, creating social problems and decreasing the material wealth of the whole community.

The above described sectoral quota agreements have been against the principles of reciprocity and non-discrimination in international trade and have placed Russian exports of steel and textiles in a more disadvantageous position than the other trading partners of the European Community, including the Eastern

---

[80]Similar negotiations were held with Ukraine and Kazakhstan, the main steel producers of the ex-Soviet Union.

[81]EU/Russia - Negotiations on new "steel" agreement could be concluded in coming weeks, *Agence Europe*, 5 March 1997.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

European countries. The agreements have been aimed to preserve short-term trade flows, production volumes and employment in the EC industries, rather than in Russia or its former partners from COMECON, while giving breathing space for the labour in the Western European countries to find new employment opportunities. The agreements bear many common features with similar voluntary restraints agreements signed by the EC and its other trading partners. But more importantly, they represent a clear sign that since the 1970s the labour-intensive textiles and steel industries of the different countries in the world, have been experiencing problems of overcapacity in their production. Moreover, most of the developing and the socialist countries have been going through balance of payments problems. The unfortunate results have been, despite efforts to stabilise trade flows and employment, an intensified competition between the different steel and textiles suppliers to the developed countries and unemployment levels that remain high and still grow in the more prosperous parts Europe. At the same time many competing suppliers, including those in Russia, the newly independent states in Asia, as well as those in Central and Eastern Europe, have been burdened by an increasing financial obligations. Therefore, they have to export textiles and steel products rather than produce for their domestic markets. Moreover, they must offer lower prices making a futile effort to meet their financial obligations until their judgement day, when they will inevitably go bust. Upon a brief look at the statistics, although in many ways dubious and deficient, it could be argued that this trend has been under way. According to the Economist Intelligence Unit referring to the *Statistical Yearbook of the Russian Federation*, published by Goskomstat, the industrial production of the Russian ferrous metallurgy had decreased by more than 35 per cent in the period between 1986 and 1993.[82] *The Economist* publication *Business Central Europe* reported the steel production in Central and Eastern European countries fell by 50 per cent in the period since the fall of the Berlin wall.[83] Therefore, the sectoral agreements in steel and textiles have been temporary measures and will be subject to constant changes until the day when there will be more wisdom both in politicians and in the public for a more permanent and more stable legal solution that will preserve the wealth and social stability both in the producer and consumer countries.

C. The Energy Charter Treaty[84]

The Energy Charter Treaty (ECTreaty) is a multilateral agreement, signed after the PCAgreement at the end of 1994. Its stated aims are to foster cooperation between the energy sectors of some 50 countries, including the Russian Federation and the former Soviet republics, the Central and Eastern European countries, the European Community member states, Australia, Japan, Turkey,

[82]The Economist Intelligence Unit, *Russia Country Profile 1995-96*, at 45.

[83]See "A Survey of Heavy Industry", *Business Central Europe*, November 1997, at 39.

[84]For a general discussion of the Energy Charter Treaty see Dore, Julia & De Bauw, Robert (1995) *The Energy Charter Treaty*, The Royal Institute of International Affairs; Walde, Thomas ed. (1996) *The Energy Charter Treaty, An East-West Gateway for Investment and Trade*, London, Hague, Boston: Kluwer Law International; Smith, Tony & Peters, Patrick (1996) *European Governance in the Field of Energy: The Energy Charter Treaty*, Paper Presented at the European University Institute/Robert Schuman Centre conference on European governance, San Domenico di Fiesole, Italy, 7 May 1996.

Switzerland, but does not include the other oil main producers and the main consumer, the United States. The treaty also claims to improve the conditions for trade in energy products and investment. Thus, from a purely legal standpoint the ECT contains two pillars, to use the legal jargon, the first is trade and the second - investment protection and promotion. Arguably, the second pillar received much more attention in the negotiations and represent simply provisions that should guarantee and protect foreign ivestments in the energy industry of the main supplier country, Russia.

The general provision of article 3 of the ECTreaty reveals the perspective of the contracting parties toward trade and investment in energy products:

> "The Contracting Parties shall work to promote access to international markets on commercial terms, and generally to develop an open and competitive market, for energy materials and products."

The ECTreaty defines energy materials and products by reference to the Combined Nomenclature of EC and the Harmonized System of the Customs Cooperation Council. Thus, the following energy products are covered by the ECT: coal, natural gas, petroleum and petroleum products, electrical energy, fuel wood and charchoal, nuclear products (including uranium ores).[85]

In the general phrase-wish of Article 3 neither "access on commercial terms" nor "open and competitive market" are defined. It may be argued that what is meant is a free market for oil and natural gas where an enlightened private

[85]Ibid. Article 4(1).

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

interests will stimulate production in Russia and the other suppliers and create sufficient demand in the more affluent parts of Europe.

Further, the ECTreaty stipulates that trade in energy materials and products will be governed by the provisions of GATT and its related agreements. Thus Article 4 of the ECTreaty provides:

> "Nothing in this Treaty shall derogate, as between particular Contracting Parties which are parties to the GATT, from the provisions of the GATT and Related Instruments as they are applied between those Contracting Parties."

Therefore, with regard to Russia until it joins WTO, GATT rules would be applied *mutatis mutandis*. This means that the Russian Federation should grant most favoured nation treatment to all the signatories and could not discriminate in its petroleum and natural gas exports between the EC and its trading partners in Eastern Europe and the former Soviet Union.[86]

The articles of the ECTreaty are reasonable if they stood on themselves and an assumption was made that Germany, France, Italy, Poland, Russia and the other contracting parties were in one free market with perfect competition.

[86]A specific exception from GATT and multilaterism, however, exists concerning nuclear trade between Russia and EC which refers to the provisions of the PCAgreement. Ibid. Article 29(2)(a). The latter provision imposes GATT rules on trade involving non-GATT members, is subject to exceptions provided for in Annex G. Annex contains an explicit provision that trade in nuclear materials "may be governed" by agreements referred to in the relevant Declarations in the Final Act. There is bilateral declaration of Russia and the EC that trade in nuclear materials "shall be governed" by specified provisions of the PCAgreement (Article 22) and 1989 Cooperation accord.

Nevertheless, in the case of petroleum the facts of the real situation, as I perceive them, are: the member states of the EC import their petroleum not only from the former Soviet Union, but also from the countries in Africa and Asia, and are the second largest consumer of petroleum in the world after the United States. Since 1992 the world price of petroleum has declined, because of the overcapacity of the petroleum industries everywhere. The Russian petroleum and natural gas producers, despite the beneficial short-term effects of foreign investment, have not remained isolated from the general trend. Moreover, the statistics show that the petroleum production in Russia had almost halved from about 600 million tons in 1987 to about 300 million tons in 1995. The causes for so low an output have been in part temporary and exceptional, but many experts agree that they are bound to persist for some time. In part the causes are the same as everywhere in Eastern Europe: the bad conditions of the equipment due to the lack of new technology, the physical efficiency of the miners has been greatly impaired by under-nourishment, and the shock of the transition to free markets has diminished the numbers of efficient miners. Other factors have been the depletion of existing petroleum fields and the deterioration in the transport infrastructure. Russian petroleum exports had also declined from about 140 million in 1992 to about 120 million in 1995. But it was the domestic consumption which shrank from about 270 million tons in 1992 to about 190 million tons in 1995.[87] Moreover, income from gas and petroleum exports have been the main sources of revenue and convertible

[87]I have used the *1995 Energy Statistics Yearbook*, New York: United Nations and the Economist Intelligence Unit's *Russia Country Reports* for the above statistical data. It is evident that that too much significance must not be attached to the precise figures, which are dubious.

currency for the Russian budget and for payments on its foreign debts.

Therefore, the problem will probably arise and the time will come when the articles of the ECTreaty will not be sustainable in the strict legal interpretation which I have given them above. In order to stabilise and increase production, to provide supplies to other domestic industries and meet the needs of the "transit" countries in Eastern Europe and the other parts of the former Soviet Union, which are still among the major trading partners of Russia, it might happen that competition is restricted.[88]

3. EC INTERNAL RULES OF IMPORT AND EXPORT TO AND FROM THE RUSSIAN FEDERATION

The autonomous measures relating to the commercial policy toward Russia can be divided into two groups: tariff and non-tariff. Tariff measures are part of the common customs tariff, while non-tariff measures constitute an element of Community's import and export regime. Entry of Russian products into the EC market is also subject to the Community's commercial defence instruments, namely anti-dumping. These internal rules are adopted on a unilateral basis by the Community under powers afforded under Community law. In general, they are not divorced from GATT rules of reciprocity. However, for some part they deviate from the rules of the multilateral trading system and arguably when implemented

---

[88]As *The Financial Times* on 25 May 1998 reported the biggest Russian oil companies were negotiating a merger to create the biggest oil company in the world. In 1997 Yukos and Sibneft were successful to borrow only about $1 billion on world capital markets.

result in effective discrimination against Russian products.

A. The Common Custom Tariff and the General System of Preferences

Upon the disintegration of the Soviet Union, EC accorded tariff preferences to Russia and the former Soviet republics, under its generalized system of preferences (GSP), with a view to raising the latters' export revenue, but also to preserve and keep steady the import of raw materials into the EC member states. The system, which was claimed to be development oriented, was laid down in Council Regulation 3281/94[89] which deals with industrial products but also textiles, fertilizers, wood and precious metals. In 1998, the preferential margin for most of the products, including Russian mineral products and certain Russian steel products, was abolished.[90]

B. Quantitative Restrictions and EC Export & Import Regimes

Council Regulation 519/94 of 1994 establishes common rules for imports of products, with the exception of textiles[91] and ECSC products, from certain third

[89][1994] OJ L348/1. Council Reg. (EC) 3281/94 of 19 December 1994 applying a four-year scheme of generalized tariff preferences (1995-1998) in respect of certain industrial products originating in developing countries. The Regulation was amended in the following years. See [1995] OJ L 308/29, [1996] L333/10, [1997] 144/13.

[90]See Commission Communication concerning a change of customs duties applicable pursuant to Council Regulation (EC) 3281/94, [1997] OJ C384/5.

[91]Imports of textile products is subject to the rules in Regulation 517/94.

countries, including the Russian Federation and China.[92] Other imports, however, which comprise more than 90 per cent of total EC imports, are governed by the provisions of Council Regulation 3285/94.[93]

The basic principle of the Regulation is that trade must be liberalized. This contrasts with the previous regime which was based on the principle that imports from state-trading countries were subject to restrictions, unless they were included in the "liberalization list" annexed to the relevant Regulations. However, Regulation 519/94 is more restrictive than the principal EC Regulation 3285/94. The latter follows closely WTO/GATT language and provisions.[94]

The provisions of the Regulation relating to Russia state that despite its general commitment to liberal trade, the Community may use protective measures, as elaborated in the Regulation, and allocate quantitative restrictions.[95] Import

---

[92][1994] OJ L67/89. The Regulation applies to imports of products originating in the countries listed in Annex 1 comprising the remaining state-trading countries and economies in transition, except where the Community has entered into an Association Agreement or a free trade agreement with the country concerned. As of mid-1997, these countries, including Russia, are: Albania, Armenia, Azerbaijan, Belarus, People's Republic of China, Georgia, Kazakhstan, North Korea, Kyrgyzstan, Moldova, Mongolia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan, and Vietnam. The above listed countries are not members of WTO, except Mongolia which joined the Organization in 1996.

[93][1994] OJ 349/53. This Regulation replaced Regulation 518/94 [1994] OJ L67/77, which established a new common import regime taking account of the Single Market and reformed it in depth. The further replacement by Regulation 3285/94 was necessary to take account of the WTO Agreement on Safeguards.

[94]Article 1(2) of Regulation 3285/94. The basic rule is that goods are to be freely imported into the Community and are not to be subject to any quotas unless restricted by special rules or measures.

[95]Ibid. Annex II.

 DOI: 10.2870/33363

into the Community of certain products is subject to surveillance.[96]

Council Regulation 520/94 establishes procedures for administering Community quotas and applies in respect of quotas established under Annex II of Council Regulation.[97] Import formalities are simplified and unified when surveillance or safeguard measures were to be applied.

C. Anti-Dumping[98]

Anti-dumping regulation targets price discrimination between the domestic and foreign markets and most pricing below costs of production.[99] That is what we are told by economists and lawyers.[100]

It was in the early 1980s, a period of growing foreign debt, when the Soviet Union became subject to the EC anti-dumping proceedings. Since 1989, however, after the introduction of market oriented reforms, currency disorders, wildly fluctuating prices and unemployment in Eastern Europe the proceedings have

---

[96]Ibid. Article 1(3) and Annex III.

[97][1994] OJ L66/1.

[98]For a general review of EC anti-dumping practice see Vermulst, Edwin & Waer, Paul (1996) *E.C. Anti-Dumping, Law and Practice*, London: Sweet & Maxwell.

[99]The relevant EC anti-dumping rules are contained in Regulation (EC) 384/96 on protection against dumped imports from countries not members of the European Community, [1996] OJ L56/1. The latest amendment is Council Reg. (EC) 905/98 of 27 April 1998, [1998] OJ L128/18.

[100]See Viner, Jacob (1923) *Dumping: A Problem in International Trade*, Chicago: University of Chicago Press; Jackson, John H. & Vermulst, Edwin (eds) (1990) *Anti-Dumping Law and Practice. A Comparative Study*, Hemel Hemstead: Harvester, Wheatsheaf.

arguably increased in number.

Dumping and Anti-dumping has become one of the most controversial issues in the trade relationship. Most of the proceedings have led to unsatisfactory results for the Soviet and the Russian companies, including high anti-dumping duties or minimum price undertakings. Through anti-dumping proceedings the Russian officials often argued that the European producers aimed to make Russian producers less competitive in or to put them out of the EC market. Some of the specifics and technicalities concerning anti-dumping proceeding against Russia, which had been considered a state-trading country along with China[101], were as

---

[101]It must be mentioned that Council Reg. 905/98 of 27 April 1998 stated that it "was appropriate to revise the Community's anti-dumping practice in order to be able to take account of the changed economic conditions in Russia and the People's Republic of China" and that "it was appropriate to specify that normal value may be determined in accordance with the rules applicable to market economy countries in cases where it can be shown that market conditions prevail for one or more producers subject to investigation in relation to the manufacture and sale of the product concerned". The sufficient evidence that the Russian producers must provide include:

"- decision of firms regarding prices, costs and inputs, including for instance raw materials, cost of technology and labour, output, sales and investment, are made in response to market signals reflecting supply and demand, and without significant State interference in this regard, and costs of major inputs substantially reflect market values,

- firms have one clear set of basic accounting records which are independently audited in line with international accounting standards and are applied for all purposes,

- the production costs and financial situations of firms are not subject to significant distortions carried over from the former non-market economy system, in particular in relation to depreciation of assets, other write-offs, barter trade and payment via compensation of debts,

- the firms concerned are subject to bankruptcy and property laws which guarantee legal certainty and stability for the operation of firms, and

- exchange rate conversions are carried out at the market rate."

It is not easy to estimate the practical consequences of this new Regulation that entered into force on 1 July 1998. It is evident, however, that in so far as the Russian producers are maintained at their former efficiency, and in so far as the EC member states are in a position to purchase substantially their former supplies of raw materials from Russia, the loss is limited to the effect on the Russian balance of trade, follows: the high level of economic development of the market economy countries that had been used as surrogates, often leading to high normal values and, therefore, high dumping margins[102]; the refusal of the EC institutions not only to consider Russian prices and/or costs, but also to take into account Russian factors of production (as opposed to cost of production), such as amount of labour and raw materials usage power unit of the finished product; the increasing tendency to base normal value on the price paid or payable in the EC leading to high normal values and, therefore, high dumping margins.

However, it should be noted that the EC countries have been using, along with other tariffs and quotas, anti-dumping duties as temporary short-term measures to smooth price competition and keep steady trade and employment in the EC and member states markets. Russia, compelled to pay an enormous foreign debt, has been forced to offer its goods partly by workers and miners reducing their living standards without their efficiency and partly by Russian export industries being subsidised at the expense of its other domestic industries. Therefore, the EC anti-dumping duties and the Russian subsidies have become merely temporary remedies of keeping trade and prices in the EC countries steady. However, subsidies and duties have been reducing the wealth of both trading partners and have led to waste of national resources in the transition period of the

---

and is without the more serious repercussions on its economic life which are contemplated in the text.

[102]Thus, in one of the most recent cases the Council of the European Union chose Norway as a surrogate country. See Council Regulation No. 1347/96 of 2 July 1996 imposing definitive anti-dumping duty of unwrought-pure magnesium originating in Russia and Ukraine and collecting definitely the provisional duty imposed, OJ [1996] L174/1.

1990s.

4. *BARRIERS TO TRADE BETWEEN RUSSIA AND EC MEMBERS - CONCLUDING REMARKS*

It is not a secret that trade barriers exist worldwide and the increasing number of sovereign countries in the world has gone a long way from the nineteenth century utopia of the gold standard and the autarchies of the inter-war years. The EC member states governments have been using the Common Commercial Policy, making strained efforts to preserve the stability of the trade flows between the EC and its trading partners by gradually reducing the existing trade barriers and raising economic efficiency at home, while providing a transition period while these EC non-competitive industries restructure. These trade barriers have usually been barriers at the border, such as tariff or non-tariff measures (quotas, licenses, special fees, etc.), but also non-border national measures that limit trade, including public procurement rules, environmental standards, product certification procedures and standards, and the enforcement of national competition policies.

Since the 1990s the European Community has largely normalized the tariff treatment of the transition economies in Central and Eastern Europe and the Newly Independent States, including Russia. However, Russia's exports to the EC effectively face higher than average tariffs vis-a-vis the East Europeans. The EC had extended its Generalized System of Preferences (GSP) to Russia and other

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

Newly Independent States. However, estimates of the average MFN and combined MFN-GSP tariffs applied by the EC to the Russian Federation show that the tariffs on textiles and apparel had been high. Specific non-tariff barriers that used to target the Soviet Union were dismantled, as had previously occurred with the countries of Eastern Europe. Nevertheless, the EC countries, aware of the social problems and more domestic unemployment that could be caused by a regime of liberal trade with Russia and in effort to protect their own economic equilibria, have continued to use unilateral or bilateral trade policy measures and resisted a radical opening of their markets in the years after 1992. Thus, the EC countries maintain voluntary export restraints (VERs) for steel, aluminium, uranium. It should be pointed out that compliance with EC regulations on health and safety measures, marking and packaging requirement, quality certification procedures entails significant costs, including transparency problems. Therefore, these regulations, although not explicitly designed to limit imports, have had negative effect on trade flows. The anti-dumping regulation of the European Communities was established to counteract what were considered to be unfair trade practices by some exporters outside the EC. The legislation was tied to efforts of the EC member states to ensure competition on domestic and the EC market, but also to protect domestic industries and employment against unregulated flows of Russian and other countries' products.

While sharing a sympathy for the short-term goals of the European policy makers to frame a trade regime which provides social security and stability of trade flows by using protectionist measures and recognizing that these restrictions do not restrict all the Russian products sold in Europe, this policy could hardly be reckoned in harmony with the general economic objective to increase efficiency and the economic wealth of the whole community, and with the financial arrangements between Russia and its creditors in Europe. In order to service its growing foreign debt to the European Union countries, Russia and the other Eastern European countries have to export rather than use the raw materials for their domestic industries and requirements. Therefore, it might be argued that the trade measures are not sustainable in the long run and will be subject to constant amendments and frictions between the EC Commission, as an agent of the EC countries, and the Russian government. The uncertainty and misunderstandings between the trading partners could inhibit the industrial activity of all. Steel and aluminium will not be delivered, petroleum will not be extracted. No plans which look ahead can be made by anyone. To use the words of General De Gaulle, stated in a moment of honesty: "Les Traités, voyez vous, sont comme les jeunes filles et comme les roses: ça dure ce que ça dure".

Indeed, Russia could only execute the arrangements by abandoning the bulk of its industries and returning to the status of an agricultural country, if the wheel of history could be turned back. In this case millions of its present 145 million population could obtain neither work nor food. Emigration is not possible either.

The trade arrangements, therefore, are inexpedient and disastrous, and full of danger for the economic efficiency of Europe. They are fruits of political considerations that cut disastrously across economies. In a regime of free trade, it would be of little consequence that iron, steel, petroleum, natural gas or uranium lay on one side of a political frontier, and labour, coal and refineries on the other. But it seems certain, calculating on the present passions and impulses in the

European Communities countries, that the steel, textiles, petroleum output would be diminished by a new political frontier (which sentiments and historic justice require) because "economic solidarity", nationalism and private interests are thus allowed to impose a new economic frontier near the Cold war lines. These latter considerations are allowed, in the present governance of Europe, to prevail over the intense need of the continent, however geographically or economically you define it, for sustained and efficient production and growth, to repair an ideological division that lasted for more than 80 years because of communism, and to satisfy the insistence of its younger generation for employment opportunities.

In conclusion, the trade arrangements between the Russian Federation and the EC countries strike even more at the inefficient organization of the Russian economy, and by destruction of its organisation impair the reduced wealth of the whole community.

As far the provisions in the Partnership and Cooperation Agreements and relating to the economic system of Russia, its transition to a fully fledged market economy, to economic assistance are concerned, they do not have nearly the importance and significance of those discussed hitherto. They may be considered pin-pricks, interferences and vexations, not so much objectionable for their solid consequences (the "invisible hand" of the market forces will no doubt bring a new economic equilibrium sooner or later), but they are unlikely to live up to the goals claimed by the European Communities governments that signed the treaties.

APPENDIX 1:

The European Communities Preferential Trade System as of 1995

	Share in the total EC countries trade					
	0	0-5 %	5-10 %	10-15 %	20-25 %	30%
Full economic Integration				European Economic Area		
			Switzerland			
		Europe Agreement countries (6)				
Reciprocal free trade	Baltic states (3)					
	Israel					
	Turkey					
Unilateral free access on a contractual basis			Mediterranean countries (15)			
	Slovenia					
		Lome Convention (70)				
Autonomous measures					Other developing countries (GSP beneficiaries)	
Purely MFN treatment		CIS Republics (12)				Other Industrialised countries (5)
Mostly MFN treatment		State-trading countries (5)				

Source: WTO Secretariat (1995) *Trade Policy Review of the European Union* Geneva: WTO.

APPENDIX 2:

EC Anti-Dumping Measures and Proceedings involving the Russian Federation and the former USSR[1]

Product	Exporting Country	Co-ordinates	
1995			
Unalloyed unwrought zinc-	Kazakhstan Poland Russia Ukraine Uzbekistan	Initiation:	[1995] OJ C143/12
1994			
Polyester fibre	Belarus	Initiation: Provisional Duty:	[1994] OJ C212/5 [1996] OJ L54/10
Ammonium nitrate fertilizer	Lithuania Russia	Initiation: Definitive Duty: Termination:	[1994] OJ C158/3 [1995] OJ L198/1 (Russia) [1995] OJ L198/27 (Lithuania)
Certain grain orinted electrical sheets	Russia	Initiation: Provisional Duty: Definitive Duty: Undertaking:	[1994] OJ C138/8 [1995] OJ L252/2 [1996] OJ L42/7 [1996] OJ L42/7
Unwrought magnesium	Kazakhstan Russia Ukraine	Initiation: Provisional Duty:	[1994] OJ C11/4 [1995] OJ L312/37 (Russia, Ukraine)
1993			
Ferro-silico-manganese	Russia Ukraine Georgia Brazil South Africa	Initiation: Provisional Duty: Extension Provisional: Definitive Duty: Undertaking: Registration: Amendment:	[1993] OJ C120/5 [1994] OJ L330/15 [1995] OJ L89/1 [1995] OJ L248/1 [1995] OJ L248/56 [1995] OJ L280/20 [1996] OJ L18/1

[1]In preparing this table I have used the extensive information in the book Vermulst, Edwin & Waer, Paul [1996] *EC Anti-dumping Law and Practice*, London: Sweet & Maxwell.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

Product	Exporting Country	Co-ordinates	
1992			
Ammonium nitrate [into the U.K.]	Belarus Georgia Lithuania Russia Turkmenistan Ukraine Uzbekistan	Initiation: Undertaking:	[1992] OJ C306/2 [1994] OJ L129/24 [Russia, Lithuania]
		Termination:	[1994] OJ L129/24 [Belarus, Georgia, Lithuania, Russia, Turkmenistan, Ukraine, Uzbekistan]
		Interim Review:	[1994] OJ C343/9 [Lithuania, Russia]
		Termination:	[1995] OJ L198/29
Isobutanol	Russia	Initiation: Provisional Duty Extension provisional: Definitive duty:	[1992] OJ C239/3 [1993] OJ L246/12 [1994] OJ L24/1 [1994] OJ L87/3
1991			
Hematite pig-iron	Turkey USSR	Initiation: Provisional Duty:	[1991] OJ C246/9 [1993] OJ L230/30 [Turkey]
		Provisional Duty:	[1994] OJ L12/5 [Russia, Turkey]
		Extension Provisional: Definitive Duty:	[1994] OJ L112/19 [1994] OJ L182/37
1990			
Potassium chloride [potash]	USSR	Initiation: Provisional Duty:	[1990] OJ C274/18 [1992] OJ L110/5 [Belarus, Russia, Ukraine]
		Extension provisional: Definitive Duty: Interim Review: Amendment: Interim Review:	[1992] OJ L243/1 [1992] OJ L308/41 [1993] OJ C175/10 [1994] OJ L80/1 [1995] OJ C201/4
High carbon ferro-chromium	Albania USSR	Initiation: Termination:	[1990] OJ C252/11 [1991] OJ L90/38

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

Product	Exporting Country	Co-ordinates	
1989			
Potassium permanganate	USSR	Initiation:	[1989] OJ C192/8
		Provisional Duty:	[1990] OJ L145/9
		Extension Provisional:	[1990] OJ L276/36
		Termination:	[1991] OJ L14/56
1988			
Calcium metal	China USSR	Initiation:	[1988] OJ C20/3
		Provisional Duty:	[1989] OJ L78/10
		Extension provisional:	[1989] OJ L208/1
		Definitive Duty:	[1992] OJ L271/1
		Provisional Duty:	[1994] OJ L104/5
		Extension provisional:	[1994] OJ L184/15
		Definitive Duty:	[1994] OJ L270/27
		Interim Review:	[1996] OJ C2/2
1987			
Mercury	USSR	Initiation:	[1987] OJ C53/5
		Provisional Duty:	[1987] OJ L227/8
		Definitive Duty:	[1987] OJ L346/27
		Impending expiry:	[1992] OJ C148/6
		Expiry:	[1992] OJ C328/4
Ferro-Silicon	USSR	Initiation:	[1987] OJ C77/2
		Undertaking:	[1987] OJ L219/24
		Impending expiry:	[1992] OJ C37/22
		Expiry review:	[1992] OJ C115/2
		Notice:	[1992] OJ C186/25
		Amendment:	[1993] OJ L302/1
1986			
Urea	Czechoslovakia GDR Kuwait Libya	Initiation:	[1986] OJ C254/3
		Provisional Duty:	[1987] OJ L121/11
		Undertaking:	[1987] OJ L317/1 [Czechoslovakia, GDR, Kuwait, Trinidad and Tobago, USSR, Yugoslavia]
	USSR Yugoslavia	Interim review:	[1993] OJ C87/7 [Czechoslovakia, USSR]
	Trinidad and Tobago	Expiry:	[1995] OJ L49/1 [USSR]

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

Product	Exporting Country	Co-ordinates	
1985			
Deep freezers	GDR	Initiation:	[1985] OJ C319/3
	USSR	Provisional Duty:	[1986] OJ L259/14
	Yugoslavia	Underataking:	[1986] OJ L259/14
		Definitive Duty:	[1987] OJ L6/1 [USSR]
		Expiry:	[1992] OJ C7/7 [USSR]
Ball bearings and tapered	Poland	Interim review:	[1895] OJ C77/4
	Romania	Termination:	[1986] OJ L102/31
1984			
Standard wood particle board roller bearings	Bulgaria	Initiation:	[1984] OJ C305/6
	Poland	Termination:	[1985] OJ L268/22
	Czechoslovakia		
	Romania		
	Spain		
	USSR		
	Yugoslavia		
Silicon carbide	China	Initiation:	[1984] OJ C202/5
	Norway	Undertaking:	[1986] OJ L287/25 [China, Norway, Poland, USSR]
	Czechoslovakia		
	Poland	Interim review:	[1991] OJ C279/11 [USSR, Norway, Poland, China]
	Spain		
	USSR		
	Yugoslavia	Definitive duty:	[1994] OJ L94/21 [China, Poland, Russia, Ukraine]
		Undertaking:	[1994] OJ L94/32 [China, Norway, Poland, former USSR]
Artificial corundum	Hungary	Initiation:	[1984] OJ C201/4
	Poland	Undertaking:	[1986] OJ L271/26
		Review:	[1990] OJ C67/7
		Undertaking:	[1991] OJ L275/27
		Definitive duty:	[1993] OJ L235/1 [Russia, Ukraine]
		Impending expiry:	[1996] OJ C24/5

Product	Exporting Country	Co-ordinates		
Horticultural glass and drawn glass	GDR	Initiation:	[1983]	OJ C194/4
	Poland	Undertaking:	[1984]	OJ L224/26
	Romania	Expiry:	[1990]	OJ C23/4
	USSR			
	Czechoslavakia			
Non-alloyed unwrought aluminium	Egypt	Initiation:	[1983]	OJ C31/4
	USSR	Termination:	[1983]	OJ L161/13
	Yugoslavia		[1984]	OJ L57/19 [USSR, Yugoslavia]
Unwrought nickel	USSR	Initiation:	[1983]	OJ C31/3
		Provisional Duty:	[1983]	OJ L159/43
		Termination:	[1983]	OJ L286/29
1982				
Copper sulphate	Czechoslovakia			
	USSR	Initiation:	[1982]	OJ C331/2
		Provisional Duty:	[1983]	OJ L151/24
		Definitive Duty:	[1983]	OJ L274/1
		Interim review:	[1984]	OJ C55/2
		Amendment:	[1984]	OJ L225/22
		Interim review:	[1986]	OJ C200/4
		Amendment:	[1987]	OJ L235/18
		Undertaking:	[1987]	OJ L235/22
		Interim review:	[1988]	OJ C200/9 [USSR]
		Impending expiry:	[1993]	OJ C205/3 [former USSR]
		Expiry:	[1994]	OJ C37/4 [former USSR]
1981				
Photographic enlargers	Czechoslovakia			
	Poland	Initiation:	[1981]	OJ C271/4
	USSR	Provisional duty:	[1982]	OJ L212/32 [Poland, USSR]
		Extension provisional:	[1982]	OJ L322/3
		Undertaking:	[1982]	OJ L9/5 [Poland, USSR]
		Expiry:	[1988]	OJ C72/6 [Poland, USSR]

Product	Exporting Country	Co-ordinates		
Standardized multi-phase electric motors	Czechoslovakia			
	Bulgaria	Initiation:	[1981]	OJ C197/2
	GDR	Provisional Duty:	[1982]	OJ L85/9 [USSR]
	Hungary	Definitive Duty:	[1982]	OJ L220/36 [USSR]
	Poland	Undertaking:	[1984]	OJ L95/28 [USSR]
	Romania	Interim review:	[1985]	OJ C305/2
	USSR	Provisional duty:	[1986]	OJ L280/68
		Extension provisional:	[1987]	OJ L26/1
		Definitive duty:	[1987]	OJ L83/1
		Impending expiry:	[1991]	OJ C256/6
		Expiry:	[1992]	OJ C80/7
Upright pianos	Czechoslovakia			
	USSR	Initiation:	[1981]	OJ C181/3
		Provisional duty;	[1982]	OJ L101/30 [USSR]
		Definitive duty:	[1982]	OJ L238/1 [USSR]
		Undertaking:	[1984]	OJ L332/79 [USSR]
		Repeal:	[1985]	OJ L26/5 [USSR]
		Expiry:	[1989]	OJ C326/5 [USSR]
Fibre building board [hardboard]	Czechoslovakia			
	Finland	Interim review:	[1981]	OJ C164/3
	Norway	Undertaking:	[1982]	OJ L181/19 [USSR et. el.]
	Poland			
	Romania	Provisional Duty:	[1984]	OJ L61/21 [USSR]
	Spain			
	Sweden	Definitive Duty:	[1984]	OJ L170/68 [USSR]
	USSR			
		Expiry review:	[1988]	OJ C165/2 [USSR et. el.]
		Expiry:	[1989]	OJ C243/3 [USSR]
Refrigerators	Czechoslovakia			
	GDR	Initiation:	[1981]	OJ C162/3
	Hungary	Undertaking:	[1982]	OJ L184/23
	Poland	Expiry:	[1988]	OJ C131/3
	Romania			
	USSR			
	Yugoslavia			

APPENDIX 2

NEGOTIATING THE 1994 PARTNERSHIP AND COOPERATION AGREEMENT

After the break-up of the Soviet Union, the twelve EU states decided to negotiate a new Trade and Cooperation Agreement, sometimes used for less developed countries (LDCs) countries and now with Russia and the new republics. It was initially the EU goal to achieve an agreement with Russia first and have it signed in June 1993. However, this deadline was not achieved, and the Partnership and Cooperation Agreement was delayed for about two years. This was due to the time needed for the western European governments to make up their minds on how to deal with Russia's transition to a market economy as well as their own domestic problems.[1] Moreover, the period of negotiations coincided with other important events on the EU agenda as the ratifications and the referendums on the Maastricht treaty, the completion of the GATT Uruguay round of multilateral trade negotiations, considered a priority, and the accession negotiations of the Scandinavian countries and Austria to the EU.

There had been no consensus within the EU Council on the long-term aim of

[1]"The End of a Short Love Affair," *Economist*, 3 July 1993, 48.

the agreement.[2] From the start of the negotiations only some of the politicians of re-unified Germany with huge economic and security stakes in Russia probably deliberated in favour of the goal to create a free trade area. This was the Russian desire as well. However, since the other member states governments feared giving the public the wrong message of possible immigration from the East, the EU as a single actor was very wary and approved directives for negotiations that were identical for all states of the former Soviet Union.

Russia's initial position in the negotiations was for more trade access to the European markets, an agreement that would firmly promise a free trade area, and treatment in accordance with the GATT rules as far as antidumping was concerned, i.e. an agreement close to the Association agreements signed with the Eastern European countries.[3]

However, the European Union leaders, faced by growing unemployment and widening budget deficits, were very cautious and rather unwilling to open their markets. The EU member states, initially, were not ready to go beyond the non-preferential 1989 Agreement with the Soviet Union, and in the mandate they gave the Commission they were governed predominantly by their national interests and balance of power considerations.

Europe was not prepared for free trade and was ready to offer no more than most-favored nation trading status, which could be suspended if Russia were found to abuse human rights. The EU claimed that this was a step forward since the Soviet

[2]"The Commission on Wednesday and the Council on 5 April to Discuss Possible Specific Community Initiatives - Towards an Enlargement of Aims in the Partnership Agreement, As Far As A Free-Trade Zone," *Agence Europe*, 24 March 1993, 7-8.

[3] "Jacque Delors in Moscow on 29 May" *Agence Europe*, 9 May 1992, at 8.

Union had not enjoyed most-favored nation status before 1989 and more than 80 percent of Russian exports did not face tariffs anyway. As far as antidumping, European manufacturers had continuously complained that Russia was guilty of dumping its exports. The EU decision was to apply the GATT rules on antidumping and recognize Russia as a market economy once it had finished its transformation.

When the economic situation began to deteriorate in Russia, before the April referendum and the elections for State Duma in December 1993, the twelve EU states deliberated specific Community actions that could be taken concerning Russia. The actions giving Boris Yeltsin political support were coordinated with measures on the international level, that is along with the Group of Seven Industrialised Nations, the International Monetary Fund and the World Bank.

The General Affairs Council adopted in April 1993 a decision which allowed the incorporating into the agreement of an "evolutionary clause" opening up the possibility of an eventual free trade area between the two parties. The Russian negotiators were not pleased with this much symbolic promise and called for more concrete commitments, i.e. better trade access to the Community in the short term.

On its side, the European Union was not ready to change its negotiating position, leading Sir Leon Brittan to announce during his June 1993 visit to Russia that it was unlikely that the accord would be signed until the end of 1993.

There was a breakthrough in November 1993. The EU member states, previously torn between the political goal of backing Boris Yeltsin and the pain of offering economic concessions which could stir negative public opinion at home at a time when their economies were trapped in recession, offered partial concessions. First, Russia would no longer be labelled a "state trading country" like China, but an "economy in transition" thus making the use of anti-dumping and safeguard measures by the EU Commission more transparent, acceptable and predictable. Second, the EU decided to make a more precise promise and to set 1998 as the year when possible negotiations would start between Russia and the EU on a free trade area. Russia acquiesced to the inclusion of a standard human right clause in the pact and agreed not to try to improve market access for cheaper Russian products in the sensitive European sectors, steel and aluminum. Finally, Russia also gave up its demand to be treated as a full "market economy".[4]

Nevertheless, Russian expectations that a deal would be struck before the December 1993 Parliamentary elections were not met. During Yeltsin's visit to Brussels a few days before the Communists returned to power in the State Duma, the EU went as far as signing a political declaration promising political and economic cooperation.[5] The declaration provided for the establishment of a permanent political dialogue and a system of regular consultations at different levels for all political and economic questions.

Fundamental divergences persisted throughout 1994, notably in the nuclear sector (in particular rules concerning trade of uranium).[6] France, with its large share of the EU nuclear industry, proved from the very outset to be highly protectionist and insisted that the trade questions be governed by a separate accord between the EU and Russia. This Euratom agreement would give the EU more leeway in

---

[4]"Europe offers Russia trade concessions," *Financial Times*, 10 November 1993, at 3.

[5]"EU fetes democracy incarnate" *Financial Times*, December 10, 1993, 3.

[6]"EU Seeks Uranium Export Cut," *The Moscow Times*, 2 February 1994.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

connection with over-large imports or dumping practices in the enriched uranium trade. Russia's position was that the Euratom agreement was not binding enough and that the exclusion of the nuclear sector from the partnership agreement would deprive the Russian nuclear industry of an important trump card in trade relations with the EU.[7] The other eleven member states were more sympathetic to the Russian stance and were ready to accept the rules of the Cooperation agreement to govern trade in nuclear products as well.[8]

After a number of fruitless bilateral consultations between France and Russia and several proposals from the Commission, Russia and Greece, it was finally agreed, with France consent, that the pact should include the safeguard clause contained in an earlier 1989 Cooperation Accord as far as trade in nuclear products was concerned.

In conclusion, the expectations of the EU were that the agreement would strengthen economic and political ties between the two parties. At its signing at the Corfu Summit in June 1994, President Yeltsin stated that the agreement was of historic importance and was a "document which clearly defined the stages and conditions of bringing Russia back into economic Europe as an equal partner."[9]

The Partnership and Cooperation Agreement has been considered a central

---

[7]"Objections Bar Moscow-EU Pact," *The Moscow Times*, 20 May 1994.

[8]"Negotiations on the Partnership and Cooperation Agreement Should Soon be Relaunched But Conclusion Is Not Expected Before End March," *Agence Europe*, 19 January 1994, at 7.

[9]The Russian press was more than enthusiastic welcoming the agreement as symbolic, because Russia was finally recognized an economy in transition, and as the first major trade pact signed by Russia which opened markets for Russian products. See "European Markets Are Open To Russia. Quality Goods Should Come Next," *Izvestia*, 24 June 1994, at 1.

plank in the strategy of Western Europe for stabilizing post-communist Russia.[10] It was aimed at easing nationalistic fears in Russia of isolation as more and more countries joined or were associated with the European Union. Interestingly enough, the signing of the Agreement coincided with the accession of Austria, Finland, and Sweden to the EU also at Corfu.

On one hand, in 1994, the European diplomats believed that the EU's pragmatic and cautious policy of gradually embracing Russia was paying off. Before signing the Partnership Agreement Russia became a member of the NATO Partnership for Peace Program and dropped its demands for a special status. In July 1994, the Group of Seven industrialized nations welcomed Russia as a member of G8 in their summit in Naples and allowed the latter to participate in their discussions on political and global issues, but not on financial and economic ones.[11] All these symbolic acts were meant to be signals that Russia was being treated as a "great power", but a power that was not an equal partner.[12]

On the other hand, Russian politicians and diplomats realised the limitations of Russia's relationship with the West and that it would be impossible to ask Russia to strive for closer relations with the EU. The signing of the Partnership and Cooperation Agreement and the following events happened in a period of rising nationalism and growing mistrust toward the West because of the war in Bosnia, the

---

[10]"Yeltsin signs plan to bring Russia back into Europe," *Financial Times*, 25 June 1994, at 2.

[11]"A Strong Message on Growth and Employment Expected from the Naples Summit..." *Agence Europe*, 4/5 July 1994, at 3.

[12]"Life without money is hard...," *Moscow News*, 15 July 1994; "Yeltsin in Naples: guest or participant," *Moscow News*, 8 July 1994.

plans for NATO's expansion, and deteriorating domestic economic conditions, but revealed that Russia's public opinion was not prepared for radical decisions and a policy of consistent isolationism as in the early days of the Soviet Union. It should be noted that no matter how limited the financial assistance and trade opportunities offered by the EU were, Moscow was more than ready to accept them and to wait.

On February 1, 1996, the Interim Trade Agreement between Russia and the EU came into force, giving effect to the trade and trade-related aspects of the Partnership and Cooperation Agreement. After July 1994, the EU was able to negotiate improved access to the Russian market for cars and alcoholic beverages and to curtail many existing quotas. The accord also contained rules for protection and enforcement of industrial and intellectual property rights.

Russia did not receive more concessions than those at the signing of the Partnership Agreement. Russian exports to the EU were to be facilitated by abolition of several quantitative restrictions in sectors not including textiles, steel and agriculture, and the scope of the anti-dumping procedures was to be reduced. Nevertheless, Russia did not receive the preferred market economy treatment as its former allies of CMEA did.

In conclusion, it is clear that the power differential between the EU and Russia underlying the trade negotiations was overwhelming. As a result, Russia had to make the bulk of the adjustment and to accept almost everything the EU proposed. As a contemporary political scientist would argue it was the existing asymmetrical interdependence relationship of a debtor which made the former military superpower a "regime taker" in these negotiations. The EU states offered minimal trade concessions, which were linked to security considerations and to fears that the domestic situation in Russia might aggravate in an unpredictable direction.

THE CHECHEN CRISIS - LINKING HUMAN RIGHTS TO TRADE

The Russian military offensive in Chechnya, which began in December 1994, presented the European Union member states with another predicament in managing their trade relations with Moscow. France and Denmark called for the imposition of economic sanctions on Russia to human rights violations. The Europeans were divided over the issue as geopolitical and strategic interests clashed with human rights considerations. Smaller member states such as Austria, Sweden, and Denmark were outspoken and openly called for punitive measures, while larger ones, the UK, and Germany, reacted more cautiously.

In March 1995, the EU foreign ministers decided to delay the signing of the interim trade accord, which would put into effect the trade provisions of the Partnership Agreement.[13] EU leaders made signature of the pact conditional on a ceasefire and on the Russian government beginning a dialogue with the Chechen rebels.[14] This strategy proved only partly successful.

Germany and the UK led the way for the EU by expressing clearly that the sanctions upon Russia would simply strengthen Russian nationalists in the forthcoming elections. The Europeans decided to follow the United States in distinguishing between Russian sovereignty over Chechnya, and cited the unacceptability of the human rights violations. The EU members restrained

[13]Open Media Research Institute, *Daily Digest* 1, No. 47 (March 7, 1995).

[14]"European Union Sets Conditions for Moscow," *Moscow News*, March 17, 1995.

themselves from formal criticism, fearing that political instability would isolate Russia, but postponed signing the trade pact. In June 1995, the three Baltic states became associated members of the European Union, and Ukraine signed an interim trade accord with the EU. These events were interpreted by some Russian foreign policy makers and press as another discriminatory act of the EU against Russia.[15] Consequently, the interim agreement between the EU and Russia was signed in July 1995, and the consensus reached among the EU states was that the possible consequences of not concluding the agreement outweighed the consequences of doing so. The free traders, Britain and Germany, led the argument in favour, while states like France and Belgium, who initially were concerned about Russia gaining comparative advantage through state subsidies and cheap labour, compromised.[16] The signing of the interim agreement coincided with opening talks between NATO and Russia on defining a "special relationship" in order to counter Russian fears of isolation after eventual NATO enlargement to include Eastern European countries.[17] The two events were another effort by the major European powers and the US to ensure the future 'security' architecture of Europe with Russian participation and to make good on the 1994 promises of minimal trade opportunities to the emerging market economy.

---

[15]"Baltic States Associated With Europe," *Segodnya*, 14 June 1995, at 1.

[16]"Russia trade deal ends freeze as NATO opens talks," *Financial Times*, 17 July 1995, 2.

[17]"Moscow does not want to play by NATO's rules," *Moscow News*, 8 April 1994.

4 TOWARD A SETTLEMENT OF THE SOVIET/RUSSIAN FEDERATION FOREIGN DEBT?

This chapter has the purpose of presenting an analysis of the Soviet/Russian foreign debt obligations. The story is very frustrating for both creditors and debtor and would probably lead many to the conclusion that no solution is forthcoming or possible. I will not attempt to describe the endless controversy and intrigue between the European creditors and will limit myself with citing several statements in the press. I imagine the negotiations have been utterly contorted and unsatisfactory to all parties.

I would like to make the following remarks which should be born in mind in a summary of arrangements and accords related to the Russian Federation, or any country debt finance. It proved impossible to me to find accurate estimates and information concerning negotiations relating to foreign debt and its payments. This is probably due to the secrecy surrounding this kind of deals and transactions and the unwillingness of banks and governments to be fully transparent when it comes to money payments. Hereinafter, I use a number of sources relying mostly on the World Bank's *Global Development Finance* and *World Debt Tables* as well as the articles from the financial press. My task has been to provide a general picture of the financial obligations faced by the Russian Federation rather than arriving at an exact figure of its debts, how and when its payments were performed. I must be content with an analysis, which will follow in the next chapters, of the 1992 and later compromises which should be known to the whole world.

THE SOVIET UNION AND ITS FINANCIAL SUCCESSOR - THE RUSSIAN FEDERATION

The press and the economists were not unanimous in estimating the exact size and composition of Russian debt upon the disintegration of the Soviet Union. The following discussion assumes that Russia has taken on all the liabilities of the former Soviet Union and that all other ex-Soviet republics have relinquished their claims on the Soviet Union' foreign assets.[1] The World Bank estimated the Russian foreign debt at $67.2 billion in December 1991.[2] The publication *Trade and Finance* put the Russian debt in 1992 at around $70 billion, with $34.3 billion owed to the Paris club, $4.1 billion to other official creditors, and $31 billion to the London club of commercial creditors.[3] Some estimates of the public club debt also provide

[1]Russia started negotiations in July 1992 with the other former Soviet, now independent, republics on debt and asset reallocation. The Russian government proposed that it alone would take on all Soviet Union liabilities. Russia offered two options: the zero option agreement, under which the counterpart ex-Soviet republic would relinquish its share of the former Soviet Union' foreign assets and investment in exchange for Russia accepting responsibility for the counterpart state's share of the foreign liabilities of the Soviet Union, and an interim protocol authorising Russia to manage the counterpart's share of the Soviet Union external liabilities until the signature of the final agreement. In 1993, The Russian Federation signed zero option agreements with Armenia, Azerbaidjan, Belarus, Kazakhstan, Kyrgyz republic, Moldova, Tadjikistan, and Uzbekistan. As far as I am informed, negotiations on the zero-option have been controversial and, so far, fruitless with Ukraine, Georgia, Estonia, Latvia, and Lithuania. See World Bank, *World Bank Tables, 1993-1994,* at 138.

[2]World Bank, *World Bank Tables 1992-1993,* at 29. Mr Alan Riding of the *New York Times* estimated the Russian foreign debt at $80 billion, with $40 billion of official loans owed to the Paris club of Western governments, $20 billion to the London club of commercial creditors. See Riding, Alan (1993) "19 Western Nations Give Russia an Extra 10 years to Repay Debt" *New York Times,* April 3, at A4.

[3]"Russian Debt Talks Stall as Aven Leaves", *Trade & Finance,* January 1993, at 20.

calculation of who are the main country-creditors: Germany - $18 billion; Italy - $5.3 billion; the United States - $4 billion; France - $3 billion; the United Kingdom - $1.7 billion; Canada - $1.5 billion; and Finland - $1 billion.[4] Mr Terence Roth, writing in the *Wall Street Journal*, estimated the debt to commercial banks to around $23 billion.[5] The *Economist* estimated the Western commercial bank exposure to $16 billion.[6] Thus, as might be guessed, the German banks, with Deutsche Bank the largest creditor, were Russia's chief lenders, holding about $21 billion in debt, of which about 20 per cent was not guaranteed by the German government. French banks were believed to hold, as the *Financial Times* calculated, between $3.7 billion and $4.6 billion.[7]

THE SOVIET UNION AS A CREDITOR

Official published Soviet data indicated that the USSR extended credits to many developing and socialist countries and its claims in 1990 totalled over 85 billion rubles (over $125 billion at then official rate).[8] The biggest Soviet debtors, which accounted to almost 90 per cent of the Soviet claims, were Cuba - $27.9

---

[4]"EBRD Could Play Pivotal Role In Promoting Debt Relief" *EBRD Watch*, March 23, 1992.

[5]Roth, Terence (1992) "Western Banks to Roll Over Ex- Soviet Debt", *Wall Street Journal*, June 22, at 9.

[6]"Sorting Out Russia", *Economist*, September 26, 1992, at 97.

[7]Rawsthorn, Alice (1993) "Russia and the G7: French Commercial Banks Oppose Rescheduling of Russian Debt", *Financial Times*, April 16.

[8]The World Bank official estimates were that the Soviet Union claims on the developing countries exceeded $140 billion in 1991.

billion, Mongolia - $17.5 billion, Viet nam - $16.5 billion, India - $16.0 billion, Syria - $11.5 billion, followed by Afghanistan - $7.8 billion, Yemen - $5.6 billion, Iraq - $5.2 billion, Ethiopia - $5.2 billion, North Korea - $4.5 billion, Algeria - $4.3 billion, Angola - $3.6 billion - all already over-indebted countries to other creditors scarcely likely to repay debts to the Soviet successor, the Russian Federation.[9] The Soviet Union extended most of its credits for purchase of its industrial equipment to all the above countries at a rate of interest of about 2-2.5 per cent and a maturity of 15 years. In the late 1970s and 1980s a quarter of all loans were granted at a rate of interest of about 5-8 per cent and maturity - 10 years. In 1992, the World Bank officials calculated optimistically that over a quarter of all the Soviet claims on the developing countries were in arrears. Nevertheless, only 25 per cent of debt service which fell due in 1991 was actually paid and what was paid was in kind and not in hard currency.[10] Since then the average sums were of $150 million. Interestingly enough, the Soviet Union was a net debtor to its former East European partners from COMECON, with the exception of Poland.[11]

A SHORT HISTORY OF THE SOVIET DEBT

It has been argued that Soviet Union's debt problem arose under Mikhail

---

[9]Other Soviet debtors include Cambodia, Egypt, Laos, Libya and Nicaragua. See World Bank *World Debt Tables 1992-1993*, at 35.

[10]World Bank *World Debt Tables 1992-1993*, at 35.

[11]The reason for this though is simple: the USSR exported raw and energy materials while imported machinery.

Gorbachev's tenure during the last years of the Soviet Union.[12] This is the orthodox view, but it is not hard to imagine what consequences would have resulted from a deflationary and restrictive monetary policies in the mid-1980s in a totalitarian country and in the world economy, if the Soviet Union did not continue to borrow or if these credits were not extended. Or in other words, the clock of history seemed unlikely to go backwards or to stop. It is another question that part of the money was squandered, but part of it alleviated and postponed problems that were knocking on the Soviet Union's and the world trading system's door for years. Between 1989 and 1992, after 70 years the doomsday of communism and its inefficient economic system arrived as well as the 'division' of the world market by the Iron curtain of the Cold war, and the public both in the East and West was gradually moving to accept this conviction.

It is not a public secret that the Soviet Union pursued a conservative borrowing policy from the industrialised Western countries until the 1970s. During the period of *détente* in the 1970s the Soviet Union rapidly increased its borrowing: the long-term debt grew from $0.2 billion in 1971 to $5 billion in 1980. As Professor Nove writes: "This was facilitated by an improved political atmosphere ('détente'), which encouraged Western firms and banks to grant long-term credits on a large scale, and, from 1973, also by the rise in prices of oil (by far the largest Soviet export to the West) and some other commodities, as well as gold. Soviet purchases of Western (and Japanese) technology increased very sharply, and there were also large purchases of grain. Soviet aid programs for developing countries did not

[12]"Russia's Debt: Burdensome", *Economist*, 3 April 1993, at 74-75.

expand, but trade grew, especially Soviet sales of arms."[13] On the other side of the Iron curtain, this coincided with the end of the Bretton Woods system and the unpegging of the US dollar from gold. The United States would also soon become a chronic debtor to European and Japanese investors. I will leave the analysis of the US and the world debt problem to a later chapter. Nevertheless, the oil shocks and rising prices of food were signals that showed a trend of diminishing returns of Nature to any further increase in the population and that commenced to affect everybody.

In the 1970s and 1980s the Soviet Union enjoyed the rating of a first grade borrower on the western financial markets. It borrowed as long as the terms of borrowing were acceptable in order to finance imports of machinery, technology, and particularly agricultural products (food). In fact, until 1985 Soviet external debt was made up primarily of suppliers' credits and commercial bank financing for imports.[14] It was generally believed by western governments and bankers that with its system of central planning, monopoly of foreign trade activities, gold and natural resources the USSR would never experience difficulties in servicing its debt. The state state of legal affairs was accepted as rational and permanent. The Bank Vneshneiekonomicheskoi Deyatelnosti (Bank of Foreign Economic Activities [VEB], which handled most of the USSR's debt, had a flawless record for many

[13]Nove, Alec (1989) *An Economic History of the USSR*, at 375-6.

[14]At the end of 1985, more than $16 billion of the USSR's total of $29 billion debt consisted of these trade obligations. World Bank (1992) *World Bank Tables 1992-1993: External Finance for Developing Countries*, Washington, D.C.: World Bank, at 29.

years.[15] Foreign borrowing in hard currency was tightly controlled.[16] However, there were factors that started to throw doubt on the above presumption: They included the collapsing domestic economy associated with declining oil and gold production and earnings,[17] failed efforts to increase exports of manufactured goods, especially to developing countries, less favourable than expected expansion of natural gas production for export to Western Europe, and shrinking income from gold and arms sales to developing countries led to loss of flexibility in Soviet hard-currency trade and debt policies.[18] The new fresh loans from abroad were deliberated to serve the present, while perestroika and its leader Mikhail Gorbachev, together with the US President Ronald Reagan, were to prepare and persuade the conservatives at home and the world public opinion that enemies, fears, ideologies, armaments and debts incurred during the Cold war should gradually disappear and be peacefully replaced by a system of trust, co-operation,

[15]Fairlamb, David "Moscow's Financial Crisis", *Institutional Investor*, January 1992, at 82.

[16]It was even believed that the USSR would provide financial assistance to its allies in case of external debt difficulties. The Polish debt crisis in the early 1980s, the Bulgarian debt crisis in 1990 proved this not to be true.

[17]Since 1985 world price of oil has been declining, to reach a level which is much lower in real terms than prices after the oil shock in the late 1970s. This view is supported by the executive director of the International Energy Agency Robert Priddle in the *International Herald Tribune* of 19 November 1997 in his article "Crisis With Iraq, but the World Oil Market Looks Steady", at 8. The same is true for the prices of gold which from $607 per ounce in 1980 dropped to $317 per ounce in 1985. In the first years of perestroika gold prices went up to $446 per ounce and since then have been on a decline to reach a record low price below $300 per ounce in December 1997 after the debt crisis that have started in South East Asia. See IMF's International Financial Statistics and the chapter on world commodity prices.

[18]The Soviet Union's foreign debt soared from about $5 billion in 1983 to about $17.5 billion in 1984.

and international division of labour.[19] Perestroika and the Soviet borrowing coincided with a renewed "explosion of the America's external debt position" toward Europeans and Japanese investors, as Mr C Fred Bergsten, former US assistant secretary of the Treasury would state in *The International Herald Tribune* of 17 December 1997, the rampant years of growth and growing public debt and budget deficits in the European Communities countries, and successful plans to resolve the Latin American debt crisis.

Before and during the first years of perestroika, interest rates on the Soviet long-term debt were about 8 per cent. As the World Bank reported, the average terms of borrowing in the period between 1985 and 1988 were: interest rates of about 7.7 per cent, maturities of 8 years and a grace period before starting to make payments of 4.5 years. The Soviet Union borrowed about $5 billion dollars in 1985 and $5.5 billion in 1986. From 1987 until the disintegration of the Soviet Union the terms of borrowing had become more onerous, with shorter maturities of about 7 years and grace periods of about 3 years.[20] The sums borrowed were also bigger and amounted to about $10 billion each year. As the grace period was of about 4 years and maturities were relatively long the debt service averaged only $5 billion - $6 billion in principal payments annually. Nevertheless, the short-term debt, used for a first time in 1985, jumped from about $6 billion in 1986 to about $11 billion

[19]Gorbachev's book *Perestroika: New Thinking for Our Country and the World,* was probably not less inspiring and theological for a person in the 1980s than were the Fourteen Points of the US President Woodrow Wilson to someone after the First World War.

Gorbachev, Michail (1987) *Perestroika: New Thinking for Our Country and the World,* London: Collins.

[20]See World Bank, *World Debt Tables, 1992-93,* at 31.

in 1988 and $18 billion in 1989. Until the Berlin wall tumbled the liabilities towards the London Club of international private banks but also to governments increased.[21] Thus, contractual principal payments jumped from an annual $5.4 billion in 1986 ($6.2 billion in 1988, $5.7 billion in 1989), to $23 billion in 1990.[22] It was not surprising, I think, that in 1990 the USSR experienced the first serious liquidity problems with arrears on its debt toward the industrialised countries of only $6 billion.[23] The creditors, mainly the re-unified Germany, provided large, but not sufficient amounts of loans and grants, which in my opinion instead of simplifying, even more complicated the situation. However, all medium-term debt was fully serviced, while short-term debt owed by state enterprises was partly serviced. In 1991, the Soviet Union, but also the Eastern Europeans, experienced unprecedented turmoil in its foreign trade relations while making a second Sisyphus effort to fulfil its hard currency obligations of $17 billion towards its European, Japanese and US creditors.[24] The Council for Mutual Economic Assistance was disbanded and world market prices and convertible-currency

[21]In April 1989 some thousands Soviet enterprises were granted permissions to engage directly in foreign trade on their own account and risk. Imports increased by 23 per cent in dollar terms, while exports increased only by 5 per cent. The Soviet Union experienced the first convertible currency trade deficit and first arrears on foreign debt payments of $500 million. See World Bank, *World Bank Debt Tables*, 1992-93, at 30.

[22]World Bank (1992) *World Debt Tables 1992-1993: External Finance for Developing Countries*, Washington, D.C.: World Bank, at 31.

[23]Compared with some developed, like the US, and developing countries with large external debts, the former USSR and now the Russian Federation, still could be considered as moderately indebted by international and World Bank standards.

[24]The principal was of about $12 billion and the interest payments of $4.2 billion. See World Bank, *World Bank Tables 1992-93*, at 30.

settlements were introduced between the Eastern Europeans countries and the Soviet Union. The Soviet Union's trade statistics for 1991 are difficult to interpret, but it may be argued that exports to the trading partners in Eastern Europe fell by two-thirds, imports from the same countries were severely compressed, and oil exports were redirected to markets that could pay in convertible currency. Alas, despite the trade surplus in convertible currency the arrears on contractual debt obligations were of about $5 billion. VEB suspended hard currency payments in December 1991. The events followed their unprecedented march despite the fact that the public and many politicians were surprised to witness the disintegration of the unbreakable Soviet Union.

The Cold war was over as well as the socialist system. The peaceful transition was finally completed. Before a settlement was reached between the new republics for the successor of the liabilities of the Soviet Union, the Russian Federation launched an experiment, called a free market reform, marked with uncertainty, currency disorders, falling living standards and production, and enormous foreign debt. Upon the disintegration of the Soviet Union, under conditions of capital flight and depleted foreign reserves, the successor republics paid only $1.3 billion in the first three quarters out of contractual debt service of $12 billion. The story of annual reschedulings of the foreign debt was inaugurated by the creditors and the debtor, while the prospective credits started to diminish.

Professor Jeffrey Sachs of Harvard University described those 'memorable' moments in the following way in *The New Republic* of 21 December 1992:

"The greatest foreign policy blunder of the Bush administration has been its neglect of Russia's needs in the year since the collapse of the Soviet Union. American stinginess (not to mention that of the Europeans and the Japanese) has made President Boris Yeltsin's task vastly more arduous and has strengthened the hand of the hard-liners, who are once again trying to reverse the economic reforms at the current meeting of the Russian Congress.

Despite the great stakes of the West in the success of Russia's reforms, actual Western support has been minuscule. Indeed, the contrast of high-sounding rhetoric and little real support has had an enormously corrosive effect on Russian politics. The reformers have been derided for trusting in the West. Hard-liners have urged a return to inward-looking policies, declaring that the West has shown itself to be unreliable and hostile to Russia's efforts.

The mismanagement of the aid effort is a startling tale. On October 28, 1991, just a month after the attempted coup, Yeltsin announced that Russia would embark on the most dramatic democratic and market reforms in history. This remarkable speech was followed by silence from Western leaders. A few weeks later Yeltsin appointed a government of brilliant young reform economists, wisely skipping two generations of economists who Yeltsin sensed were still mired in the misconceptions of the old system.

The leading finance officials of the Western governments arrived soon after in Moscow. One would assume that these officials met with the new Russian government to see how the West could help with the mind-boggling task of stabilizing the Russian economy. But the purpose was rather different. The officials spent the entire week pressing Russia and the other republics to continue paying the interest on the old Soviet debt, an impossible demand, given the lack of financial reserves. The new Russian government signed on, despite the sure knowledge that it would have to default on the agreement within days.

In January Secretary of State James Baker convened a White House meeting of more than forty countries to discuss Western assistance--a good opportunity to display Bush's global leadership. But the administration was more interested in a smooth meeting than in substance. Afraid that the Russian government might use the occasion to appeal for meaningful financial assistance, Baker did not invite a single Russian official to participate. There was no talk about Russia's real financial needs, only about highly visible "humanitarian assistance," such as food credits, which fell far short of Russia's actual needs.

At that point the G7 countries assigned the International Monetary Fund to be the

West's agent in Russia's reforms. One should have some sympathy for the organization. It is the only one in the world that has a relatively clear view of how Russia can most effectively reform its economy, and that speaks clearly about the urgent need for Russia to cut its budget deficit and get its monetary policy under control. But it also is an exceedingly cautious bureaucracy, unwilling to take initiatives unless strongly supported by the leading Western governments. Sure enough, the IMF took its cue from the G7 last January when it told the Russians that Russia really didn't need much financial help in 1992.

In March the Russian government demanded from the IMF a professional assessment of its financial needs. To the IMF's credit, it reversed its position and acknowledged that in fact Russia's financial needs were significant. Partly as a result of this, and partly due to political hammering on Bush by Richard Nixon and Bill Clinton about the need to do more for Russia, the G7 governments announced a $24 billion aid package on April 1. This had one crucial effect. It helped the reformers in the spring session of the People's Congress make it through the political pitched battle with the hard-liners.

The Russian government immediately asked the IMF for a detailed description of the $24 billion program. There had been no discussions of specific projects, the organization of the aid effort, or even the sources of the funds. And alas, the IMF couldn't come up with an explanation of the program. It devised four contradictory explanations over four months, admitting in private that there really was no organized program--only suggested sums of how much support Russia might receive from various sources, including the IMF, World Bank, Western governments, and debt rescheduling. Again, it was not the IMF's fault: there was simply no G7 policy to grab on to.

In the end, there was no organized aid effort at all. Russia received about $ 8 billion in short-term credits to import grains and other basic goods. Most of these loans had actually been arranged in 1991 and were simply being implemented in 1992. Since these are short-term credits, about $2.5 billion is coming due in 1993 (not to mention the amounts on the pre-1992 loans), and Russia will be unable to pay it off. Russia received another $500 million or so in humanitarian grants. The IMF lent $1 billion this summer, but under the proviso that the funds not be touched in 1992. And the World Bank has lent $600 million, with another $100 million

 DOI: 10.2870/33363

to $200 million on its way, perhaps by the end of the year. Russia's debts were not rescheduled in the first eleven months of 1992, though a serious effort to do so is finally under way. All in all, the Western effort has amounted to around $10 billion of unstructured lending: no program, no timetable, no attempt to link the vast majority of the funds to actual reform measures. In the absence of significant international assistance, the Russian reformers have had to make unappetizing and risky compromises, such as occurred after the April session of the People's Congress, with an inflationary flood of money channeled to the military-industrial complex."[25]

In 1991 and 1992, upon the disintegration of the Soviet Union, the industrial countries and the Russian Federation did not fix a prospective sum which the Russian Federation, as a successor of the Soviet Union, had to pay. On the other hand was the flexible price (although many economists and politicians in continental Europe, making strenuous exercise to compare incompatibles, argue that the sums were much bigger than the US aid after the Second World war) of German unity, withdrawal of Russian troops from Eastern Europe and a policy of

[25]Just before the 1996 Presidential elections in Russia, another financial expert Mr Martin Wolf wrote in *The Financial Times* and re-stated once again the secular problem, in a way he probably best understood it:

"The collapse of the Soviet Union presented a danger and a great opportunity. Russia needed imaginative help to shore up its extraordinarily fragile state through an unprecedented transformation. But the west's role in the failed stabilisation of 1992 was grossly inadequate.

What was most needed was a few years of non-inflationary financing of the collapsing budget of the Russian state. Instead, the International Monetary Fund was left on its own, while western governments, to the extent they thought about Russia at all, were obsessed with who would service the Soviet Union's external debt. The reality was, of course, to be nobody.

To those who would argue that the money was either unavailable or would have been wasted, the answer is simple: between 1947 and 1990, the west spent over 10 trillion dollars in today's terms on defending itself against the former Soviet Union. If things have indeed gone irreparably wrong, it may be forced to spend comparable sums again." See Wolf, Martin, "Comment & analysis: How the west failed Russia", *Financial Times*, 7 May 1996, p. 14.

disarmament and military conversion, that the creditors were willing to extend in loans, technical assistance and grants. A figure for Russia's prospective capacity to pay, not too much in excess of the estimates of most candid and well-informed authorities, would have fallen hopelessly far short of popular expectations in Western Europe, Japan and the United States, and would set up a precedent that other debtors would seize as an excuse for restructuring their own debts. A definite sum for German re-unification and withdrawal of Soviet troops and armaments would not disappoint expectations which had been raised, especially in Germany, but also in France, Italy and Eastern Europe and open to criticism from the Russians, who were believed to have been prudent enough to accumulate considerable evidence as to the extent of their own misdoings during the Cold war. It might be argued that it was the safest course for politicians not to mention figures at all, although the opposite would have placed the settlement on a more business-like basis.

Three years later Soviet and now Russia's foreign debt rose to $120 billion dollars, a large part of which was inherited from the USSR, and which is mainly owed to European commercial banks and governments. It is my judgement, as certain as anything can be, for reasons which I will state in the next chapter, that the Russian Federation cannot pay anything approaching this sum. Until the debt is reduced or written off, Russia has in effect engaged itself to hand over to its creditors the whole of its surplus production in perpetuity.

The London and the Paris clubs of international creditors, comprising governments and banks and their agent, the International Monetary Fund, are the institutions with discretionary powers to vary the rate of interest, roll over or even cancel the debts. It will be their duty until there has been a unanimous and far-reaching change of the policy which the financial obligations represent, to extract from Russia year after year the maximum obtainable.

My argument, as far as the financial arrangements are concerned, is that there is a great difference between fixing a definite sum, which though large is within Russia's capacity to pay and yet to retain a little for itself, and fixing a sum far beyond its capacity, which is then to be reduced at the discretion of foreign bankers acting with the object of obtaining the maximum which circumstances permit every year. For the first still leaves Russia with some slight incentive for enterprise, and hope. The latter shaves it alive year after year in perpetuity, and however skillfully and discreetly the operation is performed through promoting laisser faire economics, with whatever regard for not killing the patient in the process, it would represent a policy which, if it were really entertained and deliberately practiced, the judgement of the mankind would soon pronounce to be one of the most outrageous acts of ideological victors in modern history.

APPENDIX:

TABLE 1: **SOVIET AND RUSSIAN FEDERATION FOREIGN DEBT (in million US dollars)**

	1975	1980	1983	1985	1986
Long-Term Debt	1,232	4,719	5,364	21,396	23,328
IMF Credits	0	0	0	0	0
Short-Term Debt	... .	....	....	6,900	7,400
Total Debt	**1,232**	**4,719**	**5,364**	**28,296**	**30,728**

	1988	1990	1992	1994	1995
Long-Term Debt	30,988	48,017	64,891	107,748	100,279
IMF Credits	0	0	989	4,198	9,617
Short-Term Debt	11,200	11,800	13,112	9,976	10,564
Total Debt	**42,188**	**59,817**	**78,992**	**121,921**	**120,461**

Source: World Bank Tables, various issues; Global Development Finance 1997 (Washington D.C: World Bank)

TABLE 2: **THE USSR/RUSSIAN FEDERATION TOTAL DEBT FLOWS** ($ billion)

	1988	1990	1991	1992	1993	1994	1995
Loans	**8.5**	**16.9**	**13.4**	**13.6**	**6.5**	**3.8**	**7.7**
Long Term Debt	8.5	16.9	13.4	12.6	5.0	2.3	2.3
IMF Purchases	0	0	0	1.0	1.5	1.5	5.4
Principal repayments	**5.4**	**7.9**	**9.3**	**0.9**	**1.5**	**2.2**	**3.2**
Net flows on debt	5.7	-1.3	4.5	13.5	4.3	1.0	4.6
Interest payments	**2.8**	**3.8**	**4.1**	**0.3**	**0.7**	**1.3**	**3.0**
Long-term debt	1.9	2.6	3.0	0.3	0.6	1.2	2.7
IMF charges	0	0	0	0	0.07	0.1	0.2
Short-term debt	0.8	1.2	1.0	0	0.01	0	0
Net transfers on debt	**2.9**	**-5.2**	**0.3**	**13.2**	**3.5**	**-0.3**	**1.5**
Total debt service paid	**8.2**	**11.8**	**13.4**	**1.3**	**2.3**	**3.6**	**6.3**

Source: World Bank (1997) Global Development Finance, 1997, Washington, D.C.: World Bank.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

TABLE 3: **AGGREGATE NET RESOURCE FLOWS AND NET-TRANSFERS (LONG-TERM) OF THE USSR AND THE RUSSIAN FEDERATION**

(billion of dollars)

	1988	1990	1991	1992	1993	1994	1995
NET RESOURCE FLOWS	**3.1**	**9.6**	**6.5**	**15.2**	**6.6**	**2.2**	**2.1**
Net flow of long-term debt	3.1	4.5	4.0	11.6	3.4	0.04	-0.9
Foreign direct investment	0	0	0	0.7	0.7	0.6	2.0
Portfolio equity flows	0	0	0	0	0	0.2	0.1
Grants (excl. technical coop)	0	0.6	2.5	2.8	2.4	1.3	0.9
NET TRANSFERS	**1.1**	**6.9**	**3.5**	**14.8**	**5.9**	**1.0**	**-0.6**

Source: World Bank (1997) *Global Development Finance*, Washington, D.C.: World Bank.

5 RUSSIA'S ABILITY TO PAY ITS FOREIGN DEBTS

The illusion that the Russian Federation could pay the Soviet foreign debts, apparently springing out of the Cold war, was so wide spread in 1992, and most proposals by economists talked only about rescheduling of debts, probably as a temporary measure. The following will survey the financial and trade realities before and immediately after the disintegration of the USSR. The current of events and billions of dollars of arrears on foreign debt payments since 1992 proved that this belief was nonsense.

The forms in which the Russian Federation can discharge of Soviet Union and its debts which it has engaged itself to pay are three in number:

- immediately transferable wealth in the form of hard currency, gold, or other tangible assets;

- cash payments spread over a number of years; and

- property, which could be surrendered in the future such as a part of its territory. However, at present I am skeptical that there are creditors that are serious in buying the Kamchatka peninsula, the Kuril islands or other parts of the Russian Federation in exchange for debt cancellation. Nevertheless, that option should not be totally excluded as the history of Alaska shows.

Immediately Transferable Wealth

(a) Gold and Foreign Exchange Reserves

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

Immediately Transferable Wealth

(a) Gold and Foreign Exchange Reserves

The Soviet Union had been one of the main producers of gold for the world market. Gold sales had also been used in desperate attempts to resolve the balance of payments problem in the years after the 1950s. In 1991, just before the disintegration of the USSR, official statistics were published that revealed a decline in the Soviet gold reserves ~~decline~~ from over 2,000 tonnes in 1953 to 260 tonnes or 8.08 million troy ounces ($2.9 billion at market prices).[1] Soviet gold production and gold reserves, however, had been a state secret for a long period. A reasonable estimate would be a total of (say) $3 billion dollars at the date of disintegration.

By the end of 1990 the foreign exchange reserves of the USSR had fallen to $5 billion (equivalent to less than two months of convertible currency imports). These reserves, as was mentioned earlier, were dissipated very quickly in the period of perestroika, and principally between 1990 and December 1991. During the period of "new thinking" and before the disintegration of the USSR it had been necessary for Western Europe and the other industrialised countries to facilitate the reforms and the provisioning of the Soviet Union from abroad. The political conditions of the Soviet Union and Russia in 1990 and 1991 and the serious danger of the return of a totalitarian communist regime (the failed coup in August of 1991) rendered this step necessary in the interests of the EC countries, and particularly Germany, if they desired the continuance in Russia of a stable government to deal

[1]Thus, for example, in 1991 the gold reserves of the United States stood at 261.9 million troy ounces, Germany - 95.18 million troy ounces, and Japan - 24.23 million troy ounces.

with. The meeting of the Group of Seven industrialised countries with the participation of the Soviet Union in 1991, as well as bilateral meetings between the highest representatives of unified Germany and the Soviet Union were held with the object of finding some method of payments of past debts as little injurious as possible to the future prospects of Europe. The Soviet/Russian representatives maintained from the beginning that the financial exhaustion of their country was for the time being so complete that new loans from the West were indispensable. In any case, it was out of the question to suppose that in the summer of 1991 public opinion in Europe, or in the United States would have allowed the granting of a substantial loan, similar to the Marshall plan loans, to the Soviet Union. On the other hand, in 1990 and 1991 the industrialised countries governments were naturally reluctant to exhaust on the supplying of food to the USSR the gold reserves which seemed to afford one of the few obvious and certain sources for debt payments. The period before the disintegration of the USSR was spent in the exploration of all possible alternatives; the disintegration of the COMECON and switching to hard-currency clearing with Hungary, Bulgaria, Czechoslovakia, Poland, Romania, and Eastern Germany provided some temporary relief, but it was obvious that even if Soviet exports and credits had been available to a sufficient value, they could not have been liquidated in time, and that the exhaustion of the Soviet Union was so complete that there was nothing whatever in substantial amounts except the gold of the Central bank.

It follows, therefore, that there was not sufficient gold and foreign exchange that could have been used for payments of the Soviet foreign debt at the end 1992. This proved itself true as the events unfolded, and the Russian Federation, upon the implementation of a free market reform, was offered loans of around $13 billion in 1992 and $6 billions in 1993.

(b) Foreign Investments and Credits

(i) Officially published Soviet data indicated that the USSR extended credits to many developing and socialist countries and its claims in 1990 totalled over 85 billion rubles (over $125 billion at then official rate). A great part of these became almost valueless, especially those in the biggest Soviet debtors like Cuba, Vietnam, Mongolia, India, Syria, Poland, Afghanistan, Iraq and Ethiopia, already over-indebted countries which were unlikely to repay their debts. Ironically, Russia's joining of the Paris club of international creditors in 1997 represented an effort, although in my opinion futile and desperate, to resolve the problem of its debts either by assigning part of these claims to private investors, pledging them as collateral or by cancelling them on the condition that Russia's debts were to be written off. Unless the European countries and private investors were prepared to take over these claims much above their nominal market value, and hold them for future realisation, there was no substantial source of funds for immediate payment in the form of investments in the ex-socialist and developing countries.

(ii) Since 1978 Soviet deposits in convertible currency in Western commercial banks were compiled by returns collected by the Bank for International Settlements and stood at $8.6 billion at the end of 1991. Moreover, there was a suspected capital flight and private hoarding of foreign exchange, US dollars and German

 DOI: 10.2870/33363

marks, during the years of perestroika and afterwards but, in view of the present situation of tax havens and tax evasion everywhere, it was unlikely that either the Russian or the Western governments would have been able to unearth the abusers. It is believed that the capital flight was in the range of $20 billion to $40 billion only for the period between 1990 and 1992. The Russian extensive frontiers and territory were destined to stimulate human ingenuity and made the efforts of both the Russian and western governments largely fruitless.

In the face of all these considerations, it would have been a miracle if much remained for debt service from its gold and foreign exchange reserves and foreign investment before the disintegration of the USSR. I would have put a maximum contribution of $5 billion in the light of available figures and other relevant data. In all these estimates I am conscious of being driven, by a fear of overstating the case against the Russia's potential to service Soviet/its foreign debt, into figures in excess of my real judgement.[2] There was a great difference between putting down on paper estimates of Russia's resources and actually extracting contributions in the form of cash. As subsequent developments revealed, the Russian Federation defaulted on payments of its principal and interest in 1992 and 1993 and borrowed as much as $20 billion during this same period.

---

[2]I should probably mention here that Russia could have tried to sell some of its its art treasures. These priceless pieces of art probably include the treasures of Priam, discovered by Schliemann among the ruins of Troya, or the Bersteinzimmer, all which disappeared from Germany at the end of the Second World War. But this has been un "eterno 'punto dolente'" since 1989, as the Italian *La Nazione* wrote on 1 December 1997.

Annual Debt Payments spread over a Term of Years

It was obvious that Russia's capacity to perform its annual financial obligations was affected by the loss of its COMECON satellites, its developing countries' markets, by the depreciation of its currency, and in the long-run by gradual economic stagnation and decay at home caused by falling productivity. The latter was mostly attributed to a Soviet system of central planning and communist ideology, which the public opinion gradually rejected in 1992.

All this, one would have supposed, was evident. Yet many estimates of Russia's capacity to service its debts depended on the assumption that its economy would started growing in the future, and Russia was in the position to conduct greater trade than ever the Soviet Union did in the past.

For the purpose of arriving at a figure it is of no great consequence whether payments take the form of cash (or rather of foreign exchange) or are partly effected in kind (steel, natural gas, petroleum etc.) Thus, I assume that there are no major price shocks of the exported and imported raw materials by Russia. In any event, it was only by the export of specific commodities that Russia could pay, and the method of turning the value of these exports to account for debt purposes is, comparatively, a matter of detail.

I will base my estimates on trade statistics from Soviet/Russian and international organization sources and will build my analytical framework on the following simple principles: it is certain that an annual payment can only be made by Russia over a series of years by diminishing its imports and increasing its exports, thus running a positive balance which will make it possible for it to make

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

payments to foreign governments and banks. Russia can pay in the long run in goods, and in goods only, whether these goods are furnished directly to its creditors, or whether they are sold on the world market and the proceeds are then transferred to its EC creditors. In order to produce an estimate of the extent to which this process could be carried out it will be useful to analyze Russia's trade returns before and after the disintegration of the Soviet Union. Only on the basis of such an analysis, supplemented by some general data on to the aggregate wealth producing capacity of the country, can a rational guess be made as to the maximum degree to which the exports of Russia could be brought to exceed its imports.

In the year 1990 Russian exports amounted to 106.8 billion rubles and her imports to 142.6 billion rubles.[3] That is to say, imports exceeded exports by about 35 billion rubles. According to IMF estimates on the average of the four years ending 1990 Russian imports exceeded its exports. It follows, therefore, that Russia's balance for new investment was derived from interest on her extended loans to the republic of the USSR, socialist and developing countries. As Soviet sources of revenue from abroad had largely disappeared, because of many developing countries' defaults, the newly independent states and the Russian Federation, so far from having a surplus with which to make a foreign payment to EC countries, were not likely to be self-supporting. That is exactly what happened. In 1991 and 1992, after the disintegration of the USSR, the main task of the Russian Federation, therefore, was to readjust its consumption and production and to cover the deficit after receiving fresh loans from IMF and other creditors.

---

[3]See IMF, *Economic Review: Russian Federation*, different years.

Russia has affected the use of imported products, and further stimulated the exports which have been available to service the Soviet, now Russian, foreign debt toward the EC and other industrialized countries.

The Russian Federation completely dominated the external trade of the Soviet Union. The most important Russian exports and imports are enumerated in the following tables.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

TABLE 1:

RUSSIA'S EXPORTS ($ billion; current prices; % total in brackets)

	1990	**1991**	**1992**	**1993**
Fuels & minerals	32.3	26.3	22.0	20.7
	(45.4)	(51.7)	(52.1)	(46.7)
Metals & precious	9.2	7.3	7.0	10.3
stones	(12.9)	(14.3)	(16.4)	(23.2)
Machinery	12.5	5.2	3.8	2.9
	(17.6)	(10.2)	(8.9)	(6.5)
Chemical products	3.3	3.4	2.6	2.6
	(4.6)	(6.6)	(6.1)	(6.0)
Timber, cellulose	3.1	2.4	1.6	1.9
paper	(4.4)	(4.7)	(3.7)	(4.2)
Leather, fur &	0.1	0.1	0.1	0.1
products	(0.2)	(0.3)	(0.2)	(0.2)
Food & agricultural	1.5	1.3	1.6	1.6
products	(2.1)	(2.6)	(3.9)	(3.8)
Other goods	8.4	4.4	3.4	4.0
	(11.8)	(8.7)	(8.1)	(9.0)
TOTAL	**71.1**	**50.9**	**42.4**	**44.3**

Sources: Goskomstat, Statistical Yearbook of the Russian Federation; Economist Intelligence Unit, Russia: Country Profile, 1995-96; International Monetary Fund: Direction of Trade Statistics, 1996.

TABLE 2:

RUSSIA'S IMPORTS ($ billion; current prices; % total in brackets)	1990	1991	1992	1993
Machinery	36.3	15.8	13.9	9.1
	(44.3)	(35.6)	(37.7)	(33.8)
Food & Agricultural	16.6	12.4	9.6	5.9
Products	(20.3)	(27.9)	(26.0)	(22.2)
Chemical products	8.9	5.5	3.5	1.7
	(10.9)	(12.4)	(9.3)	(6.2)
Textiles & Apparel	7.6	4.4	4.5	3.7
	(9.3)	(9.9)	(12.2)	(13.9)
Metals	4.4	2.8	1.2	0.9
	(5.4)	(6.2)	(3.3)	(3.5)
Fuels & Minerals	2.4	1.3	1.0	1.1
	(2.9)	(2.9)	(2.7)	(4.0)
Leather, fur & products	0.8	0.5	0.7	0.7
	(1.0)	(1.1)	(1.9)	(2.6)
Other	4.8	1.8	2.6	3.7
	(5.9)	(4.0)	(6.9)	(13.8)
TOTAL	**81.8**	**44.5**	**37.0**	**26.9**

Sources: Goskomstat, Statistical Yearbook of the Russian Federation; Economist Intelligence Unit, Russia: Country Profile, 1995-96; International Monetary Fund: Direction of Trade Statistics, 1996.

These tables show that the most important exports consisted of: (1) fuels and minerals (45 per cent in 1990 and 46 per cent in 1993); (2) machinery (17.6 per cent in 1990, but only 6.5 per cent in 1993); (3) metals and precious stones, including steel products (12.9 per cent in 1990, but 23.2 in 1993); (4) agricultural products (2.1 per cent in 1990, but 3.8 per cent in 1993); (5) textiles (1 per cent in 1990 and 0.4 per cent in 1993). It will be observed that some of these goods as (2), (3), (4), (5) are of a kind in which, during the years of the Berlin Wall, the competition between the USSR and the EC member countries was severe in developing countries, Eastern European, and Western European markets. If, therefore, the volume of such exports to Eastern Europe destination or to other markets is increased the effect on EC countries' industries and export trade must be unfavourable.

The latter argument goes for machinery and equipment goods, which were generally accepted and tolerated for a long time in COMECON markets. Upon the opening of Eastern European markets and with industries facing lower productivity growth, Soviet machinery was gradually losing the competition with the better quality and more modern Western European substitutes. Furthermore, the Russian Federation has become net importer of machinery and equipment, which have been on the top of its import trade priorities along with food.

As far as textiles are concerned, the increase in exports is dependent upon an increase in imports of the raw materials (probably from the republics in Central Asia), since Russia arguably does not produces enough cotton and practically no wool. This trade is therefore incapable of expansion unless Russia is given access to securing these raw materials (which can only be at the expense of the EC

 DOI: 10.2870/33363

member states textile industries or the Eastern European countries) in excess of the Soviet standard of consumption, and even then the difference is between exported manufactured products and imported raw materials. This did not happen, as is obvious from the tables. Both exports and imports of textiles have shrunk through the years.

Agricultural products are not net exports. Russia imports more than it exports. The same thing could be said for leather and fur exports. Moreover, EC markets are practically isolated from outside competition because of the Common Agricultural Policy.

The items that remain and that could potentially serve to provide proceeds for debt payments are petroleum, natural gas, steel products and metals. However, as historical developments showed, the EC member states did not welcome a great stimulation of the Russian exports in these materials and tried to protect, and with some reason, their own industries and employment, previous long-term sources of supply, and keep prices in their markets as stable as possible. Thus, the EC countries utilized the Common Commercial Policy and used unilateral legal actions, such as anti-dumping, and bilateral voluntary export restraints agreements (see the chapter on the legal framework of trade relations between the Russian Federation and the EC member states).

An examination of the 1990 list of imports shows that 44 per cent of imports are machinery, and 20 per cent are food and agricultural products in 1990. The chief item of the machinery could not be much reduced without affecting the export trade, and might have to be increased if export trade was to be increased. The trade statistic shows that this did not happen either. On the contrary, imports

 DOI: 10.2870/33363

of machinery decreased in absolute and relative terms in the next years. Imports of food and agricultural products, namely, milk and dairy products, noodle products, sugar, vegetable oil, cereals, meat and meat products, rice, tobacco, tea, coffee, and the like, present a different problem. An assumption could be made, which probably would be confirmed by many who visited the Soviet Union, that apart from certain luxuries, such as citrus fruits or bananas, the consumption of food by Russian workers before the disintegration of the Soviet Union was not in excess of what was required for maximum efficiency; indeed, as many statistics and personal observations show, it probably fell short of that amount. Therefore, any substantial decrease in the imports of food would therefore react on the efficiency of the active population, and consequently on the volume of surplus exports which they could be forced to produce. It is hardly possible to insist on increased productivity of the Russian export industries if the workers are underfed. But this may not be equally true of tobacco, tea, rice, meat, cereals. If it were possible to enforce a trade regime in which for the future no Russian drank tea, coffee, vodka or smoked cigarettes, a substantial saving could be effected. Otherwise there seems little room for any significant reduction. The trade statistics partially support this argument and shows that in general food imports were drastically curtailed and in absolute terms decreased almost two times in the period after 1990.

The following analysis of Russian exports and imports according to destination and origin is also relevant.

TABLE 3: RUSSIAN TRADE ACCORDING TO DESTINATION AND ORIGIN - 1992 (Outside the former Soviet Union)

	Exports		Imports	
	Million $	Per cent	Million $	Per cent
Industrial Countries:	**23,781**	**59.5**	**22.440**	**64.1**
Germany	5,873	14.7	6,725	19.2
Italy	2,951	7.4	3,052	8.7
UK	2,287	5.7	562	1.6
Netherlands	2,277	5.7	368	1.1
France	1,967	4.9	1,286	3.7
Belgium -Luxembourg	890	2.2	306	0.8
Spain	526	1.31	420	1.2
Denmark	281	0.7	185	0.53
Greece	236	0.59	32	0.09
Ireland	27	0.07	112	0.32
Portugal	33	0.08	39	0.1
Total EC	**17,349**	**43.4**	**13,087**	**37.4**
Finland	1,564	3.9	1,223	3.5
Japan	1,569	3.9	1,680	4.8
USA	694	1.7	2,884	8.2
Sweden	654	1.6	652	1.9
Norway	225	0.56	269	0.76
Austria	657	1.6	991	2.8
Canada	177	0.44	1,076	3.07
Developing Countries:	**15,543**	**38.9**	**11,624**	**33.2**
Czechoslovakia	2,598	6.5	1,020	2.9
Poland	1,649	4.1	1,230	3.5
Hungary	1,506	3.7	1,089	3.1
Bulgaria	1,165	2.9	584	1.7
Romania	605	1.5	431	1.2
Cuba	191	0.5	632	1.8
Total ex-Comecon	**7,982**	**20.0**	**5,347**	**15.3**
China	2,737	6.8	1,670	4.8
Former Yugoslavia	1,032	2.6	843	2.4
India	568	1.4	822	2.3
South Korea	204	0.4	753	2.2
Others				
Total	**39,967**	**100**	**34,064**	**100**

Sources: IMF, *Economic Review, Russian Federation*, 1993; EUI, *Russia, Country Profile*, 1993-94; IMF, *Direction of Trade Statistics*, 1996.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

From this appears that of Russian exports in 1992, 14.7 per cent went to Germany, 7.4 per cent to Italy, 6.8 per cent to China, 6.5 per cent to Czechoslovakia, 5.7 per cent to the United Kingdom, 5.7 per cent to the Netherlands, 3.9 per cent to Japan, 1.7 per cent to the United States; that is to say, more than half of the exports found their market in the developed industrial countries, which included 43.4 per cent that went to the European Communities market. Of the balance, around 20 per cent went to Czechoslovakia, Poland, Hungary and Bulgaria and the former Yugoslavia and 20 per cent elsewhere. Unless, therefore, the EC countries and other developed countries were prepared to encourage the importation of Russian products, a substantial increase can only be realized by the flooding of developing countries' markets.

The above analysis affords some indication of the possible magnitude of the maximum modification of Russia's exports. If the following assumptions are made:

(1) that the EC countries do not specially favour Russia over themselves in supplies of technology from the US or Japan;

(2) that a substantial preference is not given to Russian goods in the EC, US or Japanese market and Russia preserves its place at the bottom of EC pyramid of trade preferences;

(3) that Russia is not encouraged and assisted to undercut the EC countries' steel, manufacturing or other exports in third markets.

It is obvious by examination of the specific Russian export items that not much could be realized in practice.

- Metals and Steel. Increased exports seem possible;

- Machinery. No increase is possible, since Russia will be for a long time a net importer of technology and machinery;

- Textiles. An increase is impossible without raw wool and cotton, and having regard to the claims of other countries and the conditions of world market, a decrease in exports is likely.

- Agricultural products. There never was and never can be a net export subject to the present geographic and climatic conditions.

Thus, in what commodities is Russia going to pay? Fuels and minerals - their total value in 1990 was $32.3 billion. Metals, bullion and precious stones - 1990 exports were worth $9.2 billion. And even if the commodities could be specified, in which markets are they to be sold? We remember that the Soviet Union only in 1990 had an outstanding debt of $59 billion (Since then the debt has been growing by some ten billion dollars or more each year).

On the side of imports, by lowering the standard of life, the expenditures on purchasing foreign goods could be reduced. But, as it was mentioned, most items could not be reduced without reacting adversely on the volume of exports.

Let us guess and suppose that in the next years Russia will be able, in spite of the reduction of its resources, its markets, its productivity, to increase its exports and diminish its imports so as to improve its trade balance altogether by approximately $14 billion a year. Having regard to the political, social and human factors, as well as to the purely economic, it was doubtful that Russia would have been able to pay a sum of about $8 billion annually for a period of 10 years, as 1992 contractual obligations stated. Nevertheless, it not would have been unwise to assert or to be confident that it could have paid $5 billion annually for the period starting in 1992. The latter optimism is based on three provisos:

First, if the EC countries and the other industrial nations were to assist the trade and economy of Russia for a period of ten to twenty years, supplying it with large loans and even grants, and technology, building up markets for it, and deliberately applying all their resources and generosity to making it the greatest industrial nation in Europe, if not in the world, Russia could have serviced its debt without a problem. For Russia, many will probably agree, is capable of great productivity growth.

Second, I assume there is no revolutionary change in material progress. It is not impossible that information technology or some other high-tech would increase productivity of labour and the abundance of commodities, that will raise living standards everywhere as happened with the steam engine and other inventions in the nineteenth century, or nuclear energy in the 1950s. But the fact that everything is possible in the world is not an excuse to write absurdly.

Third, an assumption is made that there is no revolutionary change in the purchasing power of the ruble or collapse of the US dollar as a de facto world currency. Since a major part of the Russian debt is in dollars, if the value of the dollar is to sink to a half or more of its present value, the real burden of payments would be reduced proportionately. If the dollar appreciates, then Russia must pay a larger sum.

Therefore, subject to these assumptions, in 1992 Russia could have paid $50 billion and that is not within the limits of reasonable possibility even today. But the fact that everything is possible is no excuse for writing that Russia should pay an impossible sum and sign legal documents for that purpose. However, those who believe that Russia can make an annual payment amounting to tens of billions of dollars would have to state in what specific items they consider this payments to be made, and in what markets the commodities to be sold. These are the two main questions. Debt-for-equity swaps and debt-for-nature swaps are schemes for debt servicing and repayment which estimate the gross value of the Russian Federation natural resources like no other country in the world. No doubt, they could be used to a certain limit and for a certain period, but some authors exaggerate their role and unfortunately fail to produce tangible arguments in favour of their conclusions.[4]

In my opinion it is impossible to legislate for a generation or more. The secular changes in human economic activity and the liability of forecasts or long-term plans to error are as likely to lead to mistakes in one direction as in another. The best policy will be, I think, to base acts and legal documents on the available evidence and adapt them to the five or ten years over which we may suppose ourselves to have some measure of prevision. Therefore, the legislators and the politicians in 1992 would not have been at fault, if they left on the side the extreme chances of human existence and the revolutionary changes in nature. To conclude, the fact that western politicians and bankers did not have adequate knowledge of Russia's capacity to pay over a long period of years was no justification for legal documents and statements that it must pay the Soviet foreign debt.

Why is it possible that the general public opinion in Europe or in the United

[4]See the article of the American attorney, Thomas Reiter, who currently works in Moscow, "The Feasibility of Debt-Equity Swaps in Russia" *15 Michigan Journal of International Law* 909-997. Mr Reiter provides an excellent overview of the debate concerning the possibility of using different kinds of debt-equity swaps in Russia.

States believes that the Russian Federation could fulfil the financial obligations of the USSR and the debts incurred thereafter?

Here are some probable answers. In the first place, the vast military expenditures during the Cold War, the huge fiscal deficits, hidden and visible that have been piled in the countries in the ex-Soviet bloc and the industrialized world through the years.

An argument is sometimes advanced and is shared by some economists that it is the growth of the Gross Domestic Product, i.e. the growth in productivity, as distinct and rather than the export surplus should be discussed and it is not a secret that the USSR had a GDP growth in 1980s of a few per cent and experienced a small annual increment of wealth. During the Cold war, the USSR had spent billions of rubles on armaments. It is owed at least $120 billion by many developing and least developing countries in eastern Europe, Africa, Asia, with which Russia, as its heir, can now dispense. Why, therefore, it cannot pay a sum of $100 billion?

There are several errors in the above propositions.

First, Russia could hardly collect these debts that were incurred during the days of the Soviet Union. The "loss" of the former Soviet republics and other markets could be assessed in terms of a substantial loss of surplus productivity. Its saving on armaments is far more than balanced by its annual tribute, which represents a real loss of productive capacity.

Second, the Russian Federation internal debt is an enormous burden, although a question of distribution within the Russian society rather than of productivity, and should not be forgotten.

Third, it is hard to put aside the exhaustion of its livestock, the pollution of its environment, the reduction of productivity due to failure to keep up and renew its technological and industrial base for decades.

The Russian Federation is not as rich as the Soviet Union, or as the Russian Federation within the Soviet Union, and its future savings have decreased.

What about the lowering of the standard of life of the Russians and its impact on productivity? A lowering of the standard of life acts both ways on a country's productivity. A recent example is the supply-side economics that was implemented in the 1980s in the United States and the United Kingdom. However, I can hardly think of any recent historical experience of the psychology of a white people under conditions little short of servitude. Modern economics, however, makes the general assumption, I believe, that if the whole of a person's surplus production is taken from him/her, his/her efficiency and his/her industry are diminished. Even the unfortunate experience of the socialist economic system and the USSR has proven this point and was realistic in its own way in the assumptions that the inventor will not innovate, the trader and shopkeeper will not save, the labourer will not sweat, if the products of their industry are set aside, not for the benefit of their children, their old age, but for the pleasures of some abstract ideals or a foreigner. An annual surplus available for home investment can only be converted into a surplus available for export abroad by a radical change in the kind of work performed. Labour, while it may be available and efficient for domestic services in Russia, may yet be able to find no outlet in export industries. We come back on the same rejoinder - in what export trade is Russian labour going to find a greatly increased outlet? It is true that labour can be diverted into new industries, such as oil, mining, and steel industries with loss of efficiency, and a large expenditure of capital.

Therefore, it may be concluded that growth of the GDP or the annual surplus which Russian labour can produce for capital improvements at home is not a theoretical or practical measure of the annual payments which Russia can make abroad.

 DOI: 10.2870/33363

6 THE ROLE OF THE INTERNATIONAL MONETARY FUND

The institution of the International Monetary Fund has become so remarkable and has exerted so wide an influence on the life of developing and the ex-socialist countries in Eastern Europe and the former Soviet Union. Therefore, it is my opinion that its characteristics deserve a separate examination, although it will be one which is probably rather limited and general. Since the Second World War the IMF has evolved in a way that is sometimes described as a development or policing the developing countries' institution.[1] The powers of the International Monetary Fund are mainly laid down in its Articles of Agreement and in the numerous financial agreements with debtor countries. The latter agreements are analogous although they differ in the amount of loans disbursed and the particulars.

Before the end of the Cold war and the disintegration of the Soviet Union there had been no precedents for debt payments imposed on the Soviet Union; for the debt payments in the period between the 1970s and 1992 had differed in two fundamental aspects from this one. The sums demanded had been determinate and had been measured in a lump sum of dollars; and so long as the debtor was

[1]See Eichengreen, Barry and Kenen, Peter (1994) "Managing the World Economy under the Bretton Woods System: An Overview" in Kenen, Peter (ed.) *Managing the World Economy*, Washington, D.C.: Institute for International Economics, at 47, and Mahbub Ul Haq (1994) The Bretton Woods Institutions and Global Governance in Kenen, Peter (ed.) *Managing the World Economy*, Washington, D.C.: Institute for International Economics, at 411.

servicing its debt, no further interference was necessary.

But for reasons already elucidated in the previous chapters, the debt payments had been not yet determinate, and the sums when fixed would have proved in excess of what could have been paid by the Russian Federation at all. It was necessary, therefore, to use an international institution which to establish a bill of claim, to approve necessary delays and abatements. And this was the International Monetary Fund, which the Russian Federation and the new independent states in Europe and Asia joined in 1992. The institution was to be placed in a position to exact the utmost year by year by giving it wide powers over the internal economic life of the former socialist countries. The latter are to be treated henceforward as bankrupt estates to be administered by and for the benefit of the creditors. In fact, however, the authority of the International Monetary Fund had been much larger and went even beyond what was required for this purpose, and the IMF had become the final arbiter on numerous financial and economic issues and negotiations between the debtor and the creditor governments or the private creditors which it was convenient to leave unsettled in any kind of international treaty.[2] To this international institution the headquarters of which are based in Washington, USA, the country with the largest quota[3], the destiny of the ex-socialist block was entrusted. The staff of the IMF enjoy diplomatic privileges

[2]This fact probably made the US Professor Jeffrey Sachs to propose that: " [t]he IMF should take as its new model the bankruptcy court as it functions under chapter 11 of the America's bankruptcy code. In cases of sovereign debt, the main function of the IMF should be to provide forum to which all of a country's creditors are brought for a comprehensive, across the board settlement. Current procedures are plagued by multiple negotiations, with the Paris Club, the London Club, suppliers and so on negotiating separately." See *The Economist* of October 1, 1994, at 27.

[3]Article XIII, Section 1 of the Articles of the IMF Agreement.

and comprises a vast polyglot bureaucracy.

All the members, currently 181 countries, are represented directly or through delegated representative on the Board of the Governors or the Executive Board, but it is the creditors that have the authority to dictate the Fund's policy. It is the Executive Board which is endowed with a full executive power to carry the IMF's decisions and to conduct "the business of the Fund".[4] The Executive Board consists of Executive Directors and a Managing Director. The executive directors from Germany, Japan, France, the United States, the United Kingdom, Saudi Arabia, Russia, China, that is to say the countries with the largest quotas, take part in all meetings proceedings while the other members appoint other 16 delegates. According to Article XII, Section 5 of the Articles of the IMF Agreement: "each member shall have two hundred fifty votes plus one additional vote for each part of its quota equivalent to one hundred thousand special drawing rights". Thus in July 1996, the United States' reserve position was of about 10,600 million SDRs, Japan's - about 4,600 million SDRs, Germany's - about 3,800 million SDRs, France's - about 1,900 million SDRs, the United Kingdom's - 1,700 million SDRs, Italy's - 1,300 million SDRs, the Netherlands' - about 1,280 million SDRs, Switzerland's - about 1,070 million SDRs, China's - about 1,000 million SDRs, Saudi Arabia - about 570 million SDRs, Russia - 0.8 million SDRs, Poland - 77 million SDRs. The arithmetic shows that at that time the US had about 107,000 votes, followed by Japan with about 47,000 votes, Germany - about 38,500 votes, France - about 19,000 votes, the UK - about 17,250 votes, Italy - about 13,096 votes, the Netherlands - about 13,000 votes, Switzerland - about 10,070 votes, China - about

[4]See Article XII, Section 3(a) of the Articles of Agreement of the IMF.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

10,250 votes, Saudi Arabia - 5,950 votes, Russia - 258 votes. The decisions of the Executive Board are taken by majority, except in certain special cases. Therefore, it is unrealistic to expect that either Russia, any Eastern European country or developing country could individually or collectively influence the decisions of the Executive Board, which is dominated by the biggest debtor, the US, and the creditor countries in the world.

The main functions of the International Monetary Fund can be conveniently summarised as follows (I will take, as an example, the case of the Russian Federation and am conscious of the difficulty in generalising):

The IMF was to determine the figure of the claims of the creditors. It gave to the Russian government a just opportunity to be heard, but not to take decisive part whatever in the decision of the Executive Board.

Having determined the claim, it drew up a schedule of payments providing for the discharge of the interest, including rolling over the principal, at least within a period of ten years. From time to time the IMF, with a view to modifying the schedule within the limits of possibility, considered the resources and the capacity of the Russian Federation giving its representatives a just opportunity to be heard.

In periodically estimating the Russian Federation's ability to service its debt, the IMF examined the Russian system of taxation, and the economic system in general, to the end that the sums for debt payments which Russia was required to pay should become a charge upon all its revenues prior to that for the service or discharge of any domestic loans.[5]

[5]In 1998, Mr Stanley Fischer, First Deputy Managing Director of the IMF commented on the priorities in the fiscal area for Russia: "The Russian tax system is complex, with many types of taxes, numerous (and some times arbitrary) exemptions,

The IMF determined how much of the resources thus stripped from the Russian Federation had to be returned in the form of stand-by or other credits to keep enough life in its economic system and to enable it to continue to service its debts.

The IMF supervised the withdrawal and replacement of the currencies of the former Soviet Union republics, now independent States in Europe and Asia, and making them convertible to the US dollar.

It is for the IMF to report if, in its judgment, Russia was falling short in fulfilment of its obligations, and to advise methods of coercion.

The Russian Federation undertook to furnish the IMF with all relevant information and to pass, issue and maintain in force any legislation, orders, and decrees that were necessary to give effect to the IMF financial assistance agreements.[6]

It should be noted that the decisions whether the Russian Federation and the other countries of Eastern Europe and Central Asia, had kept their engagements and whether it was possible to keep them, was left not to the United Nations, but to the IMF itself; and the adverse ruling on the part of the Executive Board was to be followed "immediately" by suspension of loans.

---

narrow tax bases...Improvements in tax administration are needed ... The need for a tax reform that would simplify the tax system and broaden the tax base ...Now, after several years of drafting and debate, the government has submitted to the Duma a comprehensive draft Tax Code that pursues those objectives. In addition to the New Code, it is also necessary to improve tax collection..." See Fischer, Stanley "The Current State of the Russian Economy", *BNA's Eastern Europe Reporter*, January 26, 1998, at 77.

[6]This is in accordance with Article VIII Section 5 of the Articles of the IMF Agreement.

It might be argued that the above summary inflates the powers and the authority of the IMF and that it was open to Russia and the Eastern Europeans to raise the money required in another way, for example on the capital markets. It must not be forgotten that the liquidity of the IMF was very small, that is to say it did not have enough funds (they are currently estimated at about $40 billion), to lend when the real needs of Russia, Eastern Europe and the developing countries are sincerely considered. In this case it is probable that many of the powers of the IMF have not come into practical effect. One of the main reasons for preserving the IMF as a world institution will come into question and the expectations that Russia and the Eastern Europeans will not be able to carry out their debt obligations will be realised.

Shortly before Russia and the other new democracies in Asia and Europe joined the IMF an article appeared in the British newspaper *The Independent* on 13 March 1992. The author wrote: "In the Seventies there was a 'development debate' about strategies to help the pre-industrial societies become sustainably wealthier; now there are only programmes of economic reform imposed by the IMF and the World Bank. They are about balancing the books, privatising national economies and allowing exchange rates to find their market levels. The only debate is about the speed of implementation. Their aim is to recoup debts and allow market forces free range. Will this bring food, clean water, clinics and education to people? Eventually, maybe - but that is not the question any more. When the famines get too bad, aid agencies rush in with food relief - expensive and unsustainable. Ten years ago those agencies had begun to move away from emergency relief to development work".[7]

Nevertheless, the Eastern Europeans and Russia joined the IMF and the World Bank with a sincere hope that these two institutions would assist them with supply-side programmes in the sectors of energy, transport, agriculture and telecommunications that would bring in fresh long-term investment and would raise their living standards. Perhaps they are still right. The International Monetary Fund has come into very close contact with the problems of Eastern Europe and the developing world. It may thus come to fulfil a very different role from that which some of its authors intended for it.[8] From an instrument of oppression it could become an Economic Council of the World whose object is the restoration of life and of happiness of the greatest possible number of countries and people in the world.

---

[7]Drowden, Richard "Building a wall around the West: In the Wake of the Cold War, the world is being divided into countries within the pale and those beyond it. The message to those outside, says Richard Dowden, is 'Save yourselves'"

[8]Some of the stated purposes of the International Monetary Fund as adopted at the United Nations Monetary and Financial Conference at Bretton Woods on July 22, 1944 and which still are present in the Articles of the IMF Agreement are:

- "to facilitate the expansion and balanced growth of international trade, and to contribute thereby to the promotion and maintenance of high levels of employment and real income and to the development of the productive resources of all members as primary objective of economic policy". See Article I (ii) of the Articles of the Agreement of the IMF.

- "to promote exchange stability, to maintain orderly exchange arrangements among members, and to avoid competitive depreciations" Ibid. Article I (iii).

However, these aims have hardly been realised through the demand management IMF policies in Eastern Europe. IMF has been an institution of vested interests rather than of public utility and justice.

 DOI: 10.2870/33363

7 THE RUSSIAN FOREIGN DEBT SETTLEMENT - A PALLIATIVE MEASURE

This part will summarise the major details of the Russian foreign debt rescheduling agreements until December 1997, and then provide an analysis and estimates of the burden of the latest settlement as well as to what extent it would be sustainable. Russia still owes an enormous sum of about $130 billion to foreign creditors.[1] The major sources of information are again the World Bank's *World Debt Tables* and *Global Development Finance* and the financial press.

MULTILATERAL DEBT RELIEF AGREEMENTS

Paris Club Agreement[2]

The multilateral relief agreements with the Paris Club are as follows:

In January 1992 the former Soviet republics signed a deferral agreement of the

[1]Most of the statistics are close to this figure. See, for example, *Business Central Europe*, November 1997, at 69.

[2]The Paris Club is an arrangement by the creditor governments, mainly those of the industrialised countries, which has a relatively long history: it was set up in 1956. The Paris club examines, on a case-by-case basis, requests from countries that have difficulty in servicing long-term loans from official bodies, or officially-guaranteed loans. Since 1973, and especially after the debt crisis in 1980s, the number of Paris Club meetings and rescheduling agreements have sharply increased indicating that many countries, including Eastern Europeans and most recently those of Asia, have been finding it increasingly difficult to cope with the level of their external debt.

multilateral debt owed by the USSR to the official creditors.

In April 1993, an accord was reached for the consolidation of $14.5 billion and falling due in 1993 and their repayment over 10 years with a 6 years grace period.

In June 1994, an agreement for $7.1 billion falling due in 1994 and for their repayment over 15 years period with 2 years and 9 months grace.

In June 1995, $6.4 billion falling due in 1995 was consolidated and an accord was reached for repayment terms of 15 years and 4 months with 2 years and 11 months grace period.

In April 1996 just before its presidential elections the Russian Federation reached an agreement with the official creditors from the Paris Club for rescheduling of debts of $40.2 billion. The agreement was largely advertized as the largest ever for the Paris Club in its 40 years of existence. It rescheduled eligible debt service due at market rates and was closely tied to the condition that the Russian Federation followed an austere IMF programme. The debt was to be repaid over 21 years and five months with an initial 2 years and 11 months during which only interest payments would be due.

On 17 September 1997, Russia became the nineteenth member of the world creditor nations club in Paris. The then Russian First Deputy Prime Minister Anatoly Chubais revealed, in my opinion, rather optimistic expectations for a dramatic increase in reimbursements from developing countries from a current $150 million to about $600 million.[3] The conservative approach of the institution of the Paris club was cynically stated by Mr Chubais who argued that most politicians anywhere had

[3]See "Russia: Nations Joins Paris Club of Creditors, Increasing Reimbursements from Debtors" *BNA's Eastern Europe*, 22 September 1997, at 641.

no plans to assess what was gone wrong with the Cold war years.[4]

Commercial creditors (London club) debt restructuring agreements

In December 1991, the commercial creditors and private banks united in the so called London Club agreed to defer the principal due between December 1991 and March 1992 on pre-1991 USSR debt. Suspension of payments was extended for each consecutive quarter until the end of 1993.

In July 1993, an accord was reached to reschedule the stock of the commercial debt of the former Soviet Union to commercial banks contracted prior to 1 January 1991, which was estimated at $24 billion, to be repaid with 15-year maturity, including 5 years grace period.

In the fourth quarter of 1993, $500 million was to be paid on interest accruing during 1993. At the end of 1993, all remaining unpaid interest (estimated at $3 billion) was to be consolidated and repaid with 10 year maturity including 5 year grace. However, in 1993 the Russian Federation failed to make interest payments, and the 1993 agreement was not implemented. The officially announced reason was that Russia did not agree to accept the bankers' requirement that its sovereign immunity be waived. On 5 October 1994 an understanding was reached: the banks dropped their insistence on the waiver of sovereign immunity, and Vneshekonombank committed to guarantee the restructured debts. The signing and payment of $500 million was finally made in spring 1995, opening the way for a comprehensive rescheduling agreement.

[4]Ibid.

In November 1995 an agreement in principle was reached with the London Club of foreign commercial creditors to reschedule $33 billion of the USSR/Russian Federations' debt, including $25.5 billion in principal outstanding and $7.5 billion of interest arrears. This debt was to be repaid over twenty-five years with seven-year grace period, beginning 15 December 1995. An amortization plan resulted in 37 semi-annual payments on a graduated schedule at LIBOR (London Interbank Offered Rate) plus 13/16 percent a year (about 2 percent a year for the first two to three years, peaking at 15 percent in years nine and ten and declining thereafter). Interest due was calculated at LIBOR plus 13/16 percent a year, with actual payments rising from about 25 percent of the amount due in 1996 to full repayment beginning on 15 December 2002. The shortfall in interest payments would be covered by issuance of interest notes, listed on the Luxembourg Stock Exchange, with a 20-year maturity and 7 years grace from 15 December 1995. In 1995-96 about $2 billion in interest arrears were paid by Russia.

By September 1996 the minimum subscription of commercial banks of $20 billion in outstanding principal was reached. Thus, in September 1996 the Russian Federation completed the first phase of its 1995 agreement with the London Club of commercial creditors, restructuring $20 billion of the $33 billion debt covered by the agreement. It was expected that the remaining $13 billion would be rescheduled in the first half of 1997. These expectations, however, proved to be to optimistic. The latest agreement that postponed payments of this time the whole Soviet debt towards the commercial banks, estimated at about $33 billion was signed on 6 October 1997 and required Russia to pay $3 billion in cash as part of debt rescheduling agreement. As the business publication *BNA's Eastern Europe Reporter* reported, the deal capped more than five years of probably confusing and intriguing negotiations with banks from the United States, Europe and Japan.[5]

In conclusion, the legal arrangements show that most politicians and business people in the industrialised world and Russia, but probably not all of them, consider in public that the Soviet Union's and developing countries debts are just like any ordinary debts for goods and services. Moreover, in the five years after the disintegration of the Soviet Union, the Russian Federation paid some of the installments due, entirely by borrowing from the abroad, and not at all by means of its positive trade balance. Indeed, Russia has borrowed very much more than it has paid in debt service. It is obvious that the borrowing cannot continue for ever, if only because money accumulates at compound interest. The Russian Federation borrowing during the last five years already amounts to a such a figure that it requires at least \$10 billion annually (I make a reasonably optimistic guess taking into account the latest agreement with the commercial creditors) a year to meet annual service. But it is only when this process of borrowing comes to an end that a proof can be collected of what figure Russia could be safely asked to pay.

THE PREDICAMENT OF THE ARRANGEMENTS

The latest debt rescheduling deals with the London and Paris club of creditors are much more reasonable than anything that proceeded them. They are generally

[5]See "Russia: Agreement Signed With London Club On Rescheduling \$32.3 Billion In Debt" *BNA's Eastern Europe Reporter*, October 20, 1997, at 700.

approved and accepted as a real and permanent solution, at least from what the financial press reports. In spite of their importance for the time being, as promoters of the *status quo*, stability, peace and co-operation, as affording breathing space for the Russian economy, and as a transition from absurd expectations, they could hardly be permanent solutions. The deals, in my opinion, are of temporary nature, and are destined to need amendments.

To calculate the total burden of the Russian foreign debt settlement it is necessary to estimate the value of Russian exports. In the first years following the disintegration of USSR, it may be argued that the volume of exports was greater, but as time passed by in the later years (since 1994) this decrease in exports has been offset by transient rises in the world prices of some raw materials.

It is, of course, impossible to predict exactly what will happen in the years to come. The figures of debt payments will depend, as many economists agree, on the recovery of Russia and its economy resuming growth. However, the state of international trade generally will be also relevant and more particularly, the level of the prices of oil, gold, and other raw materials, and the exchange rate of the US dollar.

For the next two or three years, if an estimate could be made at all, 2 to 3 billion dollars is in my judgement, the best one can make, and these sums might seem too much.

That is to say, as long as Russia depends for payment (as in the long run it must do) on current income. If capital becomes available the above conclusion will not hold true. Russia still has an important capital asset untouched - the property of its citizens abroad. If this is to become available for debt payments, directly and indirectly, default could be delayed correspondingly. Similarly, the granting to Russia of foreign private and public short-term and long-term loans, would postpone the date a little. However, they will be useless in the long run.

In reaching this general conclusion, an analyst may approach the problem of the permanence of the debt settlement from two different stand points:

(1) the trade and services balance;

(2) the budget (the problem of providing payment by taxation);

I will not discuss the issue of the Russian national income and how it will be affected by the debt service, although the question deserves attention and will probably lead us to the conclusion that the average Russian will be sentenced to poverty and misery, and have to live on a few dollars a day for many years to come.

The Trade and Services Balance

Since I covered most of the topic in the previous chapter, I will limit myself to the following remarks.

In order that Russia may be able to pay its debts, it is necessary, not only that it should have exports, but that it should have a considerable surplus of exports over imports.

TABLE 1: **RUSSIA'S BALANCE OF TRADE ON GOODS AND SERVICES (billion of dollars)**

	1992	**1993**	**1994**	**1995**	**1996**
Exports of Goods	41.6	46.3	67.7	81.6	90.2
Imports of Goods	37.2	34.3	48.0	58.8	73.9
Balance on Goods	4.4	11.9	19.7	22.7	16.3
Net Services	-10.1	-9.7	-6.5	-8.1	-8.0
Total	**-5.7**	**2.3**	**13.2**	**14.6**	**8.3**

Source: Economist Intelligence Unit, *Russia: Country Profile,* various issues; IMF, *International Financial Statistics,* various issues. Trade flows prior to 1994 exclude trade with the Baltic states and the other countries of the former Soviet Union

The myth that the Russian Federation has been carrying on a vast and increasing export trade is too widespread. Nevertheless, by examining more carefully the statistics, it will become clear that only in the last three years, (1994, 1995 and 1996) its trade surplus was around $10 billion dollars which was implemented by mostly by cutting imports. However, the bulk of Russian imports are necessary either to its industries or to the food supply of the country. It is therefore certain that with the present level of exports it could not cut and keep its imports so low for a long period of time, let us say about 10 years.

Thus, to meet its liabilities Russia must increase its exports without increasing its imports.

It is not impossible given time and an overwhelming motive, and active assistance by the industrialised nations of Russia's export industries (Recently, Gazprom and some of the other oil and natural gas producers were borrowing, although it is hardly to be reckoned sufficiently on the world markets).

However, it is doubtful and, I think, nobody could consider it likely in the actual circumstances. And if Russia succeeded, would not this vast increase in exports unbalanced by imports, injure many industries in Europe and other parts of the world?

The Budget Problem

The debt payments are a liability of the Russian government and must be covered by taxation. The liability is fixed in terms of US dollars, while the bulk of the revenue of the government is collected in rubles.

The relation between the ruble and the dollar has been a very fluctuating one through the years after 1992. The fluctuations have been of more importance over short periods than in the long run. For in the long run all values in Russia, including the taxation revenues, will tend to adjust themselves to an appreciation or depreciation in the ruble exchange rate. But the process may be a slow one. Taxation in terms of rubles, which was heavy when the dollar was worth 1,000 rubles in 1993, became very inadequate when the dollar was worth 3,600 rubles in 1994, 4,640 rubles in 1995 and 6,000 rubles in 1997. It is beyond the power of any finance minister to adjust taxation to such situations quickly.

In the first place, when the fall in the relative exchange rate of the ruble is proceeding rapidly, the corresponding fall in the internal value lags far behind. Until this adjustment has taken place, which may occupy a considerable time before it is complete, the taxable capacity of the people measured in dollars is less than it was before.[6]

The collapses of the ruble exchange rate destroyed several budgets in post Soviet Russia. Whether that will not happen again, I guess, it would be hard to find finance minister who would like to bet.

If the technical financial difficulties were discussed above, there is a political and social aspect of the problem that deserves attention as well.

Germany, the other West European countries, the United States, and

[6]It is common sense that:

(1) the yield of direct taxation must largely depend on the taxable assessments of the previous period;

(2) that a period must elapse before the dollar value of the yield of taxation collectable in rubles catches up.

 DOI: 10.2870/33363

international institutions such as the European Union and the International Monetary Fund deal with the established Russian government, make bargains, sign agreements with it and look to it for fulfillment. Moreover, the creditors do not extract payments out of individual Russian directly. They rather put pressure on the transitory abstraction called government, and leave it to this government to determine and to enforce which individuals are to pay and how much. Since at present the Russian budget is far from being in equilibrium, despite quixotic remarks in the financial press, even if there were no debt payments at all, it is fair to say that not even a beginning has yet been made towards settling the problem of how the burden is to be distributed between interests and groups in the society.

This problem is essential. Debt payments take on a different aspect when, instead of being expressed in terms of billions and as a liability of the transitory abstraction called government, they are translated into a demand for a definite sum of money from a specific individual. This stage, I argue, is not yet reached, and until it is reached the full intrinsic difficulty will not be felt. For at this stage the struggle ceases to be primarily one between the creditor governments and private banks on one side and the Russian government on the other. It becomes a struggle between different sections and classes of Russians. The struggle will be bitter and violent, for it will present itself to each of the contesting interests as an affair of life and death. The most powerful motives of self-interest and self-preservation will be engaged. Conflicting concepts of the end and nature of society will be expressed. Although a government which makes a serious attempt to cover its liabilities will inevitably fall from power.

One expression of the budget problem has been the price of oil and coal in

Russia. For various internal reasons the Russian government have tried to maintain the price of energy materials to Russian citizens far below world prices, with the result that it gets credited with much less than its real value for its deliveries of oil. The Russian government is in a rather a dilemma on this matter. A removal of subsidies, in the same way as better tax collection, is one of most obvious sources for an increased revenue, and such a removal would be, from the standpoint of the treasury, twice blessed, since it would increase correspondingly the debt payments. But on the other hand, efforts to slash subsidies would unite two powerful groups against the government, the newly emerged capitalists, who want cheap coal, oil for the restructured or new industries, and the communists, who want cheap energy materials for the population and its heating through the tough winters. Probably, from a revenue standpoint, tax collection will be improved and subsidies will be partly eliminated, as happened in 1996 and 1997, but from a political standpoint it is difficult to imagine all taxes collected and subsidies totally removed.

THE RUBLE FOREIGN EXCHANGE RATE - A DIGRESSION ON DEVALUATION

The value of a country's internally convertible currency may fall for two reasons:

First, the government is spending more than it is raising by loans and taxes and is meeting the balance by printing money.

Second, because the country is under the obligation of paying increased sums to foreign countries and private companies for the purchase of investment goods or in discharge of debts.

Temporarily the exchange rate may be affected by speculation, that is to say by anticipation, whether well or ill founded, that one or other of the above reasons will operate. However, most economists share the opinion that the influence of speculation is generally exaggerated, despite the immense effect it can exercise momentarily.

Both influences can only operate through the balance of payments which are due for immediate payments between the country in question and the rest of the world. The liability to make payments abroad plays directly on the exchange, while the inflation of the currency has an indirect influence on the latter. Additional money stimulates imports and retards exports by increasing the local purchasing power at the existing level of values (or because the expectation that it will so act causes anticipatory speculation). The expansion of money supply can have no effect whatsoever on the exchange rate until it reacts on imports and exports, or encourages short-term speculation. As the latter disappears, the effect of the money expansion on the exchange can only be by its effect on imports and exports.

Applying the above general discussion on the ruble exchange rate since January 1992, it must be noted that at first the various influences were operating in the same direction. Inflation tended to depreciate the ruble, so did foreign investment by Russians (the flight of capital). At the same time, investment by foreigners in Russian currency as well as fresh new loans tended to appreciate the ruble. After liberalisation of prices and depreciation of the ruble upon the Big Bang in the beginning of 1992, the International Monetary Fund, the World Bank and the industrialised countries released funds supporting the free-market reform. Numerous people of Russian, but also of other, nationalities formed the opinion that purchase of rubles would be a good investment. These resources enabled Russia, partially at least, to replenish its food supplies and to restock its industries with manufacturers and consumer goods. Thus, imports of goods and services exceeded exports in the first half of 1992. In addition, the export of capital and investment in other countries was also stimulated. Meanwhile, inflation was proceeding. The money supply doubled, while the exchange rate of the ruble had deteriorated only slightly before the half of 1992. In the final months of 1992, however, various influences, which up to that time had partly balanced one another, began to work all in one direction, that is to say adversely to the value of the ruble. Inflation continued and reached 1,300 per cent at the year end, and the note circulation of the Russian Central Bank was further increased. Imports exceeded exports. Investors in rubles began to take fright and sought to diminish their holdings of rubles. There was no mystery here, no "plot" wilfully to depreciate the ruble. However, popular ignorance attributed depreciations to speculators, like Mr Soros, only, or to acts of governments only. And at some point at the end of 1992, the Russian government was called on to make an important payment on its debt. Sales of rubles instead of being absorbed by foreign and domestic investors, had to be made in competition with sales from these same investors. Naturally the ruble collapsed. It had to fall to a value at which new buyers would come forward or at which sellers would hold off.[7]

Thus, it may be argued that the collapse of the ruble in 1992 was mainly due to the necessity of foreign debt payments. The result was that the fall of the ruble

[7]The secret of the currency market is that the sales of foreign exchange must exactly equal the purchases every day.

 DOI: 10.2870/33363

exchange rate exceeded any figure which could be justified merely as a consequence of the degree of domestic inflation. Russia required a much larger issue of rubles, if Russian internal prices were to become adjusted to world prices at the new exchange rate. That was exactly what happened in 1993. In 1993 and 1994, the Russian government made serious attempts to meet its debt obligations which caused its expenditures to exceed its revenue by so great amount, that inflation and the internal price level caught up quickly with the external depreciation. Slight temporary recoveries of the exchange rate occurred when Russia received loans from the IMF, the EU countries and other foreign creditors. Throughout the years, it may be contended that the Russian policy makers have been faced with insoluble dilemma and unfortunate prospects:

(1) the depreciation to persist and the internal price level to become adjusted to it with the resulting re-distribution of wealth between different groups of the society creating conditions for a social catastrophe.

(2) recovering of the exchange rate which would remove the artificial stimulus to the economy and might lead to a financial catastrophe. It is common sense that every appreciation of the ruble increases the real burden of what Russia owes to foreign creditors and the real burden of the public debt, while depreciation of the currency has the advantage that reduces these two burdens to a moderate level.

So far, since 1992 the Russian public witnessed more of (1) happening, but after 1995, a half-hearted policy of stabilisation of the rouble was rather pursued. Writing this at the end of 1997, upon the debt rescheduling agreements with the creditors and the announcement of President Yeltsin that the Russian government would like to stabilise the ruble starting in January 1998, there is a some possibility

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

that (2) might happen.

Anyway, until the debt has been settled reasonably, it is scarcely worth the trouble to bother our heads about a problem so insoluble.

8 THE INTERNATIONAL DEBT AND TRADE AT THE END OF THE TWENTIETH CENTURY

In this chapter, but also in the concluding remarks I would re-state my general assumptions and argument and try to analyse the world debt problem after the Cold war.

I have assumed that the equilibrium of international trade is based on a complicated balance between the agriculture and the industries of the different countries in the world, on the division and specialization by each in the employment of its labour and capital. If one country is required to transfer to another country great quantities of goods or services, for which this equilibrium does not allow, the balance is destroyed. Since capital and labour are fixed and organized in certain manner and cannot freely flow into one another, the disturbance of the balance is destructive to the utility of capital and labour. The organization on which the wealth of the modern world so largely depends suffers an injury. In the course of time a new organization and a new equilibrium can be established. But if the origin of the disturbance is of temporary character, the losses from the injury done to the organization may outweigh the profit of receiving goods without paying for them. Moreover, since the losses will be concentrated on the capital and labour employed in particular industries, they will provoke protests relative to the injury suffered by the whole community.

The end of the Iron curtain and the peaceful revolutions in Eastern Europe unveiled the illusion of a bipolar world. Are the former super powers and their former allies going to adapt to new, more sophisticated economic realities and to move together into the next century? Are they going to resolve in a mutually advantageous way the international debt problem, whose main cause might be traced to the Cold war, politics of militarism, and struggle for markets?

My argument is that it is in the self-interest of Germany, the other European countries and Japan to write off part of the Russian and the US foreign debt to a reasonable figure. The amount of debt should be such that Russia and US themselves will recognize as not unjust, and which is sufficiently within maximum capacity to leave them with incentive to pay it. At present, the Russian Federations owes around $130 billion, while the United States, as the biggest foreign debtor in the world, owes around $831 billion. Russia will benefit if it writes off money it is owed by Central and Eastern European countries, members of the Commonwealth of Independent States and developing countries which anyway are not collectable. The same would apply to the United States and its non-collectable credits to the developing countries in Latin America and other parts of the world.

Peace and amity would be won in Europe and the world, new resources would be released for increasing community's wealth and would be deployed to the best advantage of everyone. Hard landing of the world economy would be avoided and the transition to a new equilibrium would be much smoother and painless.

HOW A CREDITOR MAY EXTRACT PAYMENTS FROM A DEBTOR?

Before proceeding with the concrete facts, I would like to make the following initial remarks and assumptions.

First, it does not matter whether the debtor country pays by exporting goods directly to the creditor or by selling these goods elsewhere and then paying with the received cash. In both cases the goods are produced and are sold on the world or creditor's market in competition or in co-operation with the industries of the creditor. Therefore, it very much depends what kind of goods are produced rather than on which market the goods are sold.

Second, it does not harm the creditor country to receive proceeds from sold commodities which commodities could be sold on the creditor's market or in any case could be sold competitively on the world market.

Third, if the debtor is pressed to pay its obligations, it might be expected that it will offer competitive goods at a lower price than it would otherwise. The particular industries in the creditor country which produce these goods are bound to suffer injuries, although the creditor country accrues improvements in its balance of payments as a whole.

Fourth, in so far as the payments made by the debtor country accrue, not to the country with which the debtor's goods are competing, but to a third country, clearly there are no balancing advantages to offset the direct disadvantages under the previous paragraph.

Fifth, whether the balancing advantages to the creditor country as a whole outweigh the injury to particular industries within that country, depends on the length of the period over which the creditor country can reasonably expect to go on receiving the payments. At first the injury to the industries which suffer from the competition and to those employed in them is likely to outweigh the benefit of

 DOI: 10.2870/33363

payments received. But as in the course of time the industry undergoes restructuring and the capital and labour are absorbed in other directions, a balance of advantage may accrue.

RUSSIA'S DEBT TOWARD EUROPEAN COMMUNITY COUNTRIES

During the Cold War, Soviet exports were preponderantly competitive with EC member states' in developing countries markets, although undoubtedly the quality of Soviet products was definitely lower than that of the EC, and non-competitive - in EC markets. After the end of the Cold War and the collapse of trade with the developing countries, if Russian exports were to be stimulated, it is certain that it would have to sell goods against EC producers of textiles, steel, uranium, and aluminium. This is not altered by the fact that it is possible to pick out a few exports such as mining products, petroleum, and natural gas, which are non-competitive. Therefore, if Russia is to have a large surplus of exports over imports, it must increase its competitive sales or non-competitive sales on the EC markets.

In the post Cold war era, Russia can only target an export trade of raw materials by exporting petroleum and natural gas, mining products, metals, iron and steel, for these are the only export articles it can produce in great quantities.

To compel Russia to pay a large debt is therefore the same thing as to compel her to expand some or all of the above-mentioned industries to a greater extent than it would do otherwise. The only way in which it can effect this expansion is by offering the goods at a lower price than that at which other countries exporting to the EC countries do. Russia would put herself in a position to offer its products cheaply, partly by workers lowering their standard of living without reducing their efficiency in the same degree, and partly by Russian export industries being subsidised, directly or indirectly, at the expense of the rest of the world.

TABLE 1:

Soviet & Russian exports	**1985**	**1989**	**1992**	**1993**
	(Percentage of Total Exports)			
Machinery	13.9	16.4	9.0	7.0
Mineral & Metal Products	7.5	10.5	21.0	20
Petroleum & Gas	52.7	39.9	50.0	51.0
Chemical products	3.0	4.0	4.0	4.0
Food Products	1.8	2.2	2.5	2.0
Wood & Paper	3.0	3.0	3.2	3.0
Textiles	1.0	1.1	1.3	1.2
Other	17.1	22.9	8.0	1.8
Total	100	100	100	100

Sources: Economist Intelligence Unit, *Russia: Country Profile*, various years; Vneshneya Torgovlya, various issues; *Ekonomika i zhizn*, various issues.

 DOI: 10.2870/33363

The above facts, especially those concerning subsidies, were neglected by popular and official opinion in the European Communities member states when a free market reform was launched in Russia and the opening of the Soviet system began, and are now probably exaggerated.

Since the EC member states do not control the form of Russian export trade as a whole, the remedy lies in reduction of the Russian foreign debt to a reasonable figure. The permanence of debt payments on a large scale for a long period of years is, to say the least, not to be hoped. Who believes that the EC countries will, over a period of one or two generations, exert adequate pressure over the Russian government, or that the Russian government can exert adequate authority over its citizens, to extract hard currency income on a vast scale from forced labour? There is not the faintest possibility of the EC countries with persisting with this affair to the end. Moreover, it would not be worth to disorder EC member states' steel, textile or petro-chemical industries and disturb the equilibrium of the EC member states industries, or disturb the equilibrium of other major supplier of natural gas, petroleum or raw materials to Germany, Italy, France and the rest of the EC countries.

THE DEBT PROBLEM AMONG THE INDUSTRIALISED COUNTRIES

The same principles could be applied with one modification to relations between the United States and its European and Japanese creditors, or between Germany as a main creditor to France, Italy and rest of the European Communities countries. According to many economists' estimates, Japan and Germany are now

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

owed more interest on foreign investment than is due from them. In 1995, Japan's net investment position stood at $837 billion, while German - at $190 billion. In the long run the industries of Japan and Germany would suffer, not so much from the competition of cheap goods from the US or EC countries in their endeavour to pay their debts, as from the inability of the US and the other EC countries to purchase from Japan and Germany their usual proportion of their exports.

Hereinafter, I would analyse the relationship of the United States with its most important foreign creditors, Japan and Germany.

TABLE 2: UNITED STATES NATIONAL AND FOREIGN DEBT

	Total Debt	Foreign & International Debt
	(Billion of dollars at end of the year)	
1975	437.3	66.5
1981	987.7	149.5
1987	1,953	453.7
1991	2,845	491.7
1994	3,542	688.6
1996	n.a.	831.3

Source: International Monetary Fund, *International Financial Statistics, 1996*; "Home Debts from Abroad", *Economist*, 12 July 1997.

The developments in the last five years show that the Japanese total balance of trade has been in surplus on average of around $130 billion a year. The Japanese trade surplus with the United States has been approaching a sum of $60 billion annually. On the other side of the balance, Japan has made payments in respect of tourists and transport services which are estimated at $50 billion. Thus, in order to balance the account as it now stands, Japan should have lent to the rest of the world, in one shape or another, not less than $80 billion a year. In fact, it has been lending a little bit more, but nevertheless exacerbating her chronic creditor position, which rose from $329 billion in 1990 to $837 billion in 1995.

As far Germany is concerned, after the re-unification in 1989 the German trade surplus has been on average of $50 billion a year (Since 1992, Germany's trade surplus with the United States and the EC countries has been gradually increasing.) German citizens and companies have made payments for services and travel of around $40 billion a year. Foreign workers' remittances have amounted to around $30 billion. In fact Germany has been running current account deficits of about $20 billion every year since 1991. In order to finance its re-unification Germany has been borrowing on average of around $30 billion a year. Nevertheless, it should be noted that since the late 1980s the chronic creditor position of Germany has not altered much and now stands at around $190 billion.

 DOI: 10.2870/33363

TABLE 3: THE UNITED STATES' TRADE DEFICITS

(billion of dollars)

	1969	1976	1980	1987	1994
Germany	0.6	0.2	1.3	16.3	6.1
Japan	1.8	6.8	12.2	59.8	49.0
World Total	0.4	17.0	36.9	173.7	164.3

Source: International Monetary Fund, *Direction of Trade Statistics*, various issues; United Nations, Comtrade Database.

Even in the recent period of recession the credit balances of Japan and Germany have not been reduced. It should be noted that the Japanese excess of exports over imports has been mainly provided by its trade with the United States, while German trade surplus is mainly provided by trade with its European Communities partners, followed by the United States.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

The stupendous but volatile flow of foreign investment[1]

After the Second World War the United States, being the largest mercantile nation in the world, employed large funds in its overseas trade. It lent and offered grants to the reconstruction and development of Europe and Japan, since the latter could not do so.[2] The arrangements were mutually advantageous and out of abundant profits the lender was repaid.

But the position was gradually changing. Mainly because of its role of military super power, but also of world-wide slowing of productivity growth, the United States started to experience persistent deficits on its trade and current account, and in the 1970s the dollar was unpegged from gold.[3] A new phenomenon in the world economy also appeared - what is perhaps best described as "the dislocation" of international capital movements from the trade in goods and services. Thus, the London-based Eurodollar market alone had a volume of at least many times that of

---

[1]Professors Eichengreen and Kenen's story on the evolution of the Post Second World War trade and financial law and institutions is very informative and useful and could supplement the story in this chapter. See Eichengreen, Barry and Kenen, Peter (1994) "Managing the World Economy under the Bretton Woods System: An Overview" in Kenen, Peter (ed) *Managing the World Economy*, Washington, D.C.: Institute for International Economics.

[2]See, for example, the book of Milward, Alan (1984) *The Reconstruction of Western Europe 1945-51*, Berkeley: University of California Press; Spagnolo, Carlo (1998) The *Marshall Plan and the Stabilization of Western Europe: Counterpart funds and Corporatist Trends in Italy, France and Western Germany (1947-1950)*, Ph.D. Thesis, Florence: European University Institute.

[3]Odell, John S. (1982) *U.S. International Monetary Policy, Markets, Power, and Ideas as Sources of Change*, Princeton, NJ: Princeton University Press.

world trade.[4]

Thus, in the late 1970s or the early 1980s, depending on the statistics and estimates, the United States became the largest world debtor. The US Commerce Department latest release of America's international investment position in June 1997 showed that the international indebtness rose by $193.8 billion in 1996, to $831.3 billion in 1997 and was covered entirely by new borrowing.

Nevertheless, the situation of Japan and Germany is not the same as that of the United States after the Second World War. The analogy between the present US bonds and treasury bills and the American bonds issued in Europe during the nineteenth century is false, because, taken in aggregate, there is no natural increase out of which they can be repaid. The interest will be furnished out of new loans, so long as they are obtainable, and the financial structure will mount always higher, until it is not worth while to maintain any longer the illusion that it has foundations. The current diminished enthusiasm of Germans and Japanese to buy less U.S. bonds is based on a common sense. Fortunately, the biggest creditors of the world have been wise enough to support the post Second World War financial structure.

In fact, since the 1970s Japan and Germany have been lending to the rest of the world, mainly to the United States, in promoting the dollar as the de facto world currency. Fortunately for the United States, a fair proportion of this was by way of

[4]The volume of foreign exchange traded in London quadripled from about $40,250 in 1986 to about $162,400 billion in 1996. In comparison the volume of world trade expanded from about $2,090 billion in 1986 to about $5,200 billion in 1996.

The American economist Martin Feldstein described the volatility of capital flows in *the Economist* of June 24, 1995 in the following way: "Much of the capital that does move internationally is pursuing temporary gains and shifts quickly as conditions change. The patient money that will support sustained cross-border capital flows is surprisingly scarce."

 DOI: 10.2870/33363

purchases of dollars, US treasury bills, or portfolio investment in American companies. But this source of income could scarcely be reckoned on permanently. As the interest on past loans mounts up, it must in the long run aggravate it.

In part an adjustment was affected by Japan and Germany providing capital for those parts of the world which are less developed than themselves, such as the countries in Asia, Central and Eastern Europe, and Latin America. Japan and Germany have lent more wisely to these countries than directly to the United States. But all these practices of foreign investment could not provide a solution to the existing disequilibrium in the balance of indebtness. The fundamental issue for all those students of international trade is how to balance the account between Japan and the United States, and Germany and the United States.

How to Balance the Account

Indeed the US have persistently tried to find the money to pay Japan and Germany, either by selling more or by buying less. The first has been achieved, and it must be admitted with temporary success through the years, using depreciations of the dollar, multilateral rounds of negotiations to reduce barriers to trade or bilateral trade consultations within or out of the framework of the General Agreement on Tariffs and Trade, now the World Trade Organization.[5] However, it is crystal

[5]The leading expert on the GATT, Professor John H. Jackson in his testimony before the US Senate Finance Committee on the Uruguay Round legislation, given on 23 March 1994, summarised this process of adjustments in the following way: "[t]he Uruguay Round is a step forward, but it is not the end of the trail. There is much left to be done, and already many people are considereing the "post-Uruguay Round agenda, whether it will be addressed by a new "Round", or by other more modest mechanisms of constant negotiations."

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

clear that the sectors where the United States industries are still competitive in third countries' and its creditor markets have diminished through the years and are more or less limited to a few, including telecommunications, financial and legal services, software, space and aero industries and probably some others. The US could, for example, export more agricultural products if the European Common Agricultural Policy and price support system were finally dismantled or if most of the existent Japanese import restrictions are abolished, that is to say if Japan deregulates its economy and allows a large inflow of US service providers entering its market. In this scenario, the farmers of Europe would arguably suffer more than its manufacturing industries, and some major Japanese banks will be declared not solvent giving their place to American financial institutions. But it is unlikely that the whole trade gap will be bridged.

However, ultimately, and probably soon, there must be a readjustment of the balance of exports and imports. Germany and Japan must buy more than they sell. This is the only alternative to them making the US an annual present. Either German and Japanese prices must rise faster than American (which will be the case if the Japanese Central Bank and the Bundesbank allow the dollar influx to produce its natural consequences), or the same result must be brought about by further depreciation of the dollar against the yen or the deutsche mark (which has been gradually happening through the years), until the US has reduced its purchases to a minimum and, probably, isolating herself in a regional bloc with the Latin American countries and Canada. At first the German, as well as other Europeans, and Japanese exporters and their companies in China, Taiwan, Thailand, Singapore, Indonesia, or South Korea unable to scrap all at once the processes of production for export, may lower their prices. However, they cannot keep prices below their costs of production, for a long period and therefore, bankruptcies would inevitably happen on a large scale. It could be argued that the present currency turbulences and the problem of debts in East Asia have been first signs of this.

The decisive argument, however, for Germany and Japan, is not the damage to particular interests, but the unlikelihood of permanence in the extraction of debts from the US, even if disbursements are made in the short run. There is no doubt in the American ability to pay it but the great difficulty for Germany and Japan to resolve their problem of balancing their commercial account with the US.

It will be unwise for Germany and Japan to suppose that an equilibrium position can be reached on the basis of them exporting at least as much as present, and at the same time restricting their imports. The irony is that Germany and Japan have devised schemes for promoting and financing their exports while at the same time have used schemes which make it as difficult as possible for such credits to be repaid.

By shipment to Japan and Germany of all the gold, precious metals, and even raw materials in the world, or the erection there of a second Sears Tower of green paper, a short postponement may be gained. But a point may even come when Japan and Germany would refuse gold and dollars, yet still demand to be paid.

In any case the readjustment will be severe, and injurious to many interests. If Germany and Japan decided to pursue the policy of extracting their loans to an end, scrapped their export industries and diverted to other uses the capital now employed in them, and if EC countries and the US decided to meet their obligations at whatever cost to themselves, there is a strong argument that the final result might be to the German and Japanese material interest. But the project is utterly chimerical.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

It will not happen. Nothing is more certain than that Germany and Japan will not pursue such a policy to its conclusion; they will abandon it as soon as they experience its first consequences. Nor, if they did, would Europeans and the Americans pay the money they owe.[6] The situation is similar to that of Russian and East European debts toward the EC countries. Neither, in the long run is serious politics. Nearly all informed persons admit this in private conversations. But we live in a curious age when utterances in the press are designed to be in conformity with the worst informed, instead of with the best-informed opinion. The former is the popular one, so that for a long period of time there can be discrepancies between the written and the spoken word.

A never ending story?

In conclusion, a good construction could be imagined that will open Pandora's box. The settlements of Russia's, the United States', Italy's, France's, the United Kingdom's, and no doubt China's, India's, and other developing countries' debts are intimately linked. The cancellation of the former would be ground and an excuse for a sensible conclusion of the latter. It is also bound with disarmament. The Europeans and Japanese should not cancel the debts except on terms, and these terms should include universal disarmament to a level that should create trust between former and present allies and enemies and a new reasonable arrangement with Russia, and later

[6]It has been argued that the European single currency is all about debts and a mediocre way of resolving the world debt problem through replacing the overvalued dollar by the euro as a world currency. However, this would lead me far from the present discussion, and it is my opinion that only time will tell us whether the above statement is true or false.

the United States, China, India and others within the framework of the United Nations and the International Monetary Fund.

The world needs a general disentanglement from the senseless paper bills with which many are fettering for no good or durable purposes. Can this be achieved without another universal debt crisis in favour of the world's economic wealth and peace? Probably. I will return to these proposals in the concluding chapter.

9 EASTERN EUROPE AND THE COUNTRIES OF THE FORMER SOVIET UNION AFTER THE IRON CURTAIN

This chapter should not be one of pessimism, and I should probably assert that the glass is half full. However, the post Cold war trade and financial agreements, being in a state of constant flux, did not include satisfactory provisions, in my opinion, for the economic rehabilitation of Eastern Europe - nothing to make all the former totalitarian states good neighbours, nothing to stabilise on a permanent base the new countries that emerged after the disintegration of the three federations of Yugoslavia, Czechoslovakia and the Soviet Union. The Maastricht Treaty, the following enlargement of the Union to include Austria, Sweden, and Finland, and the Amsterdam Treaty, have not promoted, or rather leaves this question still open, a compact of economic solidarity among France, Germany and the other countries that pledged their allegiance to the ideas of a Community some forty years ago. The implementation of the arrangements to restore the disordered finances of the European Communities countries are rather unsatisfactory, although the famous Maastricht criteria might be considered by some a good start. But more importantly, there have been no satisfactory global agreements to adjust the systems of the industrialised countries and the developing countries in Asia, Africa and Latin America.

In the following I would make an attempt to consider the economic conditions in Eastern Europe that were established by the Cold war and the consequent peace. I would try to present as objective picture as possible and it would not be any longer a part of my purpose to distinguish between the inevitable fruits of the Cold war and the Iron curtain and the avoidable misfortunes of the peace. The following is written with the clear conscience that it is difficult to maintain true perspective in large affairs and should be not regarded as detailed account or analysis.

The essential facts of the situation, in my opinion, are as follows. Eastern Europe, but also Europe as a whole, consists of one of the densest aggregation of population in the history of the world. The population is accustomed to a relatively high standard of life, in which, even now, some sections of it anticipate improvement rather than deterioration. Internally the population is not evenly distributed, but much of it is crowded into a number of cities. The population secured for itself a livelihood during the years of the Iron curtain, by means of a delicate and immensely complicated organisation, of which the foundations were supported by heavy industry, transport, and supply of raw materials or food from other continents.[1] By the destruction of this system and the interruption of the supplies, a part of the population is deprived of its means of livelihood. Emigration is not open to all. For it would take years to send them to other places, even, which is not the case, if countries could be found to receive them. The danger confronting the more affluent parts of Europe, therefore, is the rapid fall of the standard of life of the countries in Eastern Europe to a point which will mean actual starvation for some (a point already reached in parts of Russia, Ukraine, Belarus and forthcoming in Romania, Bulgaria, former Yugoslavia, Albania). As history teaches us, people do not always die quietly. It is true that starvation brings

[1]The latter account is valid for the other more prosperous part of Europe as well.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

to some lethargy and a helpless despair, but some may be driven to nervous break downs and even hysteria. The latter may overturn the existing order and organisation, and reverse the existing civilised society in attempt to satisfy the needs of the individual. The power of ideas becomes a king or a prophet, and the individual listens to whatever instruction of hope, illusion, or revenge is transmitted to him/her. I argue that the resources, idealism and courage of the more affluent parts of Europe must now co-operate to avoid a potential disaster.

The important features of the most recent period can be grouped under three headings: first, the absolute fall in the late 1980s and the 1990s of the Eastern European countries internal productivity;[2] second, the collapse of the currencies and the trading system by which the products could be conveyed where they were most wanted; and third, the absolute reduction in the ability of the Eastern Europeans to make purchases from the developing or developed countries or to sell products to them.

The decrease of productivity cannot be easily estimated, and may be subject to exaggeration. A variety of causes have produced it: violent and prolonged disorders as in Poland, Romania, former Yugoslavia, and some parts of the former Soviet Union; the creation of new governments and their inexperience in the readjustment of economic relations as was experienced in one way or another in all countries; the unsettlement of the minds of the labour on the fundamental

[2]Eastern Europeans workers are now cheaper to employ, but less productive than they were three or five years ago, despite the immediate short-term increase in productivity after an austerity package was implemented. It may be argued that productivity has suffered in the long run because cost-savings are mainly due to companies laying off workers or closing down loss-making businesses. There has been far less or no progress in terms of long-term investment or modernising technology.

issues of their lives. Above all there was a relaxation of effort as the reflex of physical and mental exhaustion of large sections of the population from the totalitarian system. Even during the late 1980s and perestroika, but more afterwards, many people have been *de facto* unemployed and have been paid by printing money or inflation of the currencies.

In Russia, but also in all other Eastern European countries, there is the added restraint to labour and to capital, as far as the settlements of the foreign debts is taken into consideration, that anything which they may produce will for years to come be taken away from them. Thus, the Eastern Europeans countries owe some $250 billion, including Russia's $130 billion debt. As of December 1997, the foreign debts of some Eastern Europeans, estimated by the Economist publication *Business Central Europe,* were as follows: Bulgaria - $10.3 billion; Croatia - $5.1 billion; Czech Republic -$19.6 billion; Hungary - $25.1 billion; Poland - $38.0 billion; Romania - $7.9 billion; Slovakia - $9.0 billion; Slovenia - $4.0 billion.

Such definite data, as is available, do not add much, perhaps, to the general picture of decay. The free fall in industrial output was a feature of all countries in Eastern Europe. According to the reports of the Economist Intelligence Unit, for example, only in the period between 1990 and 1994 the Soviet and the Russian oil production fell by 39 per cent; coal output dropped by 32 per cent (upon Soviet coal and oil a greater part of the industries in Eastern Europe and a major part of its transport system depends); electricity - by 20 per cent, the total industrial output - by 35 per cent; the grain production - by 22 per cent, the effective quality of the livestock - by 32 per cent.[3] Therefore, Russia may well be starving because

[3]Economist Intelligence Unit, *Russia: Country Profile*, 1995-96, at 44.

of diminished output. In the Czechoslovakia, even after the peaceful divorce of the federation, almost all sectors of the industry have suffered a decline in output in the period after 1989. In the Czech republic the indices of industrial production fell on average by 21 per cent, while in Slovakia the fall was even faster and estimated at 46 per cent between 1990 and 1994.[4] In Hungary the International Monetary Fund estimated a drop in industrial production of 18 per cent during the same period. The figures are almost too overwhelming to carry conviction; if they were not quite so bad, the belief in them could probably be stronger.

The general picture of Russia, and with slight variations for the better for its former and present Eastern European partners, is as follows: On the one hand, a small country population able to support life on the yield of its own agricultural production but without the surplus for the towns, and also (as a result of the lack of imported materials and saleable manufactures of the towns) without the usual incentives to market food for other products. On the other hand, an industrial population unable to earn a living because of the lack of materials, and unable to make good by imports from abroad the failure of productivity at home.

The breakdown of the currencies in Eastern Europe, and the distrust in their purchasing power aggravated further the problems of falling output and foreign trade. The official political economy of the centrally-planned economies rejected for the most time the psychological role of active monetary policy, and was ideologically committed to steady prices. Nevertheless, the practical administrators of the socialist countries of Eastern Europe gradually reforming the economies

[4]According to estimates from the Economist Intelligence Unit, *Czech Republic, Slovakia: Country Profiles 1993/94.*

were not dogmatic and also used foreign loans and generous "invisible" subsidies, and even printed money in order to 'counter' the fall off in efficiency in the late 1970s and 1980s, depending on the country, thus incurring tremendous national debts. In practice, stable prices often led to shortages, to the waste and inefficiency of barter. As radical market reforms were launched in 1990s, the new more or less democratic governments continued the process started by the communists and through open inflation have secretly confiscated a major part of the wealth of the citizens. The generous socialist welfare spendings on culture, education and health have gradually disappeared in less than five years. By this clandestine, but natural method the governments, unable or too timid or too short-sighted to secure from loans or taxes the required resources, have randomly appropriated and have struck at the confidence in the equity of the existing distribution of wealth.[5] Thus, the post Cold war rising prices and inflations and the move to capitalist society in most cases disordered the relations between creditors and debtors, which should be the major justification of the same new capitalist system. Moreover, the process of wealth creation has become and has been considered by many a gamble and a lottery rather than a hard and honest work by the new entrepreneurs. In the first years after the Berlin wall tumbled all the governments practised from necessity a policy of rising prices. Even now, most of the countries continue out of weakness

[5]The new rich have become object of the hatred of everybody. Although, it may sound strange to many and it is against the conventional view of the day, it is these entrepreneurs, whether "red" or "blue", who are the constructive and active element of the new emerging societies, who in a period of inflation cannot but get rich quickly whether they wish it or not.

the same malpractices, and the inflation rates are still double-digit.[6] Accordingly, since the days of socialism most currencies have enjoyed a precarious value abroad, but never entirely lost, not even in the former Soviet Union, their purchasing power. A sentiment of trust in the legal tender of the state is so deeply embedded in the citizens of all countries that they cannot but believe that some day this money must recover at least some of its former value. This illusion have been supported by the various state and other regulations to control prices of food and utilities, and so to preserve some purchasing power for the currency. The rule of law has to sustain a measure of immediate purchasing power over some commodities and the force of custom maintains, especially among people living in small towns and villages, a willingness to collect paper money which has been really worthless. The preservation of an artificial value for the currency expressed in the regulation of prices contains the germs of a final economic decay, and soon dries up the sources of ultimate supply and the budget.[7] If a person is compelled to exchange the fruits of his or her labour for paper which he/she cannot use to purchase what is required at a price comparable to that which he/she has received for his/her own products, he/she will keep his/her produce for himself, dispose of it to friends and relatives as a favour, or not exert enough effort in producing it. If a government, however, embraced too openly and sincerely the free market doctrine, refrained from regulation and allowed the 'invisible hand' to resolve the

[6]In Bulgaria this point has reached a point of about 1,000 per cent where for the purposes of foreign trade the currency was practically valueless and it necessitated stabilisation by pegging it to the Deutsch mark in May 1997.

[7]The radical free market reforms in the 1990s were the natural and easier way for the new governments to resolve the above problem.

problem, essentials soon would become so expensive that they can be purchased only by a few. Moreover, the worthlessness of the money would become so obvious that the fraud on the public cannot be concealed any more. Therefore, subsidies have had a negative effect on foreign trade. Whatever may be the case at home, the currency must sooner or later reach its real level abroad, with the result that internal and world prices become equal.

The countries of Eastern Europe fall into two distinct groups at the present time regarding of what is really the same evil throughout, bearing in mind that they have been cut off from international trade discourse by the military conflicts or wars such as those in Yugoslavia, the Gulf War, Somalia, Angola, Algeria, or have had their imports paid for out of the resources of the industrialised countries in America, Europe, and Asia. My argument is that the menace of inflation has not been merely a product of the Cold war of which the idea of European or global community should probably be the cure. Inflationism has been a continuing phenomenon of which the end is not yet in sight. Romania, Bulgaria and most of the former Soviet republics could be probably included in this first group, while the Czech republic, Hungary, Slovakia, Poland in the second one. Hereinafter, I will discuss Russia as typical of the first group, and Hungary and Slovakia of the second. This classification and division is very arbitrary and should be considered with care. Some might put Slovakia in the first group rather than the second, while Estonia, Latvia and Luthiania probably belong to the second group.

The circulation of roubles is about ten times[8] what it was in 1992. The value

[8]My estimates include the broad definition of money, i.e. money plus quasi-money. See International Monetary Fund, *International Financial Statistics, 1997*, Washington.

of the rouble is about one-tenth of its dollar value in 1992. In spite of a very great rise in Russian prices, they probably do not yet average much more than several times their former values, so far as essentials are concerned; If they were to rise even further this should happen with a simultaneous and not less violent adjustment of the level of money wages. The existing difference between internal and world prices has hindered, along with other constraints, that revival of the import trade which is the fundamental preliminary for economic restructuring and development of Russia. On one hand, imported goods have been beyond the purchasing power of the majority of Russians, and the flood of imports, needed for development purposes and not for immediate consumption, which might have been expected after 1992 was not in fact commercially possible.[9] On the other hand, it has been risky or impossible for an entrepreneur to purchase with a foreign credit machines for which he would receive roubles of a quite uncertain and possibly unrealisable value.[10]

To summarise, there have probably been three major hindrances to the revival of commerce in Russia, but also in the other Eastern European transition

[9]Economic theory is unanimous that a low level of internal prices should stimulate exports and so cure itself. But in Russia, and in most former Soviet republics, there has been little to export, except for some raw materials. Therefore, there must be imports before exports.

[10]Since 1992, it has been impossible to predict in the economic conditions of Russia at a certain point in time what will be the exchange rate of the rouble to the dollar or German mark six or seven months after this time point. Therefore, it may be the case that most Russian entrepreneurs careful of their credit and reputation, who have been offered a short-period credit in terms of dollars or Deutsch marks, might have been unwilling to take them. The reason is simple, he/she would have owed dollars or marks, but must have sold his/her products for roubles. Business loses its character and becomes nothing more than a speculation on the currency markets.

economies: an unbalanced situation between internal and world prices; a lack of sufficient international credit with which to buy the raw materials and manufactured products needed to secure the working capital and re-start the circle of exchange; for the most time, especially in the period 1992-94, the existence of disordered currency system which have rendered credit operations more risky or impossible than normal.

Hungary finds itself in a much better situation than Russia and its nearer neighbours which is probably due to the fact that since 1992 a major part of her imports have not been paid for, but have been covered by loans or foreign investment from the countries in Western Europe and the United States.[11] This would require an equilibrium between exports and imports, a requirement which is becoming a serious factor, now that the outside assistance is being gradually discontinued. In 1997 Hungary is estimated to have a current-account deficit of 4.2 per cent of the Gross Domestic Product or one billion dollars. Therefore, the internal economy of Hungary and its prices in relation to the money supply and the dollar or the German mark is at present based on a trade deficit, which cannot possibly continue for a long time.

Slovakia faces a current-account deficit of more than 10 per cent of the Gross Domestic Product in 1997, of which only one-tenth is expected to be covered by

[11]In June 1997 total foreign investment in Hungary was $16.2 billion making the country the biggest recipient of foreign capital in Eastern Europe. See *Business Central Europe*, November 1997, at 69. Similar to the other transition economies in Eastern Europe, a great part of Hungary's imports and current account deficits are financed by short-term capital rather than long-term direct investment.

foreign direct investment.[12] Moreover, the government budget deficit is almost five per cent of the Gross Domestic Product.[13] Yet it is difficult to see how this situation can be readjusted except by a further depreciation of the Slovak crown and a consequent fall in the standard of living and consumption in Slovakia.

The budgetary problems of all the Eastern European countries have been serious and all governments have failed in one way or another to impose and collect taxes and thus balance their budgets. Thus, in 1996 the Russian President Boris Yeltsin solemnly declared taxes a matter of state importance and blamed tax evasion for the "aggravation of the most painful social problem facing the population - non-payment of salaries, pensions and [welfare] benefits". In 1996 the Russian government owed more than 40 trillion roubles ($7.4 billion) in salaries and social payments.[14]

In conclusion, the falling productivity and output, the currency turbulencies and inflations, the foreign and national debts combine together to prevent Eastern Europe from supplying immediately a sufficient flow of exports to pay for goods it needs to import. Moreover, these above influences impair Eastern European countries' credit for securing the working capital required to re-start the circle of exchange. It may sound paradoxical but their combination favour not recovery but a further swinging of the economic pendulum from equilibrium rather than

---

[12]Since 1993 Slovakia has received more portfolio investment than long-term direct investment. According to the International Monetary Fund the total foreign investment in 1996 was $790 million, of which $483 million were short-term funds.

[13]"Something Horrible There" *The Economist*, October 18, 1997, at 92.

[14]"Emergency Commission Decreed to Improve Collection of Taxes" *BNA Eastern Europe Reporter*, October 21, 1996, at 680.

towards it. An inefficient, unemployed Eastern Europe faces Western Europe, torn by internal strife, nationalism, starving etc. The picture described, I assume, cannot be gloomier. It might be a case for a new Dostoevsky to narrate the indifference towards everything, towards the truth of life, towards everything that nourishes life and generates health.[15] How the malady of the body becomes a malady of the mind. But who knows and can say how much is endurable, or in what direction people will seek at last to escape from their misfortunes?

---

[15]A leading article in *The International Herald Tribune* on 9 June 1997 commented on this as follows: "It may sound dismissive, but it is certainly true. Russian men are dying in middle age at a rate unparalleled in modern history - from too much smoking, too much vodka, horrid diets, little exercise and the enormous stress of a rapid economic change and social dislocation since the dissolution of the Soviet Union...

There is almost no current demographic fact about Russia that would fail to shock: Per capita alcohol consumption is the highest in the world, nearly double the danger level drawn by the World Health Organization: a wider gap has developed in life expectancy between men (59) and women (73) than in any other country; the mortality rate of 15.1 deaths per 1,000 people puts Russia ahead of only Afghanistan and Cambodia among the countries Europe, Asia and America (the rate for the United States id 8.8); the death rate among working-age Russian today is higher today than a century ago.

Soon after Dostoevsky noted the "Russian disease", demographers carried out the nation's first major census and projected that by this time the population would be 400 million. Instead, it is 147.5 million, and the most recent report to Mr. Yeltsin suggests that if new health and educational initiatives are not adopted soon, the population of Russia will decrease by as much as 30 million in the next 50 years.

The implications of such change are stark. Of the 3.5 million people under age 60 who died in Russia over the last five years - a figure with parallels in modern history only during vast famines or prolonged wars - most have been working-age people, who are desperately needed to help Russia from its depression." The author further continued that there was no sign of relief and only in 1996 the Russian population decreased by about 500,000 people, the steepest decline in the post Second World War history. Yet there are many persons apparently in whose opinion justice requires that the remaining human beings for the next twenty or so years should pay tribute in relief of the European taxpayers.

APPENDIX:

TABLE 1: **HUNGARY'S CURRENT ACCOUNT AND FINANCIAL ACCOUNT BALANCE (million of dollars)**

	1992	1993	1994	1995	1996
Goods: exports	10,097	8,119	7,648	12,864	14,184
Goods: imports	-10,108	-12,140	-11,364	-15,297	-16,836
Trade balance	**-11**	**-4,021**	**-3,716**	**-2,433**	**-2,652**
Services: credit	3,405	2,836	3,117	4,271	5,004
Services: debit	-2,641	-2,620	-2,958	-3,629	-3,506
Balance on Goods and Services	**753**	**-3,805**	**-3,557**	**-1,729**	**-1,154**
Income: credit	424	465	676	798	1,202
Income: debit	-1,684	-1,655	-2,082	-2,602	-2,658
Current transfers balance	858	733	910	1,060	921
Current Account	**351**	**-4,262**	**-4,053**	**-2,535**	**-1,689**
Direct Investment Abroad	0	-11	-49	-43	4
Direct Investment in Hungary	1,479	2,350	1,144	4,519	1,982
Portfolio Investment Assets	0	-8	6	0	-18
Portfolio Investment Liabilities	0	3,927	2,458	2,213	-851
Other Assets	-412	881	362	88	-1,256
Other Liabilities	-642	-1,055	-551	-199	-1,436
Financial Account	**416**	**6,084**	**3,370**	**6,578**	**-1,575**

Source: Economist Intelligence Unit, *Hungary: Country Profile, 1997,* at 48; International Monetary Fund, *International Financial Statistics*, 1997. Note: Business Central Europe estimates Hungary's current account deficit at $0.7 billion as of August 1997.

TABLE 2: **SLOVAKIA'S CURRENT AND FINANCIAL ACCOUNT BALANCE (million of dollars)**

	1993	1994	1995	1996
Goods: exports	5,452	6,743	8,591	8,823
Goods: imports	-6,365	-6,634	-8,820	-10,923
Trade balance	**-912**	109	-229	-2,099
Services: credit	1,939	2,261	2,378	2,066
Services: debit	-1,666	-1,600	-1,838	-2,025
Balance on Goods and Services	**-639**	770	311	-2,058
Income: credit	185	155	250	224
Income: debit	-224	-275	-263	-270
Current transfers balance	98	68	93	201
Current Account	**-580**	**719**	**390**	**-1,905**
Direct Investment Abroad	-61	-14	-10	-66
Direct Investment in Slovakia	199	203	183	277
Portfolio Investment Assets	-774	-26	157	-10
Portfolio Investment Liabilities	216	166	243	483
Other Assets	-412	-548	-116	-339
Other Liabilities	430	84	891	2,303
Financial Account	**-402**	**-135**	**1,348**	**2,648**

Source: Economist Intelligence Unit, *Hungary: Country Profile 1997-98;* International Monetary Fund, *International Financial Statistics,* 1997. Note: Business Central Europe puts Slovakia's current account deficit at $1 billion as of June 1997.

TABLE 3: **RUSSIA'S BALANCE OF PAYMENTS (million of dollars)**

	1993	1994	1995	1996
Goods: exports			81,553	88,463
Goods: imports			60,085	67,577
Trade balance			**21,468**	**20,886**
Services: credit			10,058	10,649
Services: debit			-18,800	-17,160
Balance on Goods and Services			**-8,742**	**-6,511**
Income: credit			4,292	4,231
Income: debit			-7,626	-9,429
Current transfers balance			108	165
Current Account			**9,501**	**9,342**
Medium & Long-Term Debt Inflows			3,122	3,066
Net direct investment			1,711	2,158
IMF credit			5,453	3,755
Other capital flows (net)			7,943	-12,244
Change in Interml Reserves			-9,310	1,357
Financing Requirement			7,483	5,443

Sources: Economist Intelligence Unit, *Russia: Country Profile 1997-98*, at 48; Goskomstat.

10 CONCLUDING REMARKS AND OUTLOOK FOR EUROPE AND THE WORLD

In the preceding chapters I have not generally had in mind the situation and the problems of the industrialised countries of Europe, Japan, the United States and others. The European Union countries, just like all the developed countries, are in a state of transition, and their economic problems are serious. They may be at the dawn of great changes in their social and industrial structures. Some may welcome such prospects, others may object to them. In my opinion, they are of a different kind from those approaching Eastern Europe or other less fortunate parts of the globe. It would be hard to perceive the possibilities of catastrophe or any serious general social disturbances. The Cold war and the arms race have impoverished the developed countries, but not seriously, judging at the real wealth in the late 1990s, which is more than that in the 1970s. The current account and trade balances of the Unites States and the United Kingdom are negative, but not so much so that the readjustment of it need to disorder their economic life. Moreover, Italy, Germany, France, Japan have had for the most time positive trade and current account balances. The budget deficits in all major industrialised countries are large, but not beyond what determined and prudent statesmanship could manage. The shortening of the hours of labour and the increase of the relative importance of the service sector in the economy, as experienced in the United Kingdom and the United States, or the high rates of unemployment in continental Europe may have somewhat diminished productivity. But it should not be too much to hope that this is a feature of transition. The most serious problems of the developed countries have been gradually brought to a peak by the Cold war in the 1980s, its end in the 1990s, and the world financial crisis in 1997, but are in their origins more fundamental. These are mundane problems from which no generation is emancipated. First, the forces of the second half of the twentieth century have run their course and are now exhausted. The economic motives and ideals of that generation no longer reassure us: the world must probably find a new way and must suffer again the debility, and finally the serious pains, of a new industrial birth that would push material progress forward.[1]

[1]The Council of Economic Advisers in its 1997 Annual Report transmitted to the US Congress tried to provide some insight into the present productivity slowdown in the industrial world:

> "The framework that economists use to decompose growth into contibutions of physical capital, human capital, and their efficiency can be used to understand the causes of the productivity slowdown. This slowdown, which began around 1973, was similar in its timing and magnitude in all advanced industrial economies. Consequently, it cannot be explained by purely domestic factors.
>
> Slower growth of inputs - physical capital and human capital - is not a major cause of the slowdown. The capital-labor ratio has grown a bit more slowly since 1973, but only enough to account for 0.2 percentage point of the approximately 2-percentage point decrease in productivity growth. And the rate of increase of human capital - the education and experience of workers - has actually increased since 1950s and 1960s. Human capital growth now accounts for not only a larger absolute share of productivity growth (27 percent from 1973 to 1994, compared with 3 percent from 1960 to 1973), but a larger absolute amount as well (0.3 percentage point versus 0.1 percentage point). Policies to increase investment, education, and training, however important for other reasons, do not address the underlying causes of the slowdown.
>
> From an accounting perspective, almost the entire slowdown is attributable to a decrease in multifactor productivity growth, that is, the efficiency with which capital and labor are used. Although the causes are murky, some insight comes from the explanation of the productivity speedup of the 1950s and 1960s. Some of that era's abnormally rapid productivity growth resulted from the private sector's use for civilian purposes of the burst of innovation - largely government funded - inspired by the war effort in the 1940s. Some important examples are the digital computer, other advances in electronics, and the development of nuclear energy. Thus, although we may not fully understand the causes of the slowdown, policies aimed at increased support for science and technology are obviously strong candidates to be part of the solution."

See *Annual Report of the Council of Economic Advisers in The Economic Report of the President Transmitted to the Congress February 1997* (Washington DC: United States Government Printing Office), at 30.

Second, the increase in the real cost of food and raw materials to any further increase in the population of the world,[2] a tendency which must be especially injurious to the developing countries and the most dependent on imported supplies of food and raw materials. That is to say, taking the world as a whole, there has not been deficiency of wheat or petroleum, but in order to call forth an adequate supply it might be necessary to offer a higher real price. It is not a secret that since the 1970s the United States and France have exported grain to more than one hundred countries, including the former Soviet Union, China and South East Asian and African countries. Moreover, the European Union countries, despite the existence of the Common Agricultural Policy and huge export subsidies, have not been entirely self-sufficient in their agricultural production. As a major industrial nation in the world Japan imports most of its food. The United States and the western Europeans (and Canada, Argentina, Australia, South Africa, India, Thailand) can hardly be expected to continue indefinetely to raise by a substantial figure the cost of living in their countries, in order to provide cereals for the rest of the world which cannot pay for it. The argument is similar if we consider petroleum exporting countries in Asia, Africa and Latin America are concerned.

These two problems are of a different character from those which may afflict the peoples of Eastern Europe, East Asia, Africa and Latin America. Those who, mindful of the Western European or the North American conditions with which they are habituated, are inclined to indulge in optimism. But they should think of those parts of the former Soviet Union, Albania, North Korea, Algeria, Egypt,

[2]There were 4.9 billion people in the world in 1986, while now there are about 5.8 billion. More than 3 billion live in Asia.

Africa, Yugoslavia, Indonesia, Turkey, where the most dreadful evils which individuals can suffer - famine, environmental disasters, war, murder, cold and anarchy.

The tentative proposal of this final chapter may appear somewhat inadequate or idealistic. But the opportunity was missed in the late 1980s and early 1990s. Great privations and great risks to societies have become unavoidable. All that is now open is to redirect, so far as lies in the powers of national governments and world public opinion, the fundamental economic trends. I will limit myself with the discussion of a programme that includes: First, the revision of the Post Second World War Institutions; Second, the settlement of the debts between the developed countries; Third, an international loan, setting up a world currency, a World Central Bank and a World Organisation regulating trade and prices of raw materials. I should probably make a remark that a great change in world public opinion is necessary before the proposals of this chapter can enter the region of practical politics. Therefore, patience and tolerance are essential while events progress slowly in space and time.

THE REVISION OF THE POST SECOND WORLD WAR INSTITUTIONS

It would be utopian to conceal in the interests of "idealism" the real difficulties of revising universal institutions and international treaties, such as the United Nations and their affiliated economic institutions that comprise of the International Monetary Fund, the World Bank and the World Trade Organisation, or continental ones such as the European Union.[3] In 1994, Professor Robert Keohane of Harvard University cautiously and probably realistically stated that governments should rely where it was possible on the organizations built up in the postwar period, because it would be costly to change them dramatically and very expensive to replace them entirely. As a political scientist who mostly lived and worked in the competition and fears of the Cold War, where interests and power persisted to be crucial, he further argued that the Bretton Woods institutions' rules shaped expectations, exemplified commitments that were costly to break, reduced transaction costs of making further agreements, and helped governments monitor their partners' actions. All these things should be obvious. Nevertheless, he also justly observed that after the Cold war the future effectiveness of these institutions was questionable. It depended on the institutions' ability to sustain domestic political support for the principles they represent and therefore the ability of governments to cope with the social implications of internationalisation. "Not only does effective management of the world economy depend on domestic politics; domestic politics is deeply affected by changes in international markets". In other words, the conception of the United Nations, the International Monetary Fund, the European Union from an instrument of progress, may have gone some way toward an almost ruinous bias towards the *status quo*.

Nevertheless, that is no reason to decry the United Nations, the International Monetary Fund or the European Union, which the wisdom of the world governments and public opinion may yet transform into powerful instruments of

[3]See Keohane, Robert (1994) Comment, in *Managing the World Economy, Fifty Years After Bretton Woods* (Peter Kenen ed., Washington DC: Institute of International Economics), at 61.

peace. My argument is that first efforts for the revision of the Post Cold war settlement must be made through the United Nations, the International Monetary Fund and the European Union, in the hope that the force of general opinion, and if necessary, the use of financial pressure and financial inducements, may be enough to prevent an unmanageable minority from exercising their right to veto.

I do not intend to enter into the details, or to attempt to describe a revision of the United Nations Charter or the other Bretton Woods institutions, neither of the European Union Amsterdam Treaty, clause by clause. I limit myself to three fundamental changes which are necessary for the economic life of the world and Europe. These three changes relate to debts, trade, and disarmament.

First, through a global debt restructuring agreement which will fix payments well within Russia's, Eastern European countries, and other developing countries capabilities to pay, the renewal of hope and enterprise within their territories would be achieved. An escape from perpetual friction and opportunity of improper pressure arising out of legal obligations which are impossible of fulfillment, and thus the intolerable powers of the International Monetary Fund will be rendered unnecessary.

Second, a free trade union should be established between the industrialised countries and the major developing countries, and then world free trade area, as some prominent economists proposed[4], under the auspices of the United Nations and the World Trade Organisation. This free trade union would facilitate the retrieval of some part of organisation and economic efficiency which must

[4]See, for example, the comment of Professor Jagdish Bhagwati "The High Costs of Free Trade Areas" in the *Financial Times* of May 31, 1995, at 19.

otherwise result from innumerable new political frontiers now created between immature, and economically incomplete, nationalist states in Europe and other parts of the world. Economic frontiers were tolerable so long as an immense territory was included in two spheres of influence: Soviet and American; but they will not be tolerable when the reality of a multipolar world is becoming more and more apparent. The free trade union should comprise the United States, Canada and Mexico, all the European Union countries, Eastern and Central Europe, Turkey, Egypt, Japan, Australia, India, Brazil, Argentina, Indonesia, China, Saudi Arabia. It would be greatly to be desired that Switzerland, Norway would also adhere shortly as well as the rest of the world. Global free trade area might do as much for peace and prosperity of the world as the United Nations, or any agreement on global warming. Thus, an economic system will be created in which everyone will have the opportunity of belonging and which gives special preferences to none. This system is surely absolutely different from the present schemes of trade preferences and discrimination and would make the most favoured nation treatment a moral principle of state behaviour. Some might object, I suppose, that such an arrangement might go some away in effect towards realising the former American dream of universal free trade and free markets, others might argue that this speeds up the realisation of the former Soviet or rather Marxist dream of a proletarian world. But other countries were so unwise to remain outside the union and to leave to the United States, Russia and China all its advantages, there might be some truth in this.

Third, a universal disarmament to limits that would establish confidence and trust between former enemies. I do not intend to enter into details of how this

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

could be done, but the late 1980s and the years of perestroika are a good example further to be followed by the nuclear powers in the world.

If the assumption is made that at least for a generation to come Russia and China, cannot be trusted and that while all the others are angels, that year after year Russia and China, Romania, Bulgaria, Serbia and Slovakia must be kept impoverished and their populations starved and crippled, and that they should be ringed by *cordon sanitaire* of enemies; then the proposals of this chapter must be rejected, and particularly those which may assist Russia and its former allies to regain a part of their former material prosperity and find a means of occupation for the industrial population in the towns. If this Hobbesian view of international relations is adopted by the United States and the European Union democracies, and is financed by Germany, Japan, France, Italy, the Netherlands and others, nothing can then delay for very long that final civil war between the forces of communism and despairing convulsions of the reactionary liberal free-marketeers, before which the horrors of the Cold war and communism will fade into nothing, and which will destroy civilisation and the progress for a generation. Can nations base their actions on better expectations, and believe that the prosperity and happiness of one country promotes that of others, that solidarity is not an illusion, and that nations can still afford to treat other nations respectfully as humans?

All the European Union countries, and mostly Germany, will be losers on paper. But on paper only, for they will never secure the actual fulfillment of the payments by Russia and the East Europeans. The same might be said for Japan claims on China and the countries in South East Asia, or the United States claims on the countries in South and North America.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

The following is a proposal for the adjustment of the claims of the industrialised countries of Germany, Japan, Switzerland, the Netherlands, Belgium, the United Kingdom and their industrialised countries' debtors, including the United States, France, Italy, Canada, Australia, South Korea and others.

THE SETTLEMENT OF THE DEBTS BETWEEN THE INDUSTRIALISED COUNTRIES

A proposal for debt restructuring and debt cancellation in relation to Eastern European, Russian and developing countries debts should be supplemented by a readjustment between the developed countries themselves.

My proposal is that the governments of major countries in the world including the United States, the United Kingdom, Japan, Germany, Italy and France, and Canada should prove themselves sincere and trustworthy. If all the debts among the developed countries are cancelled, the net result on paper (i.e. assuming that there are not bad loans) would be a surrender by Japan of about $890 billion, Germany of about $190 billion, Switzerland of about $300 billion, the United Kingdom - about $8 billion, the Netherlands of about $65 billion, Belgium and Luxembourg - $37 billion. The United States would gain about $800 billion, Canada - about $240 billion, France - about $35 billion, Italy - $39 billion etc.[5]

[5]The figures are partly estimated, and are probably not completely accurate in detail. For the present purpose I will not enter in discussion of the accounts other debtors as Australia or other European countries including Sweden, Denmark, Spain, Greece, Finland, Norway. As a source of the international net investment positions of the countries I use the International Monetary Fund, *Balance of Payments Statistics*

These figures overstate the loss of Germany, Japan and others and understate the gain to the United States, France, Italy and others; for a large part of the loans made by Germany, Japan, United Kingdom, Italy and France has been made to the former Soviet Union, Central and Eastern Europe, or China, South Korea, Indonesia, Thailand and other countries in Asia, Latin America and Africa and cannot be, by any stretch of imagination, be considered all good. If we take, for example, the loans of the United Kingdom to other countries; they are reckoned to be worth 50 per cent of their full value (I make an arbitrary but convenient guess, looking at the prices of the developing country's Brady bonds traded in London) the operation would involve neither loss or gain. Nevertheless, the relief in anxiety which such a liquidation of the position would carry with it would be rather impressive. Thus, it is mainly from the main world creditors Germany, Switzerland, and Japan, therefore, that the proposal requires and pleads generosity.[6]

What should be the future relations between the industrialised or developed countries? The Cold war ended with former allies owing money to each other.[7] Moreover, the total amount of the industrialised countries' debts is even likely to exceed the amount obtainable from East Europeans and Russia and developing countries. Nevertheless, the question of industrialised countries' debts is closely

Yearbook 1997.

[6]Controversies as to relative sacrifice are very unproductive and very foolish also; for there is no reason in the world why relative sacrifices should necessarily be equal-so many other very relevant considerations being quite different in the above cases.

[7]The United States has to pay an approximate sum which is around seven or eight times more than the generous aid disbursed to its allies in Europe and other parts of the world in the decade after the Second World War.

linked with the popular feeling what Russia, the Eastern Europeans or other developing countries' could pay - a feeling which is based, not on any reasonable estimate of what Russia and the developing world can pay, but on a well-founded appreciation of the unbearable situation in which industrialised countries will find themselves if Russia, China, South Korea and others do not pay. If we take just a few examples. If France is expected to pay about $35 billion, surely Russia must pay much more. How can it expected to think that Russia will pay less than France? How Italy be expected to pay its tribute, while Hungary and Algeria escape a crushing burden? The sentiment is simple - if the developed countries debtors have to be satisfied without full compensation from their debtors, how severe will be the protests against payments to Germany and Japan. A settlement of the European Union countries and the United States debts is an indispensable preliminary to the peoples in the developed countries facing, with other than a angry or desperate heart, the inevitable truth about prospects of debt payments coming from Eastern Europeans, Africans, Latin Americans, or Asians which, according to the World Bank, owed a sum of about $2,065 billion at the end of 1995.[8] The World Bank's publication *1997 Global Development Finance* estimated that in 1995 Algeria owed about $32 billion; Argentina - about $89 billion; Brazil - about $159 billion; China - about $118 billion; Egypt - about $34 billion; India - about $93 billion; Indonesia - about $107 billion; Malaysia - about $34 billion; Mexico - about $165 billion; Sudan - about $17 billion; Thailand - about $56 billion; Venezuela - about $35 billion.

The final considerations to this proposal must, however, depend on the

[8]See World Bank (1997) *Global Development Finance*, at 63.

reader's view as to the future place in the world's progress of the paper entanglements which are our legacy from the Cold war and the Iron curtain. Today there are external and internal debts, or in other words everyone owes money to everyone else.

On the one hand, nine years after the Berlin wall and less than a year since Hong Kong re-unification with China every state owes every other state immense sums of money. Russia and the former socialist states owe large sums to western European countries and the United States. Russia owed sums to some East Europeans, although this situation has been reversed during the last five years. Developing countries like Iraq, India, Algeria and others owe money to East Europeans and Russia. The United States owes money to West Europeans and Japan, Italy and France owe money to Germany, the Netherlands, Belgium and the United Kingdom. Brazil, Argentina, China, Indonesia and India owe money to Japan, West Europeans and the United States. The above debtor-creditor ties could be continued and continued, but the space and the subject of the dissertation is limited. On the other hand, the holders of bonds or paper securities in every country are owed a large sum by the treasury in every state, and the state in its turn is owed a large sum by these and other taxpayers.[9] On the other hand, there are the external debts. The whole position is very artificial and misleading. Europe and the world shall never be able to move again, unless they free their way from the above external and internal paper obstacles. The existence of the debts is a jeopardy to the financial stability everywhere. There is not a country, I guess, in

[9]Tax evasion and tax havens are world wide phenomena that throws doubt on the immortal phrase of Benjamin Franklin of the certainty of death and taxes, at least for the present moment.

which repudiation may not soon become an important political issue. In the case of internal debts, however, there are interested parties on both sides, and the question is one of the internal distribution of wealth among generations and/or social groups in a country. With the external debt this is not so, and the creditor nations may soon find their interest inconveniently bound up, if they are successful, with the maintenance of a particular type of government, right or left-wing, conservative or liberal, and even economic organisation in the debtor countries. It is not exaggeration, and history proves it, that a debtor nation does not love its creditors.[10] It would be futile to expect feelings of goodwill from Poland, Hungary, Russia, the United States, China, Italy, Korea towards Germany and Japan, if the future developments of the debtors is checked for many years to come by an annual tribute. Therefore, debt forgiveness would certainly give a

---

[10]It was in 1795, in the turmoil and bloodshed of the French revolution and in the eve of the Napoleonic wars, when the great German philosopher Immanuel Kant would write in his philosophical scetch "The Perpetual Peace":

> 'No national debt shall be contracted in connection with the external affairs of the state.'
>
> There is no cause for suspicion if help for the national economy is sought outside the state (e.g. for improvements of roads, new settlements, storage of foodstuffs for years of famine, etc.). But a credit system, if used by the powers as an instrument of aggression against one another, shows the power of money in its most dangerous form. For while the debts thereby incurred are always secure against present demands (because not all the creditors will demand payment payment at the same time), these debts go on growing indefinitely. This ingeneous system, invented by a commercial people in the present century, provides a military fund which may exceed the resources of all other states put together. It can only be exhausted by an external tax-deficit, which may be postponed for a considerable time by the commercial stimulus which industry and trade receive through the credit system. This ease in making war, coupled with the warlike inclination of those in power (which seems to be an integral feature of human nature), is thus a great obstacle in the way of perpetual peace. Foreign debt must therefore be prohibited by a preliminary article of such a peace, otherwise national bankruptcy, inevitable in the long run, would necessarily involve various other states in the resultant loss without their having deserved, thus inflicting on them public injury. Other states are therefore justified in allying themselves against such a state and its pretensions."

See Kant's Political Writings (Hans Reiss ed., Cambridge: Cambridge University Press, 1971), at 95.

stimulus to the cooperation and friendliness among the above nations. The example of the European Community must be followed by the idea of a World Community. There is an urgent need for a global debt deal to prevent a general financial bonfire, similar to that of 1929. If the deal is executed in an orderly and good-tempered way in which no serious injustice is done to anyone, the bonfire will, when it comes at last, grow into a confrontation that may destroy much else as well.

In conclusion, I do not believe that any of the above payments will continue to be paid, at the best, for more than a very few years.

AN INTERNATIONAL LOAN, A NEW WORLD CURRENCY, A WORLD CENTRAL BANK

The requirements of Russia, Eastern Europe, China, South East Asia, and the developing world are immediate. The prospect of being relieved of oppressive interest payments over the whole life of the next generations would liberate the future from excessive worries. It would not resolve the problems of the immediate present - trade balances in the majority of cases have been negative, the chaos of the currencies has been a reality. I would propose an international loan in some form or another, as has been advocated by some economists and public officials in the United States and the United Kingdom. The burden of finding immediate resources must inevitably fall in major part upon Japan, Germany, Switzerland, the Netherlands.

I do not propose to enter in details. But the main outline of the schemes for an international loan are much the same. The countries in a position to lend assistance, some Western Europeans, Switzerland, Japan must provide foreign purchasing credits for the developing world. The total sum might be small, and not so large as some economists proposed. This sum should be lent and should be borrowed with the definite intention of its being repaid in full. It should rank for payment of interest and principal before any debts, whether they are internal or external. All the borrowers should be required to place their tariff revenues for the service of the new loans.

Expenditure out of the loan should be subject to general, but not detailed, scrutiny by the lending countries.

These novel plans should also include the creation of a new world currency, which should not belong to any particular country, but to the members of the United Nations, setting up a World Central Bank, and a World Organization with a purpose to stabilise prices and trade in food and raw materials.

The idea underlying the creation of a World Central Bank is simple. It takes the world as a closed system and applies the fundamental principle of banking, that is to say there should be necessary equality of credits and debits, of assets and liabilities. If no credits can be removed outside the banking system but only transferred within it, the World Central Bank itself can never be in difficulties. The Bank could with safety make what advances it wishes to any of its members with the assurance that the proceeds can only be transferred to the bank account of another country. The only problem would probably be that the countries behave themselves and that the loans made to each of them are prudent and advisable from the point of the view of all members. A statute of the World Central Bank should be adopted by the counties in the world elaborating detailed rules and principles of behaviour and policy. This will create confidence and mutual understanding between the countries. The provisions of the Statute must aim at maintaining a stable equilibrium of the world economy and cover issues as maximum limits of permitted overdraft, keeping individual credits and debits within a reasonable amount, the measures that must be taken in good time to reverse excessive movements in the countries' balance of payments.

The World Organization regulating trade and the prices of the raw materials would be set up on which the governments of the leading producing and consuming countries should be represented, but which should be open to every country in the world to join. Its main object would be to stabilise the price of that part of world output which enters into international trade, and to maintain stocks adequate to cover fluctuations of demand and supply in the world market.

It is useless to elaborate such and similar more ambitious schemes in further detail. A radical change is needed in the public opinion everywhere before the proposals of this chapter become politics of the day. Therefore, time and the flow of events should not be interrupted by anybody but patiently and with tranquility attended.

At present, there are just a few signs of dramatic developments anywhere. Against totalitarianism and injustice protests should be weapons. But what guidance of hope can protests and strikes offer to sufferers from economic privation which does not arise out of injustices of distribution but is general. Therefore, ahead of us is a long, gradual, steady lowering of the living standards everywhere. The bankruptcy and decay in Eastern Europe, Asia, Africa and Latin America, the slums and poverty in the United States and Russia, if the creditor governments and nations allow to proceed will affect everyone in the more distant future, but in the short-run it might seem not so noticeable or immediate. Nobody can predict the events, which will flow ceaselessly and probably will not be shaped in the coming year by intentional acts of statesmen.

Although many view the world at the dead season of its fortunes, the voice of the new generation has not pronounced itself in public, and it would be for people everywhere in Tokyo, Berlin, Paris, London, Moscow, Rome, New York, Rome, Delhi, Shanghai, San Paolo to realise and exclaim like Faust :"*Verweile doch, du bist so schön*", or assert like Voltaire: "*Aimer et penser: c'est la véritable vie des esprits*". If our society wants that peace and prosperity in the world to be preserved, it would require an illuminated general, but also individual, conscience that should accept many changes around ourselves. How we are collectively going to accept and be prepared for these future changes depends entirely on us as a global community. I hope this dissertation is a small and modest contribution to this education and instruction. As Henry Longfellow's young heart said to the psalmist:

> LIFE IS REAL! LIFE IS EARNEST
> AND THE GRAVE IS NOT ITS GOAL;
> 'DUST THOU ART, TO DUST RETURNEST,'
> WAS NOT SPOKEN OF THE SOUL.
>
> NOT ENJOYMENT, AND NOT SORROW,
> IS OUR DESTINED END OR WAY;
> BUT TO ACT, THAT EACH TO-MORROW
> FINDS US FARTHER THAN TO-DAY.
>
> ....
>
> LET'S US, THEN BE UP AND DOING.
> WITH A HEART FOR ANY FATE;
> STILL ACHIEVING, STILL PURSUING,
> LEARN TO LABOUR AND TO WAIT.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

APPENDIX:

TABLE 1: **BALANCE OF PAYMENTS OF FRANCE** (BILLIONS OF DOLLARS)

	1992	1993	1994	1995	1996
Goods: Exports	227.4	199.0	224.0	270.4	274.0
Goods: Imports	225.0	191.5	215.9	259.2	259.0
Balance on Goods	**2.4**	**7.5**	**8.1**	**11.2**	**15.0**
Services: Credit	91.7	86.3	90.60	96.9	88.9
Services: Debit	72.6	69.5	71.3	77.9	72.0
Balance on Goods & Services	**21.5**	**24.4**	**27.40**	**31.04**	**31.9**
Income: Credit	87.59	24.35	110.0	127.3	128.4
Income: Debit	96.2	98.99	120.96	134.1	133.5
Current Transfers	-9.0	-6.2	-8.4	-6.7	-6.2
Current Account Balance	**3.89**	**8.98**	**8.08**	**17.47**	**20.5**
Direct Investment Abroad	31.26	20.40	22.80	17.55	26.5
Direct Investment in France	21.84	20.75	17.36	20.12	20.0
Portfolio Investment Assets	18.46	31.50	24.65	22.75	48.7
Portfolio Investment Liabilities	52.50	34.51	29.82	10.89	19.8
Other Assets	61.08	13.58	25.73	24.02	26.5
Other Liabilities	28.44	6.45	29.39	14.43	23.0
Financial Account	**8.03**	**16.67**	**5.01**	**18.86**	**25.4**
Total Balance	**-1.57**	**-5.00**	**2.44**	**0.71**	**0.23**

Sources: International Monetary Fund, *1996 International Financial Statistics Yearbook*, Washington, DC: IMF, at 367; International Monetary Fund, *1997 International Financial Statistics Yearbook*, Washington, DC: IMF, at 397. The figures in the total balance do include net errors and ommissions, as estimated by the IMF experts.

Note: France had experienced trade deficits in the 1980s, which notwithstanding had been balanced by exports in services. The overall balance in trade and services has persisted of being positive. In the period between 1980 and 1991 France had had current account deficits mainly due to payments for servicing its national debt and current transfers abroad.

 DOI: 10.2870/33363

TABLE 2: **BALANCE OF PAYMENTS OF GERMANY** (BILLIONS OF DOLLARS)

	1992	1993	1994	1995	1996
Goods: Exports	430.23	382.49	430.27	523.22	520.2
Goods: Imports	401.73	340.73	378.59	457.10	446.9
Balance on Goods	**28.72**	**41.75**	**51.68**	**66.12**	**73.3**
Services: Credit	73.55	68.43	70.80	86.02	88.8
Services: Debit	104.15	101.50	110.77	132.52	134.0
Balance on Goods & Services	**-1.87**	**8.68**	**11.70**	**19.62**	**28.0**
Income: Credit	80.68	78.28	78.31	97.26	91.2
Income: Debit	63.50	65.05	71.51	96.89	96.9
Current Transfers	-34.70	-35.49	-39.81	-31.0	-36.4
Current Account Balance	**-19.39**	**-13.40**	**-20.31**	**-20.98**	**-13.9**
Direct Investment Abroad	19.67	15.28	16.69	34.89	27.8
Direct Investment in Germany	2.64	1.82	0.81	8.94	3.2
Portfolio Investment Assets	48.06	32.73	55.28	30.26	40.3
Portfolio Investment Liabilities	80.00	153.14	22.10	56.99	92.7
Other Assets	7.29	131.42	0.85	64.49	65.8
Other Liabilities	44.18	41.18	75.67	96.94	56.4
Financial Account	**51.80**	**15.71**	**25.76**	**46.05**	**12.4**
Total	**37.18**	**-14.2**	**-2.04**	**7.22**	-1.2

Sources: International Monetary Fund, *Balance of Payments Statistics Yearbook, 1996,* Washington, DC, at 292; International Monetary Fund, *1997 International Financial Statistics Yearbook* , Washington, DC: IMF, at 411. The figures in the total balance do include net errors and ommissions, as estimated by the IMF experts.

Note: In the period of the 1980s and before its re-unification Germany, or more exactly its western part, had run positive current account balances.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

TABLE 3: **BALANCE OF PAYMENTS OF ITALY** (BILLIONS OF DOLLARS)

	1992	1993	1994	1995	1996
Goods: Exports	178.15	169.15	191.44	231.33	250.84
Goods: Imports	175.07	136.32	155.81	187.28	190.02
Balance on Goods	**3.08**	**32.82**	**35.62**	**44.04**	**60.82**
Services: Credit	62.74	57.28	59.77	70.59	69.91
Services: Debit	67.18	57.23	58.12	69.47	67.44
Balance on Goods & Services	**-1.35**	**32.86**	**37.27**	**45.16**	**63.28**
Income: Credit	27.40	30.31	28.67	32.37	40.14
Income: Debit	48.00	46.59	43.91	47.23	55.10
Current Transfers	-7.49	-7.18	-7.09	-4.72	-7.28
Current Account Balance	**-29.45**	**9.40**	**14.93**	**25.68**	**41.04**
Direct Investment Abroad	5.89	7.40	5.10	5.72	6.04
Direct Investment in Italy	3.10	3.74	2.19	4.84	3.52
Portfolio Investment Assets	25.48	6.87	31.40	7.26	23.89
Portfolio Investment Liabilities	21.99	65.11	25.53	38.15	81.41
Other Assets	18.61	38.80	4.09	32.11	72.70
Other Liabilities	36.43	24.25	1.21	2.434	11.04
Financial Account	**11.55**	**5.26**	**14.08**	**4.55**	**6.66**
Total	**-23.99**	**-3.13**	**1.57**	**2.80**	**11.90**

Source: International Monetary Fund, *Balance of Payments Statistics Yearbook, 1996,* Washington, DC, at 454; International Monetary Fund, *1997 International Financial Statistics Yearbook* , Washington, DC: IMF, at 489. The figures in the total balance do include net errors and ommissions, as estimated by the IMF experts.

Note: Italy, just like France, during the period between 1980 and 1992 had had current account deficits, which are due mainly to its debt obligations, but also on excess of imports over exports in some periods.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

TABLE 4: **BALANCE OF PAYMENTS OF THE UNITED KINGDOM** (BILLIONS OF DOLLARS)

	1992	1993	1994	1995	1996
Goods: Exports	188.45	182.08	206.45	240.88	259.53
Goods: Imports	211.88	202.19	222.94	259.15	278.40
Balance on Goods	**-23.42**	**-20.11**	**-16.48**	**-18.26**	**-18.88**
Services: Credit	60.96	56.98	62.25	68.40	76.71
Services: Debit	52.15	48.49	54.97	59.39	66.28
Balance on Goods & Services	**-14.61**	**-11.62**	**-9.20**	**-9.25**	**-8.45**
Income: Credit	121.44	110.01	118.20	142.45	152.07
Income: Debit	114.90	107.17	103.91	131.99	135.98
Current Transfers	-9.11	-7.94	-8.10	-11.80	-16.09
Current Account Balance	**-17.17**	**-16.63**	**-3.02**	**-10.57**	**0.24**
Direct Investment Abroad	18.98	25.67	28.28	37.89	43.77
Direct Investment in the UK	14.93	14.47	10.29	29.84	32.84
Portfolio Investment Assets	50.83	130.45	-32.35	67.55	90.09
Portfolio Investment Liabilities	24.51	42.98	52.87	61.01	66.18
Other Assets	78.81	76.19	57.24	79.02	207.47
Other Liabilities	110.23	188.75	-32.54	99.15	237.53
Financial Account	**1.04**	**13.90**	**-22.55**	**5.53**	**4.78**
Total	**-7.62**	**-6.38**	**-19.178**	**-2.53**	**-0.54**

Source: International Monetary Fund, *Balance of Payments Statistics Yearbook, 1996,* Washington, DC, at 785; International Monetary Fund, *1997 International Financial Statistics Yearbook* , Washington, DC: IMF, at 849. The figures in the total balance do include net errors and ommissions, as estimated by the IMF experts.

Note: Since 1986 the United Kingdom has had current account deficits, which are due mainly to excess of imports over exports and current transfers.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

TABLE 5: **BALANCE OF PAYMENTS OF JAPAN** (BILLIONS OF DOLLARS)

	1992	1993	1994	1995	1996
Goods: Exports	332.50	352.90	385.99	429.32	400.28
Goods: Imports	207.80	213.32	241.55	297.24	316.72
Balance on Goods	**124.70**	**139.58**	**144.44**	**132.07**	**83.56**
Services: Credit	44.83	49.05	53.25	58.31	67.72
Services: Debit	93.01	96.34	106.38	122.70	129.96
Balance on Goods & Services	**80.74**	**96.50**	**96.37**	**74.59**	**21.32**
Income: Credit	142.69	148.23	155.37	192.61	225.10
Income: Debit	107.26	107.63	115.06	148.20	171.55
Current Transfers	-0.84	-5.28	-6.72	-7.75	-9.00
Current Account Balance	**112.33**	**131.98**	**130.56**	**111.25**	**65.88**
Direct Investment Abroad	17.36	13.83	18.10	22.66	23.44
Direct Investment in Japan	2.76	0.13	0.92	0.06	0.20
Portfolio Investment Assets	34.93	64.03	91.13	88.07	114.58
Portfolio Investment Liabilities	7.50	6.68	64.46	51.96	73.44
Other Assets	47.60	13.04	35.88	105.71	5.22
Other Liabilities	105.51	31.22	5.80	100.04	31.07
Financial Account	**99.93**	**102.59**	**85.53**	**64.40**	**28.10**
Total	**0.67**	**27.65**	**25.36**	**58.64**	**35.14**

Source: International Monetary Fund, *Balance of Payments Statistics Yearbook, 1996,* Washington, DC, at 461; International Monetary Fund, *1997 International Financial Statistics Yearbook* , Washington, DC: IMF, at 849. The figures in the total balance do include net errors and ommissions, as estimated by the IMF experts.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

TABLE 6: **BALANCE OF PAYMENTS OF THE UNITED STATES** (BILLIONS OF DOLLARS)

	1992	1993	1994	1995	1996
Goods: Exports	440.35	458.72	504.54	576.76	613.58
Goods: Imports	536.45	590.11	668.86	749.77	799.84
Balance on Goods	**-96.10**	**-131.39**	**-164.32**	**-173.01**	**-186.26**
Services: Credit	178.44	185.72	196.52	206.79	221.83
Services: Debit	120.79	128.01	137.48	143.93	148.52
Balance on Goods & Services	**-38.45**	**-73.68**	**-105.28**	**-110.16**	**-112.96**
Income: Credit	118.58	119.37	137.77	181.47	197.08
Income: Debit	109.55	111.53	148.26	194.11	206.72
Current Transfers	-32.58	-33.90	-35.16	-30.19	-42.99
Current Account Balance	**-62.00**	**-99.73**	**-150.93**	**-152.98**	**-165.59**
Direct Investment Abroad	42.66	72.60	49.37	96.90	88.30
Direct Investment in the US	17.58	41.13	49.44	74.70	83.95
Portfolio Investment Assets	46.43	141.80	49.80	93.77	104.54
Portfolio Investment Liabilities	61.74	103.30	92.35	191.39	378.73
Other Assets	-17.79	-31.20	32.03	79.69	120.66
Other Liabilities	31.24	35.61	110.22	54.61	62.34
Financial Account	**39.26**	**-3.16**	**120.81**	**50.35**	**211.52**
Total	**-3.92**	**1.38**	**5.34**	**9.74**	**-6.67**

Source: International Monetary Fund, *International Financial Statistics, Yearbook, 1996,* Washington, DC, at 791. International Monetary Fund, *1997 International Financial Statistics Yearbook* , Washington, DC: IMF, at 849. The figures in the total balance do include net errors and ommissions, as estimated by the IMF experts.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

SELECTED BIBLIOGRAPHY

The following bibliography does not pretend to be complete. I have not mentioned many books and articles that I have opened or read in the library of the European University Insitute when working on the doctorate, although I was tempted to do so. I have read, following the counsel of Bacon, not to contradict and confute, nor to believe and take for granted, but to weigh and consider. It was rather an arbitrary matter to decide what to include and what to exclude, since the subject of the doctorate overlaps many other topics, and some of the most important references to it are to be found in books, the main topic of which is not international trade and financial law but something else. At present a bibliographer takes pride in numerous entries; but he would be more useful fellow, and the labours of research would be lightened, if he could practice deletion and bring into existence an accredited *Index Expurgatorius*. But this can be accomplished by the slow mills of the collective judgment of scholars; and I have attempted to indicate my own favourite authors in the footnotes or in the text.

BOOKS

Austin, John (1832) *The Province of Jurisprudence Determined*, Cambridge: Cambridge University Press edition of 1995.

Alexandratos, Nikos (ed) (1995) *World Agriculture: Towards 2010, An FAO Study*, Chichester, New York: John Wiley & Sons.

Arrow, Kenneth (1986) "History: The View from Economics", in Parker, William (ed.) *Economic History and the Modern Economics*, Oxford: Basil Blackwell.

Bornstein, Morris (1981) "Issues in East-West Economic Relations", in Bornstein, Morris et el. (eds) *East-West Relations and the Future of Eastern Europe*, London: George Allen & Unwin Ltd.

Brown, Archie et el. eds. (1994) *The Cambridge Encyclopedia of Russia and the former Soviet Union*, Cambridge: Cambridge University Press.

Calleo, David and Rowland, Benjamin (1973) *America and the World Political Economy, Atlantic Dreams and National Realities*, Bloomington: Indiana University Press.

Calleo, David (ed) (1976) *Money and the Coming World Order*, New York University Press

Crawford, Beverly (1993) *Economic Vulnerability in International Relations, East-West Trade, Investment, and Finance*, New York: Columbia University Press.

Cremona, Marise (1996) "Human Rights and Democracy Clauses in the EC's Trade Agreements" in Emiliou, Nicholas and O'Keefe, David (eds) *The European Union and World Trade Law, After the Uruguay Round*, Chichester, West Sussex: John Wiley & Sons.

Dam, Kenneth (1970) *The GATT, Law and International Economic Organization*, Chicago: The University of Chicago Press.

Dore, Julia and De Bauw, Robert (1995) *The Energy Charter Treaty*, London: Royal Institute of International Affairs.

Dyker, David (1992) *After the Soviet Union, The International Trading Environment*, London: Royal Institute of International Affairs.

Dyker, David (1994) "Economic Relations with the Rest of Europe" in Malcolm, Neil (ed) *Russia and Europe: An End to Confrontation?*, London: Pinter Publishers and Royal Institute of International Affairs.

Evangelista, Matthew (1996) "Stalin's Revenge: Institutional Barriers to

Internationalization in the Soviet Union" in Keohane, Robert and Milner, Helen (eds) *Internationalization and Domestic Politics*, Cambridge: Cambridge University Press.

Fraser, Perdita (1994) "Russia, the CIS and the European Community: Building a Relationship in Malcolm, Neil (ed) *Russia and Europe: An End to Confrontation?*, London: Pinter Publishers and Royal Institute of International Affairs.

Gaidar, Yegor and Pohl, Karl Otto (1995) *Russian Reform/International Money*, Cambridge, Massachusetts: The MIT Press.

Gardner, Richard (1980) *Sterling-Dollar Diplomacy in Current Perspective, The Origins and the Prospects of Our International Economic Order*, New York: Columbia University Press.

Gorbachev, Michail (1987) *Perestroika: New Thinking for Our Country and the World*, London: Collins.

Granville, Brigitte (1997) *Ending High Inflation: The Case of Russia versus Poland and CSFR*, Ph.D. Thesis, Florence: European University Institute.

Haus, Leah (1992) *Globalizing the GATT, The Soviet Union's Successor States, Eastern Europe, and the International Trading System*, Washington, D.C.: The Brookings Institution.

Hawtrey, R.G. (1946) *Bretton Woods: For Better or Worse*, London: Longmans, Green and Co.

Heidensohn, Klaus (1995) *Europe and World Trade*, London: Pinter.

Henderson, Hubert Douglas (1995) *The Inter-War Years And Other Papers, A Selection from the Writings of Hubert Douglas Henderson*, Henry Clay ed., Oxford: Clarendon Press.

Hine, R.C (1985) *The Political Economy of European Trade: An Introduction to the Trade Policies of the EEC*, Sussex: Wheatsheaf Books.

Hoekman, Bernard M. and Kostecki, Michael M. (1995) *The Political Economy of the World Trading System*, Oxford: Oxford University Press.

Hogan, Michael (1987) *The Marshall Plan, America, Britain, and the reconstruction of Western Europe, 1947-1952*, Cambridge: Cambridge University Press.

Eichengreen, Barry and Kenen, Peter (1994) "Managing the World Economy under the Bretton Woods System: An Overview" in Kenen, Peter (ed.) *Managing the World Economy*, Washington, D.C.: Institute for International Economics.

Breskovski, Vassil (1998), After the Cold War: Does international trade and financial law matter?
European University Institute DOI: 10.2870/33363

Eichengreen, Barry and Uzan, Marc (1993) "The 1933 World Economic Conference as an Instance of Failed International Cooperation" in Evans, Peter et el. (eds) *Double-Edged Diplomacy, International Bargaining and Domestic Politics,* Berkeley: University of California Press.

Jackson, John H. (1994) *The World Trading System, Law and Policy of International Economic Relations,* Cambridge, Massachusetts: MIT Press.

Jackson, John H. (1990) *Restructuring the GATT System,* London: Royal Insitute of International Relations.

Kennedy, Paul (1988) *The Rise and Fall of the Great Powers, Economic Change and Military Conflict from 1500 to 2000,* London: Unwin Hyman.

Kennedy, Paul (1994) *Preparing for the Twenty-First Century,* London: Fontana Press.

Keohane, Robert O et el eds. (1993). *After the Cold War, International Institutions and State Strategies in Europe, 1989-1991,* Cambridge, MA: Harvard University Press.

Keohane, Robert and Joseph S. Nye (1977) *Power and Interdependence: World Politics in Transition,* Boston: Little, Brown and Company.

Keynes, J. Maynard (1936) *The General Theory of Employment, Interest and Money.*

Keynes, J. Maynard (1931) *Essays in Persuasion.*

Keynes, J. Maynard (1923) *A Tract on Monetary Reform.*

Krugman, Paul (1991) *The Age of Diminished Expectations, U.S. Economic Policy in the 1990s,* Cambridge, Massachusetts: MIT Press.

Krugman, Paul (1994) *Peddling Prosperity, Economic Sense and Nonsense in the Age of Diminished Expectations,* New York: Norton.

Malcolm, Neil (1994) "Russia and Europe" in Malcolm, Neil (ed.) *Russia and Europe: An End to Confrontation?,* London: Pinter Publishers and Royal Institute of International Affairs.

Malthus, Robert (1986), *Essay on the Principle of Population,* London: William Pickering.

Maresceau, Marc ed. (1997) *Enlarging the European Union, Relations between the EU and Central and Eastern Europe,* Harlow Essex: Addison Wesley Longman.

 DOI: 10.2870/33363

Mennes, L.M. and Jacob Kol eds. (1988) *European Trade Policies and the Developing World*, Beckenham, Kent: Croom Helm Ltd.

Milward, Alan (1984) *The Reconstruction of Western Europe 1945-51*, Berkeley: University of California Press.

Milward, Alan (1992) *The European Rescue of the Nation-State*, London: Routledge.

Monnet, Jean (1986) *J. Monnet & Robert Schumman: Correspondence 1947-1953*, Lausanne: Fondation J. Monnet pur l'Europe.

Moravcsik, Andrew (1993) "Integrating International and Domestic Theories of International Bargaining" in Evans, Peter et el. (eds) *Double-Edged Diplomacy, International Bargaining and Domestic Politics*, Berkeley: University of California Press.

Nove, Alec (1989) *An Economic History of the U.S.S.R.*, London: Penguin.

Odell, John S. (1982) *U.S. International Monetary Policy, Markets, Power, and Ideas as Sources of Change*, Princeton, NJ: Princeton University Press.

Oldenburg, Fred (1994) "The Settlement with Germany" in Malcolm, Neil (ed.) *Russia and Europe: An End to Confrontation?*, London: Pinter Publishers and Royal Institute of International Affairs.

Paemen, Hugo and Bensch, Alexandra (1995) *From GATT to the WTO, The European Community in the Uruguay Round*, Leuven: Leuven University Press.

Pravda, Alex (1994) "Relations with Central- and South-Eastern Europe" in Malcolm, Neil (ed.) *Russia and Europe: An End to Confrontation?*, London: Pinter Publishers and Royal Institute of International Affairs.

Sachs, Jeffrey and Warner, Andrew (1995) *Economic Reform and the Process of Global Integration*, Paper presented for the 25th Anniversary of the Brookings Papers on Economic Activity.

Singh, Ajit & Tabatai, Hamid (eds) (1993) *Economic Crisis and Third World Agriculture*, Cambridge: Cambridge University Press.

Smith, Alan (1993) *Russia and the World Economy*, London: Routledge.

Smith, Adam (1978) *An Inquiry Into the Nature and Causes of the Wealth of Nations*, Encyclopedia Britannica Inc.

Stile, Kendall (1991) *Negotiating Debt, The IMF Lending Process*, Boulder, CO: Westview Press.

 DOI: 10.2870/33363

Solomon, Robert (1977) *The International Monetary System 1945-1976, An Insider View*, New York: Harper & Row, Publishers.

Solow, Robert (1986) "Economics: Is Something Missing?" in Parker, William (ed.) *Economic History and the Modern Economics*, Oxford: Basil Blackwell.

Snyder, Francis (1994) "EMU - Metaphor for European Union? Institutions, Rules and Types of Regulation" in Dehousse, Renaud (ed.) *Europe After Maastricht - An Ever Closer Union*, Munchen: Law Books in Europe

Snyder, Jack (1993) "East-West Bargaining Over Germany: The Search for Synergy in a Two-Level Game" in Evans, Peter et el. (eds) *Double-Edged Diplomacy, International Bargaining and Domestic Politics*, Berkeley: University of California Press.

Soros, George (1994) *The Alchemy of Finance*, New York: John Wiley & Sons, Inc.

Triffin, Robert (1960) *Gold and the Dollar Crisis: The Future of Convertibility*, New Haven and New York: Yale University Press.

Triffin, Robert (1966) *The World Money Maze, National Currencies in International Payments*, New Haven and London: Yale University Press.

Viner, Jacob (1937) *Studies in the Theory of International Trade*, New York: Harper & Brothers.

Vermulst, Edwin and Waer, Paul (1996) E.C. *Anti-Dumping Law and Practice, London: Sweet & Maxwell.*

Wallace, Iain (1990) *The Global Economic System*, London: Unwin Hyman.

Weber, Max (1983) *On Capitalism, Bureaucracy and Religion, A Selection of Texts*, Stanislav Andreski (ed.), London: George Allen & Unwin (Publishers) Ltd.

Wright, Gavin (1986) "History and the Future of Economics" in Parker, William (ed.) *Economic History and the Modern Economics*, Oxford: Basil Blackwell.

 DOI: 10.2870/33363

ARTICLES

Burley, Anne-Marie Slaughter (1993) "International Law and International Agenda Theory: A Dual Agenda" 87 *American Journal of International Law*, 205-239.

Bergsten, C.Fred (1997) "The Dollar and the Euro", *Foreign Affairs*, July/August.

Christensen, Benedicte Vibe (1993) "The Russian Federation in Transition: External Developments" Washington DC: International Monetary Fund Working Paper 74.

Dornbusch, Rudi (1995) "Euro Fantasies", *Foreign Affairs*, September/October.

"Europe's Mid-life Crisis, Survey of the European Union", *The Economist*, 31 May 1997.

Ferreira, Maragarida Ponte (1995) "The Liberalization of East-West Trade: An Assessment of its Impact on Exports from Central and Eastern Europe, 47 *Europe-Asia Studies*, No.7, 1205-1223.

Franklin, E.L. (1919) "What Germany Can Pay", *The Economist*, April 5, 1919, 567-568.

Hecht, J.S. (1919) "What Can Germany Pay", *The Economist*, March 29, 1919, 519.

Kennedy, David (1991) "Turning to Market Democracy: A Tale of Two Architectures" 32 *Harvard International Law Journal* 375-396.

Kissinger, Henry A. (1968) "The White Revolutionary: Reflections on Bismarck" *Daedalus*, No.2, 888-924.

Knight, Jerry (1993) "West Lets Russia Defer Repayment of Its Debt", *Washington Post*, April 3, at A1.

Kramer, Heinz (1993) "The European Community's Response to the 'New Eastern Europe'" 31 *Journal of Common Market Studies*, No.2, 214-241.

Krugman, Paul (1996) "The Myth of Asian Miracle", *Foreign Affairs*, November/December.

Krugman, Paul (1994) "Competitiveness: A Dangerous Obsession" *Foreign Affairs*, March/April.

Krugman, Paul (1994) "Europe Jobless, America Penniless?" *Foreign Policy*,

 DOI: 10.2870/33363

Summer.

Lemoine, Francoise (1996) *Trade Policy and Trade Patterns During Transition, A Comparison Between China and the CEECs*, Centre D'Etudes Prospectives et D'Informations Internationales, Document de travail No. 96-02 -fevrier 1996.

Maresceau, Marc & Montaguti, Elisabetta (1995) *The Relations Between the European Union and Central and Eastern Europe: A Legal Appraisal*, 32 Common Market Law Review 1327-1367.

Rawsthorn, Alice (1993) "Russia and the G7: French Commercial Banks Oppose Rescheduling of Russian Debt", *Financial Times*, April 16, at 4.

Reiter, Thomas M. (1994) "The Feasibility of Debt-Equity Swaps in Russia" *15 Michigan Journal of International Law* 909-997.

Riding, Alan (1993) "19 Western Nations Give Russia an Extra 10 years to Repay Debt" *New York Times*, April 3, at A4.

Roth, Terence (1992)"Western Banks to Roll Over Ex-Soviet Debt", *Wall Street Journal*, June 22, at 9.

Snyder, Francis (1993) "The Effectiveness of European Community Law: Institutions, Tools and Techniques" 53 *The Modern Law Review* 19-54.

"Sorting Out Russia", *Economist*, September 26, 1992, at 97.

Sachs, Jeffrey D. (1996) *Reforms in Eastern Europe and the Former Soviet Union in Light of the East Asian Experiences*, Cambridge, MA: NBER Working Paper.

Sachs, Jeffrey D. (1995) "Consolidating Capitalism", *Foreign Policy*, Spring.

Soros, George (1996) "Can Europe Work, A Plan to Rescue the Union", *Foreign Affairs*, September/October.

Weiler, J.H.H. (1991) "The Transformation of Europe" *Yale Law Journal* 2403-2483.

Weiler, J.H.H. (1995) *Europe After Maastricht - Do the New Clothes have an Emperor?*, Cambridge, MA: Harvard Jean Monnet Working Paper.

Worsnip, Patrick (1992) "Yeltsin Asks Understanding for Russian Debt Problems", *The Reuter Asia-Pacific Business Report*, 9 November.

Zimmermann, Hubert (1996) "...'[T]hey have got to put something in the family pot!': The Burden-Sharing Problem in German-American Relations 1960-1967 14 *German History*, No.3, 325-346.

 DOI: 10.2870/33363

OTHER SOURCES

Borko, Yuri (1996) *Intra-European Relations and Russia*, Paper presented at the Third Ghent Colloquium "The Relations Between the European Union and Central and Eastern Europe: The Political, Economic and Legal Dimension" (7-8 March 1996).

Broek, Hans Van den (1996) *EU - Russia: Challenging Partnership*, Speech given at Carnegie Foundation, Moscow, March 18, 1996;

Commission of the European Communities, *The European Union and Russia: The Future Relationship, Communication from the Commission*, Luxembourg: Office for Official Publications of the European Communities, 31 May 1995, COM(95) 223 final).

Economic Report of the President Transmitted to the Congress February 1997, Washington: United States Government Printing Office.

Economist Intelligence Unit (different years) *Country Profiles*, London: Economist Intelligence Unit.

European Commission, Directorate General for External Economic Relations (1995) *The European Union and World Trade: European Union Trade Developments for the year 1994, Comparison with the United States and Japan*, Luxembourg: Office for Official Publications of the European Communities.

General Agreement on Tariffs and Trade (1991, 1993, 1995) *Trade Policy Review, European Community/European Union*, Geneva: GATT Secretariat.

General Agreement on Tariffs and Trade (1994) *The Results of the Uruguay Round of Multilateral Trade Negotiations, The Legal Texts*, Geneva: GATT Secretariat.

International Monetary Fund (different years) *International Financial Statistics, Yearbook*, Washington, D.C.

Organisation for Economic Co-Operation and Development (various years) *Commerce Extérieur*, Paris: OECD.

Organisation for Economic Co-Operation and Development (various years) *Financing and External Debt of Developing Countries*, Paris: OECD

World Bank (various years) *World Debt Tables and Global Development Finance*, Washington, D.C.: World Bank.

 DOI: 10.2870/33363