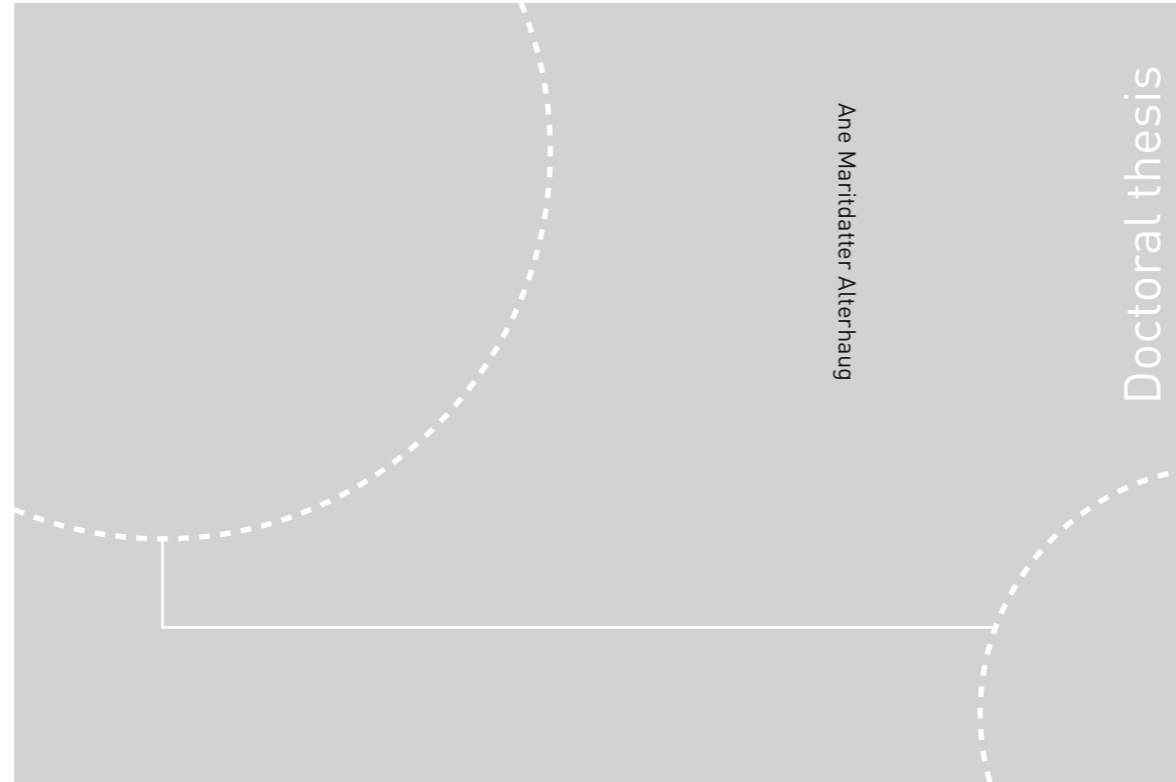


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For the days to come,
For beautiful sunrises and bright stars,
For my children –
Aurora and Stella.

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Ane Maritdatter Alterhaug, Trondheim 24 September 2015

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Abbreviations

CAP	Common Agricultural Policy
CFSP	Common Foreign and Security Policy
COREU	Correspondance européenne
CSCE	Conference on Security and Cooperation in Europe
DG	Directorate-General
EAD	Euro-Arab Dialogue
EDC	European Defence Community
EEC	European Economic Community
EC	European Community
ECJ	European Court of Justice
EP	European Parliament
EPC	European Political Cooperation
EU	European Union
GMP	Global Mediterranean Policy
GATT	General Agreement on Tariffs and Trade
MPT	Multilateral Preparatory Talks
NATO	North Atlantic Treaty Organisation
OAPEC	Organisation of Arab Petroleum Exporting Countries
PLO	Palestine Liberation Organisation
SG	Secretariat-General
UN	United Nations
WEU	Western European Union

1. The Commission and European Political Cooperation 1969-1976

In November 1970 the Foreign Ministers of the Member States of the European Community (EC) had their first meeting within the newly formed structure of European Political Cooperation (EPC).¹ The Member States of the EC established EPC with the intention of keeping this forum for political cooperation separate from the existing EC-structure.² One of the particular aspects of this intent was that the EC's Commission was to be kept at arm's length from the EPC initiative.³ However, when the early years of EPC are studied closely, the separation between the EC and EPC appear less than clear-cut, as the Commission played an evident role within the EPC cases of the Conference for Security and Cooperation in Europe (CSCE) and the Euro-Arab Dialogue (EAD). By 1976 the Commission had participated in the CSCE as part of the national delegation of the country holding the presidency of the EC and EPC. Within the framework of the EAD, the Commission led the European delegation and chaired, on behalf of the European countries, two of the Dialogue's seven working groups.⁴

This thesis is the first historical analysis of the Commission's policy towards the EPC in the 1970s. Previously, EPC has mainly been studied within an intergovernmental framework. As a result of this, the Commission's role in EPC and how it came about remains under-investigated. This thesis investigates how the supranational Commission acquired a role in the intergovernmental structure of EPC, where EC and Commission participation was opposed from the very beginning.⁵ I argue that the Commission approached the EPC as a rational actor, making deliberate choices based on an un-provocative and pragmatic use of its expertise. I find that the Commission's quest for participation in EPC was driven by a wish to protect the EC. By linking the EC to EPC it also aimed to shape EPC. I claim that the manner

¹ The initiative to EPC was taken in the Summit in The Hague held in December 1969.

² MAE, 3806, Telegram, Dialogue Euro-Arabe, 1 July, 1974.

³ I will throughout the thesis use "the Commission" denoting the European Commission, the executive body of the EEC/EC.

⁴ These two were the EAD's working groups for Trade and Agricultural and Rural Development.

⁵ Several scholars have laid down the supranational as the Commission's guiding principle. In this thesis I adhere to Wilfried Loth's formulation and treat the Commission as an inherently supranational actor as: "It [the Commission] also symbolised the Community's supranational status. This was the principle the Commission wished to use as a basis for its institutional and political legitimacy, its inspiration, from the very first years of its life." See Loth, Wilfried and Marie-Thérèse Bitsch. "The Hallstein Commission 1958-67" in Michel Dumoulin (ed.) *History and Memories of an institution 1957-1972*, Luxembourg: Publication Office of the European Union, 2014: 51, my inclusion in brackets.

in which the Commission approached and successfully acquired a role in EPC suggests that the institution that met with EPC was a distinct second generation Commission that succeeded in bridging the divide between the EC and EPC. By so doing, this thesis also contributes new empirical evidence to the larger discussion on the role of supranational institutions in the post-war European integration project.⁶ On a more general level the thesis offers new, archive-based knowledge on the early development of the policy-area that today is the European Union's Foreign and Security Policy where the Commission is a central actor.

1.1 Supranational institution meets intergovernmental initiative

The backdrop of this thesis is a conflict. France stood as the Commission's staunchest adversary in the conflict over Commission participation in EPC. The thesis claims that this conflict formed the initiative that would become EPC, as well as the Commission's relationship with this new structure. The conflict can be illustrated by the rather direct order the French President Georges Pompidou gave to Sir Christopher Soames, member of the Commission and responsible for External Relations of the European Community in June 1973:

“Get back in place!”⁷

When Pompidou met Soames in a corridor at the Elysée in June 1973, the President immediately brought up EPC.⁸ Pompidou emphasised that political cooperation was an area for governments, not for the machinery of the EC. If Soames had been British Foreign Minister, the President would have been more than happy to discuss political cooperation with him, but as this was not an area for the Commission, it should get back to where it belonged.⁹

Following the empty chair crisis of 1965 where France chose to leave its chair in the Council of Ministers empty for almost seven months, the developments in European integration

⁶ In this thesis I will use the term European integration project denoting the creation and functioning of the European Coal and Steel Community (ECSC), the European Economic Community, the EC and eventually the European Union (EU). The deliberate use of this term is based on the discussion on the term “integration process” as found in Gilbert, Mark. “Narrating the Process: Questioning the Progressive Story of European Integration”, *Journal of Common Market Studies*, 46 (3) 2008: 641-662.

⁷ TNA, FCO 30/1650, Untitled note from Ewart-Biggs, 22 June 1973. “Get back in place!” is my translation from the French “Retournez à vos places!”

⁸ Georges Pompidou, French President 1969-1974. Sir Christopher Soames, British Commissioner from January 1973 and Vice President of the Commission in the period investigated by the thesis.

⁹ TNA, FCO 30/1650, Untitled note from Ewart-Biggs, 22 June, 1973.

became less marked by supranational optimism.¹⁰ France withdrew from the Council in reaction to the Commission, which from the point of view of France had exceeded its role in the European integration project.¹¹ In the period that followed, European integration took a more intergovernmental turn.¹² The turn manifested itself in several initiatives of the Member States of the EC that were deliberately kept outside the EC institutional structure. The establishment of EPC is one example.¹³ For the Commission, the effects of the crisis of 1965 were keenly felt and for some fractions within the institution, these effects called for an adjustment of the Commission as an actor.¹⁴

The Commission was arguably by the time of the establishment of EPC no longer in a position to play an openly activist role. The first Commission of the European Economic Community (EEC) led by President Walter Hallstein can be perceived as different from the Commission that met with EPC in 1970.¹⁵ In the early phase of the EEC the Commission held an expansionist view of integration where the Treaty of Rome was simply a point of departure with potential for further integration which it was the Commission's task of steering the EEC towards.¹⁶ This first Commission that I label a first generation Commission operated in an unprecedented period of success for the EEC; the years from its establishment until the late

¹⁰ The empty chair crisis was an unprecedented event which left the Community in a state of crisis. It was solved as the French returned to its chair following the Luxembourg compromise of January 1966. The crisis and the compromise is traditionally read as an expression of the 'clash' between supranational forces and intergovernmental forces, in which the intergovernmental side has been seen to come out of this seminal crisis as the winner, leaving the supranational side, and the Commission in particular as the 'looser'. This crisis also gives evidence of the importance of the conflict between France and the Commission, which one of the side-products of the Luxembourg-compromise; the French 'reprimande' to the Commission forming what is commonly referred to as the «Decalogue».

¹¹ Loth, Wilfried. "The 'empty chair crisis'" in Michel Dumoulin (ed.) *History and Memories of an institution 1957-1972*, Luxembourg: Publication Office of the European Union, 2014: 91-108; Peyrefitte, Alain. *C'était de Gaulle, "La France reprend sa place dans le monde"*, Paris: Fayard, 1997: 292-297.

¹² A partial exception to this can be seen in the increasing role and importance of the European Court of Justice that occurred more or less at the same time as this intergovernmental turn. See for instance Davies, Bill and Morten Rasmussen. "From international Law to a European Rechtsgemeinschaft: Towards a New History of European Law", in in Johnny Laursen (ed.) *The Institutions and Dynamics of the European Community, 1973-83*, Baden-Baden: Nomos Verlagsgesellschaft, 2014: 97-130, and Weiler, Joseph H. H. "The Transformation of Europe", *The Yale Law Journal*, 100(8), 1991: 2403-2483.

¹³ The emergence of Summitry and institutionalising these as the European Council in 1974 is another.

¹⁴ Spinelli, Altiero. *The Eurocrats. Conflict and Crisis in the European Community*, Maryland: the John Hopkins Press, 1966 as well as: Spinelli, Altiero. *The European Adventure. Tasks for the Enlarged Community*, London: Charles Knight & Co Ltd, 1972 and Dahrendorf, Ralf. *Plädoyer für die Europäische Union*, München and Zürich: R. Piper & Co. Verlag, 1973.

¹⁵ Walter Hallstein, German, first President of the Commission who served two terms, 1958-1962 and 1962-1967.

¹⁶ For Hallstein's expansionist use of the Treaty see for instance his first speech before the European Parliamentary Assembly: AEI, *Proceedings of the sessions No. 1. Inaugural sitting, March, 1958*. Retrieved on 2 September 2015 from <http://aei.pitt.edu/44450/>:19; and AEI, The Commission, a new factor in international life, speech by Hallstein at the British Institute of International and Comparative Law, London 25 March, 1965. Retrieved on 16 November 2011 from <http://aei.pitt.edu/13638/1/S35-S34.pdf>.

1960s saw rapid developments toward major common policies, and the establishment of a customs union progressed at high speed. In these successes the Commission played an important role, earned the reputation of and perceived itself as the motor of European integration.¹⁷ Thus, by the time of the establishment of EPC in 1970 the Commission was an institution that had experienced both great success and grave crises.

The originality of this thesis lies in its investigation of hitherto unexplored questions on the Commission and its policy towards EPC within the wider framework of how the Commission navigated the environment of the European integration project following the empty chair crisis. Previous research has contrasted the first Commission as an overambitious institutional motor driving integration with the following Commissions as weak and ideologically beaten after the empty chair crisis.¹⁸ These studies are unfit to explain how and why the Commission expressly wanted to be included when EPC was established. They are also ill-equipped to explain how the Commission to an extent succeeded to be included in EPC areas that touched on the EC's competences. This thesis is tailored to explain both aspects of the Commission's role in EPC and thereby to fill a gap in existing research on the history of European integration in this period. I argue that the role of the Commission in EPC was not Member State controlled nor inevitable based on the contents of EPC, but that it came as a result of the agency of the Commission.¹⁹ Moreover, I suggest that based on its specific approach to EPC, and by a deliberate adjustment as an actor, the Commission emerged as a second generation Commission. This suggestion lays the foundations for questioning a traditional zero-sum game representation of a 'black or white-relationship' between Member States and supranational institution in which a dominant role of one excludes an influential role of the other. Even though it was not the supranational elements to the Commission that secured its role in EPC, but its expertise and administrative skills, they remained the main reason behind the attempts of keeping it on the outside.

¹⁷ Hallstein, Walter. *United Europe: Challenge and Opportunity*, Cambridge Massachusetts: Harvard University Press, 1962: 21-22.

¹⁸ Dinan, Desmond. *Ever closer union? : an introduction to the European community*, Boulder: L. Rienner Publishers, 1994: 70, 161; Kaiser, Wolfram. "Political Dynamics in an Emerging Polity: Globalisation, Transnational Relations and Europeanisation", in Johnny Laursen (ed.) *The Institutions and Dynamics of the European Community, 1973-83*, Baden-Baden: Nomos Verlagsgesellschaft, 2014: 67; Urwin, Derek W. *The Community of Europe. A History of European Integration since 1945* [2nd edition], London and New York: Longman, 1995: 165. Contrasted to these, the account of the Commission in the comprehensive two-volume project of *History and Memories of an Institution* present a recent and more nuanced picture, see Dumoulin, Michel (ed.). *The European Commission 1958-72, History and Memories of an Institution*, Luxembourg: Publication Office of the European Union, 2014, and Bussière, Eric, V. Dujardin, M. Dumoulin, P. Ludlow, J.W. Brouwer and P. Tilly (eds.). *The European Commission 1973-86, History and Memories of an Institution*, Luxembourg: Publication Office of the European Union, 2014.

¹⁹ In this thesis agency is used as a term denoting both activity and the means or mode of acting.

Framing the Commission as a second generation Commission enables an explanation of the Commission's role in EPC. It also ties this thesis to the most essential debate of the history of the present day European Union. This debate has revolved around the structuring of the relationship between sovereign European nation states. On the one hand the relationship could be labelled as *integration* where the nation states as *Member States* transferred some of their sovereignty to an entity above the states forming a supranational level. Alternatively, the relationship could be defined as *intergovernmental cooperation* where the nation states remained in control and where supranational institutions had little or no influence. By the 1970s, both alternatives were at play: integration in the EEC/EC but also intergovernmental cooperation in EPC had been established to structure relations of European states.²⁰ Debates of driving forces and causal roles within these structures inevitably arose, along with questions of the consequences of the establishment of supranational institutions.²¹ This thesis provides new knowledge that can fuel these debates by arguing for the resilience of supranational institutions following an intergovernmental turn of the European integration project.

1.2 Previous research

The thesis draws on research that falls into three categories: **The Commission and European Political Cooperation**, **The Commission's approach** and **Studying the Commission**. The first category includes research that indicates a role for the Commission in EPC. The second and broader category is made up of research on the Commission's agency, while the third and even broader category consists of research on the Commission as an actor.

The Commission and European Political Cooperation

Recent research on EPC is characterised by an intergovernmental approach, however within this approach a role for the Commission in EPC is indicated.²² Maria Găinar's comprehensive

²⁰ The same Six and the same Nine comprised the Member States of both EEC/EC and EPC: Belgium, France, Germany, Italy, Luxembourg, the Netherlands, and from 1973 Denmark, Ireland and the UK

²¹ See Pollack, Mark. "Delegation, agency, and agenda setting in the European Community", *International Organization* 51(1), 1997: 99-134.

²² A small number of the intergovernmental analyses of EPC do not take the Commission or the EC's institutional framework into the investigation of EPC at all. Their claim that is refuted by this thesis is that the Commission was far more concerned about protecting its place in Community affairs than with extending its reach in EPC, see for instance Smith, Michael E. *Europe's Foreign and Security Policy. The Institutionalization of Cooperation*, Cambridge: Cambridge University Press, 2004: 147. The thesis also opposes the notion that neither the Commission nor the European Parliament (EP) based on their relation to EPC merits the need to systematically be included in the study of EPC as it "emerged as a strictly inter-governmental and highly

account of EPC from 1973-1980 includes the Commission and the European Parliament to a certain degree. Găinar interprets EPC as a result of a compromise between intergovernmental and supranational visions. She argues that in establishing EPC, the Six found a ‘third way’ that was “less than supranational but more than intergovernmental” as the EPC took place outside the EC-framework and that it was not legally binding.²³ However, Găinar notes that bridges were established between EPC and the EC, and presents evidence of this in her analysis of the CSCE and the EAD.²⁴ Găinar coins the concept of the Commission’s policy of small steps towards EPC, which this thesis builds on.²⁵ Găinar’s study raises the bar on the previous attempts at telling EPC’s story by identifying a feature of EPC that no other scholar has done, namely the inherent double feature of EPC, while her focus and analysis remains undoubtedly intergovernmental.

By highlighting the functional linkages and bridges that existed between the EC and EPC, and that facilitated the Commission’s participation in EPC there are contributions that establish a role for the Commission in EPC.²⁶ Panayiotis Ifestos and Simon Nuttall both share the notion that the Commission indeed used the existence of these linkages and bridges between the EC and EPC to its advantage; through pointing to them at every occasion to highlight the artificiality of the separation of the spheres. The claim is that it would be of little value for the Member States to attempt to keep this separation if EPC was to function as it was intended to. For EPC to succeed a link to the EC was needed, and it was necessary to:

(...) build and sustain a workable relationship between the otherwise distinct institutional frameworks of the EEC and the European Political Cooperation. It was precisely those occasional functional linkages between the EEC and the EPC mechanisms which gradually brought about a blurring of the distinction between these two Community institutions.²⁷

Nuttall’s and Ifestos’ accounts are eye-witness accounts which provide for the thesis valuable points of departure for its archival-based investigations. However, their accounts are

secretive forum during the early 1970s”, see Möckli, Daniel. *European Foreign Policy during the Cold War. Heath, Brandt, Pompidou and the Dream of Political Unity*, London: I.B. Tauris & Co Ltd, 2009:7.

²³ Găinar, Maria. *Aux origines de la diplomatie européenne. Les Neuf et la Coopération politique européenne de 1973 à 1980*, Euroclio no 64, Brussels: P.I.E. Peter Lang, 2012: 30.

²⁴ Găinar’s analysis spans the entire EPC-realm in the period 1973-1980

²⁵ “La politique des “petits pas” de la Commission européenne”, Găinar 2012: 70-71.

²⁶ Ifestos, Panayiotis. *European Political Cooperation. Towards a Framework of Supranational Diplomacy?*, Aldershot: Avebury, 1987. Panayiotis Ifestos was Greek diplomatic representative to the EEC 1979-87.

Nuttall, Simon J. *European Political Co-operation*, Oxford: Clarendon Press, 1992. Simon J. Nuttall, British. Amongst other tasks he was Director in the Directorate General for External Relations, Commission of the European Communities, and had responsibility for EC-EPC relations in his time in the Secretariat General. Nuttall worked in the Commission from 1981-1994.

²⁷ Ifestos 1987: 438.

somewhat tainted by being based mostly on own recollections and not so much on material available to other scholars.

Nuttall's and Ifestos' claims on the approach of the Commission are supported by the project *History and memories of an institution* that attempts at exploring the history of the Commission in the entire period 1958-86. Among the full range of the Commission's activities it also touches on the subject of this thesis, the Commission's role in EPC. *History and memories of an institution* observes both the artificial separation of the EC- and EPC-spheres and the resulting relationship between the EC and EPC as one which:

*(...) essentially consisted of problems of interface. The dividing line varied depending on the subject and in a number of areas the separation between the Community sphere and the Member States' responsibility was simply artificial.*²⁸

The role of the Commission in EPC was based on its contribution to the two first cases of EPC, the CSCE and the EAD. Previous research has argued that the Commission's role in these two cases was based on the Commission's expertise being necessary for these EPC-cases to succeed, a notion that this thesis builds on.²⁹ The CSCE was the first case that launched the Commission's battle for participation in EPC.³⁰ This first case has been seen as a good illustration of the Commission's "ability to seize small opportunities to mark out its territory and maintain its influence" and of the "unremitting efforts it had to make during the Malfatti era to avoid being sidelined".³¹

The EAD has been presented as a case where the Commission's role in EPC became evident and indeed more or less inevitable.³² For Nuttall the EAD was seen as a case where the manner of the work done by the Commission determined its entrance into the policy-area; as an instance where the Commission's expertise ensured a role for the Commission: "By

²⁸ Vinas, Angel, Sigfrido Ramirez-Pérez and Éric Bussière. "Trade policy and external relations: new dynamics, in Eric Bussière, V. Dujardin, M. Dumoulin, P. Ludlow, J.W. Brouwer and P. Tilly (eds.) *The European Commission 1973-86, History and Memories of an Institution*, Luxembourg: Publication Office of the European Union, 2014: 427, my underlining.

²⁹ For the CSCE specifically see Romano, Angela. "A single European voice can speak louder to the world: the EPC and the CSCE experiences", in Morten Rasmussen and Ann-Christina L Knudsen (eds.) *The Road to a United Europe: Interpretations of the Process of European Integration*. Euroclio Studies and Documents(48). Brussels: Peter Lang Publishing Group, 2009: 257-270 and Romano, Angela. "The Nine and the Conference in Helsinki: a challenging game with the Soviets", in Jan van der Harst (ed.) *Beyond the Customs Union: The European Community's quest for deepening, widening and completion, 1969-1975*, Brussels: Nomos Verlagsgesellschaft, 2007: 83-106. For both cases see; Gäinar 2012 and Nuttall 1992.

³⁰ Gäinar 2012: 359.

³¹ Bitsch, Marie-Thérèse. "The development of the Single Commission (1967-72)", in Michel Dumoulin (ed.) *The European Commission 1958-72, History and Memories of an Institution*, Luxembourg: Publication Office of the European Union, 2014: 143.

³² Gäinar 2012: 359-360, Nuttall 1992: 103.

fighting hard, and by taking the initiative of drafting good-quality papers on the technical aspects, the Commission secured its participation with the Arabs.”³³ The EAD has also been seen as a case where a more conciliatory approach of France towards the Commission was found.³⁴ This approach is asserted by Aurélie Éliisa Gfeller whose study provides for important input for this thesis with its focus on France; as the Member State with most ambivalence towards the European integration in general and the Commission in particular.³⁵

The Commission’s approach

Previous studies have framed the period that this thesis investigates as different from what went before, the Commission’s approach likewise. This thesis builds on research that shows how the Commission in this period operated in a more pragmatic and less aggressive manner based on its Treaty-based competence and expertise. There is an ongoing reappraisal of the 1970s in the history of European integration of which this thesis forms part.³⁶ Giuliano Garavini distinguishes between the period of the Single Market in the 1980s and the Common Market of the 1960s and 1970s as almost constituting “several distinct “European integrations”.”³⁷ A more traditional interpretation is that of Desmond Dinan where after the empty chair crisis, the European integration project lost momentum, and that due to the “febleness” of a weak, hamstrung and poorly led Commission nothing of importance happened.³⁸

Piers N. Ludlow on the other hand points to the period after the crisis of 1965 as a period where the Commission temporarily shelved its leadership ambitions, and as a period “when the controversies became political as opposed to technical, Commission influence melted

³³ Nuttall 1992: 103.

³⁴ Gfeller, Aurélie Éliisa. *Building a European Identity. France, the United States and the Oil Shock, 1973-1974*, New York: Berghan Books, 2012:103-4.

³⁵ Ibid.

³⁶ Most relevant for my study is the general contributions from the likes of Laursen, Johnny. (ed.) *The Institutions and Dynamics of the European Community, 1973-83*, Baden-Baden: Nomos Verlagsgesellschaft, 2014 in addition to both volumes of *History and Memories of an Institution*; Dumoulin, Michel (ed.). *The European Commission 1958-72, History and Memories of an Institution*, Luxembourg: Publication Office of the European Union, 2014 and Bussière, Eric, V. Dujardin, M. Dumoulin, P. Ludlow, J.W. Brouwer and P. Tilly (eds.). *The European Commission 1973-86, History and Memories of an Institution*, Luxembourg: Publication Office of the European Union, 2014. More specifically I draw on the contributions to the study of this period by Găinar 2012, Gfeller 2012, Möckli 2009 as well as from Varsori, Antonio and Guia Migani (eds). *Europe in the International Arena during the 1970s – Entering a Different World*, Brussels: P.I.E. Peter Lang, 2011.

³⁷ Garavini, Giuliano. *After Empires. European Integration, Decolonization, & the Challenge from the Global South 1957-1986*, Oxford: Oxford University Press, 2012: 5.

³⁸ Dinan 1994: 70, 2004:161.

away”.³⁹ The Commission of the mid-1960s was not seen as ‘en route’ to becoming the dominant force within the EEC, and could no longer harbour short-term aspirations to lead the integration project, as the duty to do so now lay elsewhere; with the Member States.⁴⁰ In the most recent research, Wolfram Kaiser states that: “as is well-known, the Commission suffered from the aftermath of the Empty Chair crisis and from weak leadership at the top.”⁴¹ This thesis argues that while the effects of the empty chair crisis on the Commission might be ‘well-known’ they are far from ‘well-analysed’, which this thesis in turn attempts to overcome.

In *History and Memories of an Institution* a notion of a change both of European integration and the Commission’s approach is supported. Marie-Thérèse Bitsch has identified the 1969 Summit in The Hague as a point of change for the Commission where it by adapting to the new circumstances, avoiding being side-lined and contributing with its expertise added to the Summit’s success.⁴² The essence of how the Commission worked in the period 1967-1972 as applied in the EC-sphere, both Treaty-based and beyond has also been identified as one where the Commission had to:

*(...) rely on its own resources, the quality of the work it did, its members’ positive image and moral authority, and the effectiveness of its Secretary-General. It was extremely vigilant and determined to act, in particular in institutional matters and even more so in political matters, where the Treaties did not secure its status as thoroughly as in economic matters. It was energetic in guaranteeing a place at the summits of the Heads of State or Governments so as to avert any risk of being sidelined and in the hope of preserving the strong points of the Community system.*⁴³

By 1970 the Commission has been observed to attempt to resume its leadership, and to venture into “political dossiers from which the Member States – or some of them at least – wished to exclude it.”⁴⁴ Kaiser has defined the period of 1973-1983 as one where

*(...) the Commission developed new strategies for strengthening once more its institutional profile and legitimacy and for re-asserting its role in EC policy development through the expansion into new policy fields such as the environment and monetary policy for which there was no clear treaty basis.*⁴⁵

³⁹ Ludlow, Piers N. *The European Community and the Crises of the 1960s. Negotiating the Gaullist challenge*, London and New York: Routledge, 2006b: 209, my underlining.

⁴⁰ Ludlow 2006b: 210.

⁴¹ See for instance Kaiser 2014:67.

⁴² Bitsch 2014: 136.

⁴³ Ibid: 151.

⁴⁴ Ibid: 138.

⁴⁵ Kaiser 2014: 52.

On a general note, Katja Seidel argues that the Commission in its first years in part *could* be characterised as operating on the basis of “prudence and pragmatism”, and although this is not the only manner in which the early Commission is characterised, her work presents nuances to the Commission as an actor.⁴⁶ In the Common Agricultural Policy (CAP) the more confrontational and politically ambitious Commission is visible in an area where it held a defined Treaty-based role. Ann-Christina L. Knudsen establishes the Commission as one of the main actors in the development of the CAP. This turns our attention to the very influential first Commission where the personal skills, expertise, competence and supranational ideology of individual Commissioners and Commission staff all were determining factors in shaping this policy area.⁴⁷ Knudsen also argues that the Commission’s shaping of the CAP went beyond what was stipulated as the Commission’s role in the Treaty.⁴⁸

The Commission’s ability to gain entrance to an area in which it held limited Treaty-based responsibilities is also explored by Ivo Maes in a study on the Commission’s role in the process of monetary integration.⁴⁹ By using its right of initiative the Commission was able to apply monetary integration to protect the functioning of the common market and the CAP, in addition to formulating initiatives and policy in the European interest that were acceptable for both French and German interests, traditionally opposed to each other.⁵⁰ These abilities of the Commission were also in this policy area based on the personal skills and expertise of the Commissioners behind the propositions.⁵¹ Maes argues that gaining entrance to the world of the central bankers in the Committee of the Governors constituted influence for the Commission in the case of monetary integration.⁵² The policy area of monetary integration had a long and winding development as it stretched out to include the period both before and after the empty chair crisis. This has prompted Maes to note a change in the Commission where it following the crisis induced more cautious proposals, however, the crisis had no effect on its will to influence the policy area.⁵³

⁴⁶ Seidel, Katja. *The Process of Politics in Europe. The Rise of European Elites and Supranational Institutions*, London: I.B. Tauris & Co Ltd, 2010:65-108.

⁴⁷ Knudsen, Ann-Christina L. *Farmers on Welfare. The Making of Europe’s Common Agricultural Policy*, Ithaca and London: Cornell University Press, 2009:109, 113-114, 118.

⁴⁸ Ibid.

⁴⁹ Maes, Ivo. “The ascent of the European Commission as an actor in the monetary integration process in the 1960s”, *Scottish Journal of Political Economy*, 53(2), 2006: 224.

⁵⁰ Ibid: 226-227.

⁵¹ Ibid: 227.

⁵² Ibid: 238.

⁵³ Ibid: 236.

Enlargement is another policy-area where the Commission played an important role based on its expertise identified by both Michael J. Geary and Ludlow:

*(...) the Commission's ability to steer the Community's position through its technical and expert advice, and its unique knowledge of the acquis, knowledge that became an important source of influence.*⁵⁴

*Once again therefore, the Commission's importance sprang not from high-profile politicking over enlargement, a game in which it could not compete with the strong member state opinions at play, but instead from the lower-key and unromantic, but absolutely essential, work it could do establishing the precise manner in which new member states could take their place in the already highly complex Community system. Technical expertise, not political clout, was the Commission's main asset.*⁵⁵

The 1970s saw development of several new policy areas both internationally and on the European level; for environmental policy Jan-Henrik Meyer emphasizes the facilitating role in the early phase of both the Commission and the European Parliament by using their expertise to place environmental policy on the agenda.⁵⁶ The fact that the Commission had competent officials in the international forums and networks in which the area of environmental policy was developing, where most Member States had not, contributed to placing environment policy on the EC agenda.⁵⁷

Studying the Commission

There are many ways to study the Commission, a complex actor at the intersection between being a political actor and an administrative actor with many levels to it. Different focus provides for different results. In order to frame the visions and leadership of the Commission as an institution, the thesis turns to the comprehensive study *History and Memories of an institution* which features chapters on each of the Commission Presidents of the period 1958-1986.⁵⁸ In addition to pointing towards the highest level of the Commission; the Commission's President, previous literature also points to the level directly below; the

⁵⁴ Geary, Michael J. *Enlarging the European Union. The Commission Seeking Influence, 1961-1973*, New York: Palgrave Macmillan, 2013: 3-4.

⁵⁵ Ludlow, Piers N. "A Welcome Change: The European Commission and the Challenge of Enlargement, 1958-1973", *Journal of European Integration History*, 11 (2), 2005: 13.

⁵⁶ Meyer, Jan -Henrik. "The Europeanisation of environmental policy in the 1970s", *Vingtème Siècle*, No.113, 2012: 117-126 and Meyer, Jan -Henrik. "Getting started: Agenda-setting in European Environmental Policy on the 1970s", in Johnny Laursen (ed.) *The Institutions and Dynamics of the European Community, 1973-83*, Baden-Baden: Nomos Verlagsgesellschaft, 2014: 221-242.

⁵⁷ Meyer 2012, 2014.

⁵⁸ Dumoulin, Michel (ed.). 2014; Bussière, Eric, V. Dujardin, M. Dumoulin, P. Ludlow, J.W. Brouwer and P. Tilly (eds.). 2014.

Secretariat-General (SG), the two instances that were most directly visible in the battle for the Commission's inclusion in EPC.⁵⁹

The SG is a natural point of departure for investigating any policy area of the EC, as the literature presents it not exclusively as an administration but as the instance that provided the Commission with its overarching strategy and as “the appropriate home of the European Idea”.⁶⁰ The SG is in the literature portrayed as an active agent, contributing to coherence over all community processes and actions. Its importance in EPC is well established by the literature as it became responsible for the Commission's relationship with EPC.⁶¹ Providing for an illustration of this importance is for instance the remarkable role played by its deputy secretary-general Klaus Meyer in the EAD.⁶²

The SG was very much a place of continuity and expertise as Emile Noël sat at its helm in the entire period 1957-1987, although the break that the empty chair crisis constituted has been made a point also in the research on the SG.⁶³ Previous research argues that the Commission in 1969-76 relied more on the SG's abilities than the first Commission. The reason was that the SG had more expertise at its disposal than the individual Commissioners.⁶⁴ Whenever the political process of the EC provided new initiatives, these were turned to the SG, and EPC was no exception.⁶⁵

Previous literature has also emphasised less tangible conceptualisations used for legitimising a role for the Commission not defined by the Treaty. Several scholars has emphasised a ‘myth’ of the Commission, including the claim of it being a competence-maximizer.⁶⁶ Seidel

⁵⁹ In the very last phase of writing this thesis *An impossible Job? The Presidents of the European Commission, 1958-2014*, edited by Jan van der Harst and Gerrit Voerman was published (2015) and while I am aware of its existence and relevance there has not been time to apply this work in my investigation of the Commission. This thesis devotes parts of chapter 4 to an analysis of the Commission from 1958-1973 at this highest level of its President.

⁶⁰ Kassim, Hussein. “The Secretariat General of the European Commission, 1958-2003” in Andy Smith (ed.) *Politics and the European Commission. Actors, interdependence, legitimacy*, London: Routledge, 2004: 47-66.

⁶¹ Ibid.

⁶² Gäinar 2012: 360. Klaus Meyer, German. Deputy Secretary-General of the Commission of the European Communities, 1969 -1977.

⁶³ Emile Noël, French. Executive Secretary of the Commission of the European Economic Community, 1958–1967, Secretary-General of the Commission of the European Communities, 1967–1987, and President of the European University Institute in Florence, 1987-1993.

⁶⁴ Kassim 2004.

⁶⁵ Ibid: 57.

⁶⁶ The term “competence-maximiser” is most commonly associated with the work of Giandomenico Majone, see *Regulating Europe*, London: Routledge, 1996.

claims that the High Authority and the Commission's legitimacy both internally and externally was:

*(...) enhanced by a founding myth that was to justify the European administrations' claim to embody the European cause. Their early years were not only crucial in terms of setting up administrative structures and establishing working methods, but also in generating such a founding myth.*⁶⁷

This embodiment of the European cause that legitimated the work and ambitions of the Commission resonates easily with a contemporary analysis of the Commission written by David Coombes in 1970.⁶⁸ Coombes claims that the Commission had been given responsibility to act as “the conscience of the Community”, which corresponds well with Seidel's ‘embodiment of the European cause’.⁶⁹

Previous literature thus provides for a range of potential manners in which to approach the question of the role of the Commission in EPC, based on insights but also on shortcomings. There are examples where previous literature fails to distinguish between the EC and EPC in this crucial period.⁷⁰ Paradoxically, instances of over-emphasis on the completeness of the separation between EPC and the EC in previous studies also exist alongside these.⁷¹ What lacks in both accounts, for the ones that fail to recognise EPC as a distinct entity, and the ones that fail to recognise EPC's interconnectedness with the EC, is an investigation into the explanatory potential of the EC's institutional machinery in relation to EPC.

⁶⁷ Seidel 2010: 174, my emphasis.

⁶⁸ Coombes, David. *Politics and Bureaucracy in the European Community – A Portrait of the Commission of the E.E.C.*, London: George Allen and Unwin Ltd, 1970: 78-86. Coombes' work is still used to describe the role of the Commission, both Seidel and Geoffrey Edwards use his 5 points of role and functions, see Seidel 2010: 2; Edwards, Geoffrey. “Introduction: The European Commission in Perspective” in David Spence and Geoffrey Edwards (eds.), *The European Commission* (3rd edition), London: John Harper Publishing, 2006: 7-8.

⁶⁹ Coombes 1970: 78-86, Seidel 2010: 174.

⁷⁰ There are instances where scholarly work, and then in particular of a newer date is flawed by the effects of hindsight and the more recent developments in the realm once covered by the EPC. As the establishment of a Common Foreign and Security Policy (CFSP) usurped the EPC, its history as once an intended separate and a purely intergovernmental initiative seems to have been lost in some accounts. The terms denoting the EPC, as “European Political Community” might of course be nothing more than a mistake, but there are several instances of where the terminology describing what really happened within the EPC faultily is being referred to as “Community”-action in the sense of being performed by the EC. See for instance Varsori, Antonio “The European Construction in the 1970s. The Great Divide” in Antonio Varsori and Guia Migani (eds). *Europe in the International Arena during the 1970s – Entering a Different World*, Brussels: P.I.E. Peter Lang, 2011:37 and Kaiser in 2014: 72.

⁷¹ Previous research both recent and more contemporary has over-emphasised the completeness of the separation between EPC and the EC. See Möckli 2009, Smith 2004 and Urwin 1995: 199. These accounts fail to note that there indeed were several touching points between the EC and EPC, and that relationship between the two formed the backdrop for an ongoing discussion between the Member States and the Commission throughout the period.

The shortcomings of the previous literature call for an investigation of two aspects relevant to the role of the Commission. Firstly, the literature indicates a role for the Commission in EPC, but this role has hitherto not been analysed.⁷² As a result, the previous intergovernmental framework that has characterised studies on EPC is unable to explain the Commission's role in EPC as anything but inevitable or the results of a weak institution controlled by the Member States. Secondly, previous studies indicate that the period following the empty chair crisis that saw the establishment of EPC was a period characterised by change that also had effects on the Commission.⁷³ This perceived change in an intergovernmental direction along with what seems a paradoxical role for the Commission in EPC has led this thesis to answer the call from Seidel; time is now ripe for investigating the role of the Commission in the period of the 1970s.⁷⁴

1.3 Approach

To answer this thesis's main research question: how the supranational Commission ended up with a role in the intergovernmental EPC I conduct a qualitative historical analysis. This thesis does not aim to test theoretical hypotheses, nor does it set out to develop new theory. It is a theoretically informed empirical investigation that aims to contribute to ongoing debates about the role of the Commission in European integration. The thesis covers the period 1969-1976. In December 1969 the initiative to political cooperation was taken resulting in the Commission being explicitly kept on arm's length.⁷⁵ Given this point of departure, the high point of EPC's Euro-Arab Dialogue in May 1976 seems like a paradox. The Commission's representative, Klaus Meyer, co-chaired this first meeting on the highest level of the EAD on behalf of the European Community, side by side with the representative for EPC.⁷⁶

This thesis is an analysis of the Commission and EPC, not one of the Member States and EPC. In order to determine whether or not the role of the Commission in EPC was based on Commission agency or if it was a role determined and controlled by the Member States, I investigate the Commission's activity towards EPC. This choice entails to a certain degree to leave aside detailed investigations into the activities of the Member States, which admittedly is a limitation of this approach. To include investigations of all Member States' activities

⁷² The indication of a role for the Commission in EPC is clear in the work of Găinar 2012 and Nuttall 1992.

⁷³ See amongst others Bitsch 2014; Dinan 1994; Kaiser 2014 and Ludlow 2006a,b.

⁷⁴ Seidel 2010: 178. Here Seidel coins the term "a second-generation Commission" that I apply to my analysis.

⁷⁵ TNA, FCO 30/567, Telegram no 632 from Paris to the Foreign and Commonwealth Office, 3 July 1970; TNA, FCO 30/568, Europe Agence Internationale d'Information pour la Presse, 27 July 1970.

⁷⁶ HAEC, BAC 327 1993 8, SI (26)394, Note à l'attention de monsieurs des membres de la commission, «Dialogue euro-arabe, Réunion de la Commission générale de 18-21 mai 1976», 26 May 1976.

related to EPC and the Commission would most certainly prove too comprehensive and well beyond the scope of a PhD-thesis. Still, a basic premise in analysing the Commission's activity towards EPC is that it came as a reaction to Member States' activity in EPC. As such the Member States' actions are indirectly included in the thesis' analysis.

In order to answer the main research question I undertake a two-step analysis, where the first step investigates the Commission's activity towards EPC. The results of this analysis enable the thesis' analysis' second step where I investigate the Commission as an actor. In reality the two elements that form the two steps of the analysis; activity and actorness were and are interconnected. For analytical purposes these two steps are kept apart in order to make them more approachable.

In the first step of the analysis I address two operationalising questions: how the Commission responded to the establishment of EPC and how its approach to EPC developed. To answer the first question, I investigate the basis for the Commission's response. I search specifically for how the Commission legitimated its claims for participation in EPC. I begin with the notion that the Commission's Treaty-based mandate in the EC was complemented by a myth of the Commission. Exploring the elements of mandate and myth forms the basis for further investigations into the determining factors of the Commission's response where I track the formation of this response to the establishment of EPC chronologically. I assess what the Commission did following the initiation of political cooperation in The Hague 1969 and throughout the establishment and formative phase of EPC from the Luxembourg Report 1970 to the Copenhagen Report 1973.⁷⁷

In order to answer the second question of how the Commission's approach developed I investigate two distinct cases, the CSCE and the EAD. This choice is based on two elements; the point in time these two cases emerged and their contents. In its first and formative phase 1970-1973, EPC was characterised by work done on the CSCE and what would become the EAD. As EPC came of age, its scope was extended, and a range of other cases from the period 1973-1976 could have been relevant for this study, for instance EPC's response to crises in Cyprus, Portugal and Spain in addition to an emerging response to events in

⁷⁷ Throughout the thesis I will apply the more "official" term of the Luxembourg Report denoting the Report from 1970 establishing EPC. However, the report was also known as the «Davignon-Report» after the man who led the work on the report, Belgian Political Director Étienne Davignon. I have kept the original formulations in the references from the sources that use this term denoting both the report and the EPC as the «Davignon»-structure, machinery or similar.

Southern Africa.⁷⁸ However, by focusing on the two cases that emerged in EPC in this early phase that had contents that extended “pure” foreign policy and thus ventured into areas covered by the Treaty, I facilitate the investigation of the relationship between EPC and the existing EC framework and of the Commission and its developing approach to EPC. The choice of these two cases also enables tracking of a potential change in the Commission as an actor as EPC developed because they can illustrate how the Commission’s approach to EPC matured alongside EPC itself, and the manner in which the Commission legitimised its claim for a role in both the CSCE and the EAD.

The second step of this thesis’ analysis is on a more aggregate level. Here I investigate what kind of actor the Commission that acquired a role in EPC was, based on the analysis of the Commission’s activity. A range of choices of how to study the Commission as an actor arises when aiming to investigate the Commission’s role in EPC. One of my aims is to unveil and open the “black box” of the Commission in this period. By approaching the Commission as an actor that operated on several levels, investigating the internal and external presentation of the Commission as a supranational actor and analysing this actor over time the thesis is well-equipped to answer the questions posed.

In order to unveil and open the black box of the Commission the thesis launches an investigation into whether or not the Commission was a coherent actor internally and externally and if there was internal division over EPC. The questions over coherence are explored by analysing various written contributions emanating from Members of the Commission in the period in question. Commissioners Altiero Spinelli, Ralf Dahrendorf and the Commission’s Secretary-General Emile Noël all presented different views of European integration in general and as a part of this, the establishment of EPC in particular.⁷⁹ The analysis of these texts together with the analysis of the basis for the Commission’s response and approach to EPC forms the basis for the thesis’ evaluation of which forces within the Commission that were the most decisive.

⁷⁸ See Nuttall 1992: 81-148.

⁷⁹ Altiero Spinelli, Italian. Commissioner for Industry and Technology between 1970 and 1976. An ardent federalist, Spinelli co-authored the Ventotene Manifesto of 1941 and on account of this and his role in the early phase of European integration is often referred to as one of the ‘Founding Fathers’ of the European integration project. Spinelli left the Commission and stood in the first direct elections for the EP in 1979. Ralf Dahrendorf, German. From 1970 to 1973 he was Commissioner for External Relations and Trade, and from January 1973 until he left in 1974 he was Commissioner for Research, Science and Education. Dahrendorf went on to become Director of the London School of Economics between 1974 and 1984, and became a British citizen in 1988 after being awarded a knighthood in 1982. In 1993 he was created a life peer, and took the Liberal Democrat whip in the House of Lords. Both Spinelli and Dahrendorf left the Commission of their own volition, perhaps in part due to disappointment over the way the institution developed contrary to their visions.

An analysis of the Commission's Presidents from 1958-1976 further broadens the analysis of the thesis. By basing the thesis' analysis mostly on the Commission highest levels of its President(s), the SG and individual Commissioners, I address the levels that were most closely affected by EPC. Admittedly, by excluding the Commission's lower levels, the detailed EPC-work on the level of Directorate-Generals is left mostly out of the analysis. However, including also these levels would again prove beyond the scope of a thesis, as the level of detail and amount of material would be too vast. The relationship between the two most prominent supranational institutions of the EC at the time, the Commission and the European Parliament was also played out on the institutions highest levels. By exploring the various Commission Presidents speeches before the EP this thesis' analysis includes to an extent the relationship between the Commission and the EP. This element of tracking supranational rhetoric facilitates the investigation of the Commission as an actor over time, and the investigation into an eventual change or adjustment in the Commission in this period.

An institution like the Commission is and was of course incapable of feelings. However, in the period analysed it was made up by individuals and existed within a structure that placed great value on the Commission as a symbol for a perceived European interest, which arguably facilitated a self-perception of the Commission and its members. Any study of one actor in a process risks developing 'tunnel vision' through overemphasizing the role of the actor in focus. This thesis is most definitely not a study that argues that the Commission played a leading role neither in establishing EPC, nor acting as a main player in the setting of its agenda. Those roles were indisputably in the hands of the Member States.

1.4 Sources

This thesis has made use of primary sources from several archives. Material from the Commission's own archive in Brussels; the Historical Archives of the European Commission (HAEC) has been complemented with material from The National Archives (TNA) in London; the Historical Archives of the European Union (HAEU) in Florence; the Archive of European Integration (AEI) and material from the Ministère des Affaires Étrangères (MAE) in France.

There are limitations to the material; which reflect the fact that EPC lay outside the EC's sphere and that it was highly confidential. For the period covered by this thesis, EPC had no secretariat, and no archive was kept in a designated place. Preparing documents for EPC was in the period 1970-1987 the responsibility of the Member State (and its foreign ministry) that

held the Presidency.⁸⁰ What existed of archival material was thus “...carried halfway across Europe in a suitcase every six months”.⁸¹ This only changed following the SEA in 1987, when a secretariat and an archive for EPC were established.⁸² This secretariat from that time onwards held the responsibility for preparation of EPC-documents and maintaining the EPC-archive.⁸³ Other than making several requests to the Central Archives of the General Secretariat of the Council, I have not embarked on what presumably would be to no avail given other scholars’ attempt and failure; to gain entrance to what might exist but that is not de-classified of EPC-material in the now existing EPC-archive from the period covered in the thesis.⁸⁴ As a thesis with the Commission in focus, this undoubtedly leads to an unfortunate but inevitable imbalance in the available material, as the Commission’s side is well covered, however; without complete access it is impossible to evaluate the contribution any EPC-material might have provided for in this thesis.

Not disregarding the lack of EPC-material, by using material from different sources and from different actors, I have worked around this challenge and had at my disposal a rich and complex material.⁸⁵ This material serves the thesis well in its attempt to investigate the Commission’s response and actions towards EPC directly, and indirectly to investigate what happened as consequences to these responses and actions on the side of the Member States and indeed, but more limited, within EPC.

The material from the HAEC consists of minutes from Commission meetings, letters and notes from Commissioners and particularly the Secretariat-General. In addition it consists of material on the policy initiatives in the EC-sphere relevant for EPC; for instance documents relating to the CSCE and the EAD and the EC-policy areas that were affected by these. The material is rich when it comes to the official response of the Commission to EPC as well as providing bountiful information about the Commission’s expertise and skills in the policy-areas in question.

⁸⁰ Nuttall 1992: 18.

⁸¹ Ibid: 20.

⁸² The European Commission, *Guide to the Archives of the Ministries of the Foreign Affairs of the Member States, of the European Communities and of the European Political Cooperation*, Luxembourg: Office for Official Publications of the European Communities, 1989: 5-13, 78.

⁸³ Pijpers, Alfred, Elfriede Regelsberger and Wolfgang Wessels (eds.). *European Political Cooperation in the 1980s*, Dordrecht: Martinus Nijhoff, 1988: 93.

⁸⁴ Smith 2004: 13-14.

⁸⁵ Another approach to the problem of access to the EPC material would be to consult the Member States archives in the hope of piecing together a “fuller” picture. Due to the timeframe of this project and the additional challenges this would pose for instance related to languages this has been rejected.

The material from the HAEC and HAEU complements one another and provides an entrance for the thesis into the inner workings of the Commission, as well as a representation of how the Commission worked outwards. The material the thesis has consulted from the HAEU consists of correspondence between individuals in the Commission but also external communication; letters and notes from the individuals in the Commission that were working on EPC and indeed on the EC-policies touched by EPC. The thesis has mostly made use of the personal archives that are made available online by the HAEU, for instance the archive's holdings of material from Emile Noël, Franco Maria Malfatti, Klaus Meyer and François-Xavier Ortoli.⁸⁶ Also from the HAEU, a different set of material following the release of the Oral history-project material which formed the basis for *History and Memories of an Institution* has been consulted, for instance the interviews with Commissioners working with EPC.⁸⁷ Electronically available material from the vast holdings of the AEI has been used to further complement the HAEC/HAEU material.⁸⁸

The thesis has made use of material from two Member States; the UK and France. The thesis draws on a limited but very specific material related to the EAD and the French Presidency in the second half of 1974 from the Ministère des Affaires Étrangères. This material has provided valuable insight for the thesis into the most ardent opponent to Commission participation in EPC, France. The British material is admittedly more comprehensive than the French, and this makes for some imbalance. The UK was at this time 'pounding' at the EC's door as it were and was very interested in all aspects of the newly established EPC: "We had missed the economic bus. We should very much like to be on the political bus from the beginning."⁸⁹

The British efforts to be included in EPC results in the material from the TNA being very rich in terms of EPC and its Member States, the EC and its Member States and the relationship between EPC and the EC, and hereunder the Commission's relationship within this matrix. The Commission and the UK 'shared destiny' in being on the outside of EPC looking in, as well as in sharing a strained relationship with arguably the most powerful Member State in

⁸⁶ See the HAEU's webpages: <http://archives.eui.eu/en/fonds/#Individuals>. Franco Maria Malfatti, Italian. Commission President 1970 until he left to stand for national elections in 1972. François-Xavier Ortoli, French. Commission President 1973-1977.

⁸⁷ The Commission's oral history programme 1973-1986 is now available in a new online database found at http://archives.eui.eu/en/oral_history/, where 218 interview recordings produced as part of work for the second volume of *History and Memories of an Institution* have been deposited at the Historical Archives of the European Union (HAEU) and are now available to researchers.

⁸⁸ See the web-page <http://aei.pitt.edu/>

⁸⁹ TNA, FCO/30 567, Record of Conversation at the Belgian Embassy in Bonn, 4 June 1970.

the EC and EPC; France. The material from the TNA is valuable due to these circumstances as well. As an applicant country Britain gained access to an extensive amount of material from the EC but also EPC, which the Commission's and the individuals' archives lack.

To shed light on the internal workings of the Commission and on the conflict over the Commission's wider role in European integration as well as its role in EPC, I have selected a few 'voices' from within the Commission who published their reflections on these subjects in the period of focus.⁹⁰ This analysis enables an investigation into different elements within the Commission and of the contrasting beliefs of the individuals that made up this institution. It also enables an analysis of which forces within the Commission that formed the institution's collective approach to EPC.

1.5 Theoretical perspectives on the role of supranational institutions

This thesis is informed by theoretical perspectives on the role of supranational institutions within structures of integration or intergovernmental cooperation. A debate between neo-functionalists and intergovernmental theory coincided in time with the period covered in this thesis, as intergovernmental approaches emerged as a rival to neo-functionalism from the mid-1960s.⁹¹ Relevant for this thesis are the elements of the debate on the role of supranational institutions in the integration project. Crudely put, neo-functionalism opens for supranational agency and for an influential and even determining role for institutions such as the Commission, while intergovernmentalism explain these institutions as instruments created in order to cater to the Member States' needs.⁹² For the neo-functionalists, political activism

⁹⁰ Dahrendorf 1973; Nöel, Emile. "The Institutional Problems of the Enlarged Community", *Government and Opposition*, 7 (4), 1972: 413-425; Spinelli 1972.

⁹¹ The period covered by this thesis correlates with the period in which the intergovernmental response to neo-functionalism amounted most clearly to a shift in paradigms when it came to theory building on European integration. Neo-functionalist reasoning in this period is mostly associated with the first work of Haas, Ernst. *The Uniting of Europe*, Stanford: Stanford University Press, 1958. The first phase of intergovernmentalism is associated primarily with Hoffmann, Stanley. "Obstinate or obsolete? The fate of the nation-state and the case of Western Europe", *Daedalus* 95, 1966: 862-915, and continued by other scholars, most notably Milward, Alan. *The European Rescue of the Nation-State* [2nd edition], London and New York: Routledge, 2000 and Moravcsik, Andrew. *The Choice for Europe: Social Purpose and State Power from Messina to Maastricht*, London: UCL Press, 1998. By the early 1970s the intergovernmental challenge to neo-functionalism had amounted to a shift in paradigms and Haas deemed neo-functionalism obsolescent (but not obsolete) by the mid-1970s. See Haas, Ernst. *The Obsolescence of Regional Integration Theory*, Institute of International Studies working paper, Berkeley, 1975 and "Turbulent Fields and the Study of Regional Integration", *International Organization*, 29(3), 1976. On the specific case of EPC as explained by intergovernmentalist in the period see Taylor, Paul. "The politics of the European Communities: the confederal phase", *World Politics*, 27 (3), 1975: 335-360 and Taylor, Paul. "Intergovernmentalism in the European Communities in the 1970s: patterns and perspectives", *International Organization*, 36 (04), 1982: 741-766.

⁹² For the neo-functionalist importance of central institutions, like the Commission, to be able to secure enough autonomy, see for example Haas, Ernst. "International Integration: The European and the Universal Process",

was needed to drive integration forward, and according to this school this would be provided by a “higher authority” which in the case of the EEC/EC the Commission would come closest to.⁹³ Contrary to this, by intergovernmentalist reasoning it was the nation states that moved integration or cooperation. Importantly the nation states attempted to move in the direction most in line with their national interest.⁹⁴ Intergovernmentalist reasoning would explain the setting-up of institutions like the Commission as part of securing these national interests, where the institutions would be instrumental in holding all Member States accountable to the agreed commitments.⁹⁵

The thesis draws some useful premises out of what can be termed as a crude debate between neo-functionalism primacy of supranational activism in an integration process, and intergovernmentalist primacy of sovereign national states in complete control. These premises are that even within a European integration project admittedly and undoubtedly driven primarily by nation states, once created the supranational institutions could matter, and need to be included in any analysis of this project.⁹⁶

The starting point of Rational Choice Institutionalism (RCI) is the primacy of states.⁹⁷ This starting point is by proponents of RCI-approaches however applied as a premise that enables taking the role of supranational institutions into account.⁹⁸ This basic premise underpins this

International Organization, 15(3), 1961: 376. Contrary to this, see intergovernmental notions of the EC’s institutions with limited authority entailing limited autonomy from the Member States, limited powers as in control over the acts of others as well as limited legitimacy; being accepted as a “rightful” centre of action; Hoffmann 1966: 885. Hoffmann also refuted the notion of “integration “beyond the nation-state”” as the emergence of a new kind of political community, as he argued the vindication of the nation-state as the basic unit within integration, where the institutions of the EC only held limited authority that in his and other intergovernmentalist view was “conditional, dependent and reversible”, see Hoffmann 1966: 909.

⁹³ See Haas 1961: 376 and 1968: 283-317 for the institutions’ role in spill-over, the basic premise of neo-functionalism reasoning of the forward moving of integration and the need for political activism provided for by supranational institutions. For the concept of spill-over refined to cultivated spill-over, see Tranholm-Mikkelsen, Jeppe. “Neo-functionalism: Obstinate or Obsolete? A Reappraisal in the Light of the New Dynamism of the EC”, *Millennium - Journal of International Studies*, 20(1), 1991: 1-22.

⁹⁴ See particularly Milward 2000 and Moravcsik 1998 for the importance of and the formation of national interest.

⁹⁵ For a recent account of the instrumental use of institutions as commitment-checks see Dijkstra, Hylke. “Approaches to Delegation in EU Foreign Policy: The Case of the Commission”, in Maciej Wilg and Ireneusz Pawel Karolewski, *New Approaches to EU Foreign Policy*, Abingdon and New York: Routledge, 2014: 38-55.

⁹⁶ As a response to what has been termed as a ‘stalemate’ in the debate between neo-functionalism and intergovernmentalism in the mid-1990s, several new more middle-range theoretical approaches to European integration emerged that took these premises more into consideration. For this thesis, one of these approaches has been found of particular value; Rational Choice Institutionalism as part of a larger “school” of “New Institutionalism”. For an overview see Pollack, Mark. “The New Institutionalisms and European Integration”, in Antje Wiener and Thomas Diez, *European Integration Theory* (2nd edition) Oxford: Oxford University Press, 2009: 125-143 and Rosamond, Ben. *Theories of European Integration*, Basingstoke: Palgrave, 2000: 113-126.

⁹⁷ See Pollack, Mark. “Realist, Intergovernmentalist, and Institutional Approaches” in Eric Jones and Anand Menon (eds), *The Oxford Handbook of the European Union*, Oxford: Oxford University Press, 2012: 3-17.

⁹⁸ For questions over if they matter and the conditions under which they matter see Pollack 1997.

thesis' attempt to investigate supranational agency of the Commission within the intergovernmental structure of EPC. As the neo-functionalist vs intergovernmental debate provide for extreme versions of supranational agency where the institution either "run amok" or blindly obey and become the instrument of the Member States, I find a need for them to be refined.⁹⁹ This thesis takes these extreme versions into account, particularly in terms of what they undoubtedly contributed to when it came to perceptions of the Commission. However, the call for a refinement is based on the paradoxical result where the Member States created EPC for the express purpose of treating foreign policy cooperation within an intergovernmental structure and still saw the Commission end up with a role. This necessitates investigations of supranational agency.

In this thesis, I investigate whether the Commission was in a position where it could pursue its own preferences, and how it went about doing so by devising an approach towards EPC. In so doing the thesis draws on theoretical approaches within RCI, notably the supranational agency elements of both a Principal-Agent model (P-A) of delegation and the notions of the Commission's preferences as a competence maximizer and purposeful opportunist. In addition I make use of the notion of path dependency.

In a P-A model the relationship between the principal(s), in this case the Member States of the EC, and the agent, in this case the Commission is explained through investigating under what conditions institutions matter.¹⁰⁰ The questions posed by this model are to what extent the principals control the agents, and to what extent they can follow their own preferences.¹⁰¹ The notion of a competence maximizer is associated with the work of Giandomenico Majone, and refers to what the preferences of a supranational actor are most likely to be: to seek to maximise its own role and in this case the scope of the EC.¹⁰² This is closely connected to Laura Cram's notion of a purposeful opportunist, which describes the manner in which a

⁹⁹ Ibid: 110.

¹⁰⁰ Admittedly, the P-A concept also holds potential for investigations of the role of the Commission within the European integration project as a principal; able to initiate and govern, or an agent; able to manage or administer, see for instance Hooghe, Liesbet. *The European Commission and the Integration of Europe*, Cambridge: Cambridge University Press, 2001: 165. For the purpose of the investigation of the Commission's role in EPC however, this will be of limited use, since there was no potential for a Principal-style role for the Commission in EPC; a privilege held by the Member States.

¹⁰¹ Pollack 1997.

¹⁰² Majone 1996, Pollack, Mark. "Creeping Competence: The Expanding Agenda of the European Community", *Journal of Public Policy*, 14(2), 1994: 95-145. The notion of «creeping competence» to an extent combines the notions of competence maximising and path dependency.

supranational agent most efficiently can act in the hope of reaching its aim of maximising its own role.¹⁰³

The notion of path dependency, associated with the work of Paul Pierson, attempts to explain how previous decisions may shape an ongoing process in a manner that might lead to unforeseen or even unwanted results.¹⁰⁴ The thesis' analysis of the role of the Commission in EPC can provide knowledge on supranational institutions' role in processes characterised as path dependent. The notion of path dependency might be applied as a structural explanation for the role of the Commission in EPC, along the lines that the Member States' actions within EPC, due to the existing framework of the EC, were 'pushed' by the Commission in the direction or path already had set up under the EC.

In this thesis I analyse the Commission's preferences and role in the case of EPC. The thesis might as a result form the basis for questions over the Commission's wider role in the European integration project. The results of the analysis of the Commission in EPC can provide insights into whether or not the Commission can be said to operate as a rational actor within the EC where it held a defined P-A relationship with the Member States. Also, it can contribute to answering questions of whether or not the preferences the Commission held within the EPC-sphere were the same as it held for the EC-sphere. What are the implications of a result where the Commission is found to have acted in EPC purposely opportunistic to maximise the competences of the EC, and by so doing, also maximising its own competences? The theoretical implications of the thesis' main findings will be revisited in the thesis' conclusion.

1.6 Structure and main arguments of thesis

The structure of this thesis investigates the basis for and the Commission's response to the establishment of EPC in chapters two and three in exploration of the thesis' first step of analysis. However, the thesis' structure breaks with a chronological approach and the form of the two step-analysis outlined in chapter 1.3 as chapter four initiates the investigation of the Commission as an actor which makes it a part of the thesis' second step of analysis. I claim that this move enables the investigation of the developing approach of the Commission

¹⁰³ Cram, Laura. *Policy-making in the EU. Conceptual lenses and the integration process*, London: Routledge, 1997.

¹⁰⁴ Pierson, Paul. "The path to European integration: A historical institutionalist analysis" *Comparative Political Studies*, 29, 1996: 123-63.

towards EPC that is found in chapters five and six. The thesis' conclusion is structured along the lines of the two-step analysis.

Chapter two explores two elements that defined the conflict over the Commission's participation in EPC. It argues that the Commission used the two elements of an unchanging Treaty-defined mandate but also to a certain degree a myth to legitimise its entry to EPC. The chapter establishes the relevant competences of the EC and the Commission in the EC-machinery. The chapter goes on to establish how the Commission could use these competences in its attempt to enter the EPC-machinery. I find that these demands for participation of the EC and the Commission in EPC were based on competences in the EC's external relations and in particular the Common Commercial Policy (CCP).

Chapter three tracks the development of the Commission's response and approach to EPC in the period 1969-1973. It argues that the development of response and approach was characterised by internal divisions within the Commission, where the proponents of a pragmatic middle way characterised by deliberate choices set the pace. The Commission argued for participation in EPC based on its Treaty based competences, and to an extent this mandate was complemented by a myth and the role the Commission held for itself in its view of European political unification. Importantly I find that the Commission in this developing approach aimed to proceed in a manner that would not cause conflict with the Member States. While the chapter presents the development of EPC in this early phase as one characterised by the continuing opposition of France for EC and Commission 'contamination' of EPC, it also argues that on some levels of EPC there was a call for Commission participation based on the expertise it could provide. The chapter argues that the Commission's chosen approach to EPC was characterised by its intention to participate in order to protect the EC from EPC. The Commission's approach was further aimed at acting as the institutional link between the EC- and EPC-machinery, and if possible to shape the development of EPC.

Chapter four investigates a perceived change of the Commission as a supranational actor. It further unveils and opens the black box of the Commission as it explores a set of diverging voices. The chapter argues that the Commission deliberately adjusted from an actor that was characterised as a super-government *in spe* to an actor characterised more as a sombre realist. The chapter's chronological analysis of developments and changes on the level of the Commission's President further tracks this adjustment. The main argument is that the Commission that met with EPC led by Presidents Malfatti, Mansholt and Ortoli emerges as

markedly different from the first Commission led by Hallstein, and that these findings holds an effect for the explanation of the Commission's role in EPC.¹⁰⁵

In chapter five, I examine how the Commission's approach to EPC developed in the first test case for EPC and indeed for the Commission's role in EPC. The chapter thus establishes how the Commission acquired a role in the CSCE. The chapter argues that the Commission as a relentless pragmatist in the case of the CSCE succeeded, its aim was to secure participation of the EC and also adequate participation of the Commission itself. The Commission achieved to participate in the CSCE through entering as a member of the delegation of the Member State holding the EC/EPC-Presidency. In the chapter the Commission's efforts and success in shaping the Moro-declaration and in securing the double signature of the CSCE's Final Act by Italian Prime Minister Aldo Moro on behalf of both Italy and of the EC is traced.¹⁰⁶ This declaration held prior to the signature of the Final Act highlighted the importance that the Community as an entity had participated in, and agreed to the final agreements of the CSCE. The chapter argues that as both machineries contributed to the declaration's formulation, this led to closer relation between the EC and EPC.

Chapter six continues the examination of how the Commission's approach to EPC developed as it establishes how the Commission acquired a role in the EAD. The chapter argues that the EAD became a joint EC-EPC venture based on the Commission's efforts. This joint venture saw the Commission deeply entrenched in the Dialogue's institutional structure by its own right, in the EAD-case *alongside* the EC/EPC-Presidency contrary to the CSCE where it was included in the national delegation of the Member State holding the EC/EPC-Presidency. The chapter's main argument is that by May 1976 the Commission had, through its efforts within the EAD to an extent managed to bridge the divide between the EC and EPC.

Chapter seven concludes the thesis and argues that in the case of EPC, the Commission as a rational actor successfully managed to navigate a complex and hostile environment. I argue that this result was a result of the Commission's pragmatic approach to EPC by which it secured an unintended role for itself in EPC. I claim that the role of the Commission in EPC came as a result of a developing approach that I have traced. The origin of this approach was continuously the Treaty based mandate of the Commission. I argue that this approach moved from an initial response that was based more on the Commission's own view of its role in

¹⁰⁵ Sicco Mansholt, Dutch. Commission President for nine months following Malfatti's resignation, March-December 1972.

¹⁰⁶ Aldo Moro, Italian. Foreign Minister 1969-1974 and Prime Minister 1974-1976.

European political unification, to an approach that legitimated a role in EPC by the specific provisions within the CCP. Moreover, from this Treaty based legitimation I find evidence of the approach towards EPC as evolving into one that in addition was based on the Commission's expertise.

Based on the results from the case of EPC, a wider characterisation of the Commission as an actor in this period emerges. I suggest that the manner in which the Commission is seen to actively have made deliberate choices and adjust to its environment it can be characterised as a distinct second generation Commission. By comparing the results of the Commission's role in the EPC-cases of the CSCE and the EAD to the stated preferences of the Commission, its chosen approach proved successful. The implications of these results are that they serve to question established truths of the Commission in this period as weak and inconsequential. The results also have implications for theoretical debates that go beyond the Commission's role in EPC. The results of this thesis contribute to debates on how supranational institutions matter: by providing evidence of a supranational institution that proved to possess and apply agency that shaped outcomes that were of importance for the sovereign states that had intended an intergovernmental EPC.

2. The Commission– mandate and myth

This chapter explores two elements that I claim to be defining in the conflict over the Commission's participation in EPC: the mandate and the myth of the Commission as an actor. The chapter introduces both legal and less tangible aspects underpinning the Commission's agency in the case of EPC, thus providing background for the thesis. In this chapter I argue that in addition to having a defined treaty-based mandate, the Commission that met with EPC was also defined by a myth. This myth encompassed how both the Member States and the Commission itself interpreted what the Commission 'was' and what it wanted to achieve.

The intergovernmental cooperation in EPC was based on a non-legally binding framework of founding documents in the form of reports agreed to by its Member States. The EC's external relations and the Commission's role in these had their base in the Treaty of Rome.¹⁰⁷

*The Commission will be consulted if the activities of the European Communities are affected by the work of the Ministers.*¹⁰⁸

This was the formulation upon which the Commission's participation in EPC hinged, a formulation that in substance remained unchanged until the London Report 1981, in which the Commission was formally associated with EPC work at all levels.¹⁰⁹ The EC's legal base in the Treaty also remained substantially unchanged throughout the period 1969-1976.¹¹⁰ The foundation for the Commission's claim for EPC participation emanated mainly from its treaty-based mandate.

¹⁰⁷ In this thesis I refer to the Treaty of Rome from 1957, retrieved from University of Groningen's law library on 19 September 2015: http://www.rug.nl/bibliotheek/support/law-library/document-instructions/traites_1957_cee_1_en_0001.pdf. The three 'founding documents' before EPC was included in the Single European Act were the Luxembourg Report 1970, the Copenhagen Report 1973 and the London Report 1981. These can be consulted in: AEI, Luxembourg Report 1970, reproduced from the Bulletin of the European Communities No.11-1970, retrieved on 11 June 2015 from http://aei.pitt.edu/4543/1/epc_first_report_oct_1970.pdf; AEI, Copenhagen Report 1973, reproduced from the Bulletin of the European Communities No.3-1973, retrieved on 11 June 2015 from http://aei.pitt.edu/4539/1/epc_copenhagen_report_1973.pdf; AEI, London Report 1981, Source: European Political Co-operation (EPC) Press and Information Office, Federal Republic of Germany, Bonn, 1988, retrieved on 11 June 2015 from http://aei.pitt.edu/4546/1/epc_london_1981_report.pdf

¹⁰⁸ AEI, Luxembourg Report 1970, reproduced from the Bulletin of the European Communities No.11-1970, retrieved on 11 June 2015 from http://aei.pitt.edu/4543/1/epc_first_report_oct_1970.pdf

¹⁰⁹ AEI, London Report 1981, Source: European Political Co-operation (EPC) Press and Information Office, Federal Republic of Germany, Bonn, 1988, retrieved on 11 June 2015 from http://aei.pitt.edu/4546/1/epc_london_1981_report.pdf

¹¹⁰ However, Court decisions further specifying the treaty-based foundation for the EC's external role were made in this period. For a thorough analysis of the EC's external policies and the Commission's role see for instance Eeckhout, Piet. *EU External Relations Law* (2nd edition), Oxford: Oxford University Press, 2011 and Boussuât, Gérard and Anaïs Legendre. "The Commission's role in external relations", in Michel Dumoulin, *The European Commission 1958-72, History and Memories of an Institution*, Luxembourg: Publication Office of the European Union, 2014: 339-376.

The conflict over the Commission's participation in EPC had its roots in a basic premise of separation. From the beginning, the EC's external relations were characterised as external economic policy and placed at the core of supranational integration. In particular was the Common Commercial Policy's (CCP) status as a common policy with exclusive Community competence clear from the Treaty. However, at the same time, the Member States attempted to separate these external relations of the EC from the 'pure' foreign policy that with the emergence of EPC became the subject of intergovernmental cooperation between the Member States of the EC.¹¹¹ Some Member States did not want the Commission in EPC, based on the myth of an overambitious supranational actor that surrounded it. I claim that this myth also forms the background for the intended separation of the EPC and the EC spheres.

2.1 Mandate – the Treaty of Rome, a 'framework Treaty'

The Treaty of Rome was an expression of the Member States' will and of how far they were prepared to venture in integration within the framework of the European Economic Community. The creators of the Treaty wanted to achieve two aims, and this duality marked the Treaty (and thus the EEC and the Commission) from the very beginning. The first aim was to create a solid and efficient European framework for integration, capable of taking decisions and implementing these, framed by a European interest that at the same time was of national interest for the Member States. The second aim was to protect the Member States' national interests, which explains the attempts of the national states to retain control over important parts of their sovereignty. This duality formed the basis for the Treaty of Rome as a framework Treaty, as it set more or less definite goals for integration, but left the means through which to achieve these somewhat less specified.¹¹² Even within such an unprecedented agreement as the Treaty of Rome, there was ripe potential for conflicts. As the Treaty created institutions to manage the EEC, this potential was extended from inter-state conflicts to conflicts between Member States and the established Community Institutions.

¹¹¹ Eeckhout 2011: 501

¹¹² The Commission could and did use this feature of the Treaty as an "outline Treaty" as a flexible point of departure that entailed a political role for the Commission as an initiator, an honest broker and a watchdog of Treaty that also entailed an international role for the Community and the Commission. I find evidence for an expansionist use of the Treaty in the period of the first generation Commission, a feature less pronounced following the empty chair crisis. For Hallstein's expansionist use of the Treaty see for instance his first speech before the European Parliament: AEI, *Proceedings of the sessions No. 1. Inaugural sitting, March, 1958*. Retrieved on 2 September 2015 from <http://aei.pitt.edu/44450/>:19; and AEI, The Commission, a new factor in international life, speech by Hallstein at the British Institute of International and Comparative Law, London 25 March, 1965. Retrieved on 16 November 2011 from <http://aei.pitt.edu/13638/1/S35-S34.pdf>.

A long-standing division over the meaning of and the means through which to reach political unification had its roots in the unspecific character of the Treaty of Rome. The Community was ill-equipped to fulfil the ‘grandest’ of goals as heralded in the Treaty’s Preamble to “lay the foundations of an ever closer union among the peoples of Europe”.¹¹³ In addition, political unification was left more or less undefined from the very start, as the Treaty did not give any specific provisions of how to proceed with political unification or what an ‘ever closer union’ would entail. In addition, Article 2 of the Treaty even qualified this goal merely as “closer relations between the States belonging to it”.¹¹⁴

The inception of EPC divided the parties conflicting over political unification in Europe into two clear sides. On the one side, the Commission and some Member States, particularly the Netherlands, championed the development of the EC into a political union in which the Commission would continue to have a privileged status. The other side (represented mainly by France) wanted to extend cooperation between the MS of the EEC/EC into new areas by creating new and intergovernmental political institutions.¹¹⁵ Paradoxically, both sides saw the establishment of EPC as a stage in the development of a political union by both the supranational Commission and the Member States.

In contrast to the Treaty’s political provisions, its economic provisions were more specific. Article 1 of the Treaty of Rome established a European Economic Community among the six Member States of Belgium, France, Germany, Italy, Luxembourg and the Netherlands. The EEC’s would-be ‘backbone’, the Common Market set out in the Treaty’s Article 2, underlined the supremacy of an economic guiding principle, not a political one, for the newly established EEC. The Treaty further supplied the EEC with a fixed set of timetables for achieving the goal of a Common Market. This schedule was set out in Article 8, which stated that the Common Market would be progressively established during a transitional period of 12 years. This transitional period would be divided into three stages of four years each. Each stage had an assigned set of actions to be initiated and carried through concurrently, which were also subject to some exceptions and procedures provided for in the Treaty. The expiry of the transitional period constituted the latest date by which all the rules laid down would have to enter into force. Article 3 of the Treaty of Rome set out three Common Policies to be implemented for the purpose of establishing the Common Market set out in Article 2: a

¹¹³ Treaty of Rome - Preamble.

¹¹⁴ Treaty of Rome- Article 2.

¹¹⁵ Coombes 1970: 70.

Common Commercial Policy, a Common Agricultural Policy and a Common Transport Policy.¹¹⁶ The Treaty's Article 9 defined the establishment of the Customs Union, abolishing quotas and customs duties between the Member States.¹¹⁷ Furthermore and of particular relevance for this thesis' investigation, the Customs Union established a common external tariff, and the Customs Union was accompanied by a common trade policy of the CCP.

2.1.1 The Commission's treaty base

The attempts to balance the need for a solid framework on the European level with the needs of the Member States to protect their national sovereignty are evident in the institutions set up by the Treaty. To carry out the tasks entrusted to the Community, and to act within the limits of the powers conferred upon them by the Treaty, the Treaty's Article 4 set up four institutions: an ASSEMBLY, a COUNCIL, a COMMISSION, and a COURT OF JUSTICE. In contrast to the ECSC's High Authority that was listed at the top of the institutional 'list' of the Treaty establishing the ECSC, the Commission was listed as number three out of four.¹¹⁸ This deliberate 'ranking' of the institutions can be perceived as a downgrading of the Commission and could suggest an unwillingness on the part of the Member States of the EEC to confer upon the Commission the same range of supranational powers granted to the High Authority of the ECSC.¹¹⁹ From the EEC's very beginning, the status of the Commission in relation to the Member States was thus an issue for ongoing debate, and at some points, like the empty chair crisis, an issue that spurred outright conflict. The fact that the appointment of the Commission rested in the hands of the Member States did not prevent these outbursts of conflict.

Articles 155-163 of the Treaty were devoted to the Commission as an institution. Two important founding principles that guided the Commission's response and by which its role in EPC was legitimated are found in this part of the Treaty, and in particular:

ARTICLE 157(2)

The members of the Commission shall perform their duties in the general interest of the Community with complete independence.

¹¹⁶ Treaty of Rome: the Common Commercial Policy (Art.110-116); the Common Agricultural Policy (Art. 38-47) and the Common Transport Policy (Art. 74-84).

¹¹⁷ Treaty of Rome's article 9, and the Treaty's Part 2, Foundations of the Community, Title 1: Free movement of goods, Chapter: "The Customs Union".

¹¹⁸ Loth and Bitsch 2014: 52.

¹¹⁹ Ibid.

In the performance of their duties, they shall not seek or accept instructions from any Government or other body.¹²⁰

These two founding principles of the Commission's task to guard the European general interest and the completely independent manner in which this task should be observed constituted a "constitutional doctrine" for the Community and the Commission.

2.1.2 Agency – the role and function of the Commission

The general provisions of the Treaty of Rome gave the Commission a role and some basic functions that have been described and analysed at great lengths in the existing literature.¹²¹ Formulated in 1970, Coombes' five broad headings describing the Commission's role and functions have been particularly long-lasting.¹²² They are still used today, and will be applied by this thesis, defining the Commission's treaty-based role as having:

1. An initiative role; right to initiate legislation for instance in Article 155, which created a subtle interplay between the institutions that again gave the Commission room for manoeuvre
2. An administrative and management role as in the CAP, policy areas delegated to the Commission by the Member States
3. A mediating role; among and between the Member States and institutions to reach agreement and decisions
4. A representative role; representing the EC in third countries and in international organisations
5. A normative role; both as the guardian of the Treaties and the *acquis communautaire* and as the conscience of the Community.¹²³

Through these five roles, the Commission occupied a strategic position in the EEC/EC's institutional matrix. It has been noted that the Commission was not as supranational as the High Authority of the ECSC. The affirmation of the Commission's supranational status lay in the power it held both through its legislative initiative and as the defender of the EEC/EC's general interests. In this period, the Commission's role in the established EEC/EC decision-

¹²⁰ Treaty of Rome - Article 157 (2), my emphasis.

¹²¹ Coombes 1970: 78-86; Edwards 2006: 7-8; Loth and Bitsch 2014: 52; Seidel 2010: 2.

¹²² Coombes 1970: 78-86, Edwards 2006: 7 uses them, as does Seidel 2010: 2.

¹²³ The categorisation of the functions of the Commission is based on Coombes' work but remains in effect a synthesis of several sources: Loth and Bitsch 2014; Edwards 2006: 7-8.

making, called the Community method, was that its initiatives were put before the Council. The decision-making power in the EEC/EC was thus held by the Council.¹²⁴ However, in the Treaty there was potential for the Commission to expand its role and increase its importance.

2.1.3 Policy-specific mandate – the Common Commercial Policy

Based on the establishment of the Customs Union, the Common Commercial Policy is the policy area that bridges the investigation of the general mandate and competence of the Commission and its more specific competence in external economic policy. The CCP was based on three principles: the common external tariff, common trade agreements with third countries (see chapter 2.1.4) and uniform application of trade instruments across Member States.¹²⁵ The CCP was the only common policy mentioned in the Treaty's Preamble, emphasising the EEC's political and outward-looking character;

*DESIRING to contribute, by means of a common commercial policy, to the progressive abolition of restrictions on international trade.*¹²⁶

The Commission's CCP mandate was clear and unchanging within the period investigated by this thesis. The exclusive competence that was granted the EEC/EC by the Treaty of Rome and the original wording of Article 113 (see below) was left almost unchanged until the Treaty of Amsterdam. However, the unresolved issue over the scope of the CCP characterised the period investigated in this thesis also included the question over exclusive and implied competences of the EC.¹²⁷ This issue affected the role of the Commission in the EEC/EC and held implications for its role in EPC. This situation of conflict over the scope of trade competence of the EEC/EC, including the Commission's role as sole negotiator revealed boundary disputes. These disputes characterised by the question of how to distinguish between domestic and external policies, I claim became particularly apparent in the period investigated in this thesis have been pointed out by Michael Smith as:

Many of the problems faced by the Commission in the pursuit of external relations are effectively 'boundary problems'. The developments of complex linkages in the world economy has made it quite difficult for even the most monolithic of states to say where 'domestic' policy

¹²⁴ Cini, Michelle. *European Union Politics* (3rd edition), Oxford: Oxford University Press, 2010: 439.

¹²⁵ Meunier, Sophie and Kalypso Nicolaidis. "Who Speaks for Europe? The Delegation of Trade Authority in the EU", *Journal of Common Market Studies*, 37(3), 1999: 479-480.

¹²⁶ Treaty of Rome – Preamble.

¹²⁷ A question that is not discussed in depth by this thesis as its main focus is the Commission's role in EPC.

*ends and 'external' policy begins. A related problem is that of the boundary between economic issues and political and security issues.*¹²⁸

The treaty base for the CCP, the main source for the EEC/EC's external activities and thus its international role were set out in the Treaty's Article 110:

ARTICLE 110

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 undertakings in those States.¹²⁹

For the Commission, an international role for the EEC/EC entailed the balancing of the internal interests of the Community with the external interests that were set out in the Treaty.¹³⁰ This feature was what created difficulties for the Commission in relation to the Member States. The Treaty's Article 113 was the basis for the Commission's wide responsibility for the CCP:

ARTICLE 113

1. After the transitional period has ended, the common commercial policy shall be based on uniform principles, particularly in regard to changes in tariff rates, the conclusion of tariff and trade agreements, the achievement of uniformity in measures of liberalisation, export policy and measures to protect trade such as those to be taken in case of dumping or subsidies.
2. The Commission shall submit proposals to the Council for implementing the common commercial policy.
3. Where agreements with third countries need to be negotiated, the Commission shall make recommendations to the Council, which shall authorise the Commission to open the necessary negotiations. The Commission shall conduct these negotiations in consultation with a special committee appointed by the Council to assist the Commission in this task and within the framework of such directives as the Council may issue to it.

¹²⁸ Smith, Michael. "The Commission and external relations" in Spence and Edwards (eds.) *The European Commission* (3rd edition), London: John Harper Publishing, 2006: 314; see also Coombes 1970: 65.

¹²⁹ Treaty of Rome - Article 110.

¹³⁰ Smith 2006: 316.

4. In exercising the powers conferred upon it by this Article, the Council shall act by a qualified majority.¹³¹

Interpretations of the scope of the CCP became a source of debate. This was evident as EPC was established, and the Member States of the EC began activities in the external sphere that were intended to be kept separate from the activities of the EC. The CCP was to come into force by the end of the transition period on 31 December 1972, which coincided chronologically with the early phase of EPC. The period leading up to the end of the transition period was characterised by disputes over the CCP's boundaries. The arguments concerned how a CCP devised for the late 1950s would serve the EC in the 1970s, as the framework for international trade had changed considerably in the meantime.

The Commission was ambitious and expansionist, as in the early 1970s it argued for a foreign trade policy in which it called for an extension of EC policy into what eventually became the EPC sphere.¹³² The Commission argued for an external economic policy which would span more than just tariffs and trade, but the Member States would not permit the CCP as defined in the Treaty to be replaced by something more extensive. The Commission also wanted to expand even further by developing a common commercial, economic and industrial policy.¹³³ The competing interests of the Commission and the Member States in these policy areas resulted from the fact that the Commission's requirements for a well-functioning economic union overlapped with the area of foreign policy, which the Member States had kept and wanted to keep in their competence. The question posed by this conflict was further emphasised by the fact that the lack of a political union or concerted work towards developing any such thing also impacted negatively on the work to make an extended CCP a reality.¹³⁴

In the conflicts surrounding both the CCP and EPC in this period, the role of the Commission and its potential were evident. The Commission was the actor that had facilitated the new situation in which the EC of the early 1970s had become a "recognised and envied partner for non-member countries".¹³⁵ The conflict arose from the fact that the Member States would not allow the CCP to be expanded in order to strengthen the EC and the Commission

¹³¹ Treaty of Rome - Article 113.

¹³² AEI, *Le rôle de l'Europe*. Traduction de l'interview donnée par le Professeur Ralf Dahrendorf à Europäische Gemeinschaft, April, 1972. Retrieved on 2 September 2015 from <http://aei.pitt.edu/12916/>; Boussuat and Legendre 2014.

¹³³ Boussuat and Legendre 2014.

¹³⁴ For the full argument see Coombes 1970: 66.

¹³⁵ Boussuat and Legendre 2014: 373.

accordingly.¹³⁶ The fact that the Treaty had conferred external relation competences upon the Commission, and that third parties held a perception of the EC as a political entity, meant that the Commission indeed already held a *de facto* political role.¹³⁷ Smith points out that the dilemma for the Member States was that if the EEC/EC was to have an efficient CCP, which was what the Treaty made provisions for, the Commission would have to be placed in a key position and thus assume a highly political role:

*Given the intense dependence of the EU [and EEC] on all kinds of international trade, it is clear that policy-making and implementations in external relations are the highest of high politics, while at the same time being complex and technical in nature.*¹³⁸

Thus the CCP was a source of conflict, both in regard to its scope, but also in regard to the implications that a wide scope of the CCP would entail. For the Commission, an extended CCP would entail an increasingly important role, but the Member States continued to guard their sovereignty and national interests jealously in the area of an extension of the scope of the CCP and in EPC.¹³⁹ As the Member States of the EC were dependent on international trade, the issue of how to conduct the EC's policy of external relations and trade became a very important and contentious area.

2.1.4 Community agreements and international organisations

In addition to the Treaty's provisions for a CCP, other articles in the Treaty of Rome held implications for the Commission in the sphere of external relations, and eventually for the Commission's relationship with EPC. Of particular relevance for the Commission's role in EPC were Articles 228, 229 and 238.¹⁴⁰

¹³⁶ Boussuat and Legendre 2014: 373; AEI, Le role de l'Europe. Traduction de l'interview donnée par le Professeur Ralf Dahrendorf a Europäische Gemeinschaft. April, 1972. Retrieved on 2 September 2015 from <http://aei.pitt.edu/12916/>.

¹³⁷ AEI, Le role de l'Europe. Traduction de l'interview donnée par le Professeur Ralf Dahrendorf a Europäische Gemeinschaft, April, 1972. Retrieved on 2 September 2015 from <http://aei.pitt.edu/12916/>.

¹³⁸ Smith 2006: 325, my inclusion in brackets.

¹³⁹ HAEU, EN-1046, Note pour Monsieur le President Malfatti, 22 June 1970.

¹⁴⁰ Also relevant but more geographically specific were the Treaty of Rome's articles 131-136 that stated the Community's provisions for its relationship to "the overseas countries and territories" (OCTs). Article 132 stated that "Member States shall apply to their trade with the countries and territories the same treatment as they accord each other pursuant to this Treaty" with reciprocity from the OCTs. These provisions led to the Yaoundé Conventions of 1963 and 1969, and the Lomé convention of 1975 following the OCTs independence. These conventions that continued the OCTs (18 of the new republics in Africa and Madagascar's) links and trade arrangements with the EC it was the Commission that negotiated the agreement of the conventions on behalf of the EC, thus enforcing its *de facto* political and international role and its treaty based mandate of the CCP as well as enhancing its status internationally and building expertise. The Yaoundé Convention of 1963 can be seen as the first steps of the EC's development policy, and thus one where the Commission played an important role from the beginning.

Articles 228-229 empowered the Commission to negotiate agreements with third countries and international organisations:

ARTICLE 228

1. Where this Treaty provides for the conclusion of agreements between the Community and one or more States or an international organisation, such agreements shall be negotiated by the Commission. Subject to the powers vested in the Commission in this field, such agreements shall be concluded by the Council, after consulting the Assembly [European Parliament] where required by this Treaty. The Council, the Commission or a Member State may obtain beforehand the opinion of the Court of Justice as to whether an agreement envisaged is compatible with the provisions of this Treaty. Where the opinion of the Court of Justice is adverse, the agreement may enter into force only in accordance with Article 236.

2. Agreements concluded under these conditions shall be binding on the institutions of the Community and on Member States.¹⁴¹

ARTICLE 229

It shall be for the Commission to ensure the maintenance of all appropriate relations with the organs of the United Nations, of its specialised agencies and of the General Agreement on Tariffs and Trade.

The Commission shall also maintain such relations as are appropriate with all international organisations.¹⁴²

Following the ratification of the Treaty of Rome, the Commission's Secretary General Emile Noël reportedly stated that these articles were the Treaty base for the Commission's ambition to represent the Community in international organisations, and in all international negotiations of an economic nature.¹⁴³ The case of the Commission's role in the negotiations in GATT are relevant to this thesis' investigation of the Commission's role in EPC as this was a role that according to Boussuat and Legendre was contested by France, although not hindered.¹⁴⁴ Prior to the establishment of EPC, the Commission had successfully represented an negotiated on behalf of the EC and its Member States within two trade rounds under the GATT, the Dillon Round (1960-1962) and the Kennedy round (1964-1967). After the establishment of EPC, the

¹⁴¹ Treaty of Rome - Article 228.

¹⁴² Treaty of Rome - Article 229.

¹⁴³ Boussuat and Legendre, 2014: 369.

¹⁴⁴ Ibid: 343.

Tokyo Round commencing in 1973 saw some limitations to the status and supreme role of the Commission as sole negotiator, as a result of the issues over the scope of the CCP.¹⁴⁵

Article 238 established the EC's right to conclude agreements with states and unions of states:

ARTICLE 238

The Community may conclude with a third State, a union of States or an international organisation agreements establishing an association involving reciprocal rights and obligations, common action and special procedures,

These agreements shall be concluded by the Council, acting unanimously after consulting the Assembly.

Where such agreements call for amendments to this Treaty, these amendments shall first be adopted in accordance with the procedure laid down in Article 236.¹⁴⁶

The European Community's agreements with the individual states under the Global Mediterranean Policy, and thus of relevance to the development of the Euro-Arab Dialogue discussed in this thesis' chapter 6, were concluded on the basis of Article 238 and constituted mainly commercial cooperation agreements.¹⁴⁷

The battle for the Commission in EPC was over EC and Commission representation within EPC. The Commission based the legitimacy for this representation mainly on Articles 228, 229, 238 and the specific CCP treaty base. Boussuat and Legendre show how the Commission prior to the existence of EPC in 1966 had stated that it would "seek the formula that best represented the Community interest" in all international negotiations.¹⁴⁸ In cases where competences were shared between the EC and its Member States, it accepted that the EC was represented by one representative of the Commission and a representative of the Member State holding the Council Presidency.¹⁴⁹ In a memo from 1970 the Commission however claimed an exclusive right of representing the EC in areas where the EC held exclusive powers.¹⁵⁰ In such cases the Commission claimed that there was no longer a possibility for the Member States, regardless of the amount of prior coordination to express the EC's point of

¹⁴⁵ Meunier and Nicolaïdis 1999:483

¹⁴⁶ Treaty of Rome - Article 238.

¹⁴⁷ Piening, Christopher. *Global Europe: the European Union in World Affairs*, London: Lynne Rienner Publishers Inc., 1997:72. For the Global Mediterranean Policy, see chapter 6 in the present thesis.

¹⁴⁸ Boussuat and Legendre, 2014: 370.

¹⁴⁹ Ibid.

¹⁵⁰ Ibid.

view on an individual or collective basis. While the Treaty base for the Commission's role in representing the EC externally was clear in the Commission's view, this role was opposed even before the establishment of EPC and was to represent the one of the main challenges for the Commission's relation with EPC.¹⁵¹ The Commission based its demands for the participation of the EC in EPC on the potential for overlap between EC and EPC policies and the threat of EPC intruding into the EC's external economic policy. This protection of the EC's external economic policy was one of the Commission's most important and prestigious responsibilities. In the face of the threat posed by the establishment of EPC, the Commission thus used its treaty-based competences as laid down in the Treaty of Rome from 1958 to defend itself.

2.2 Myth – the Commission as an actor

Other less tangible aspects than the Commission's mandate formed part of the conflict over its participation in EPC. The myth of the Commission rested on its treaty-based role and functions. But it also extended these, and the Commission was perceived by some Member States as a supranational threat that intended to usurp national sovereignty. This was a perception of the Commission as one attempting to steer the integration in a direction where it would emerge as a new supranational power-centre: and become the 'super-government' of the EC. In the Member States' eyes (at least in the eyes of the French), this intention revealed that the Commission had "run amok" with the tasks it had been delegated by the Treaty.¹⁵² In contrast to this, the Commission perceived itself as the motor of integration with an aim of moving towards the political unification of Europe. It would work towards this aim for the general European interest, above and removed from national interest.¹⁵³

The genesis of this myth was most visible in the first Commission's perception of its role and function and in particular how this perception was expressed by its President, Walter Hallstein. He interpreted the Treaty in an expansive manner that did not limit the Commission in any way, but instead served as a departure point for the Commission to initiate further integration.¹⁵⁴ This use of the Treaty can also be seen in the illustrative description of

¹⁵¹ Ibid.

¹⁵² Pollack 1997: 110; Peyrefitte 1997: 281.

¹⁵³ Hallstein, Walter. *United Europe: Challenge and Opportunity*, Cambridge, Massachusetts: Harvard University Press, 1962: 22.

¹⁵⁴ AEI, *Proceedings of the sessions No. 1. Inaugural sitting, March, 1958*. Retrieved on 2 September 2015 from <http://aei.pitt.edu/44450/>:19.

Hallstein's efforts to do "his best to expand the playing field".¹⁵⁵ This perception was, as it turned out in the case of the empty chair crisis and in the period that followed, not one shared with (all) the Member States, and it forms part of what this thesis calls the myth of the Commission.

The inherent duality of creating a solid European framework and at the same time guarding national interests became visible in the diverging perceptions of the Commission. The Commission's institutional 'self-perception' versus how it was perceived by the Member States created conflict.¹⁵⁶ The role of the Commission was an elusive one, as its activity could run counter to national interest and thus be targeted as a threat to it. The Commission could also be used as a scapegoat by the Member States to take the blame for unwanted aspects of the results or direction of European integration, even though these really were in the hands of the Member States at all times. These 'initial' perceptions proved to have a long-term effect on the relationship between the Commission and the Member States, and in time this became evident also in the case of the Commission's relationship to EPC.¹⁵⁷ Although the most dramatic event of the conflict between the Commission and the Member States, the empty chair crisis, occurred during the early phase of the Community's existence, the diverging perceptions that the crisis came about as a result of also 'stuck'.

In all the areas that came together in EPC – political unification, external relations and foreign (economic and commercial) policy – the Commission claimed inclusion based on its Treaty mandate and competences, which the Member States and France in particular opposed. It is however important to note that in the period when EPC was established, the Commission was both well aware of and took into consideration the effects of the empty chair crisis that were still felt in 1970. The negative perception that some Member States had of the Commission as an institution and the conflict that this spurred were noted by Noël in June 1970. In Noël's view, even though the Commission's mandate, its "prerogatives", had not changed following the Luxembourg compromise, something else and less tangible had: its "prestige".¹⁵⁸

¹⁵⁵ van Merriënboer, Johan. *Mansholt. A biography*, Brussels: P.I.E. Peter Lang, 2011: 374

¹⁵⁶ Loth and Bitsch 2014: 55; Ludlow 2006a: 45.

¹⁵⁷ TNA, FCO 30/2000, Brief for the Secretary of State's Conversation with M Ortolí on 23 February 1973, 22 February 1973: "It will be helpful if M. Ortolí can ensure that the Commission takes a sensible line. In the past the old Commission, by trying to get it's [sic] oar in on all subjects where it could possibly be argued that there was any degree of Community competence, may have contributed to the differences between the French and other member states. We hope that this problem can now be resolved".

¹⁵⁸ HAEU, EN-1046, Note pour Monsieur le Président Malfatti, 22 June 1970.

So, even though the legal basis of the EC and the Commission's competence was clear and unchanging, there were still conflicts when the Commission demanded inclusion in EPC based on this mandate. This conflict was also determined by the misgivings of certain Member States based on the perception of the Commission as an actor; a myth that led to the desire to exclude it from EPC. In addition to the Commission's mandate, the manner in which the demands of the Commission were made and how it dealt with this myth could prove crucial for reaching its aims of participation in EPC. The manner in which it proceeded, how the Commission responded and approached EPC shows how the conflict over the Commission's participation in EPC was not merely one over competence; also other and more doctrinal elements were at stake here. Could and should a supranational institution be allowed to be part of what was intended to form an intergovernmental forum for consultation between the Member States' foreign policies, an area most crucial to national sovereignty?

3. Responding to European Political Cooperation – A foot in the door, or a door in the face?

This chapter establishes how the Commission responded to European Political Cooperation and how its approach developed in the period from the Hague Summit in 1969 until the Copenhagen Report of July 1973. While this response was based on deliberate choices, it came as the result of the internal divisions within the Commission that this chapter analyses. The chapter's main line of argument is that the Commission's emergence as a 'realist' in this period characterised its response and approach to EPC.

The chapter chronologically tracks the development of the Commission's response and approach to EPC. It starts by investigating the initiative that became European Political Cooperation, which was established by the Luxembourg Report of October 1970. The chapter continues to analyse how the Commission immediately responded to this intergovernmental initiative, and how it continued to do so in the first EPC ministerial meeting in November 1970. The chapter then goes on to investigate the development of a response and approach to EPC through the Commission's emergence as a 'realist', deliberately distancing itself from perceptions of the first Commission as an overambitious 'super-government'. By showing how this 'realism' reflected diverging views and internal division within the Commission, where three distinct categories were presented, the chapter presents what emerged as the Commission's general response to EPC from February 1971. The present chapter argues that this response, which was based on deliberate choices, formed a continuous basis for the Commission's approach to EPC in the period analysed by this thesis.

The chapter goes on to analyse the development of EPC, which was characterised by continuous French efforts to retain its intergovernmental structure, while the other Member States took a less doctrinal approach. The chapter analyses the Paris Summit in October 1972 where the EPC's scope was refined, leaving the task of political unification to the Community institutions, and the Copenhagen Report in 1973 where the EC and EPC sphere moved closer together, albeit only slightly. The chapter argues that the results of these analyses present a Commission with a 'foot in the door' of EPC. Despite the continuous French opposition towards Commission participation in EPC and closer ties between the EC and EPC mechanisms, this chapter argues that on some levels – such as in the EPC Political Committee

– there was a call for Commission participation based on what the Commission could provide EPC with in terms of expertise.

3.1 The initiation of European Political Cooperation – from the Hague Summit to the Luxembourg Report

The initiative that became EPC was launched at the Hague Summit on 1 and 2 December 1969. The initiative was framed by conflict between France on the one side and the other five Member States of the EC and the Commission on the other. This conflict can be described roughly as a dichotomy of intergovernmentalism versus supranationalism. The clash concerned whether a summit should take the lead in determining of European integration and whether further intergovernmental structures such as EPC should be initiated, and ultimately came down to diverging views on how national interests should be balanced against more general European interests.

The conflict was very much determined by how the French side succeeded in framing both Summit(ry) and EPC in their interest. The ‘resignation’ of de Gaulle as French President heralded a new start.¹⁵⁹ However, the Hague Summit, which was called by the new French President Pompidou, was characterised by both new departures and old resentments.¹⁶⁰ The initiative of holding a Summit was accompanied by a fear of institutionalising Summits and thus moving the EC in an intergovernmental direction. However, this fear was balanced by the real threat of stagnation to European integration. ‘Something’ was needed to get the EC going again and to revitalise it. The Hague Summit has been interpreted as this ‘something’, and one of its results was EPC.¹⁶¹

Similar to what would become the case in EPC, the Hague Summit represented an instance of the Commission wanting to be associated with Member States’ activities on the side of the EC. In general, the launch of a summit by the French was welcomed by both the other Five Member States and the Commission led by its Belgian President Jean Rey.¹⁶² However, some reservations and concerns regarding the relationship between the structure of Summit(s) and the EC existed. There was a specific French reservation against repeating the Commission’s

¹⁵⁹ Charles de Gaulle, French. President 1959-1969.

¹⁶⁰ TNA, FCO 30/271, Telegram, Meeting of the Council of Ministers of E.E.C., 15 September, 1969. In this telegram the view is expressed that when it came to relations between the Five and France, German Chancellor Brandt was not completely optimistic during the run-up to the Summit. In Brandt’s view, Gaullism was still a force to be reckoned with, and a shift away from this was only taking place slowly.

¹⁶¹ An entire number of *Journal of European Integration History* has been devoted to the Summit in The Hague; see *Journal of European Integration History*, 9(2), 2003.

¹⁶² Jean Rey, Belgian. Commission President 1967-1970.

privileged role in the EC in the Summit structure. The Commission was envisaged to be heard, but not to play a role in the Summit.¹⁶³ The stance of the Five and of the Commission was that without the Commission present, the Summit would have to be limited to general political discussions, where the only EC matters that it would be acceptable to discuss were the political aspects of enlargement.¹⁶⁴ This position reflected a fear of a further intergovernmentalisation of the EC, which was also evident in the rejection of any suggestions to institutionalise summits.¹⁶⁵

Several Member States put pressure on France to make sure that the Commission was not merely heard, but associated with the discussions that concerned the Commission and the EC.¹⁶⁶ The French opposed this. The British observed that it was a shame that the French views seemed to continue to prevail in the preparations for the Summit, in spite of a prior agreement of the Five to not let this happen.¹⁶⁷ The Five had insisted that the Commission participate in discussions related to EC business, but in the end resistance had “crumbled” and the French had been able to push through that the Commission was to be consulted only if necessary.¹⁶⁸ An ‘association’ of this kind was not very specific, and did not provide the Commission with any rights. France had got what it wanted.¹⁶⁹

How did the Commission react? The invitation to the Hague Summit was extended only to Rey as President and only for the second day of the Summit, where EC matters would be discussed.¹⁷⁰ This resulted in severe discontent within the Commission, which was directed at the Member States for ignoring its collegiate status.¹⁷¹ Still, the prevailing view within the Commission was that this limited invitation should not provoke any action on its part, and that

¹⁶³ TNA, FCO 30/271, Confidential letter from the British Embassy in The Hague to the Foreign and Commonwealth Office, 16 September, 1969; TNA, FCO 30/271, confidential letter from D. Malcolm to J. A. Robinson, 18 September, 1969.

¹⁶⁴ TNA, FCO 30/271, Telegram, Sir P. Garran to the Foreign and Commonwealth Office, 11 September 1969; TNA, FCO 30/271, Confidential letter, Sir P. Garran to J. A. Robinson, 12 September, 1969.

¹⁶⁵ TNA, FCO 30/271, Confidential letter, Sir P. Garran to J. A. Robinson, 12 September, 1969.

¹⁶⁶ TNA, FCO 30/271, Confidential letter from the British Embassy in The Hague to the Foreign and Commonwealth Office, 16 September, 1969.

¹⁶⁷ TNA, FCO 30/271, Confidential letter from D. Malcolm to J. A. Robinson, 18 September, 1969.

¹⁶⁸ Ibid.

¹⁶⁹ Ibid.

¹⁷⁰ Rey was unhappy when it became clear that on the first day of the Summit, when the Commission had not been allowed to participate, there had been discussions that in the Commission’s view clearly merited the inclusion of the Commission, see AEI, The Hague Summit, Speech by Jean Rey to the Parliament on 11 December 1969, reproduced from the Bulletin of the European Communities, No. 1, 1970, retrieved 8 September 2015 from http://aei.pitt.edu/1451/1/hague_1969.pdf.

¹⁷¹ TNA, FCO 30/271, Telegram, Sir J. Majoribanks to the Foreign and Commonwealth Office, 17 October, 1969. The Commission’s discontent over number of delegates invited to the Summit indicates that they believed to have legitimate reasons for having more representatives. Sicco Mansholt was especially upset that his own government by this excluded him from the Summit.

there was nothing that the Commission could or would do about this in order so as not to risk whatever goodwill there was.¹⁷² The Commission's President Rey and the Commission as a collegium reacted pragmatically, as they considered their chances of being included in the Summit's restricted sessions better if Rey agreed to go alone. The Commission thus equated less people with 'less fuss', which can be read as an attempt to minimise its demands in return for maximum output.¹⁷³

The Commission stated its attitude towards the Summit in a memorandum of 19 November 1969.¹⁷⁴ The importance of political unification was expressed, as the Commission recommended that "the Conference stress the essentially political nature of the task in hand and accordingly indicate its will to impel Europe towards political union."¹⁷⁵ In this process of political unification, the Commission was supported by a close supranational ally: the European Parliament. The EP had an outspoken fear of summitry as part of a process that could replace the Community structure, but it still held the view that a conference like the Hague Summit would provide a wide political base for more concrete achievements within the European project. The EP maintained that the Summit(s) should not substitute for the EC's institutions, and urged the Commission to play an active part in it.¹⁷⁶

In the discussions in The Hague that led to the EPC initiative, German Chancellor Brandt suggested that to remedy the lack of political integration, the Foreign Ministers should be instructed to draft an agreement on the gradual development of political cooperation between the Member States of the EC, in the context of enlargement.¹⁷⁷ This was very much in line with French interest, and contrary to what the Commission ideally wanted, which was that

¹⁷² TNA, FCO 30/271, Telegram, Sir J. Majoribanks to the Foreign and Commonwealth Office, 17 October, 1969.

¹⁷³ TNA, FCO/ 271, The Summit: Participation of the Commission , 17 November, 1969.

¹⁷⁴ HAEC, BAC 28/1980 253, Aide-memoire de la Commission destine à la Conférence des Chefs d'Etat et de gouvernement, 19 November, 1969.

¹⁷⁵ TNA, FCO 30/272, Confidential letter, J. Mellon to M.R. Morland, 24 November, 1969; TNA, FCO 30/272, confidential letter J. Mellon to M. Morland, 29 November 1969; AEI, Resolution adopted by the European Parliament on 3 November 1969 on the Hague Summit, reproduced from the Bulletin of the European Communities, No. 12, 1969, retrieved on 8 September 2015 from http://aei.pitt.edu/1451/1/hague_1969.pdf.

¹⁷⁶ AEI, Resolution adopted by the European Parliament on 3 November 1969 on the Hague Summit, reproduced from the Bulletin of the European Communities, No. 12, 1969, retrieved on 8 September 2015 from http://aei.pitt.edu/1451/1/hague_1969.pdf.

¹⁷⁷ AEI, Statements made by the Heads of State or Government on 2 December 1969, reproduced from the Bulletin of the European Communities, No.2, 1970, retrieved on 8 September 2015 from http://aei.pitt.edu/1451/1/hague_1969.pdf: 38: "I therefore propose that we instruct our Foreign Ministers to draft an agreement on the gradual development of political co-operation amongst the Member States of our Community, on the assumption that the Community will be enlarged." Willy Brandt, German. Chancellor Federal Republic of Germany, 1969-1974.

such tasks should be carried out within the EC structure. Following these discussions, the Communiqué of the Summit stated in point 15 that

*They agreed to instruct the Ministers for Foreign Affairs to study the best way of achieving progress in the matter of political unification, within the context of enlargement. The Ministers would be expected to report before the end of July 1970.*¹⁷⁸

In his speech to the EP following the Summit, Rey pointed out the two areas that would become most important in the early stages of EPC, the Middle East and the CSCE:

*Europe as such should try to help solve the economic and social problems which are partly responsible for the present drama in the Middle East. Similarly, if the Community as such were to attack the problem of easing the tensions between East and West, it could perhaps bring the solution nearer.*¹⁷⁹

The Commission thus adequately analysed what the first issues the EPC would turn to would be, and launched its take on what economic and social means could be employed to solve these.

Following the Summit, it seemed that integration continued in an intergovernmental direction that was framed by the conflict between the Commission and France. The main actors steering integration were now the Heads of State and Government, who no longer seemed willing or obliged to follow the rules and norms that earlier had privileged the Commission as a motor of integration in the EC's structure.¹⁸⁰ The question for the Member States and the Commission alike remained: would the EPC initiative of The Hague become a promise of political unification, or would it turn out to be nothing more than a political free trade area?¹⁸¹

3.2 The establishment of European Political Cooperation and the Commission's initial response

The EPC initiative of the Hague Summit catered to the French interest of establishing new intergovernmental structures instead of expanding the existing EC structures. Point 15 in the Communiqué from the Hague Summit had commissioned a report. The result was the Luxembourg Report of 27 October 1970. The Foreign Ministers of the Six approved the principles of the Luxembourg Report on 20 July 1970, and the Council formally adopted the

¹⁷⁸ AEI, The Hague Summit, Communiqué, reproduced from the Bulletin of the European Communities, No.1, 1970, retrieved on 8 September 2015 from http://aei.pitt.edu/1451/1/hague_1969.pdf.

¹⁷⁹ AEI, The Hague Summit, Speech by Jean Rey to the Parliament on 11 December 1969, reproduced from the Bulletin of the European Communities, No. 1, 1970, retrieved 8 September 2015 from http://aei.pitt.edu/1451/1/hague_1969.pdf. My emphasis.

¹⁸⁰ This has been expressed as a more "subordinate status of the European Commission within the Community system" by Ludlow 2003: 21-22.

¹⁸¹ TNA, FCO 30/568, Cutting from Europe Agence Internationale d'Information pour la Presse, 27 July 1970.

principles on 27 October 1970.¹⁸² The Report emphasised political unification as its main objective, stating that tangible form should be given to the will for a political union. In accordance with the implementation of common policies, corresponding developments in the political sphere would be required. Europe had to prepare itself for the imperative world duties that came as a result of its greater cohesion and increasing role in world politics.¹⁸³

The stated objectives of foreign policy cooperation were to ensure greater mutual understanding between the States by exchanging information and consulting regularly, and to work for harmonisation of views, concertation of attitudes and joint action.¹⁸⁴ To facilitate these objectives, a structure with half-yearly meetings between the Foreign Ministers of the Six was set up. If the Foreign Ministers considered it appropriate due to the level of seriousness, a conference of Heads of State or Government could replace a ministerial meeting. The ministerial meetings were to be prepared by a committee of the heads of political departments, the Political Directors. This Political Committee, which in time proved to be EPC's most important body, was to meet at least four times a year to prepare the ministerial meetings, and was mandated to set up working groups and expert panels for specific tasks.¹⁸⁵

Importantly, even though the Report's formulation on the scope of the EPC as "all major questions of foreign policy" did entail a complete separation of EPC and EC structures, the authors of the Report nevertheless felt a need to include the institutions of the Community in the Report. By doing so, they created a link between the two spheres merely by mentioning that the Community institutions should be related to EPC.¹⁸⁶ In order to ensure a democratic process, the EP was associated with the political unification process. Ministers and the members of the Political Affairs Committee of the European Parliament were to meet every six months to discuss matters related to foreign policy cooperation.¹⁸⁷ As for relations with the Commission, the Report stated that it would be consulted if the activities of the European Communities were affected by the work of the Ministers.¹⁸⁸

¹⁸² AEI, Luxembourg Report 1970, reproduced from the Bulletin of the European Communities No.11-1970, retrieved on 11 June 2015 from http://aei.pitt.edu/4543/1/epc_first_report_oct_1970.pdf.Ibid.

¹⁸³ Ibid.

¹⁸⁴ Ibid.

¹⁸⁵ Ibid.

¹⁸⁶ Ibid.

¹⁸⁷ Ibid.

¹⁸⁸ Ibid.

In this formulation lay the crux of what must have seemed likely to create a conflict. First, what would the term “consult” entail? Observation? A voice? Participation on what level? Second, what exactly came under the “activities” of the EC, and third, what was meant by the term “affected”? Most importantly: which body could legitimately claim to hold the decisive voice in determining these questions that were bound to surface, that is, who would decide? The Member States (particularly France) claimed that they would decide. The Commission was determined to decide on behalf of the EC, and thus conflict ensued.

The reactions to the Report followed traditional lines of division. For the proponents of political union and the process of political unification along supranational lines, the results seemed somewhat meagre. One observer, a diplomat who had worked on the Report, saw EPC as nothing more than a “political free trade area”.¹⁸⁹ The responsibility for this intergovernmental direction lay largely with the French, and consequently with President Pompidou and the Gaullist legacy.¹⁹⁰ EPC was used as an instrument to achieve several of France’s goals: on the one hand, it was presented as an extended part of Community activities, intended to keep the UK on the outside, whilst on the other hand it was simultaneously presented as an external process between Members of the Community but outside of the EC’s institutional structure, intended to keep the Commission on the outside.¹⁹¹

EPC came to be known for its distinctive character that attempted to separate the economic cooperation of the EC from the political cooperation of EPC. Due to the diverging views between the Six on political unification and the meaning of political union, EPC developments did not follow the EC’s Community method. The type of progressive integration that the Community method entailed – timetables and deadlines for the execution of programmes – was by British officials seen as not applicable for integration in the political sphere.¹⁹² The Hague Summit’s paragraph 15 and the Luxembourg Report only set a loose timetable for further development, calling for the production of a second report within two years.¹⁹³

¹⁸⁹ TNA, FCO 30/568, Cutting from Europe Agence Internationale d’Information pour la Presse, 27 July 1970.

¹⁹⁰ TNA: FCO 30/567, Telegram no 632 from Paris to the Foreign and Commonwealth Office, 3 July, 1970; TNA, FCO 30/568, Cutting from Europe Agence Internationale d’Information pour la Presse, 27 July 1970.

¹⁹¹ TNA, FCO 30/569, Confidential letter from W.J. Adams to C. O’Neill, 16 November, 1970.

¹⁹² TNA, FCO 30/569, Political Unification – The Davignon Report, full brief for the Prime Minister on the Davignon Report, 10 November 1970.

¹⁹³ AEI, Luxembourg Report 1970, reproduced from the Bulletin of the European Communities No.11-1970, retrieved on 11 June 2015 from http://aei.pitt.edu/4543/1/epc_first_report_oct_1970.pdf

The Commission's initial response to EPC took the form of a general call for participation on all levels of EPC. This was based on the Commission's view of its role in the political unification process. The Commission perceived itself as a political actor in the development of a political union, not merely as providing the EC with an executive power.¹⁹⁴ On this basis, it claimed inclusion in EPC as it was being established. In one of Franco Maria Malfatti's first speeches to the EP, the Commission's new Italian President stated that EPC immediately would pose a problem for the Commission. The planned relationship between EPC and the EC in regard to the role of the Commission was not acceptable.¹⁹⁵ The Commission could not and should not be excluded from participation in the process of constructing a European political union, because the Commission was, and implicitly should continue to be, the main protagonist of Community construction.¹⁹⁶ Malfatti also stated that the planned EPC would benefit from Commission participation, which would provide efficiency in both EPC's political consultations and in the process of political unification.¹⁹⁷ The Commission objected to the drawing of lines between the predominately *economic* Community activities and competences as they were before EPC began developing, and the more *political* activities intended for this forum.¹⁹⁸

The Commission's initial response thus gave the impression of an actor that considered it was entitled to EPC participation. The Commission saw EPC as part of a development towards a political union, a development in which the Commission held a treaty-based right to take part. In line with this, Malfatti initially highlighted what he termed the unique role of the Commission, which could not be compared to any institution on the national level.¹⁹⁹ As the new Commission President was facing a situation where such a privileged role for the Commission seemed less than evident, his emphasis on the Commission's irreplaceable status in European integration was understandable.²⁰⁰ The uncertainty regarding the role of the Commission would explain why Malfatti argued that a reduction of the Commission's role

¹⁹⁴ "Elle a des pouvoirs d'exécutif, et pas seulement d'exécutante" see TNA, FCO 30/568, Copy of interview with Malfatti in Le Figaro 23 September 1970 attached to Political Unification: the place of the European Commission, 25 September, 1970.

¹⁹⁵ HAEC, BAC 28/1980, 253, T/671/70 (ASS), 10 November, 1970.

¹⁹⁶ Ibid.

¹⁹⁷ Ibid.

¹⁹⁸ TNA, FCO 30/569, Political Unification – The Davignon Report, full brief for the Prime Minister on the Davignon Report, 10 November 1970.

¹⁹⁹ HAEC, BAC 28/1980, 253, T/671/70 (ASS), 10 November, 1970; AEI, Message de Monsieur Franco Maria Malfatti, Président de la Commission des Communautés Européennes au Congrès de l'Association des Journalistes Européens à Luxembourg, 16-18 octobre, 1970, retrieved on 4 September 2015 from <http://aei.pitt.edu/14172/1/S73.pdf>.

²⁰⁰ For a more comprehensive analysis of the development of the Commission at the presidential level, see this thesis' chapter 4.

would cause a loss of momentum and dynamism in the project of European integration. In the Commission's view, such a loss could even entail the failure to reach the goals set for integration in both the economic and the political spheres. The Commission President initially perceived EPC as a threat, and the Commission's fear of further intergovernmentalisation also informed part of its response to EPC.²⁰¹ Malfatti stated that the Commission would relentlessly use every potential it could find in the Treaty, and use it for what it was worth, but at the same time it would not venture into conflictual terrain by claiming powers that it was not given by the Treaty.²⁰²

At the first EPC meeting in Munich on 19 November 1970, the conflict of Commission participation took on a more tangible form, going from the merely abstract to concrete cases where the Commission claimed legitimate reasons for inclusion in EPC. This first EPC meeting was a case in point. The agenda for the meeting was threefold. First, France introduced the issue of the Middle East. The Commission wanted to be present, but was not permitted to be so.²⁰³ Second, Belgium introduced the issue of the proposed conference on European Security (which would become the CSCE). For this issue, the Commission was present for discussions of the economic aspects. As Malfatti spoke on what would become the CSCE and the EC's contribution to this, he pleaded for wider Commission participation for in EPC. Third, Germany introduced the issue of the attitude of the Soviet Union towards Western European integration, which also was related to the CSCE. The Commission was present for this issue.²⁰⁴

The importance of this first EPC ministerial meeting lay in the content it presented, in the structure it began to consolidate, and in the fact that the Commission called for increased participation. Content-wise, the most detailed and thorough discussion during was on the issue of the Middle East, where the Commission was not present.²⁰⁵ Structure-wise, the most remarkable feature of EPC introduced by this first meeting was the Political Committee that was to form an essential part of EPC in order to secure efficiency.²⁰⁶ Another innovation that

²⁰¹ AEI, Message de Monsieur Franco Maria Malfatti, Président de la Commission des Communautés Européennes au Congrès de l'Association des Journalistes Européens à Luxembourg, 16-18 octobre, 1970, retrieved on 4 September 2015 from <http://aei.pitt.edu/14172/1/S73.pdf>.

²⁰² "Il ne faut pas vouloir lui donner un pouvoir qu'elle n'a pas, mais tirer parti de toutes les possibilités qu'ouvre le traité. Elles sont très larges." See TNA, FCO 30/568, Copy of interview with Malfatti in Le Figaro 23 September 1970 attached to Political Unification: the place of the European Commission, 25 September, 1970.

²⁰³ Nuttall 1992: 59.

²⁰⁴ Ibid.

²⁰⁵ AEI, Bulletin of the European Communities No.1 – 1971: 15, retrieved on 4 September 2015 from <http://aei.pitt.edu/4548/1/4548.pdf>.

²⁰⁶ Ibid.

proved vital for providing EPC with the potential to facilitate the “coordination reflex” was the installation of a special telecommunications network, the COREU (Correspondance Européenne), which enabled direct communication between the Member States.²⁰⁷

Following this first meeting, French opposition to including the EC structure and the Commission in EPC was evident. One of the main points that had been emphasised prior to the first EPC meeting was its intergovernmentalism; the lack of a secretariat and records from the meetings would serve as a measure that would keep the proceedings of the EPC as confidential as possible.²⁰⁸ In line with this, the French Director of Political Affairs Beaumarchais did comment on the meeting in Munich the 19 November that there had been a substantial amount of leakage to the press, with which the French were not pleased.²⁰⁹ Beaumarchais also commented on the late arrival of the Commission’s President to the meeting, which served to show the French discontent with the Commission. Furthermore, as the comment was made in connection with the comments on the leakage, the French Political Director could be seen as indirectly placing the blame on the Commission.²¹⁰

This first meeting on EPC thus cemented the conflict over the Commission’s participation as one of the Five and the Commission against France. Malfatti had demanded the Commission be included, for which he gained some support from the Five, while France voiced its concerns on this matter.²¹¹ The external criticism of the newly established EPC was precisely that the most important Community institution, the Commission, was not granted more than “a foot in the door”, which along with the fact that institutional development was non-existent, were the features of EPC that were most dear to the French.²¹²

3.3 The emergence of the Commission as a realist?

Although the main legitimation for Commission participation continued to be its role in political unification, a more diversified range of arguments began to arise from the Commission in late 1970 and early 1971. The Commission now based its response to EPC on

²⁰⁷ Smith, Michael, E. “Institutionalization, Policy Adaptation and European Foreign Policy Cooperation”, in *European Journal of International Relations* 10 (1) 2004: 108; AEI, Bulletin of the European Communities No.1 – 1971: 15, retrieved on 4 September 2015 from <http://aei.pitt.edu/4548/1/4548.pdf>.

²⁰⁸ TNA, FCO 30/569, Telegram, Political Unification, 11 November, 1970.

²⁰⁹ Jacques Delarue Caron de Beaumarchais, French. Political Director 1965- 1971.

²¹⁰ TNA, FCO 30/569, European Political Unification, the Munich meeting of the Six, 20 November 1970.

²¹¹ Ibid.

²¹² TNA, FCO 30/569, Political Unification – The Davignon Report, full brief for the Prime Minister on the Davignon Report, 10 November 1970.

a more general approach to its political role.²¹³ This political role was to be a balanced and cautious one, as illustrated by a recommendation from Noël to Malfatti that in the political sphere, the Commission should aim to combine boldness with prudence. Being bold might bring the most gain in terms of securing the EC's and the Commission's interests, but the approach in the political realm of integration should be well considered, Noël noted, as failure would hit the Commission hardest in the areas where the Commission was not protected by the Treaty, which was the case with EPC.²¹⁴

Quite early in his term as Commission President, Malfatti attempted to establish a different *image* of the Commission. Changing how the Commission was perceived by the Member States could potentially have a profound effect, including in terms of the Commission's participation in EPC. This attempt could also have the effect of changing the Commission's self-perception. The new President began this attempt by going to what presumably was the core of the conflict over the Commission's participation in EPC - the myth of the Commission's aim to become a super-government. Malfatti attacked the perception of the Commission as the "super-government" of Europe by launching a new and more nuanced image of the Commission as a "European realist".²¹⁵

Malfatti still held on to the traditional legitimization aspects of the Treaty, which illustrates that his attempt entailed a change in means and in the perception of the Commission, but not in ends:²¹⁶

On the Commission's role, some commentators have felt my remarks to be unduly cautious. As I have said before and will say again at the risk of causing controversy, the Commission's role is carefully defined in the Treaty of Rome; we must adhere to that definition. Its role is both technical and political, as the Commission holds both power of initiative and power of proposal. It is not a super-government, and it is not a mere secretariat to the Council... The fluidity of the political circumstances amid which our Community is evolving requires us to interpret the role of the Commission and the other Community institutions – not restrictively but rather flexibly.

Here too we must be realistic. We have a job to do, and the important thing is that it be done. Trying to write the facts of the future into detailed formulas serves no practical purpose. We

²¹³ HAEU, EN-1046, Note pour Monsieur le President Malfatti, 22 June 1970.

²¹⁴ Ibid.

²¹⁵ AEI, Franco Maria Malfatti: A Realist's Europe in European Community no.144, April, 1971, retrieved 15 June 2015 from <http://aei.pitt.edu/43786/1/A7529.pdf>. Emphasis added by the author.

²¹⁶ TNA, FCO 30/568, copy of interview with Malfatti in Le Figaro 23 September 1970 attached to Political Unification: the place of the European Commission, 25 September, 1970; AEI, Franco Maria Malfatti: A Realist's Europe in European Community no.144, April, 1971, retrieved 15 June 2015 from <http://aei.pitt.edu/43786/1/A7529.pdf>. My emphasis.

*must get on with building Europe using the facts in the political context of the present. We have to work with the means at our disposal.*²¹⁷

Here Malfatti expressed new ways of formulating the Commission's role which pointed forward to the aspects that became the basis for Commission's approach towards EPC. For the "building of Europe" to work, both the Commission and the Member States had to adhere to the Treaty.²¹⁸ The Commission needed to interpret its role flexibly and realistically and use what it was equipped with to 'get on with it'. Indirectly Malfatti argued that in order for the job to be done, the Commission needed to change. With this call for a change, Malfatti could be seen as suggesting that the Commission of the past had been too concerned with its federal goal and formulas to actually be able to make them a reality.

These new aspects of the Commission's role also appeared in the views of Ralf Dahrendorf, Commissioner for External Relations and Trade, on the EC's external role and the Commission's purpose there.²¹⁹ In the specific policy areas of external relations and external trade policy, which were the areas most closely related to EPC besides the more vague area of 'political unification', the Commission was pushing for an extension of EC action.²²⁰ The Commission thus had two sets of 'stakes' in the EPC as it developed: first the element of political unification, and second the element of the EC's external relations and the extension of the CCP. In addition, the Commission viewed the EC as being a political entity on the international scene already; primarily based on its economic 'power' that had an indirect but important political effect.²²¹ As the Community and the Commission already viewed themselves as deeply entrenched in the international political arena, the distinction between political EPC and the economic spheres of the EC caused the Commission nothing but dismay.

²¹⁷ AEI, Franco Maria Malfatti: A Realist's Europe in European Community no.144, April, 1971, retrieved 15 June 2015 from <http://aei.pitt.edu/43786/1/A7529.pdf>. My emphasis.

²¹⁸ Ibid.

²¹⁹ AEI, *Possibilities and limits of a European Communities foreign policy*, speech by Professor Ralf Dahrendorf to the Deutsche Gesellschaft für Auswärtige Politik, Bonn, 25 January 1971, retrieved on 6 December 2011 from <http://aei.pitt.edu/13735/1/S11-S8-S12-S9-S10.pdf>: 4-5.

²²⁰ AEI, Remarks on [current issues], speech by Franco Maria Malfatti, at a luncheon of the Overseas Writers Club. Washington, DC, 8 April 1971, retrieved on 07 November 2011 from <http://aei.pitt.edu/13755/>; AEI, *Possibilities and limits of a European Communities foreign policy*, speech by Professor Ralf Dahrendorf to the Deutsche Gesellschaft für Auswärtige Politik, Bonn, 25 January 1971, retrieved on 6 December 2011 from <http://aei.pitt.edu/13735/1/S11-S8-S12-S9-S10.pdf>: 4-5.

²²¹ AEI, *Possibilities and limits of a European Communities foreign policy*, speech by Professor Ralf Dahrendorf to the Deutsche Gesellschaft für Auswärtige Politik, Bonn, 25 January 1971, retrieved on 6 December 2011 from <http://aei.pitt.edu/13735/1/S11-S8-S12-S9-S10.pdf>: 4-5.

3.4 Developing the Commission's response to European Political Cooperation – internal division

The Commission's initial response to EPC continued to develop after the first EPC meeting of 19 November 1970. Following this meeting, President Malfatti asked the Commissioners to provide their individual views on political unification in light of the newly established EPC.²²² Their response illustrated the diverging views within the Commission, leading to a split in opinion on how to proceed towards EPC.

The Commissioners' views fell into three categories. The first category comprised traditional and more dogmatic views along federalist lines held by actors such as Altiero Spinelli and Sicco Mansholt. In the second category, Raymond Barre and Albert Borchette comprised the middle ground and argued for a more cautious, concrete and pragmatic approach.²²³ The views of Ralf Dahrendorf formed a third category which, while it was more radical, also argued for a more concrete and pragmatic approach, an opinion shared by the second category along with Malfatti himself.

Spinelli and Mansholt gave no sign of any strategic calculations to quietly move into EPC territory. This approach echoes that of the Commission under Hallstein as it encompassed more dogmatic demands for inclusion in EPC based on what the Commission was, not on what the Commission could do or contribute to EPC. Unsurprisingly, Spinelli's view on the developments of political unification and the initiative for political consultation ran along traditional federalist lines. Spinelli argued that to give weight to the Commission's demands for inclusion in all levels of political consultation, the Commission needed to reformulate the definition of the Common Commercial Policy and to extend its scope, in order for the CCP to become a determining element of a common foreign policy.²²⁴

Spinelli noted the Commission's limitations. In order to be able to play an important role in both political unification and a common foreign policy, the Commission needed new tools. In Spinelli's view, the current Commission was not well equipped. The Commission depended on the Commissioners' personal competences and skills, while it lacked institutional skills. The solution to this would be to politicise the Commission by institutionalising it further. Spinelli argued for a service within the Commission devoted particularly to the political

²²² See entire file HAEU, FMM 37, *Union Politique*, 03/12/1969-09/07/1971.

²²³ Raymond Barre, French. European Commissioner for Economic and Financial Affairs 1967-1973. Albert Borchette, Luxembourgish. European Commissioner for Competition, Personnel and Administration 1970-1976.

²²⁴ HAEU, FMM-37, Nota per il Presidente Malfatti [Spinelli's note to Malfatti], 15 December, 1970: 6.

developments of the Community, a so-called “diplomatic service”.²²⁵ Spinelli thus argued for an expansion of EC policy as a response to EPC, with a strategy for political unification and a common foreign policy as a part of this. The CCP was and should be discussed in the EC sphere, but it would still be necessary for the Commission to participate in EPC to link the developments of a CCP to issues discussed in EPC with the view to develop a common foreign policy and participation in the planned CSCE, a conference which in Spinelli’s view would have the strongest effect in the areas of economic cooperation and trade.²²⁶

Concerning the Commission’s participation in the ministers’ work regarding a second report, Spinelli argued (rather unrealistically) for full inclusion of the Commission.²²⁷ In Spinelli’s view, the Member States’ attempt to separate the “economic process” from the “political process” was impossible and would only cause problems for the Commission.²²⁸ Regarding the Commission’s participation in EPC, Spinelli highlighted that the Commission needed to be involved at all levels. Participation on the highest levels would be purely formal and thus meaningless if the Commission was not represented in the Political Committee. Spinelli thereby acknowledged that the real work of EPC would be conducted in the Political Committee.²²⁹ Spinelli urged the Commission to proceed with “courage” towards its ultimate goal of political union and to declare its will for this union in public. In his view, mere pragmatism would not work.²³⁰

Sicco Mansholt was in line with Spinelli regarding many of these questions. In a traditional manner, Mansholt attacked the initiative and establishment of EPC, but unlike Spinelli, he did not venture into criticism of the current EC structures. Mansholt’s claim was that the real intention behind EPC was to create an entity of political development outside the EC, which would threaten the Community; in his view, all that EPC boasted could be achieved could in fact be done within the EC.²³¹ Mansholt went on to question whether EPC really was convincing as a development in the process of developing a political union. Mansholt himself was not persuaded. Mansholt addressed the EPC’s establishment from a historical perspective, and attempted to show how the Commission really had no business in EPC. Rather, he argued that all business that potentially would include the Commission in EPC

²²⁵ Ibid.

²²⁶ Ibid: 4.

²²⁷ Ibid.

²²⁸ Ibid: 2.

²²⁹ Ibid: 3.

²³⁰ Ibid.

²³¹ HAEU, FMM-37, note from Mansholt to Malfatti, 23 December, 1970.

really belonged within the EC. Consultation between Foreign Ministers was not a new feature. This had been a characteristic in the debates over achieving political union between the Member States of the EC from 1959 through the Fouchet plans of 1961-1965 to the current EPC.²³²

Mansholt noted further that the disagreements and diverging views surrounding these debates and former initiatives had resulted in the term 'Political Union' becoming associated with something negative. The Commission's role was to critically assess the current EPC initiative in order to protect European integration and the process of political unification, in which the Commission in Mansholt's view held a privileged role. Mansholt questioned the very premises for EPC as he argued that the Luxembourg Report's point 5 on the Commission made its existence superfluous. In Mansholt's opinion, this point should have been opposed by both the Commission and the EP, because any areas that affected the Community's activities should be treated within the EC institutional framework already existing. According to Mansholt, the EC and its Council constituted the forum in which the Commission and the national ministers should meet, not EPC. Either EPC's scope should be constructed so that there was no role for the Commission, or else the EC should be the only forum for such cases. Like Spinelli, Mansholt called for bolder moves from the Commission on political union.²³³

Notes from other Commissioners expressed more pragmatic views on political unification and the emergence of EPC. Albert Borchette's note to Malfatti of 14 January 1971 forms a contrast to the views of Spinelli and Mansholt.²³⁴ As the Treaties would not have to be revised by its establishment, EPC was seen as limited in scope. Borchette still indicated that there could be some threats or challenges to the EC's autonomy and functioning. EPC's undefined scope was part of these challenges, because the Luxembourg report described the scope of the planned cooperation as any questions of their choice, and thus it could not be excluded that the domains of the EC could be affected by EPC activities.

In Borchette's view, the Commission's short-term tactic towards EPC should be to continue to "assert and defend" its "birth right" in the areas of external economic policy, as the EC was determined by its economic core.²³⁵ For Borchette, the Economic and Monetary Union was

²³² The Fouchet Plans were French initiatives of the early 1960s for introducing an alternative political authority (to the EEC) in Europe with foreign policy capabilities, which were rejected by the other Member States, see Nuttall 1992: 37-46, and also this thesis' chapter 4.

²³³ HAEU, FMM-37, note from Mansholt to Malfatti, 23 December, 1970.

²³⁴ HAEU, FMM-37, note from Borchette to Malfatti, 14 January, 1971.

²³⁵ Ibid.

more important than a limited cooperation between the Foreign Ministers of the Six. EPC might turn out to be useful for the EC and the Commission, but as it still represented uncertainty, the Commission should focus on the more important tasks at hand. For Borchette it was evident that in the long term, no EMU could exist indefinitely without a common external policy. And since the EC had acquired a “natural vocation” in the domestic policies of the Member States as opposed to more traditional foreign policy, “logically” this relation and its balance would shift over time. The EC structure that determined the internal policy of a group of states would in time also determine their foreign policy.²³⁶

However, considering the nature and the history of developments in this area, it would be unwise in the short term for the Commission to claim external competences that were not already covered by the Treaty. It should rather, in view of the “logical” and predetermined long-term development, signal on every important occasion that the mission of the original European integration was that of the Community in general and the Commission in particular. Borchette concluded that the Commission should be represented in all EPC meetings of Foreign Ministers and Political Directors where issues that concerned the EC were discussed. For the moment, the demands of the Commission should be limited to this. The justification was defensive; the Commission should not demand too much, as exaggerated requests would only lead the Member States to reject Commission participation. Although defensive in nature, this approach also emphasises how factions within the Commission attempted to strategically position the Commission as an actor in EPC. The argument was that it would be wise to limit the Commission’s demands at this point to prepare for inevitable future developments.²³⁷

Raymond Barre’s note of 17 December 1970 echoed that of Borchette, and countered the views of Spinelli and Mansholt.²³⁸ Barre argued that given the Treaty-based scope of the Commission’s competences, the Luxembourg Report had to be regarded as a starting point for more extended participation and an extended role for the Commission in the political consultation between the Member States. It was up to the Commission to be present whenever the Luxembourg Report opened up that possibility. Barre’s view on the manner in which the Commission should proceed was closely linked to Borchette’s strategical calculations; in Barre’s view, the Commission had an interest in having its presence gradually recognised as

²³⁶ Ibid.

²³⁷ Ibid.

²³⁸ HAEU, FMM-37, note from Barre to Malfatti, 17 December, 1971.

useful rather than claiming a status and role which would be easy for the Member States to challenge and refuse from the beginning.²³⁹

Barre saw the Commission's participation in all levels of EPC as both desirable and logical; but he adopted a cautious approach to this: the Commission should avoid entering into EPC in great numbers and with various representatives, shifting with the topics discussed. The best solution would be to appoint a senior official of the Commission that held horizontal competence, such as the Secretary-General of the Commission.²⁴⁰

While Ralf Dahrendorf's contribution to this discussion was radical and in some areas quite distinct from the others, particularly the views of Spinelli and Mansholt, he shared some ground with Barre and Borchette. Dahrendorf explored the possibilities and limits of a foreign policy of the EC, establishing the Community as an economic and political actor in world politics. Dahrendorf and Spinelli shared some common ground on this. More radical was Dahrendorf's attack on the long tradition of political union and supranationalism which time and again got in the way, "blinding" people to concrete achievements and decisions that needed to be taken. Dahrendorf was positive to EPC while calling for closer links between EPC and the Community institutions:

*Today, we know that the Davignon formula has provided the most effective stimulus for a long time to European political cooperation. (...) If, indeed there is any criticism to be levelled at the Davignon formula today, it is that it does not provide any pointer on how the new impulses of cooperation are to be translated into decisions by the institutions set up under the Treaties.*²⁴¹

Dahrendorf suggested a role for the Commission in EPC as a link to rectify this. In his view, the Commission should not only be "an occasional guest" in EPC, but a permanent participant able to perform this translation between the EC and EPC machineries.²⁴²

3.5 The Commission's response to European Political Cooperation – deliberate choices

Following the input from the various Commissioners, the Commission continued its work on how to respond to EPC. A debate on political union was held in the EP on 26 January 1971 in

²³⁹ Ibid.

²⁴⁰ Ibid. The notion of a cautious and useful Commission can be read as an attempt at keeping numbers down and expertise up, and for the Commission to present itself as a united entity based on expertise represented by one or a very small number in EPC to increase its importance.

²⁴¹ AEI, *Possibilities and limits of a European Communities foreign policy, speech by Professor Ralf Dahrendorf to the Deutsche Gesellschaft für Auswärtige Politik, Bonn, 25 January 1971, retrieved on 6 December 2011 from <http://aei.pitt.edu/13735/1/S11-S8-S12-S9-S10.pdf>*: 18.

²⁴² Ibid: 19.

which the Commissioners participating in the discussion argued along the same lines as presented in 3.4.²⁴³ The Commissioners' view, the EP debate and the discussion that the Commission as a collegium held at Val Duchesse on 17 February 1971 was the background for the formulation of the document SEC (71) 650, *Coopération en matière d'“ Union Politique”*, which I argue is what formed the basis of the Commission's response to EPC in the following period.²⁴⁴

In SEC (71) 650, the Commission clearly placed the establishment and development of EPC within the development of a process of political unification leading to political union. However, as demonstrated by the present chapter, there were voices within the Commission that were sceptical of this link, questioning whether EPC really was the start of a political unification process. Two distinct chapters of the SEC (71) 650 dealt with the EC, the Commission and EPC. The first chapter covered the implications of EPC for the activities of the EC, while the second dealt with the role of the Commission in the planned EPC. Both chapters shared a critical view of EPC, along with a desire to participate in it. The Commission did not consider EPC cooperation an appropriate starting point for a political union.²⁴⁵ However, after years of waiting for some tangible form of political unification, this initiative, albeit limited, was better than nothing.

The Commission noted that in the context of political unification the form chosen for EPC was sub-optimal, as the initiative attempted a structural separation between the EC sphere, where political unification belonged in the Commission's view, and the EPC consultation process for foreign policy. The Commission noted that this separation would produce instances of overlap, a fact already recognised by the Luxembourg Report, which referred to how the Commission and the EP were to be associated. As the political unification process was a Community process, there needed to be a link between EPC and the EC, and thus the Commission should participate in EPC. In the Commission's view, the political consultation that claimed to be in line with political unification would benefit from including the Commission and the EP. The Community institutions could contribute to EPC expertise,

²⁴³ HAEU, FMM-37, Analyse synoptique des contributions présentes par des membres de la Commission en vue de la nouvelle discussion sur l'union politique au Parlement Européenne, 26 January, 1971.

²⁴⁴ HAEU, FMM-37, SEC (71) 650, *Coopération en matière d'“ Union Politique”*, 17 February 1971.

²⁴⁵ Ibid.

serving to facilitate and accelerate the political unification process, including the parts of it that would be conducted within the EPC framework.²⁴⁶

The role the Commission envisaged for itself in EPC was formed to achieve three main goals: to protect the EC, to become the link between EPC and the EC and to shape EPC. In order to protect the EC, the Commission wanted to “avoid the effects of political consultation resulting in an undermining of the European Community”.²⁴⁷ In the Commission’s view, the EC was superior to EPC and there was a fear of ‘contamination’. The Commission pointed to the fact that although the Community’s activities were limited to a number of sectors, it had its own set of definite regulations, competences and institutions, while the process of political cooperation lacked an institutional base of the same calibre.²⁴⁸ The Commission stressed how important it was that no political cooperation machinery interfere or weaken the existing and more or less well-functioning Community. This first goal should be achieved through the Commission being associated with the process at all levels. To protect the EC, the Commission should follow an active strategy, paying close attention to the agendas of the meetings of the Ministers and opposing any decision made there that would intrude on the competences of the Community. The Commission should demand that the Community’s institutional framework be used when this was called for.²⁴⁹

The second goal of the Commission was “to become the link between the policies of the European Community and foreign policy ‘proper’ as discussed in the consultations between the Six.”²⁵⁰ The Commission’s argument that it would provide the best functional link between the EC and EPC shows the Commission’s perception of itself as an integrative nucleus. Importantly, as part of the Commission’s cautious approach, it stressed the need to act as a link and participate in EPC in a manner that was realistic and viable in the long term.²⁵¹

As the third goal, the first definite potential for the Commission to shape EPC would be to “be associated with the process of developing a new report by the foreign ministers of the Six

²⁴⁶ Ibid.

²⁴⁷ Ibid. My translation from the French.

²⁴⁸ It is interesting to note that by 1975 in the case of the EAD, the Commission’s view on the ability of the EPC-machinery has shifted, see this thesis’ chapter 6.4.

²⁴⁹ HAEU, FMM-37, SEC (71) 650, *Coopération en matière d’“ Union Politique”*, 17 February 1971. My translation from the French.

²⁵⁰ Ibid. My translation from the French.

²⁵¹ Ibid.

within two years of the first one.”²⁵² As the Commission’s main goal was to facilitate political unification, inclusion in the development of EPC through this second report was considered vital.

In SEC (71) 650, the Commission argued for formalised inclusion on all levels of the planned political consultation, which was not successful until the London Report of 1981. The Commission had greater success in regard to its inclusion in the work of the Political Directors of the Member States, the ECP Political Committee.²⁵³ The Commission recognised early on that this was an important arena where a great deal of the work of the political consultation machinery would be planned and prepared, an arena in which the Commission as the watchdog of the Treaties should be represented. Inclusion here was a necessary precondition if the Commission was to achieve its three goals related to the political consultation machinery. By November 1971, a representative from the Commission was allowed at the meetings of the Political Committee, but this was not formalised, due to French opposition.²⁵⁴

3.6 Developments in European Political Cooperation – 1971-1972

In developing its approach to the dual challenge of summitry and EPC, the Commission took on the upcoming Summit more actively in 1971-2 than it had in 1969. Still, the formal results of this approach were more or less the same, as the Commission was not granted any right of participation that went beyond that which it had enjoyed at the Hague Summit.²⁵⁵ The Six Member States still held diverging views of what they wanted from EPC, and the French continued their opposition towards Commission participation. The diverging views centred on two related issues; the first issue, the relationship between the EC and EPC, played a part in the second, the development of EPC and the debate on whether to institutionalise EPC or not. However, there was movement on the lower levels of EPC, as the Political Committee launched its demand for closer cooperation with the Commission.

The continuance of the French opposition to bringing EPC any closer to the EC became even more evident when the other Five started to express their views on how to develop EPC further. The diverging views between the Member States became clear, as did the continuance

²⁵² Ibid. My translation from the French.

²⁵³ Ibid.

²⁵⁴ TNA, FCO 30/842, Telegram, Political Consultation and the Summit, 12 November ,1971.

²⁵⁵ AEI, Bulletin of the European Communities, No.8, 1972, retrieved on 4 September 2015 from <http://aei.pitt.edu/1919/> : 18.

of the Commission's approach and response to EPC. The Five criticised EPC developments for the failure to anchor EPC in the EC structure, that is, a lack of involvement of the Commission in the process, as well as the failure to institutionalise the process with a secretariat, for instance. The Five's critique was based upon a consultation procedure claimed to be less effective than it would have been if the methods of the EC had been applied.²⁵⁶ Both Belgium and the Netherlands supported the Commission's claim for inclusion in EPC as they argued in favour of placing EPC within the EC structure.²⁵⁷ In the Dutch view, it was hardly a surprise that the results of the cooperation had been meagre so far, given the intergovernmental character of EPC.²⁵⁸

On 17 March 1971, the political directors agreed on the creation of a sub-group for the implementation of the Luxembourg Report's Part Three, to create a second EPC report.²⁵⁹ Initially this sub-group had been proposed as a working group that also was to consider potential new topics for the political consultations, as well as which topics should be placed in EPC and which in the EC.²⁶⁰ However, as the French opposed this mandate, the result was a sub-group with a more limited mandate, which had the effect of slowing down the progress for political unification envisaged in the Luxembourg Report.²⁶¹ Germany suggested setting up some form of permanent secretariat for EPC in this sub-group, but this was shot down by the French as "premature, indiscreet and too supranational" if such a secretariat would mean to make use of the Commission's services.²⁶² The impression given by the French was that at this stage in the development of political consultation, the focus should be on relations between the Member States and third countries, and not on questions of the internal institutional development of EPC. In any case, the French still did not see the Commission as an actor with any substantial role in the machinery established for political consultation.²⁶³

The German view of political consultation changed as it realised that the distinction between work done within EPC and the EC was difficult. Germany had agreed to the concept of

²⁵⁶ TNA, FCO 30/841, Draft paper, Political Consultation in Europe, 28 September 1971: 5.

²⁵⁷ TNA, FCO 30/836, Letter, Future of WEU, 20 July 1971; TNA, FCO 30/836, Letter, Netherlands Budget: European Cooperation, 8 October, 1971.

²⁵⁸ TNA, FCO 30/836, Letter, Netherlands Budget: European Cooperation, 8 October, 1971.

²⁵⁹ AEI, Luxembourg Report 1970, reproduced from the Bulletin of the European Communities No.11-1970, retrieved on 11 June 2015 from http://aei.pitt.edu/4543/1/epc_first_report_oct_1970.pdf: "Part Three: 1. To ensure continuity in the task embarked on, the Ministers propose to pursue their work on the best way to achieve progress towards political unification and intend to submit a second report."

²⁶⁰ TNA, FCO 30/841, Confidential letter, President Pompidou's European Confederation, 8 March, 1971.

²⁶¹ TNA, FCO 30/841, Confidential letter, European Political Unification, 26 March, 1971.

²⁶² TNA, FCO 30/842, Telegram, European Political Consultation, 23 November, 1971; TNA, FCO 30/841, Confidential letter, European Political Unification, 1 April, 1971.

²⁶³ TNA, FCO 30/841, Confidential letter, European Political Unification, 1 April, 1971.

‘separate but parallel progress’ in EPC, but saw that this distinction did not work well in practice. Although it was not explicit, a shift in the German approach to EPC ensued, as it now favoured closing the gaps between the EPC and the EC structure.²⁶⁴ Thus Germany laid out proposals for institutionalising the consultation process in November 1971.²⁶⁵ Although the proposal included that of a secretariat, the Germans themselves did not envisage coming to an agreement on this with the French. In the German view, it was more plausible that a standing committee would be set up, which to please the French would (although placed in Brussels) “underline the independence of the system from the Community.”²⁶⁶ Germany did consider the possibility of accepting that political consultation could be based in Paris, as long as the French agreed to let the Commission participate along the lines defined by the Luxembourg Report. The institutionalising of EPC was more important than situating it in Brussels, as long as the Commission was allowed in.²⁶⁷ In a meeting of the Political Directors in late December 1971, it was reported that there had been no progress on the question of the Commission’s participation in the political consultation process. The Commission would be granted the same right of participation in the Summit as it had had in the run-up to The Hague. In time, as the Member States could not agree, the proposal for a political secretariat was laid to rest.²⁶⁸

There was some movement in EPC’s relation to the Commission, however. The developments on the lower EPC levels ran contrary to the continuous opposition on the highest level. By the fall of 1971, EPC’s Political Committee was still in its infancy, but had begun its work, which was characterised by informality and pragmatism.²⁶⁹ The Political Committee’s pragmatic approach wanted the EC and EPC to relate to each other in the best possible way so EPC could function as efficiently as possible. The chairman of the group that formulated the Luxembourg Report and Belgian Political Director, Étienne Davignon himself, highlighted the importance of the work conducted in the Political Committee.²⁷⁰ Davignon claimed that

²⁶⁴ TNA, FCO 30/836, Confidential letter, European Political Unification, 22 January 1971.

²⁶⁵ TNA, FCO 30/842, Telegram, European Political Consultation, 22 November, 1971.

²⁶⁶ *Ibid.*

²⁶⁷ TNA, FCO 30/842, Telegram, European Political Consultation, 24 November, 1971.

²⁶⁸ TNA, FCO 30/842, Confidential letter, Political Consultation, 18 December, 1971; Nuttall 1992: 71-72.

²⁶⁹ TNA, FCO 30/842, Telegram, Political Consultation and the Summit, 12 November, 1971.

²⁷⁰ Étienne Davignon, Belgian. Political Director 1969-1976. Later Commissioner in the Jenkins Commission 1977-1981.

*(...) the best discussions were those where the Political Directors met on their own. These were the freest, and they were also the most fruitful, in that it was at such meetings that misunderstandings could be most easily corrected and positions most easily modified.*²⁷¹

The Political Directors themselves complained of the Committee's lack of solidarity and that the Commission's status in the consultation framework was part of the problem.²⁷² Part of the work of the political directors was to advise the foreign ministers and permanent representatives on the potential political implications of initiatives that came from the Commission.²⁷³ The Directors wanted a more robust set-up for their Committee, with a "proper relationship" with the Commission. This entailed that the Commission should be present at all political committee meetings, which it already *de facto* was. However, this presence was not formalised, and attempts to do so would undoubtedly create problems with the French.²⁷⁴

The Commission's approach to and view of summits were also moving in a new direction. Instead of opposing the initiative to the Paris Summit that was to be held in October 1972, the Commission chose to work with it. It adopted a constructive approach and adjusted to the environment that had produced the initiative for the Summit. This approach was in keeping with the cautious and unaggressive manner and followed the same ends of participation and influence as the Commission under Rey in 1969. Contrary to Rey's approach in 1969, however, Malfatti looked forward to a Summit of the Ten with anticipation, and firmly supported the French initiation of the Summit.²⁷⁵ Malfatti emphasised the important role of the Commission in preparing for such a Summit, and assured that it would contribute in the most constructive manner possible.²⁷⁶ Malfatti continued the Commission's arguments that "the Summit must in no way replace the Community institutions", but contrary to the Commission under Rey, Malfatti also qualified any misgivings concerning institutionalised Summitry with the emphasis he placed on the potential the Summit held for providing

²⁷¹ TNA, FCO 30/842, Confidential letter, British Embassy to European Integration Department, 30 November, 1971.

²⁷² TNA, FCO 30/842, Telegram, Political Consultation and the Summit, 12 November, 1971.

²⁷³ Ibid.

²⁷⁴ Ibid.

²⁷⁵ See both AEI, Summary of address by President Malfatti during the European Parliament's debate on political union, Strasbourg, 20 October, 1971 retrieved on 4 September 2015 from <http://aei.pitt.edu/13801> and AEI, Bulletin of the European Communities, No.8, 1972, retrieved on 4 September 2015 from <http://aei.pitt.edu/1919/>.

²⁷⁶ AEI, Summary of address by President Malfatti during the European Parliament's debate on political union, Strasbourg, 20 October, 1971 retrieved on 4 September 2015 from <http://aei.pitt.edu/13801>.

political guidelines.²⁷⁷ As for the Summit's contents, Malfatti went straight to the issue of political union and thus to the conflict over Commission's role in EPC:

*Regarding the process of political union in particular, it is important that when the next report of the Foreign Ministers, scheduled for 1972, is drawn up, the interdependence and complexity of the problems of constructing Europe should be taken into account. Hence it would seem indispensable that the Commission be fully associated with the preparation of the report, both in its role as guardian of the Treaties and in view of its right of political initiative in the development of a united Europe.*²⁷⁸

3.7 The Paris Summit of 1972

The Paris Summit of 19-21 October 1972 had significant effects for the development of EPC, as it was decided to relieve EPC of the task of political unification and keep it as a structure for foreign policy cooperation. This development or 'split' had consequences for the Commission's approach to EPC. In line with the decisions made at the Summit, the Commission began its own work on creating a European Union, and the particular focus on political unification was directed at this work and not on EPC.²⁷⁹ Nevertheless, the Commission's approach to EPC did not change drastically; it still aimed to participate in and shape EPC, to protect the EC and to link the two. EPC still represented a threat to the EC, regardless of the 'split' in 1972. In the year 1972, when little other than preparations for the CSCE went on within the context of EPC, the Commission continued its approach towards EPC, which was now closing in on specific EC policy areas.²⁸⁰

Prior and in response to the Commission's request to participate in the preparations for the Summit, the Council had specified that a summit meeting was outside the scope of the Community's competence, which meant that the Commission could neither expect to participate in all parts of the meeting nor in its preparation.²⁸¹ The Commission would be invited to some parts of the Summit where the Community's competence was obvious. For other areas, such as institutional reform and political progress, the Ministers would have the prerogative of deciding whether or not the Community and the Commission should be involved. In response, Malfatti argued strongly that both institutional reform and political

²⁷⁷ AEI, Bulletin of the European Communities, No.8, 1972, retrieved on 4 September 2015 from <http://aei.pitt.edu/1919/>: 19.

²⁷⁸ AEI, Summary of address by President Malfatti during the European Parliament's debate on political union, Strasbourg, 20 October, 1971, retrieved on 4 September 2015 from <http://aei.pitt.edu/13801>.

²⁷⁹ This work resulted in a mostly inconsequential "Report on European Union"; see AEI, Report on European Union. COM (75) 400 final, 25 June 1975 in Bulletin of the European Communities, Supplement 5/75, retrieved on 3 July 2015 from http://aei.pitt.edu/1761/1/EU_report_1975.pdf.

²⁸⁰ HAEU, KM-0026, Vermerk für Herrn Präsident Mansholt und Herrn Professor Dahrendorf, 26 Oktober, 1972.

²⁸¹ HAEC, BAC 259/80, 89, COM(72) PV 198, 2e partie, final, séance du 28 février 1972.

progress were well inside the Community's sphere of competence in the Commission's view, and that it would not be possible to exclude it.²⁸²

The Commission was not included in the preparatory work dealing with institutional reform and political progress.²⁸³ This exclusion created a very grave situation in the eyes of the Commission and its President.²⁸⁴ President Malfatti "energetically protested" against the exclusion and appealed to Council President Thorn to make the Commission's view known to the Foreign Ministers.²⁸⁵ The Commission threatened to make its grievances public if its request to participate went unheard.²⁸⁶

The results of these efforts soon became clear; the answer was still '*Non*'. According to the Commission's wish, Thorn had presented its case to the Foreign Ministers, but as there was no unanimity between them, it was not granted complete inclusion.²⁸⁷ Still, the impression was that several of the Member States' representatives stood behind the Commission's demands and were reluctant to discuss issues affecting the Community without the Commission being present.²⁸⁸

In the middle of the rather long run-up to the Summit in Paris, the Commission experienced an unexpected change of leadership.²⁸⁹ Franco Maria Malfatti left his position as Commission President on 21 March 1972 and was replaced by Sicco Mansholt from 22 March.²⁹⁰ As a new Commission was planned for the enlarged Community of 1 January 1973, it was determined that Mansholt would hold this position for only eight months. As discussed in Section 3.4 above, Mansholt was part of the grouping within the Commission that expressed its resentment of the development of EPC most vocally. Furthermore, he was personally affiliated with the Hallstein Commission. As Mansholt's period was limited in time, the Paris Summit was the high point of his period as President.²⁹¹

²⁸² Ibid.

²⁸³ HAEC, BAC 259/80, 89, COM(72) PV 197, 2e partie, final, séance du 23 février 1972.

²⁸⁴ Ibid.

²⁸⁵ Ibid. Gaston Thorn, Luxembourgish. Foreign Minister 1969-1974, Prime Minister (and Foreign Minister) 1974-1979. Later Commission President 1981-1985.

²⁸⁶ HAEC, BAC 259/80, 89, COM(72) PV 197, 2e partie, final, séance du 23 février 1972.

²⁸⁷ HAEC, BAC 259/80, 89, COM(72) PV 198, 2e partie, final, séance du 28 février 1972.

²⁸⁸ HAEC, BAC 259/80, 89, COM(72) PV 197, 2e partie, final, séance du 23 février 1972.

²⁸⁹ The Summit was initiated in August 1971, but it did not take place until October 1972.

²⁹⁰ For a more comprehensive analysis of the development of the Commission at the levels of its president, see this thesis' chapter 4.

²⁹¹ AEI, Bulletin of the European Communities, No.8, 1972, retrieved on 4 September 2015 from http://aei.pitt.edu/1919/1/paris_1972_preparations.pdf: 19.

Mansholt continued the approach of the Commission under Malfatti, but also went further. In a more confrontational style, Mansholt sent the Council a letter of protest, in which he demanded the Commission's inclusion in all preparatory work in relation to the planned Summit, including the discussions on strengthening Community institutions and progress in the political field.²⁹² The result of this was that the Council stated on 5 July 1972:

*(...) in line with what had been agreed on 20 March, the Commission would be excluded from examining the problem of political progress, but would be included in the discussion on strengthening the Community institutions.*²⁹³

In the period from the initiation of what became EPC in The Hague in 1969 and until the 1972 Paris Summit, the French position on EPC and its relation to the EC remained unchanged. The opposition to the Commission's attempt to join the preparatory work for the Summit in full is a case in point. Albeit very slow and limited, a shift in the French position can be distinguished in points 14 and 16 of the Declaration of Paris, where the results of the Paris Summit are related to EPC and the issue of political progress.²⁹⁴ Point 14 of the Declaration dealt with EPC in particular:

14. The Heads of State or of Government agreed that political co-operation between the Member States of the Community on foreign policy matters had begun well and should be still further improved. They agreed that consultations should be intensified at all levels and that the Foreign Ministers should in future meet four times a year instead of twice for this purpose. They considered that the aim of their co-operation was to deal with problems of current interest and, where possible, to formulate common medium and long-term positions, keeping in mind, inter alia, the international political implications for and effects of Community policies under construction. On matters which have a direct bearing on Community activities, close contact will be maintained with the Institutions of the Community. They agreed that the Foreign Ministers should produce, not later than 30 June, 1973, a second report on methods of improving political co-operation in accordance with the Luxembourg report.²⁹⁵

This point of the declaration refined the scope of EPC by defining its aim as dealing with problems of current interest, and inched EPC a little bit closer to the realm of the EC by stating that the political implications for and effects of Community policy should be kept in mind while formulating EPC policy. Finally, by restricting the instruction for a second report to improving political co-operation and not political unification, this point limited the scope of EPC further, as the issue of unification was dealt with in the Declaration's point 16:

²⁹² AEI, Bulletin of the European Communities, No.8, 1972, retrieved on 4 September 2015 from http://aei.pitt.edu/1919/1/paris_1972_preparations.pdf: 23.

²⁹³ Ibid. My emphasis.

²⁹⁴ Nuttall 1992:73-74; TNA, FCO 30/1262, Diplomatic Report No.464/72, 27 October, 1972.

²⁹⁵ AEI, Bulletin of the European Communities, No.10, 1972, retrieved on 7 September 2015 from http://aei.pitt.edu/1919/2/paris_1972_communique.pdf: 22. My emphasis.

16. The Heads of State or Government, having set themselves the major objective of transforming, before the end of the present decade and with the fullest respect for the Treaties already signed, the whole complex of the relations of Member States into a European Union, request the Institutions of the Community to draw up a report on this subject before the end of 1975 for submission to a Summit Conference.²⁹⁶

In this point, the instructions on how to manage what was interpreted as political unification transformed into what was a new term, a 'European Union'.²⁹⁷ The work on the draft of this declaration reveals the continuing French opposition against bringing EPC closer to the EC. However, a small but discernible change was seen in point 14 of the draft, where Pompidou initially had put square brackets around the phrase "keeping in mind, inter alia, the international political implications for and effects of Community policies under construction", presumably in an attempt to remove it.²⁹⁸ During the debate, the square brackets were removed, and the French opposition towards what the Five and not least the Commission regarded as obvious, namely that the political and economic spheres of the Community had to be viewed as interconnected, changed, albeit temporarily.²⁹⁹ This represented a certain weakening of the French stance towards keeping political issues separate from the economic issues, but it was not given up completely, and it was observed that "the French are still likely to give us and the rest of the Community a lot of trouble over this."³⁰⁰

The Commission's initial reaction to the Summit was that the term "European Union" was too vague and could amount to much or nothing, depending on the will of the actors involved.³⁰¹ Regarding the Commission's role in EPC, Mansholt was quite direct in his characterisation:

*But the Commission is not satisfied and cannot be satisfied with trailing the movement of political cooperation between the Member States. It must also intervene and bring in the required procedure whenever the Community as such is at stake.*³⁰²

Mansholt outlined how the Commission still wanted EPC to develop in such a way that in the end any distinction between political problems and Community problems would be

²⁹⁶ AEI, Bulletin of the European Communities, No.10, 1972, retrieved on 7 September 2015 from http://aei.pitt.edu/1919/2/paris_1972_communique.pdf : 23. Point 16 was placed under the heading *European Union*. The reports that appeared as results of this formulation were the "Report of the Commission on European Union 25 June 1975" and the "Tindemans Report" of December 1975 which was based on the reports from the community institutions commissioned in the Paris Declaration point 16.

²⁹⁷ AEI, Bulletin of the European Communities, No.11, 1972, retrieved on 7 September 2015 from http://aei.pitt.edu/1919/3/Paris_1972_speeches.pdf : 67-71; Nuttall 1992: 73.

²⁹⁸ TNA, FCO 30/1262, Diplomatic Report No.464/72, 27 October, 1972.

²⁹⁹ Ibid.

³⁰⁰ Ibid.

³⁰¹ AEI, Bulletin of the European Communities, No.10, 1972, retrieved on 7 September 2015 from http://aei.pitt.edu/1919/2/paris_1972_communique.pdf : 24, 63.

³⁰² AEI, Bulletin of the European Communities, No.11, 1972, retrieved on 7 September 2015 from http://aei.pitt.edu/1919/3/Paris_1972_speeches.pdf : 62.

eliminated.³⁰³ The Commission continued to frame EPC as part of the progress towards political unification, and the Commission's quest for inclusion in EPC activities continued in line with its task to prepare for the creation of a European Union.³⁰⁴ The EP agreed with the Commission, as it deplored that

*(...) over political cooperation and foreign policy the Commission and Parliament have not been accorded the position which is their due; mainly with regard to the terms and effects of Community action on the international scene.*³⁰⁵

The results of the Paris Summit were thus a vague instruction to create a European Union. A refinement of the scope of EPC left the Commission with much the same approach it had held since the early part of 1971.

3.8 Slow movements towards closer relations between the Community and European Political Cooperation – the Copenhagen Report of July 1973

As Ortoli took over as President of the Commission of a Community that now counted Nine Members as of January 1973, the international arena was concerned with economic crises following conflicts and war in the Middle East.³⁰⁶ The most notable development within EPC was the formulation of a second EPC report: the Copenhagen Report.³⁰⁷ This second founding document for EPC did not change the Commission's status. However, despite the continued opposition of the French, the Copenhagen Report represented a slight movement towards closer EC-EPC relations. The meeting between Commissioner Soames and President Pompidou in June 1973, in which the Commission was ordered to leave the EPC sphere alone and get back to the EC sphere where it belonged, has already served as an illustration of the continuing French opposition to the Commission.³⁰⁸ At the same time, there were expectations that Ortoli as President would change the way in which the Commission 'behaved' in EPC.³⁰⁹

³⁰³ AEI, Bulletin of the European Communities, No.11, 1972, retrieved on 7 September 2015 from http://aei.pitt.edu/1919/3/Paris_1972_speeches.pdf : 62.

³⁰⁴ Ibid : 62-64.

³⁰⁵ Ibid : 70.

³⁰⁶ For a more comprehensive analysis of the development of the Commission at the levels of its president, see this thesis' chapter 4.

³⁰⁷ AEI, Copenhagen Report 1973, reproduced from the Bulletin of the European Communities No.3-1973, retrieved on 11 June 2015 from http://aei.pitt.edu/4539/1/epc_copenhagen_report_1973.pdf.

³⁰⁸ TNA, FCO 30/1650, Untitled note from Ewart-Biggs, 22 June 1973.

³⁰⁹ TNA, FCO 30/2000, Briefs for the Secretary of State's talks with M Ortoli, 22 February, 1973; TNA, FCO 30/2002, Telegram, Ortoli's visit to Chequers, 19 September 1973.

On a lower level, the tone was quite different from President Pompidou's, as noted by Christopher Audland who served as Deputy Secretary-General of the Commission from 1973 to 1981.³¹⁰ Although formally prevented from attending EPC dinners as the Commission's EPC representative, he never saw this as a disadvantage: "when I wanted to know what happened at dinner, I would ask one of my chums, and he would tell me. It wasn't an inconvenience really."³¹¹

On 23 July 1973, the Foreign Ministers of the EC adopted the Copenhagen Report, which strengthened EPC in matters of foreign policy by further intensifying it.³¹² In line with the developments resulting from the Paris Declaration's point 14, the report to a certain degree entailed some increased sensitivity towards the effects EPC activities had on the EC sphere. The Copenhagen Report did not result in substantial formal changes, as on the Commission's particular status it merely stated that "the Commission is invited to make known its views in accordance with current practice".³¹³

Although the Report attempted to clarify the relationship between EPC and the EC, there was still opposition to what amounted to a relatively modest move of the two spheres towards one another, which shows the continuance of the French opposition. The Copenhagen Report's point 12 illustrates what the limited movement of the two spheres towards each other consisted of:

12. Relationship between the Work of the Political Co-operation Machinery and that carried out within the framework of the European Communities

(a) The Political Co-operation machinery, which deals on the intergovernmental level with problems of international politics, is distinct from and additional to the activities of the institutions of the Community which are based on the juridical commitments undertaken by the Member States in the Treaty of Rome. Both sets of machinery have the aim of contributing to the development of European unification. The relationship between them is discussed below.

(b) The Political Co-operation machinery, which is responsible for dealing with questions of current interest and where possible for formulating common medium and long-term positions,

³¹⁰ Christopher Audland, British. Deputy Secretary-General of the Commission from 1973-1981.

³¹¹ HAEU, Interview with Christopher Audland, from "The European Commission 1973-1986. Memories of an institution Collection", 2010, retrieved on 7 September 2015 from http://archives.eui.eu/oral_history/INT100.

³¹² The second report should have been completed within the first two years of EPC as stated in the Luxembourg Report from 1970. The Copenhagen Report further intensified cooperation by increasing the number of meetings. The report also enhanced cooperation by introducing new and what would become vital structures of the EPC; the Correspondents group, and the COREU-telex network. On the details of this strengthening of EPC, see Nuttall 1992: 76-77.

³¹³ AEI, Copenhagen Report 1973, reproduced from the Bulletin of the European Communities No.3-1973, retrieved on 11 June 2015 from http://aei.pitt.edu/4539/1/epc_copenhagen_report_1973.pdf. My emphasis.

must do this keeping in mind, inter alia, the implications for and the effects of, in the field of international politics, Community policies under construction.

For matters which have an incidence on Community activities close contact will be maintained with the institutions of the Community.³¹⁴

But even this very slight shift towards greater alignment between the EC and EPC machineries caused conflict. EPC was still “distinct from and additional to” the Community structure. Regardless of this explicit wording that distinguished the separateness of the two, the formulations that placed them side by side were a problem for the French.³¹⁵ It was the formulation of and the ensuing conflict between France and the other Member States over point 12 that had held up the work with the second report and made it miss the deadline set in the Luxembourg Report.³¹⁶

In July 1973, France still opposed moving EPC closer to the EC. But as point 12 of the Copenhagen Report shows, France had to agree (albeit with some misgivings) to include the formulation in which the EPC and the EC machineries were placed side by side. Nevertheless, by the time of the Copenhagen Report the Commission had managed to get a foot in the door of EPC.

³¹⁴ AEI, Copenhagen Report 1973, reproduced from the Bulletin of the European Communities No.3-1973, retrieved on 11 June 2015 from http://aei.pitt.edu/4539/1/epc_copenhagen_report_1973.pdf. My emphasis.

³¹⁵ Ibid; TNA, FCO 30/1673, Letter, The Second Report on European Political Cooperation, 26 July, 1973.

³¹⁶ Ibid.

4. The Commission – from super-government *in spe* to sombre realist?

This chapter establishes the ways in which the Commission that met with EPC actors differed from the Commission of the EEC's first years. This difference can be illustrated by comparing Hallstein's 1958 idea of a Commission ready and able to change people's lives by changing their habitual thoughts to Malfatti's 1970 assurance that the Commission was not and had no desire to become a super-government.³¹⁷ The present chapter argues that the Commission adjusted following the empty chair crisis. There were diverging views within the Commission concerning how and in which direction it should develop, however, and the establishment of EPC played a part in this process. The main argument presented in this chapter is that the Commission as a distinct supranational actor deliberately chose a 'middle ground' based both on institutional continuity and on change in its engagement with EPC.

The chapter consists of two parts; both parts further unveil and open up the 'black box' of the Commission as an actor. The chapter investigates the Commission's development and adjustment as a supranational actor. The first part of the chapter analyses three diverging voices of the Commission that met with EPC actors in the early 1970s, and presents the 'middle ground' that became the Commission's approach towards EPC. The second part of the chapter analyses the Commission as an actor over time. It chronologically tracks the Commission as a developing institution from the beginning through its first President Hallstein, moving on through the presidencies of Rey, Malfatti and Mansholt and ending with the Commission under President Ortolí. The chapter argues that a development resulting in an adjustment of the Commission as a second-generation Commission is visible in this analysis and that the EPC case serves as an illustration of this.

4.1 The diverging voices of the Commission

There were diverging views of the Commission's role within the institution itself. The elements constituting these diverging views became clear and specific when the Commission had to respond to the establishment of EPC. The way in which the Commissioners Altiero

³¹⁷ AEI, *Proceedings of the sessions No. 1. Inaugural sitting, March, 1958*. Retrieved on 2 September 2015 from <http://aei.pitt.edu/44450/>. My translation of Hallstein : « Que voulons-nous en définitive ? Nous voulons changer les hommes... Mais cela suppose un changement dans les habitudes de pensée... Or, les institutions servent à les y aider. »; TNA, FCO 30/568, Copy of interview with Malfatti in *Le Figaro* 23 September 1970 attached to Political Unification: the place of the European Commission, 25 September, 1970.

Spinelli and Ralf Dahrendorf engaged in debate with one another in the early 1970s is illustrative of this. Spinelli's and Dahrendorf's diverging visions of Europe were particularly evident in their published work of 1972 and 1973.³¹⁸ The writings of the most 'senior' representative of the Commission at that time (and indeed for all time to come), Secretary-General Emile Noël, formed a middle ground between these two.³¹⁹

Spinelli and Dahrendorf were both members of the Commissions under Malfatti, Mansholt and Ortoli, and the two held very different views of Europe, the EC and the Commission. What they both had in common, and where they differed in part from the more 'apologist' Noël, was that they were dissatisfied with the Commission as an institution and sought change. By 1972, the Commission had become unsatisfying for the federalist Spinelli, who argued in favour of turning back to the virtues of the more politically ambitious first Commission, and even to move beyond this in a federal direction. Dahrendorf on the other hand wanted a more efficient and not overly political Commission in order to provide the EC and its Member States with a more efficient institutional machinery. Noël's views can be seen as covering the middle ground, as he did not argue strongly against the status quo. His opinions can thus be seen as a defence of the current Commission, an institution that met with a range of criticism both for being too politically ambitious and at the same time for not being politically ambitious enough.

Spinelli claimed that the European Community as an integration project had not fulfilled its potential.³²⁰ In his opinion, the responsibility for this lay to a great extent with the Commission:

*The Commission has not yet been able to develop the constructive political imagination which the European adventure needs. To the extent that it realises this deficiency it will, however, still be able to fulfil this role – and it is difficult to see who else could do so with the same prestige.*³²¹

³¹⁸ Dahrendorf 1973; Spinelli 1972.

³¹⁹ Noël 1972.

³²⁰ Spinelli 1972: 7. The potential was in Spinelli's view: "If the development of the Community at this moment presents a need for all the states to take on common political commitments, the main effort of creative imagination, even if it is not the only one, must be made by the Commission. Its political independence from every national mandate, its experience as the mainspring of every initiative of the Community, as the promoter of the necessary negotiations and as the responsible body for Community administration make it, among all the political bodies in existence today, the most suitable for the long-term planning in Europe" (Spinelli, 1972: 34.)

³²¹ Ibid: 8.

Spinelli was clear on which other party that also bore responsibility for the Commission's deficiencies: France and in particular President de Gaulle.³²² In its current form, the Commission was not able to do much in Spinelli's view; but if it developed in what he perceived as in the 'right' direction, it held potential:

*The Commission of the Community has been until now the most authoritative and effective of such centres of common action. It is due to its existence that the Community has survived the long winter of de Gaulle and may be considered today as the original nucleus to be reinforced and developed later, if new moments of creative European tension arise... It [the Commission] must then wait patiently...*³²³

Spinelli argued that there was an observable post-empty chair crisis trend towards using the intergovernmental method, which was inherently less efficient than a method wherein the Commission played a more political role. In spite of de Gaulle's negative effect on the EC and the Commission, Spinelli held that the Commission's potential as integrative nucleus remained unchanged.³²⁴ While noting the previous Commission's attempts to behave like a political actor, Spinelli launched a critique of the EC:

*Until the defeat of 1965 the Commission had at least attempted to be the political guide of the Community. Since then it has renounced the task, at least until the present, without, incidentally, the Council or any other body having wished or been able to take its place. Politically speaking the Community is today mute and headless.*³²⁵

Spinelli noted that the "stubborn resistance of national conservatism" was responsible for the Commission's exclusion from the newly established EPC structures.³²⁶ Furthermore, Spinelli argued that the logic of the Community would in due course lead to a unification of foreign policies under the auspices of the Community.³²⁷ In Spinelli's view, EPC was a step in the opposite and thus wrong direction, as a structure designed to "remain outside the Community and aim for an imprecise union or political co-operation."³²⁸ These forces of national conservatism (Spinelli was clearly pointing in the direction of France) were seen as attempts to achieve two goals. The first goal was to protect intergovernmental political cooperation from the supranational 'contamination' of the Community system. The second goal, which

³²² Ibid: 11-13, 16.

³²³ Ibid: 16, my emphasis and inclusion in brackets.

³²⁴ Ibid: 51.

³²⁵ Ibid: 173.

³²⁶ Ibid: 34.

³²⁷ Ibid:34-35.

³²⁸ Ibid: 35 and also expressed thus: "In spite of the naïve complacency expressed by certain newspapers over this happy beginning of a second Europe, dissatisfaction with this empty gesture has meant that the circles which originally thought of the idea have now brought out the idea of a political secretariat which would strengthen the co-operation had it been envisaged." (Spinelli 1972:35.)

was to be achieved through superimposing this political cooperation on the purely economic EC, was to limit the EC's autonomy.³²⁹

Spinelli argued that the extension of the EC's external relations also should encompass foreign policy and that the Commission should play an important part in this process:

*(...) the Commission should make full use of this right and formulate precise proposals designed to determine methods and stages by which foreign policy would become wholly a policy of the Community. There is no reason to introduce in this field of external relations structures which differ from those used for the overall developments of the Community. There is no doubt that the institutional system of the Community will have to be changed and adapted to suit its new tasks and this will be handled by the constitutional procedure described in the previous chapter. But the present system already has the great advantage that it contains the ingredients for further Community development, the capacity to progress wherever a certain high degree of general agreement among the governments is reached and to resist successfully the inevitable periodic reversion to national conservatism.*³³⁰

For Spinelli, the EC was hampered by a certain 'pragmatism' which had led to the intergovernmental parts of the EC being kept stronger than the supranational and to opposition to any extensions of the EC's powers and competences. Spinelli criticised 'pragmatism' as follows:

*Everywhere it is asserted, apparently with good conscience, that one should be pragmatic, stick to realities, envisage only what is possible and leave on one side doctrinaire quarrels. As if it was possible to advance over the difficult and treacherous terrain in which the European adventure is being acted out, without being guided by ideas which measure up to the facts and to the opportunities ahead.*³³¹

In Spinelli's view, through EPC this pragmatism was now being applied to provide a single voice on the world stage for Europe, but merely by the means of traditional intergovernmental cooperation, "even though we know *a priori* that they will produce neither a common voice nor independence nor the personality [in world affairs for Europe] of which men dream."³³² The development of which EPC was a part ran completely contrary to the more dogmatically federal vision that Spinelli represented, but which by now only was supported by a minority.

Another 'extreme' voice was that of the German liberal and Commissioner Ralf Dahrendorf, who published a more general critique of the European Community and the Commission in a rather unusual manner, namely under a pseudonym. In a series of articles entitled "Beyond

³²⁹ Ibid: 34-35.

³³⁰ Ibid: 36.

³³¹ Ibid: 184.

³³² Ibid: 185, my addition in brackets.

Brussels: A Plea for a Second Europe” published in *Die Zeit* in the summer of 1971 under the name *Wieland Europa*, Dahrendorf argued that the contradiction between the EC’s political objectives and its daily realities had become evident.³³³ When his identity was revealed in September 1971, Dahrendorf was criticised harshly, particularly by devoted supranational ‘Europeans’ within the Commission and the EP, but also by President Malfatti.³³⁴ Nevertheless, Dahrendorf’s place in the Commission was safe; he was even reappointed and only left the Commission in 1974 of his own accord.

In his texts, Dahrendorf also went back to the first Commission of Hallstein. Contrary to Spinelli, who lamented that Hallstein had not been ambitious enough, Dahrendorf criticised Hallstein for being overambitious, unrealistic and inflexible.³³⁵ Like Spinelli, Dahrendorf was also critical of the EC and the Commission in their current forms. He criticised the inclinations towards what he termed two “orthodoxies” in Europe. The first was that of the federalists, where Spinelli was mentioned explicitly, the other (which in Dahrendorf’s view was just as despicable) was the Gaullist orthodoxy.³³⁶

To overcome the limits of these two orthodoxies, Dahrendorf – both as “Wieland Europa” and in *Plädoyer für die Europäische Union* – launched what amounted to his plea for a “Europe à la carte”, in which his ideal for the future of Europe was described.³³⁷ Dahrendorf’s pragmatic Europe à la carte was quite contrary to Spinelli’s views, stating that Europe should not be made “by plan”, which was his criticism of Spinelli’s federalist ideal, but rather in a manner that provided for flexibility. Every Member State would be free to participate in the parts of cooperation or integration that suited them best and the Commission should serve them.³³⁸ Common policies should come about as a result of common interests and not as the result of a line of argument that the European interest was “either general or it does not exist”.³³⁹ Thus the establishment of EPC was a favourable development in Dahrendorf’s view, although he did not embrace it unconditionally, as he believed there should be closer links between the EC and EPC.³⁴⁰ Dahrendorf would later go even further in his criticism of the Commission; while

³³³ The series of articles went on to become the book *Plädoyer für die Europäische Union* published in 1973, in which Dahrendorf’s plea for a Second Europe had moved on to a plea for a Third Europe.

³³⁴ AEI, EP-debate 23. September 1971; *Question orale sur des articles d’un membre de la Commission européenne*, retrieved on 7 September 2015 from <http://aei.pitt.edu/43521:7-9>.

³³⁵ Dahrendorf 1973: 76-82.

³³⁶ *Ibid*: 82.

³³⁷ *Ibid*: 83.

³³⁸ *Ibid*.

³³⁹ Dahrendorf, Ralf. “A Third Europe?”, Third Jean Monnet Lecture, Florence, 26 November, 1979. Retrieved on 20 June 2015 from <http://aei.pitt.edu/11346/2/11346.pdf>: 20.

³⁴⁰ Dahrendorf 1973: 165.

the series of articles of 1971 described the Commission as a “bureaucratic Leviathan”, Dahrendorf stated in 1979 that the “Commission of the European Communities has become an obstacle to European union rather than a motor of progress.”³⁴¹

Explicitly criticised by Spinelli and indirectly praised by Dahrendorf, the term ‘pragmatism’ was also a keyword for the approach advocated by Emile Noël in an essay published in March 1972. For Noël, pragmatism meant being unaggressively supportive of both ‘sides’ as represented by Spinelli on the one hand and by Dahrendorf (and to a degree also the Member States) on the other. The title of Noël’s essay was “The Institutional Problems of the Enlarged Community”. A significant part dealt with what Noël termed “the short-cuts of integration”, which included the development of EPC.

Noël presented a clear and unfrontational view of the developments in the areas on the fringe of the EC’s competences. In going back to the limits of the Treaty, Noël described EPC as being part of a pragmatic solution to challenges in areas not covered by the Treaty of Rome.³⁴² Without being critical, Noël described much of the EC’s activity as pragmatic, stating that in the “absence of sufficient instruments within the Treaties the governments and institutions were forced to use a ‘pragmatic’ method, consisting of using a special formula for each case”.³⁴³ Noël suggested remedying this with “a purely Community system, and not a partially inter-governmental one”.³⁴⁴ These changes, he argued cautiously, could be extended to also encompass EPC, but with a different timetable, as this area demanded more of a long-term strategy.³⁴⁵

Noël considered the type of “fringe activity” that EPC and other activities represented as important. EPC was thus not seen as wholly negative, since these activities could contribute to an increase in scope of the EC’s integration. Nevertheless, Noël voiced concern over what effects such “fringe activity” might have on long-term balance, and thus favoured a Treaty change (by Article 235) to extend the EC’s competences.³⁴⁶

³⁴¹ Dahrendorf 1979: 21.

³⁴² Noël 1972: 422.

³⁴³ Ibid: 422.

³⁴⁴ Ibid: 423.

³⁴⁵ Ibid.

³⁴⁶ Ibid: 422. The Treaty of Rome’s article 235 states: If action by the Community should prove necessary to attain, in the course of the operation of the common market, one of the objectives of the Community and this Treaty has not provided the necessary powers, the Council shall, acting unanimously on a proposal from the Commission and after consulting the Assembly, take the appropriate measures.

Nöel discussed the proposal for an EPC political secretariat that had been debated in 1971-1972 but had not become a reality.³⁴⁷ The line he took was in keeping with the Commission's strategy of defensively but actively working for inclusion in EPC in all areas of EC competence. The creation of a political secretariat was seen as especially challenging, as this secretariat would be technically linked to EPC but at the same time connected to and of importance to the Community.³⁴⁸ The eventual creation of such a secretariat would hinge on what kind of objective was envisaged for the future development of EPC; was it to stay more or less intergovernmental with lightweight connections to the European institutions, or should it gradually be integrated into the EC structure?³⁴⁹ Nöel proved a pragmatist in regard to this issue and saw the advantages to both alternatives, although he was increasingly positive towards linking EPC and the EC closer together. In the case of the former alternative being chosen (which indeed was the case, with EPC remaining inherently intergovernmental), Nöel envisaged that the links between the EC and EPC that were already in place could be retained.

These lightweight bridges between the EC and EPC that Nöel foresaw the Commission would have to make do with corresponded to his description of the existing relationship between the European Institutions like the Commission and intergovernmental EPC.³⁵⁰ In Nöel's view, this type of relationship could continue if EPC was to "keep its original character and its own structures".³⁵¹ In this case, a political secretariat needed only to be a lightweight one, and to stress the fact that "this venture [EPC] was quite distinct from the Community by proposing that it should be established somewhere other than Brussels".³⁵² This shows that Nöel acknowledged that the likely outcome would indeed be that EPC and the EC would stay separate, and in that case it would be most pragmatic to keep a structure where there was some kind of relationship between EPC and the institutions and not alienate EPC further by demanding more. In the end, as the suggestion for a political secretariat was shelved since the Member States could not agree, the Commission was able to continue its work towards gaining entrance to what remained of the international initiatives: EPC.

Nöel's attitude seemed positive and pragmatic when it came to the relationship between EPC, the EC, and the Commission. His stance was that even though it would be preferable to tie EPC closer to or to encompass it completely within the EC structure, this should not be

³⁴⁷ See Chapter 3.6 of the present thesis.

³⁴⁸ Nöel 1972: 420.

³⁴⁹ *Ibid.*: 421.

³⁵⁰ *Ibid.*

³⁵¹ *Ibid.*

³⁵² *Ibid.* My inclusion in brackets.

voiced to avoid controversy between the Commission and the Member States. Noël's observations tie in with an approach supporting the existence of EPC whilst pragmatically and uncontentiously trying to work for as great inclusion as possible so as to tie EPC closer to the EC. The Commission's number one priority was to secure EPC's functioning, which for Noël was more important than pushing as hard as possible for inclusion. Noël thus represented a Commission that was prepared to accept EPC, but that hoped that EPC's development would "finally be made in a European spirit".³⁵³

4.2 The Commission as an adjusting actor

When analysing the development of the Commission from 1958 until the mid-1970s, an adjustment can be seen. Arguably, this could be seen as a change from the Commission as 'European prophets' defining the future direction of integration to a clergy left simply with the task of management.³⁵⁴ However, I argue that this adjustment was characterised by a change in means more than a change of ends; the Commission attempted to retain its crucial role in European integration but by applying a less confrontational style.

Since its creation in 1958, the Commission of the European Economic Community had gone through a merger and become the Commission of the European Communities.³⁵⁵ As the EC enlarged with three new Member States from 1 January 1973 onwards, going from the Six to the Nine, the Commission accordingly expanded to 13 members: two Commissioners from the larger Member States of France, Germany, Italy and the UK, and one each from Belgium, Denmark, Ireland, Luxembourg, the Netherlands.

The period investigated was mainly characterised by institutional change. There was a change in the role, perception and self-perception of the Commission following the empty chair crisis of 1965.³⁵⁶ Evidence that this change was also reflected upon within the Commission can be

³⁵³ Ibid.

³⁵⁴ "From prophets to clergy" is rephrased from Jean Rey's speech to the EP 20 September 1967, where he stated that the Commission should not be content as clergy, but it should remain prophets. See: European Parliamentary Research Service. *From Hallstein To Prodi – Statements of Presidents Of the European Commission Before The European Parliament*, retrieved on 7 September 2015 from http://www.europarl.europa.eu/EPRS/PE0_AP_DE!1967_DE19670920-020010FR.pdf: 15.

³⁵⁵ As this thesis mainly preoccupies itself with the 'top-level' of the Commission, i.e. the Commission's Presidents, the Commissioners and the General Secretariat, the institutional changes occurring at the same time on levels below these; i.e. on Directorat-General (DG)-level will not be discussed here. It was at the 'top-level' of the Commission, on the level of its President and in the Secretariat General that the "battle" over the Commission's role in the EPC stood.

³⁵⁶ For the Luxembourg Compromise from 1966 that ended the empty chair crisis, see AEI, reproduction from the Bulletin of the European Communities No.3-1966: 6-7, retrieved on 10 March 2015 from <http://aei.pitt.edu/54209/1/BUL063.pdf> and the following "decalogue", the French 'reprimande' to the

found in a letter by Noël to Malfatti in June 1970, just prior to the new President of the Commission taking up his office. Noël claimed that the Commission's role and actions were contested by the Member States both before and after 1965, but that the empty chair crisis had had its most definitive detrimental effect on the Commission's *prestige*.³⁵⁷

In this period, the highest level of the Commission was also marked by change. Five different Presidents led the Commission between 1958 and 1976, and their leadership is analysed below: Walter Hallstein (Germany, 1958-1967), Jean Rey (Belgium, 1967-1970), Franco-Maria Malfatti (Italy, 1970-1972), Sicco Mansholt (Netherlands, 1972) and finally François Xavier Ortoli (France, 1973-1977). The early years of EPC, 1970-1973, thus coincided with a period with no less than three different Commission Presidents. The situation was more stable in the Secretariat-General of the Commission, and continuity on the top level of the Commission was ensured in this period by Emile Noël (France), who held the position of Secretary-General of the Commission from 1958 until 1987, and by Klaus Meyer (Germany) as Deputy Secretary-General from 1969 to 1977.³⁵⁸ The Secretariat-General was the place for the coordination of the Commission's relationship to EPC, and due to the rapid changes on the presidential level, Noël and Meyer came to play important roles in the management of the Commission's role in EPC.³⁵⁹

In the 'battle' between intergovernmental and supranational forces within the EC, which was still ongoing in the period under investigation, the European Parliament was and had been a natural ally for the Commission.³⁶⁰ Hallstein noted: "the European Parliament is often the Commission's best ally in the quest for integration."³⁶¹ The following analysis of the different presidencies delves into the relationship between the two institutions. It provides insights into the Commission's supranational aspirations, showing how these were communicated in its

Commission see [cvce.eu](http://www.cvce.eu), retrieved on 7 September 2015 from http://www.cvce.eu/obj/memorandum_from_the_french_government_luxembourg_17_and_18_january_1966-en-ad4d00b0-a4a6-4071-ac68-6dc0631bdba8.html.

³⁵⁷ HAEU, EN-1046, Note pour Monsieur le Président Malfatti, 22 June 1970.

³⁵⁸ The Executive Secretariat was renamed the Secretariat-General after the merger of the Executives. Emile Noël was thus first entitled the Executive Secretary of the EEC, and following the merger and the establishment of the single Commission the Secretary-General of the EC

³⁵⁹ In addition to Christopher Audland (UK), who after the enlargement in 1973 became the second Deputy Secretary-General of the Commission.

³⁶⁰ The institution known as the European Parliamentary Assembly between 1958-1962 was renamed the European Parliament from 1962. For the EP as the Commission's ally, see Ludlow, Piers. "Relations with the European Parliament" in Eric Bussière, V. Dujardin, M. Dumoulin, P. Ludlow, J.W. Brouwer and P. Tilly (eds.). *The European Commission 1973-86, History and Memories of an Institution*, Luxembourg: Publication Office of the European Union, 2014: 231.

³⁶¹ AEI, The Commission, a new factor in international life, address by Walter Hallstein, at the British Institute of International and Comparative Law, London 25 March, 1965, retrieved on 16 November 2011 from <http://aei.pitt.edu/13638/1/S35-S34.pdf>

dialogue with the EP, and provides evidence for the adjustment of the Commission. As the chronological survey of the period reveals, all of the Commission Presidents from Hallstein to Ortolini encountered different initiatives that challenged or even threatened the EEC/EC and the Commission's position. The first of these to actually come into effect was EPC from 1970 onwards. In the early 1970s, the Commission thus faced and had to respond to a concrete initiative that was both related to but to a degree also competed with the EC. As such, EPC serves well as a case illustrating how and what lay behind the adjustment of the Commission and the development of this supranational actor into what this thesis argues was a second-generation Commission.

4.2.1 Walter Hallstein – Commission President from 10 January 1958 to 5 July 1967

Walter Hallstein has been called “a supranational Icarus”.³⁶² Dahrendorf was one of many who viewed the first Commission over which Hallstein presided as characterised by over-ambition, with wide-ranging consequences for the Commission as an institution and the development of European integration: “The supranational illusions of the European beginnings have turned out to be an obstacle rather than a motive force for real political cooperation.”³⁶³ Nevertheless, Hallstein's contribution to the role of the Commission for both better and worse should not be ignored. The consequences of the first Commission's approach forms an important base for its potential role in EPC. This base is important in explaining both why the Commission was not wanted and what it actually was able to contribute to EPC in terms of its expertise.

The Treaty of Rome set out the mandate of ‘a Commission’, but it became more or less Walter Hallstein's job as the first Commission's President from January 1958 to shape this mandate into an institution with nine members. Hallstein's inaugural speech before the European Parliamentary Assembly (EPA), which would later become the European Parliament, was (as might be expected) filled with grand visions of the future.³⁶⁴ This speech had a supranational focus, as Hallstein emphasised how the very existence of the EPA was what guaranteed the EEC's supranational character; the Commission's supranational features were also highlighted. Hallstein went straight to the characteristics that would define his

³⁶² Ludlow 2006a: 37.

³⁶³ Dahrendorf, Ralf. “From Europe to EUrope. A story of hope, trial and error”, in Andrew Moravcsik (ed.) *Europe without Illusions: The Paul-Henri Spaak lectures, 1994-1999*, Lanham: University Press of America, 2005: 85.

³⁶⁴ European Parliamentary Research Service. *From Hallstein To Prodi – Statements of Presidents Of the European Commission Before The European Parliament*, retrieved on 7 September 2015 from http://www.europarl.europa.eu/EPRS/PE0_AP_DE!1958_DE19580320-010010FR.pdf.

Presidency: federalism and supranationalism. For Hallstein, the EEC was a Community of states created in a distinct federative spirit, a supranational body with its own political personality, a new stage in European politics.³⁶⁵ Hallstein claimed that the political elements of this new stage would “change people”.³⁶⁶ The first Commission President thus set out an ambitious federative political project for the EEC, and emphasised the important role its institutions would hold in bringing about these changes.³⁶⁷

Hallstein’s ambitions for the Commission contributed to creating the myth and the perception of the Commission as an actor that could and indeed should go beyond the Treaty.³⁶⁸ For Hallstein, the Treaty could not and should not limit the Commission in its tasks, but rather serve as a point of departure.³⁶⁹ This interpretation and use of the Treaty’s limits as the legitimation for the Commission’s political ambition was particular to the Hallstein Commission, and characterised the first Commission up until right before the empty chair crisis.³⁷⁰ Hallstein described the Treaty of Rome as a departure point and an “outline Treaty” with the potential for both a political and an international role for the Commission as late as 1965.³⁷¹

Hallstein’s idea was that the Commission would represent the European aggregated interest in a process that took the form of “an inner logic (*Sachlogik*): a set of stages, each following on from the one before, which arise logically”.³⁷² In Hallstein’s view, the Commission’s role was legitimated through its position as a guardian of this “Sachlogik”, reminiscent of the ‘spillover’ concept of the neo-functionalists. Hallstein was not alone, as his Commission consisted mainly of likeminded “Eurocrats”.³⁷³ These dedicated ‘Europeans’ were highly

³⁶⁵ AEI, *Proceedings of the sessions No. 1. Inaugural sitting, March, 1958*. Retrieved on 2 September 2015 from <http://aei.pitt.edu/44450/>:19.

³⁶⁶ Ibid.

³⁶⁷ Ibid.

³⁶⁸ For Hallstein’s expansionist use of the Treaty see for instance his first speech before the European Parliament: AEI, *Proceedings of the sessions No. 1. Inaugural sitting, March, 1958*. Retrieved on 2 September 2015 from <http://aei.pitt.edu/44450/>:19; and AEI, *The Commission, a new factor in international life*, speech by Hallstein at the British Institute of International and Comparative Law, London 25 March, 1965. Retrieved on 16 November 2011 from <http://aei.pitt.edu/13638/1/S35-S34.pdf>.

³⁶⁹ AEI, *Proceedings of the sessions No. 1. Inaugural sitting, March, 1958*. Retrieved on 2 September 2015 from <http://aei.pitt.edu/44450/>:19.

³⁷⁰ AEI, *The Commission, a new factor in international life*, speech by Hallstein at the British Institute of International and Comparative Law, London 25 March, 1965. Retrieved on 16 November 2011 from <http://aei.pitt.edu/13638/1/S35-S34.pdf>.

³⁷¹ Ibid.

³⁷² Hallstein, Walter. *Europe in the making*, London: George Allen & Unwin Ltd., 1972: 11, 57.

³⁷³ There is admittedly evidence that not all members of the Commission agreed with Hallstein in all matters, but still for the Commission under Hallstein as characterised as “Eurocrats” see Seidel 2010: 109 and Loth and Bitsch 2014:56.

skilled in their policy areas.³⁷⁴ Their values and visions of Europe and the role of the Commission in it has been written on extensively by other scholars.³⁷⁵ The composition of the first Commission of these skilled Eurocrats forms part of the Commission's self-perception, in which the EEC in its first years was presented as being "run first and foremost by its Institutions", also based on their expertise.³⁷⁶

There were relatively early intergovernmental challenges to the Commission and its supranational guiding principle. The first seeds of the conflict between the Commission and France over European integration were sown by de Gaulle's initiation of the Fouchet Plan.³⁷⁷ This very first incidence of Member State(s) attempting to sideline the EEC structure and in effect also the Commission in a manner comparable to the EPC initiative of 1969-1970 occurred as early as 1960.³⁷⁸ The vision that the Fouchet Plan represented was, in de Gaulle's own words, to amount to more than an organisation; it was the 'spirit' of the national states' independence.³⁷⁹ This spirit was what Mansholt saw as resurfacing in the establishment of EPC some years later and feared.³⁸⁰ In the Fouchet Plan, de Gaulle called for cooperation in the areas of foreign policy, defence, economy and culture. The decision-making body would be regular meetings of Heads of State or Governments. The other Five and the Community institutions did not react positively. Concerns were voiced concerning the duplication that would occur by including the economic aspect already covered by the EEC in de Gaulle's intergovernmental initiative.³⁸¹ This feature was to rise again in the EPC initiative.

The Commission in particular was threatened by the proposals of de Gaulle. Would the spirit of the Fouchet Plans lead to the weakening or sidelining of the Commission? The Commission could do little more than emphasise what it perceived was the "superiority" of the Community method over the intergovernmental initiative on the table, and be relieved when de Gaulle's plans (for the time being) came to nothing.³⁸² Nevertheless, the spirit of the Fouchet Plan and the vision of Europe that it represented continued to surface and conflicts

³⁷⁴ Loth and Bitsch 2014:56.

³⁷⁵ See for instance Seidel 2010, van Merriënboer 2011, Dumoulin, 2014.

³⁷⁶ Heathcote, Nina. "The Crisis of European Supranationality", in *Journal of Common Market Studies*, 5 (2), 1966: 144.

³⁷⁷ De Gaulle's first initiative consisted merely of meetings four times a year between the Member States Foreign Ministers, but in time expanded to the grander initiative of a confederation, see Loth and Bitsch 2014: 66.

³⁷⁸ Loth and Bitsch 2014: 65.

³⁷⁹ Peyrefitte 1997: 285.

³⁸⁰ HAEU, FMM-37, note from Mansholt to Malfatti, 23 December, 1970.

³⁸¹ Loth and Bitsch 2014: 66.

³⁸² *Ibid.*

over the diverging views on European integration and cooperation would be rife over the years to come.

The empty chair crisis, the seminal event in the early phase of European integration, had consequences for the period that followed. The empty chair crisis can be interpreted not only as the Commission going ‘too far’, but also as an instance where France wanted to create the perception of the Commission “running amok” with the Member States’ vital interests.³⁸³ The solution to the crisis was the Luxembourg Compromise, stifling the introduction of qualified majority voting along with a reprimand given to the Commission through the French-initiated ‘Decalogue’. No changes were made to the Treaty, so the treaty-based mandate of the Commission outlined in this thesis’s chapter 2 still stood, but the effects of this incident were felt and remarked upon within the Commission both at the time and during the following period. The crisis exacerbated the conflict between two very different visions of Europe, respectively embodying the essential duality between a supranational and an intergovernmental direction of the EC. In this conflict, the Commission had to adjust, attempting to balance boldness with prudence.³⁸⁴

Part of the Commission’s adjustment was its strategy of ‘don’t rock the boat’, which was first seen in the wake of the Luxembourg Compromise. This strategy was evident in Hallstein’s speech before the European Parliament of 20 January 1966, which took place only a couple of days after the meetings that ended the empty chair crisis.³⁸⁵ The President was on the defensive, taking on the Commission’s share of responsibility for the crisis as well as noting the Commission’s contribution to solving it. This contribution lay in the Commission’s lack of express protest when left out of the extraordinary session of the Council in Luxembourg, implying that Hallstein believed it legitimately could have objected:

*I repeat, we believe that by abstaining we have in fact contributed something which will perhaps count when the crisis is finally solved and the question is put: what has the Commission done? Even abstention can have its uses.*³⁸⁶

However, at the same time Hallstein was also defending the Commission’s actions as “simply the duty laid upon us by the Treaty to act as guardians of the latter”.³⁸⁷ The Commission would not bend completely to the will of supporters of a different vision of Europe, but the

³⁸³ Pollack 1997: 110.

³⁸⁴ HAEU, EN-1046, Note pour Monsieur le President Malfatti, 22 June 1970.

³⁸⁵ AEI, Speech by Professor Walter Hallstein, President of the EEC Commission to the European Parliament on 20 January, 1966, retrieved 7 September 2015 from <http://aei.pitt.edu/13576/1/13576.pdf>.

³⁸⁶ Ibid. My emphasis.

³⁸⁷ Ibid.

crisis and the compromise in its wake heralded the start of a different *use* of the Treaty by the Commission.

In the case of EPC, two elements were to create conflict between the Commission and the Member States. Both the Fouchet Plan and the empty chair crisis were illustrations of this conflict, in which political unification and the question of which actors were to take the lead in European integration were the most contentious issue. However, the interrelated second element of external relations was also a bone of contention between the Member States and the Commission. The conflict over the extent to which political cooperation could be kept separate from economic integration formed the essence of the clash of visions in the early 1960s, much as it did at the time of the initial stages of EPC in 1969/1970. This first Commission saw quite clearly that the “economic integration of Europe is in essence a political phenomenon” because of its implications beyond Europe.³⁸⁸ Following the crisis, the terms under which Hallstein would be able to continue as President were not clear, and without support from all Member States he requested to not be re-nominated.

4.2.2 Jean Rey – Commission President from 6 July 1967 to 1 July 1970

Jean Rey’s period as Commission President was characterised first by the Single Commission’s development into a well-functioning institution and second by the seemingly never-ending preparations for EC enlargement. While the Merger Treaty fusing the executives of the three European Communities, the European Coal and Steel Community (ECSC), the EEC, and Euratom, had been signed 8 April 1965, it did not enter into force until 1 July 1967, a delay caused by the empty chair crisis. Rey was appointed to lead the Commission of 14 members for two years, and had his appointment renewed for one final year from July 1969.³⁸⁹ During this period, the Commission was also absorbed in consolidating the goals set out by the Treaty of Rome, of which the completion of the Customs Union on 1 July 1968 was one achievement. The Rey Commission, like Hallstein’s, also had to face Member State initiatives intended to take place outside of the established EC structure. The Hague Summit was one example, and the initiative that resulted from the Summit, EPC, was another.

³⁸⁸ AEI, COM (62)300, *Memorandum of the Commission on the Action Programme of the Community for the Second Stage*, 24 October 1962, retrieved on 7 September 2015 from <http://aei.pitt.edu/1327/>; Coombes 1970:70.

³⁸⁹ Out of the fourteen, nine came from the former executives. One from the Euratom Commission, two from the ECSC High Authority and six from the EEC Commission, see Bitsch 2014: 125.

Following the events of 1965 and 1966, the Commission adjusted. Prior to the 1965 crisis, the Commission had been eager to express its desire to move beyond the Treaty.³⁹⁰ The Commission under Rey could not use such language nor risk to be perceived as this ambitious, and thus had to use the Treaty not as a departure point but rather as a shield of protection against the Member States that wanted to take away what the Commission considered to be its mandate. In contrast to Hallstein's abovementioned reference to the Treaty as not constituting a constraint on the Commission, Rey emphasised the way in which the Commission's responsibilities should be exercised through conforming to the Treaty. Nevertheless, it was Hallstein's "political courage" that Jean Rey paid tribute to in this first speech before the EP as President of the Commission.³⁹¹

In line with this adjustment, Rey made explicit reference to the relationship between the Commission and the Member States as one that needed improvement, and that this improvement was very much the responsibility of the Commission.³⁹² Rey stated his wish that the Commission would be invited into any work between the Member States that was within the Commission's and the Community's sphere.³⁹³ In Rey's speech, a change in the relationship between the Commission and the Member States was evident. Following the empty chair crisis, the Commission saw the potential for new conflict over the political role of the Commission, of which EPC became a case in point. Rey stressed that unification was not solely an economic, but also a political task. These areas were not considered separate by the Commission, as it pointedly emphasised from 1968 onwards.³⁹⁴

Rey's period as President of the Commission also encompassed elements of continuity that served to build the myth of the Commission that began with Hallstein. Examples of this are Rey's comments about how the Commission saw itself not only as the administrator of the Community, but considered itself and its members to be the leaders.³⁹⁵ In addition to this (perhaps half-jokingly) he added that "we [the Commission/Commissioners] cannot be content to be the clergy, we must stay the prophets".³⁹⁶ In Rey's period there thus seems to be

³⁹⁰ AEI, *Proceedings of the sessions No. 1. Inaugural sitting, March, 1958*. Retrieved on 2 September 2015 from <http://aei.pitt.edu/44450/>:19.

³⁹¹ European Parliamentary Research Service. *From Hallstein To Prodi – Statements of Presidents Of the European Commission Before The European Parliament*, retrieved on 7 September 2015 from http://www.europarl.europa.eu/EPRS/PE0_AP_DE!1967_DE19670920-020010FR.pdf: 10.

³⁹² *Ibid.*

³⁹³ *Ibid.*: 14.

³⁹⁴ *Ibid.*

³⁹⁵ *Ibid.*

³⁹⁶ *Ibid.*: 15.

a mixture between a continuance of Hallstein's 'Sachlogik', where the Communities' policies seem to progress in a somewhat automatic manner with a privileged place and status for the Commission, and an increase in the Commission's sensitivity towards the Member States.³⁹⁷ This mixture could explain the reoccurring references to the Member States' interests and not least their "understandable national resistance" as evidence of the effect of the empty chair crisis and the Luxembourg Compromise.³⁹⁸ It also explains the Commission's use of a more toned-down and indeed 'apologetic' language in its direct communication with the Member State with 'the most sensitive' national interest in its relation to the Commission, France.

The Rey Commission was not void of political ambition, however; evidence of this is found for instance in the Declaration by the Commission of the European Communities of 1 July 1968 on the completion on the Customs Union, which occurred a year and a half before the Treaty schedule.³⁹⁹ This was regarded as a great accomplishment for the EC and in turn the Commission.⁴⁰⁰ Suitably for the occasion, the Declaration represented great optimism for the EC's future, and great ambition for the Commission as an institution: "By beginning the unification of the European territory in this first form, the Six are taking a decisive step in the economic history of the continent."⁴⁰¹ There was also a call for political unification based on the EC's existing structure.⁴⁰² In addition, the Declaration stated that this European Federation should be based on political decisions and federal institutions and by facilitating détente thus provide for a political and international role of the EC.⁴⁰³ To accomplish this political goal, the right of veto that in practice was laid down by the Luxembourg Compromise had to be renounced and the Council should be re-established as an institution that could take majority decisions.⁴⁰⁴ For the Commission, the Declaration demanded:

³⁹⁷ Ibid.

³⁹⁸ Ibid.

³⁹⁹ AEI, Declaration by the Commission on the occasion of the achievement of the Customs Union on 1 July 1968, reproduced from the Bulletin of the European Communities No.7-1968, retrieved on 7 September 2015 from <http://aei.pitt.edu/54226/1/BUL079.pdf>.

⁴⁰⁰ Ibid.

⁴⁰¹ Ibid.

⁴⁰² Ibid: "Europe must have institutions enabling it to become a politically organized continent, having not only its economic institutions – which are already well on the road to completion – but also political institutions enabling it to act and become what the declaration of 9 May 1950 called the European Federation."

⁴⁰³ Ibid: "... and the other countries of Europe which are willing to accept the same rights and the same duties must gather around the nucleus formed by the Europe of the Six. At the same time political integration must facilitate a détente and co-operation between the East and the West, thus making an essential contribution to the establishment of a pacific order in Europe."

⁴⁰⁴ Ibid.

*(...) implementing powers enabling it not only to take the initiative in Community progress but genuinely to manage the Community, with the task of management growing as the new Community policies gradually enter into force.*⁴⁰⁵

At the same time as the Declaration of July 1968, which applied the more ‘declaratory’ and indeed traditional language seen above, a more pragmatic language was used by the Commission when communicating directly with Member State representatives, especially France. This serves as evidence for an ongoing adjustment of the Commission at this time, and reflects that at least two competing views existed within the Commission on how to handle the aftermath of the empty chair crisis.

In contrast to the ambitious tone used in the Declaration, in which the Commission adopted a federalist and political voice, Rey as Commission President formulated a much more defensive and apologetic answer to the French Foreign Minister Michel Debré. Debré had written a letter of complaint to Rey in which he complained about a ‘political’ speech held by Vice-President of the Commission Sicco Mansholt. This speech had allegedly ‘attacked’ French policy towards the Community.⁴⁰⁶ President Rey’s response is evidence of the Commission’s cautiousness towards France in particular in the period following the empty chair crisis, as he all but dissociated the Commission from Mansholt’s statements and defended the political impartiality of the Commission. Rey went on to remark that Mansholt held a “combative political personality”, but due to the extent of his contributions to the European project, such expressions, although inconvenient, had to be borne patiently.⁴⁰⁷

This episode illustrates the diverging views within the Commission on how to ‘behave’, particularly towards France. These diverging views can also be taken as evidence for a ‘split’ between the remnants of the first Commission, here represented by Mansholt, and the attempts to adapt or adjust the Commission, here represented by Rey as President.

4.2.3 Franco Maria Malfatti – Commission President from 2 July 1970 to 21 March 1972

As the first Commission President to leave the Commission before his term was up, the reputation of the Italian Franco-Maria Malfatti, who gave up his Presidency to stand for national elections, has been tarnished:

⁴⁰⁵ Ibid.

⁴⁰⁶ *Agenor – European Review*, “*Le rôle politique des commissaires*”, *Brussels: Agenor*, No. 8, 1968: 65-66.

Debré’s letter to Rey is dated 8 July 1968, Rey’s answer 15 July 1968.

⁴⁰⁷ Ibid.

*By common consent it was Italy's turn to nominate a candidate for President in 1970 when Jean Rey stepped down. No prominent Italian wanted to go to Brussels. Eventually the government nominated Franco Malfatti, the minister for post and telegraphs. A good speaker, Malfatti liked to orate about the lamentable state of European integration. Beyond that he had little impact on the Community. He resigned as Commission President in 1972 to return to Italian politics.*⁴⁰⁸

There is more to the story of the period during which Malfatti was the Commission's President than Dinan indicates here, not least the approach towards EPC that this thesis focuses on. The Commission under Malfatti continued to grapple with the effects of becoming a Single Commission, and it was reduced in size from 14 to 10 members. It also continued the long process towards enlarging the EC, a task not completed during Malfatti's period as President. The initiatives taken at the Hague Summit of completing, deepening and widening the EC formed the Commission's most prominent challenges in the Malfatti period. This was not least due to the fact that the decisions of these ambitions for the EC were taken in a forum that was not part of the EC structure.

Malfatti held his first speech before the EP on 8 July 1970.⁴⁰⁹ This came after the EPC initiative had been taken in The Hague, but predated the Luxembourg Report that established EPC and the beginning of this cooperation in November 1970. Signalling the importance of the initiative that became EPC, Malfatti referred to the initiatives taken at the Hague Summit as reaffirmations of the political finalities upon which the EC was based and that were necessary for the EC to move forward and complete the political unification of Europe.⁴¹⁰ Malfatti considered the initiatives to be parts of processes of an eminently political nature, and ones that needed the cooperation of forces both at the national and supranational level.⁴¹¹

Malfatti portrayed the Commission as a political actor, explicitly keeping the traditional legitimisation aspects of the Treaty.⁴¹² However, Malfatti challenged the view of the Commission as an "unspecified Eurocracy", as the unspecific sole keeper of "the grand idea

⁴⁰⁸ Dinan 2004: 144, also noted by Varsori, Antonio. "Franco Maria Malfatti: a presidency cut short" in Michel Dumolin (ed.) *The European Commission 1958-72, History and Memories of an Institution*, Luxembourg: Publication Office of the European Union, 2014: 153.

⁴⁰⁹ European Parliamentary Research Service. *From Hallstein To Prodi – Statements of Presidents Of the European Commission Before The European Parliament*, retrieved on 7 September 2015 from http://www.europarl.europa.eu/EPRS/PE0_AP_DE1970_DE19700708-030010FR.pdf.

⁴¹⁰ Ibid: 23.

⁴¹¹ Ibid.

⁴¹² TNA, FCO 30/568, Copy of interview with Malfatti in Le Figaro 23 September 1970 attached to Political Unification: the place of the European Commission, 25 September, 1970.

[of Europe]”⁴¹³ As noted in Chapter 3, Malfatti thus attempted to change the perception of the Commission into that of a less threatening actor, more useful and sensitive to national interests. Much in the same way as Rey, Malfatti used the Commission’s treaty-based right to be part of the process of political unification to support his argument that the Commission should have a political role in EPC if EPC was to amount to more than political cooperation.⁴¹⁴

In line with his attempts to change the perception of the Commission, Malfatti stated that the Commission was operating in a different period now, and called for more ambitious goals for the Community. These goals were related to the EC’s external elements:

Today the Community has entered a qualitatively different phase and is living a moment of considerable renewal. The difficulties we encounter on our road (and there are many) are not caused by routine, administrative problems, but by the new dimension of the Community on the world scene.

*This new thrust forward in the construction of Europe means that our present phase is transitional. We live in an era characterized by the coexistence of the old with the new. The old realities have not yet been superseded. The new are asserting themselves and the results of this conflict of the past with the future are already becoming apparent.*⁴¹⁵

Although the initiative was taken during Rey’s Presidency, Malfatti was the first Commission President to face an institutionalised cooperation between the Member States of the EC in which the Commission was deliberately placed on the sideline. Much of the problem was indeed that the Commission to an extent was connected to EPC, but in a manner that was unsatisfactory the Commission. As a supranational actor, the Commission under Malfatti had adjusted further, but as EPC was only in its early phase the Commission had yet to completely work out how to handle the existence of EPC as Malfatti left unexpectedly in March 1972.

4.2.4 Sicco Mansholt – Commission President from 22 March 1972 to 5 January 1973

Sicco Mansholt’s period as Commission President can be argued to constitute ‘a break’ with the Commission as an actor adjusting following the empty chair crisis. To an extent, the period of Mansholt’s Presidency can be seen as a return to the rhetoric of the first Commission. This is explained by the fact that Mansholt was one of the founding fathers of

⁴¹³ European Parliamentary Research Service. *From Hallstein To Prodi – Statements of Presidents Of the European Commission Before The European Parliament*, retrieved on 7 September 2015 from http://www.europarl.europa.eu/EPRS/PE0_AP_DE1970_DE19700708-030010FR.pdf: 23. My inclusion in brackets.

⁴¹⁴ Ibid.

⁴¹⁵ AEI, Remarks on [current issues] by Franco Maria Malfatti, at a luncheon of the Overseas Writers Club. Washington, DC, 8 April, 1971. Retrieved on 07 November 2011 from <http://aei.pitt.edu/13755/>.

the EEC/EC, part of the first Commission and the Commissioner responsible for the policy area, the CAP, over which the empty chair crisis had occurred.

It can be argued that Mansholt had been ‘too political’ for the Commission as an institution to handle ever since the empty chair crisis, in addition to the abovementioned incident of 1968, where Rey nearly denounced him in front of the angered French Foreign Minister Débre. During the empty chair crisis, Mansholt stated publicly that the failure of the Common Market would be “the biggest disaster since Hitler”.⁴¹⁶ The Commission was forced to take issue with this:

*The Commission considers that under the present circumstances, it would be wise to avoid public statements that might make it more difficult for the Commission to play the role it normally has to play in the interests of the Community itself.*⁴¹⁷

It has been noted of Mansholt’s role in the empty chair crisis that he suffered a major defeat, and that in part this was due to his confrontational style. He and the Commission might have fared better in 1965 if he had applied a “different, more cautious approach”, but this was not in his, or indeed in the first Commission’s nature.⁴¹⁸

As Mansholt’s Presidency was interim and only lasted nine months, the effects on the Commission as an adjusting actor were limited. But were Mansholt’s nine months of President of the Commission merely those of a ‘lame duck’?⁴¹⁹ It can be argued that they were, but also that the Mansholt period represented the ‘last throes’ of the influence of the first Commission. Prior to becoming the Commission’s President, Mansholt had been critical of EPC as it was initiated and established. As established in Chapter 3, Mansholt’s voice was not formative in the debate over the Commission’s response to EPC in 1971. His Presidency has been evaluated as being more ambitious and active than Malfatti’s, but also as characterised by ill-timed initiatives and flawed by his “hobby horse of development policy”.⁴²⁰

Mansholt’s first speech before the EP on the 19 of April 1972 was much less optimistic than Malfatti’s two years previously. Mansholt referred to the developments taking place between the EC Member States outside the Treaty, such as the creation of EPC and summitry, as

⁴¹⁶ van Merriënboer 2011: 475.

⁴¹⁷ Com (65)PV326 final 2e partie (19 July 1965) quoted in van Merriënboer 2011: 475.

⁴¹⁸ van Merriënboer 2011: 487.

⁴¹⁹ TNA, PREM 15/886, Brief for the Prime Minister’s Talk with Dr. Mansholt, 5 October, 1972.

⁴²⁰ TNA, PREM 15/886, Telegram, Call by the President of the Commission of the European Communities on the Prime Minister, Sunday 8 October, 3 October 1972.

having negative implications for the EC and the Commission.⁴²¹ Echoing Hallstein and Spinelli, Mansholt claimed that these challenges and problems for the Community and the Commission would only be solved by new institutions.⁴²² This federalist-like call for institution building was also accompanied by functionalist reasoning on the process of political unification. Mansholt ended on a more cautious note that was more in line with the adjusting Commissions of Rey and Malfatti than Hallstein's:

*Starting from an economic union, we will have to work for political cooperation. I would like to talk about a political community. Of course one has to realise that this will not happen in one go. It will proceed in stages. This is a dynamic process. One should be aware of taking on too much.*⁴²³

But, there were still visible elements of the first generation Commission as Mansholt lashed out on how the EC was hampered by the development after the Luxembourg Compromise and the 'rule' of unanimity that followed. Regardless of the development of the EC following the crisis, Mansholt still seemed convinced of the political finality of the EC and of the Commission's role in making this happen.⁴²⁴

Mansholt was critical of the development of EPC. He saw it as a clear challenge and demanded inclusion. Mansholt identified problems of procedure ensuing if EPC was to be seen as part of the progress towards political union: who would be in charge of such a union, what would it deal with and whom would it affect? Mansholt emphasised that the Commission intended to be associated with the discussions regarding a political union.⁴²⁵ Whatever the organisation, institutions and bodies created in the future, they should be created to work with the existing Community.⁴²⁶ These various economic and political components of a political union were inseparable for Mansholt, as they had been for Rey and Malfatti, and again the Treaty of Rome was used to legitimate the Commission's association with EPC.⁴²⁷

⁴²¹ European Parliamentary Research Service. *From Hallstein To Prodi – Statements of Presidents Of the European Commission Before The European Parliament*, retrieved on 7 September 2015 from http://www.europarl.europa.eu/EPRS/PE0_AP_DE!1972_DE19720419-030010FR.pdf.

⁴²² Ibid:107.

⁴²³ Ibid: 106. My translation from the French.

⁴²⁴ Ibid.

⁴²⁵ Ibid.

⁴²⁶ Ibid.

⁴²⁷ Ibid.

“The Mansholt jolt” has been used as a catchphrase for Mansholt’s time as President.⁴²⁸ In his first press conference he used critical language towards the Community, the Commission and (in effect) EPC: the EC was “sick” if it needed a hundred hours of meetings to reach a decision, the Paris Summit was needed as the Council of Ministers was to “feeble” to make important decisions, and contrary to French wishes there should be no EPC political secretariat in Paris.⁴²⁹ The press concluded that with Mansholt as President, the post-Hallstein period of a “weak and meek” Commission was now clearly over.⁴³⁰

What effect did the ‘return’ of Mansholt’s limited Presidency have on the perceived adjustment of the Commission? In the Commission’s relationship with EPC, it served as a spark to reignite the conflict in which the Commission was seen as a nuisance. This explains the British plea to the Ortolí Commission that followed:

It will be helpful if M. Ortolí can ensure that the Commission takes a sensible line. In the past the old Commission, by trying to get it’s [sic] oar in on all subjects where it could possibly be argued that there was any degree of Community competence, may have contributed to the differences between the French and other member states. We hope that this problem can now be resolved.⁴³¹

This plea sums up the conflicted relationship between the Commission and the Member States, France in particular. If the Commission ‘just behaved’ and did not cause any problems, EPC would function more efficiently.

4.2.5 François-Xavier Ortolí – Commission President from 6 January 1973 to 5 January 1977

There were certain expectations of Ortolí as Commission President, both because he followed the ‘rhetorical jolt’ of Mansholt as President and because he was the first French Commission President. He was expected to take “a sensible line”, which he did by returning the Commission to an adjusted line of behaviour like Rey and Malfatti had before him.⁴³² The fact that he was French, might be a reason why Ortolí had “never been thought of as one of

⁴²⁸ Van Merriënboer2011:547.

⁴²⁹ Ibid: 546.

⁴³⁰ Ibid: 547.

⁴³¹ TNA, FCO 30/2000, Briefs for the Secretary of State’s talks with M Ortolí, 22 February, 1973; TNA, FCO 30/2002, Telegram, Ortolí’s visit to Chequers, 19 September 1973.

⁴³² TNA, FCO 30/2002, Telegram, Ortolí’s visit to Chequers, 19 September 1973.

the ‘fathers’ of Europe, and yet he was one of the main players in the putting into practice of the European idea’.⁴³³

Ortoli took on a different role as the Commission President than Mansholt had. The continuance of the pragmatism that had characterised Malfatti’s period was visible, and Ortoli took the adjustment of the Commission even further in this direction. Compared to his predecessors, Ortoli represented a compromise between the supranational and the intergovernmental, as “[h]e was not a militant supporter of the European cause [which hints at other Commission Presidents who had been], but that he was indeed a supporter was never in doubt.”⁴³⁴ The quote highlights that since he was the first French Commission President, his ‘Europeanness’ was indeed doubted, but it also shows that he represented what amounted to a new character of the Commission: that of a mediator and forger of compromises.

When Ortoli first spoke before the EP on 16 January, and again on 13 February 1973, the return to a more cautious Commission was evident. Compared to Mansholt’s speech, in which Mansholt was detailed and committed to specificities such as development policy, Ortoli was more declaratory and general and much less detailed. His aims regarding the political direction of the Commission were thus more vague. Ortoli stated that the Commission was not only a technocratic organ, but “by necessity and by nature an institution whose role is a political one.”⁴³⁵ As evidence of this role, Ortoli mentioned the power of initiative and institutional dialogue between the Commission and the EP, but the more pragmatic aspect of his Presidency came out in the conclusion, where he said:

*(...) the Commission is very ambitious for Europe. (...) passionately committed. We know what our responsibility is and we wish to exercise it to the full. This is why this Continent, with its own aspirations, can stand as something great which is, I repeat, not only an economic entity but something which goes much further. (...) At the same time, the political will of the States came out very clearly at the Summit.*⁴³⁶

According to Ortoli, the Commission should perform its role in accordance with the Treaty and not interpret it expansively, and the Commission needed to be wary of national interests

⁴³³ Bussière, Éric. “François-Xavier Ortoli: a vision marked by permanence and change” in Eric Bussière, V. Dujardin, M. Dumoulin, P. Ludlow, J.W. Brouwer and P. Tilly (eds.). *The European Commission 1973-86, History and Memories of an Institution*, Luxembourg: Publication Office of the European Union, 2014: 71.

⁴³⁴ Bussière 2014:71, my additions in square brackets. See also Badel, Laurence and Éric Bussière. *François-Xavier Ortoli – L’Europe, quel numéro de téléphone ?* Paris: Descartes & Cie, 2011: 122.

⁴³⁵ European Parliamentary Research Service. *From Hallstein To Prodi – Statements of Presidents Of the European Commission Before The European Parliament*, retrieved on 7 September 2015 from http://www.europarl.europa.eu/EPRS/PE0_AP_DE/1972_DE19730116-010020EN.pdf :6.

⁴³⁶ Ibid :7.

as they were expressed in the Summit. Without expressly highlighting the Commission's role in these developments, Ortoli mentioned the direction of the development in European integration, pointing to the emergence of a European identity:

*If a European identity is to emerge, Europe's place in the world must first be defined. Then Europe must be given a form of organization, a structure, which, through the interplay of economic, monetary, social, industrial, regional and other policies, would put it on the road towards irreversible union.*⁴³⁷

The failure to position the Commission as leading these developments can be interpreted as a lack of leadership ambition, or as a more pragmatic approach to reaching the same ends. Regarding the Community's external relations, Ortoli stated that it should assume responsibilities commensurate with its weight in the world. Enlargement, which was the defining element of Ortoli's period as President, gave a new dimension, both in economic and political terms, to the definition and conduct of the Community's international relations:

*The Community itself is, of its very nature, a dynamic force and this, together with the Community achievements which cement together the Europe of the Nine, should enable it to make an original contribution, through dialogue and negotiation, to the establishment of a new international economic order.*⁴³⁸

Ortoli emphasised that as the programmes, technical details, and policies were many, it was difficult to make people understand that such vitally important work sometimes lacked lustre. "Alas, very often the impression people have of our joint endeavours is not one of imagination, boldness or political will, even though they are the underlying inspiration."⁴³⁹

Ortoli came to be seen as a 'Member States' man', a new characteristic for a Commission President. Evidence for this characteristic can be found in Ortoli's discussions with the British on how to proceed with EMU in close and confidential cooperation with the three major Member States of the UK, France and Germany.⁴⁴⁰ In this conversation, Ortoli suggested leaving out the rest of the Commission, even using terms such as "rats" to characterise his colleagues in the Commission, thus revealing a completely new set of tactics. However, as

⁴³⁷European Parliamentary Research Service. *From Hallstein To Prodi – Statements of Presidents Of the European Commission Before The European Parliament*, retrieved on 7 September 2015 from http://www.europarl.europa.eu/EPRS/PE0_AP_DE/1972_DE/19730213-020010EN.pdf: 61.

⁴³⁸ Ibid: 61.

⁴³⁹ Ibid: 67.

⁴⁴⁰ TNA, FCO 30/2002, Telegram, Follow-up of Ortoli visit, 21 September, 1973.

this can be seen as mere camouflage, the defining keyword was definitely still that of adjustment, as Ortolí preached the Commission's skill of "continuous flexibility".⁴⁴¹

Ortolí's period defined the Commission as a mediator and a *go-between* to ensure compromise between existing and formulated national interests without forcing its own views on the European interest. This echoes Dahrendorf's argument that the Commission needed to recognise that the European interest should not be something that had to hurt to be good, but rather that it constituted an aggregate of national interests in which each got his own, securing forward movement in European integration. Did this approach mean that only crumbs were left for the Commission as a political actor? Contemporary press cuttings support this view of a pragmatic and influential mediator, as Ortolí had "shown a political flair by forging compromises between the nine governments on vital issues and inserting himself as an informal go-between among Europe's top statesmen".⁴⁴²

Ortolí was described as having "high managerial skills" and acting as a "roving peacemaker".⁴⁴³ These were skills in a Commission President that suited the EC Member States, especially France and the UK, just fine. In acting as a go-between by subduing its own interpretation of the European interest and by forging compromises between the Member States, the Commission ended up with a more manageable political role.

One aspect that would come to define the Commission from this period onwards was the influx of 'national'-oriented Commission members, as Commissioners now catered to the national interests of their state of origin more than had been the case previously.⁴⁴⁴ Enlargement might be an explanatory factor here. The new Member States, such as the UK, merit special mention in this respect, not least due to the fact that Sir Christopher Soames, one out of the UK's two Commissioners and responsible for the external relations in the Commission, kept close connections with home.⁴⁴⁵

This characteristic of Ortolí's Presidency was also seen in the manner in which he involved himself in EPC; an EPC meeting in Copenhagen of September 1973 proved a particularly

⁴⁴¹ Ibid.

⁴⁴² HAEU, FXO-184, "Common Market's Mediator", undated presscutting from the New York Times, 1973.

⁴⁴³ Ibid.

⁴⁴⁴ The fact that even Commissioners of the First generation Commission held close ties to their national governments have been explored by other scholars, see for instance Van Merriënboer 2011: 378-380 and Bitsch, Marie Thérèse. "The College of Commissioners: a new type of public authority" Dumoulin, Michel (ed.). *The European Commission 1958-72, History and Memories of an Institution*, Luxembourg: Publication Office of the European Union, 2014: 186.

⁴⁴⁵ TNA, PREM 15/1498, Letter, Proposed Meeting between the Prime Minister and the two British Commissioners, 29 August, 1973.

encouraging one, not least because of “the constructive and moderate role that Ortolí himself had played in it.”⁴⁴⁶ The following analysis in Chapter 5 will highlight how this particular EPC meeting was important for the Commission’s role in the case of the CSCE, and how Ortolí played a part in this. The Commission’s more tangible entrance into EPC by 1973 can thus be argued to have been characterised by the preceding process of adjustment in the Commission, which had now earned the descriptions constructive and moderate, and was no longer seen as a supranational obstacle driven by illusions.

⁴⁴⁶ TNA, FCO 30/2002, Telegram, Ortolí’s visit to Chequers, 19 September 1973.

5. A relentless pragmatist – the Commission and the Conference on Security and Cooperation in Europe

This chapter establishes how the Commission acquired a role in the Conference on Security and Co-operation in Europe.⁴⁴⁷ The fact that the Eastern Bloc was not ready to recognise the EC was not the main problem encountered by the Commission in its attempt to include both the EC and itself in the CSCE. The real challenge was how to reach agreement within the Europeans' own machineries of the EC and EPC.

The CSCE opened in Helsinki on 3 July 1973 and continued in Geneva from 18 September 1973 to 21 July 1975. The conference was concluded in Helsinki on 1 August 1975 by the signing of its Final Act by 35 states.⁴⁴⁸ According to the European Council, the Nine's performance at the CSCE was a "shining example of constructive cooperation."⁴⁴⁹ This acclaimed unity among the Member States and the European Community concealed considerable internal division between the Member States and the Commission, however. The Commission fought for the interests of the EC and its own interests in the CSCE until the very last days before the signing of the CSCE's Final Act. The subject of the 'unity of the Europeans' at the CSCE has been intensively studied, but the aspects of tension between the EC and the EPC spheres in the CSCE have largely been paid little attention.⁴⁵⁰

The chapter's main argument is that it was the Commission's pragmatic ability to balance the demands of the Treaty with the opposition of the Member States, forging acceptable

⁴⁴⁷ This chapter focuses solely on the contents of one of the CSCE's three dimensions or baskets, the second basket of cooperation in the fields of economics, science and of the environment, which was relevant for the EC and the Commission. The CSCE's second basket, in which the EC and the Commission came to play a role, comprised five sub-committees of commercial exchanges, industrial cooperation, science and technology, the environment, and other areas, such as transport and migrant labour. The chapter will not delve into the more comprehensive subject matters of détente and the more political, security- and military-related issues of the CSCE's first and third basket.

⁴⁴⁸ The signatories to the CSCE's Final Act were Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America and Yugoslavia. The Helsinki Final Act of 1 August 1975 was retrieved on 20 June 2015 from <http://www.osce.org/mc/39501?download=true>.

⁴⁴⁹ The European Council's declaration of 16-17 July and Aldo Moro's statement are both found in AEI, Bulletin of the European Communities, no. 7/8, 1975: 8-9, retrieved on 7 September 2015 from <http://aei.pitt.edu/57734/1/BUL132.pdf>.

⁴⁵⁰ Möckli 2009; Romano 2009.

compromises, that resulted in a role for the Commission. This role entailed both the inclusion of the EC in the CSCE and the participation of the Commission as the EC's representative. The chapter tracks how the Commission managed to acquire this role by participating in the national delegation of the country holding the Presidency of the EC and EPC. It was thus able to contribute actively on behalf of the EC and protected the Community's interests in the CSCE. Aldo Moro signed the CSCE's Final Act in his dual capacity as Italian Foreign Minister and on behalf of the EC. The chapter tracks how the Commission shaped the Moro declaration made when signing the CSCE's Final Act. This declaration underlined the importance of integration and the EC's participation in the CSCE. The Moro declaration successfully merged the two spheres of the EC and the EPC, as both machineries had contributed to its formulation.

5.1 The Conference on Security and Co-operation in Europe – a test case for the Member States' commitment to the EC

Prior to EPC's existence, the Commission had emphasised that political integration had to facilitate détente and cooperation between East and West.⁴⁵¹ The initiative for a pan-European conference on security emanated from the Warsaw Pact, and was accepted by NATO in December 1969.⁴⁵² Thus, as EPC was launched, the potential for such a conference had already been tabled and needed to be considered by the nine Member States. In the declaration from the 1969 Hague Summit at which EPC was initiated, Europe's division into East and West and international détente were expressly mentioned.⁴⁵³

From the beginning, the initiative to form the CSCE was a case where the Six were resolved to work together within the newly formed context of EPC. The potential for détente was taken up in the first EPC meeting in November 1970, which had the planned Conference on European Security as one of its main issues.⁴⁵⁴ Economically, it was important for the EC that national trade policies towards the countries of Eastern Europe had been allowed to continue,

⁴⁵¹ AEI, Declaration by the Commission on the occasion of the achievement of the Customs Union on 1 July 1968, reproduced from the Bulletin of the European Communities No.7-1968, retrieved on 7 September 2015 from <http://aei.pitt.edu/54226/1/BUL079.pdf>.

⁴⁵² Romano 2009: 258; North Atlantic Council Brussels 4th-5th December 1969 Final Communiqué: <http://www.nato.int/docu/comm/49-95/c691204a.htm>

⁴⁵³ AEI, Communiqué from The Hague Summit, reproduced from Bulletin of the EC no.1, 1970, point 4: 12, retrieved on 7 September, 2015 from http://aei.pitt.edu/1451/1/hague_1969.pdf.

⁴⁵⁴ Several important factors have been emphasised to explain why the CSCE became first test case for EPC; it was an opportunity to evolve a distinctively European policy. As Germany remained divided, West Germany was at this point anxious to make its *Ostpolitik* multilateral. See Nuttall 1992: 6, 58; TNA, FCO 30/569, telegram from Paris to the Foreign and Commonwealth Office, 20 November 1970.

but, as specified by the Treaty of Rome's timetable, powers over trade policy would be transferred to the EC on 31 December 1972.⁴⁵⁵ As a result, the Commission represented by President Malfatti was present for the relatively short session (of one hour) that dealt with the Community matters the proposed Conference would have an effect on.⁴⁵⁶ From the very beginning, the EPC Member States thus acknowledged that there would have to be some sort of relationship and inclusion of the EC in the CSCE. However, this acknowledgement did not remove the potential for conflict over how, when and by whom such a relationship between EPC and the EC in the case of the CSCE would be formed, and how it would function.

The conflict over EC and Commission participation in the CSCE epitomised the traditional lines of division between EPC and EC, where France continued to oppose any movement of the EC sphere that brought it closer to the EPC sphere. In addition, there was an external element to the conflict over EC and Commission participation in the CSCE. The Soviet Union and the Communist Eastern European countries did not recognise the EC, and from the beginning France in particular argued that this would be an obstacle to the inclusion of the EC in the CSCE. Commission President Malfatti raised the issue of the participation of the EC and the Commission in any form of European Security Conference in the first EPC meeting, which was met with

*(...) moderately welcoming noises by the Five: only France had expressed reservations (...) Malfatti's proposal had considerable political implications. It was not clear that the presence of a Commission representative would be welcome to the eastern countries or to the Soviet Union. It might, therefore, prove a complicating factor in the preparatory work before any conference.*⁴⁵⁷

Introduced in the first EPC meeting in November 1970, the preparation for the CSCE was to take up more or less the all EPC capacity for the next two years.⁴⁵⁸ The first CSCE question the Member States approached that included the Commission was how to devise a link between the EC and EPC. The EPC representatives proposed establishing an EPC "sub-group" for this purpose, which would be made up of Commission representatives and other experts and be subordinate to the EPC sub-committee for the CSCE, which the Commission would *not* participate in. The Commission responded to this with mild protest, which

⁴⁵⁵ Nuttall 1992: 56-57.

⁴⁵⁶ TNA, FCO 30/569, European Political Unification, the Munich meeting of the Six, 20 November 1970; Nuttall 1992: 58

⁴⁵⁷ TNA, FCO 30/569, European Political Unification, the Munich meeting of the Six, 20 November 1970.

⁴⁵⁸ HAEU, KM-47, untitled note dated 8 November, 1972, I believe the author of this note to be Klaus Meyer.

achieved results and as such is evidence of the pragmatic approach the Commission was to take in the case of the CSCE.

Emile Noël noted in a letter to the French Political Director Jacques de Beaumarchais that attempting to limit the Commission's presence in EPC work on the planned CSCE to "a simple sub-group" would cause problems.⁴⁵⁹ The pragmatic solution suggested by the Commission and agreed to by de Beaumarchais was simply to change the name of the group to either an "ad hoc group" or a "special group", thus making its hierarchical status more neutral.⁴⁶⁰ And thus the Commission made its first non-offensive footprint in EPC work on the CSCE. The resulting *ad hoc* Group became the first link between the EC and EPC, which provided for the Commission's entry through its representatives from the Secretariat-General. Admittedly, the Commission had wanted to be represented on the Political Committee and the CSCE sub-committee for all Community matters, but the solution of the *ad hoc* Group was acceptable to both Member States and the Commission. In time, the *ad hoc* Group would increase its importance as it and the EPC sub-committee for the CSCE grew closer together.⁴⁶¹

The creation of the *ad hoc* Group meant that the Commission was included in the EPC's preparation for the CSCE to a certain extent, and it then turned its attention to how it could contribute. The Commission's approach to EPC work on the CSCE was to frame the CSCE as a test case for the Member States' commitment to the European Community. Early drafts from the Commission's preparation for the CSCE reveal its initial stance and ideal solutions.⁴⁶² From the beginning, the crystal-clear demand was that the EC be included as a participant in the CSCE, or else that aspects touching the EC's competences and spheres be left out of the conference agenda altogether.⁴⁶³

The point of departure for the Commission's deliberations over a Conference was that the area of economic cooperation held great promise for improving the relationship between East and West. Economic cooperation could thus prove vital for the Conference's wider goals of détente and cooperation. It could also work towards ending what the Commission labelled the

⁴⁵⁹ HAEU, EN-86, Letter, Emile Noël to de Beaumarchais, 26 May, 1971; Bitcsh 2014: 141.

⁴⁶⁰ HAEU, EN-86, Letter, Emile Noël to de Beaumarchais, 26 May, 1971; HAEU, EN-86, Letter, de Beaumarchais to Emile Noël, 30 June, 1971.

⁴⁶¹ Nuttall 1992: 63.

⁴⁶² HAEC, BAC 3/1974, 28, SEC (71) 2361, Problèmes de la Conférence sur la Sécurité et la Coopération en Europe – Initiatives possibles des Communautés Européennes, 19 July 1971.

⁴⁶³ Ibid; TNA, PREM 15/866, Note on Mansholt's visit to the Prime Minister at Chequers, 9 October, 1972.

“abnormal situation” of the Eastern Bloc not recognising the EC. Regardless of this situation, there were already several areas of contact between the Eastern Bloc and the Western Europeans, and these areas also involved the Commission.⁴⁶⁴ For instance, there were technical agreements between the EC and several of the countries making up the Eastern Bloc as well as co-existence on several international arenas.⁴⁶⁵

The Commission highlighted the EC’s Common Commercial Policy as an area that most definitely lay within the EC sphere. In the Commission’s view, if or when aspects touching these EC competences under the CCP were included in the CSCE, the participation of the EC would be a given. The Commission emphasised the potential of EC participation in terms of facilitating economic cooperation. The Commission also claimed that the inclusion of the EC could render the Conference more efficient. It argued that the formula for ‘success’ that the Commission had provided for the EC’s framework by successfully harmonising diverging views between the EC’s Member States could and should be used in the CSCE.⁴⁶⁶ This transfer of the “Community experience” would be beneficial for the efficiency of the position of the European Member States in the Conference, and indeed for the Conference’s overall efficiency.⁴⁶⁷

The Commission argued that the CSCE was a case where the Member States had to defend their EC creation or face the consequences. Failing to do so could potentially harm the EC’s progress and aims of political unification.⁴⁶⁸ The Member States had to stand firm in their defence of the EC and its legitimate right to participate in the CSCE. In a period during which the Community was expanding and growing stronger, the CSCE would serve as a test to prove the Member States’ commitment to the integration project in the face of external opposition.⁴⁶⁹

Initially the Commission argued that only some of the issues to be treated at the Conference necessitated the EC’s participation. It accepted that other areas (Basket 1 and 3 of the CSCE) would not require EC participation.⁴⁷⁰ In the final phase of the CSCE, however, the Commission also turned its interest towards the effects of the entire scope of the CSCE on

⁴⁶⁴ HAEC, BAC 3/1974, 28, SEC (71) 2361, Problèmes de la Conférence sur la Sécurité et la Coopération en Europe – Initiatives possibles des Communautés Européennes, 19 July 1971.

⁴⁶⁵ Ibid: 4.

⁴⁶⁶ Ibid.

⁴⁶⁷ Ibid.

⁴⁶⁸ Ibid.

⁴⁶⁹ Ibid: 3.

⁴⁷⁰ Ibid.

European unification, all baskets included.⁴⁷¹ The Commission argued that where the EC's competences were directly affected by the aspects raised by the CSCE, the Community should be involved at all levels by way of the existing Community procedure. In the Commission's view, there should be no need to modify the EC's existence or mode of work to comply with demands, neither from its own Member States nor external actors such as the Eastern Bloc.⁴⁷²

The Commission would work to ensure that the first steps taken by the Member States in EPC constituted a thorough examination of the aspects falling under the EC's competences.⁴⁷³ Aiming to protect the EC, the Commission insisted that aspects under the EC's competence in the CSCE should be dealt with by both EPC and Community institutions in a manner respecting the rules laid down by the Treaty.⁴⁷⁴ The Commission presented itself as providing the most competent link between EPC and the EC by assisting its Member States in forming their political direction for the CSCE.⁴⁷⁵ It offered its expertise in order to clarify and facilitate the Member States' EPC discussions.⁴⁷⁶ The Commission presented its role of linking the EC to the EPC as 'natural' in the CSCE case, given the expertise it already held as a result of its work within the EC and the role it held in the existing relationship (albeit limited) between the EC and the Eastern Bloc.

As the first priority of the Commission was to facilitate the EC's inclusion in the CSCE, the question of whether this inclusion necessitated the Commission's presence was not expressly stated in the early draft, although it was implied.⁴⁷⁷ The Commission adopted a long-term approach to the CSCE. In demanding that the commitment of the Member States to the EC be made visible, the Commission stated that the principle of a Community presence and participation in the CSCE also would have to be extended to any aftermath of the Conference. The Commission highlighted the need for the EC's presence in any committees, sub-groups or studies launched by the Conference. It also emphasised the need to improve the EC's present and future standing in the international arena.⁴⁷⁸

⁴⁷¹ HAEU, KM-50, Note, Réunion ministérielle du 14 et 15 février à Bonn – C.S.C.E, 12 February, 1974.

⁴⁷² HAEC, BAC 3/1974, 28, SEC (71) 2361, Problèmes de la Conférence sur la Sécurité et la Coopération en Europe – Initiatives possibles des Communautés Européennes, 19 July 1971: 4.

⁴⁷³ Ibid 4.

⁴⁷⁴ Ibid.

⁴⁷⁵ Ibid.

⁴⁷⁶ Ibid.

⁴⁷⁷ Ibid: 5. This implication is evident in a handwritten note in the document: «Pour ces sujets communautaires, seule la Communauté comme telle devrait prendre la parole à la Conférence » underlining *seule la Communauté* and in the margin the word *Commission* _ ? is noted.

⁴⁷⁸ Ibid: 5.

The differentiation between the EC and the Comecon constituted another element in the Commission's approach to the CSCE.⁴⁷⁹ A speech given in 1970 by the Commissioner for external relations and trade, Ralph Dahrendorf, provides evidence of how the Commission foresaw the possibility that the EC might become aligned to the Comecon.⁴⁸⁰ The Commission distinguished the EC from the Comecon, insisting upon the fact that it considered both the EC and itself to be completely different and much more comprehensive than Comecon in every relevant aspect.⁴⁸¹ The reason why expressing this distinction was important for the Commission was the possibility that both the EC and the Comecon would be labelled 'international organisations' and as such be excluded from the CSCE, which was to be concluded between nation states solely. Another reason was the possibility that pushing for EC inclusion would lead to the Eastern Bloc demanding equal participation for the Comecon. Although the Commission was determined in its demands on the EC's behalf, it was also cautious, and not blind to the fact that pushing for EC participation might lead to retaliatory pushing from the other side. If the result was a strengthened Comecon, this might have the adverse effect of imposing less room for manoeuvre in the external sphere than had been the case before the CSCE on the Eastern Bloc. However, the Commission was clear on the fact that such negative effects would not be the result solely of demanding EC participation in the CSCE, but of a far more complex situation.

The Commission's approach developed gradually. The Commission's initial and rather doctrinal formulation, stating that in the CSCE, "on Community matters only the Community as such can take the word", was adjusted.⁴⁸² A more moderate and pragmatic formulation entered into a later draft of the EC's contribution to EPC work on the CSCE, stating that the procedure for participation by the Community "will be set at the appropriate time", creating

⁴⁷⁹ Comecon or the Council for Mutual Economic Assistance (CMEA) was an economic organization led by the Soviet Union from 1949 to 1991. The Comecon comprised the countries of the Eastern Bloc along with other socialist states.

⁴⁸⁰ AEI, *Europe's emerging role in world politics. An address by Ralf Dahrendorf, Member of the Commission of the European Communities, at the Conference on the Relations of the North Atlantic Nations at the University of North Carolina. Chapel Hill, NC, 14 October 1970*. Retrieved on 20 June 2015 from <http://aei.pitt.edu/14169/1/S69.pdf>.

⁴⁸¹ Ibid. Dahrendorf expressed his respects for the Eastern European countries as partners, but highlighted that this partnership would not be extended to the COMECON, and at the same time, he postulated that the formal recognition by the Soviet Union of the EC only was a matter of time. Contrary to COMECON, the Commission was not to be considered a secretariat of an international organisation, and not dominated by one superpower.

⁴⁸² HAEC, BAC 3/1974, 28, SEC (71) 2361, *Problèmes de la Conférence sur la Sécurité et la Coopération en Europe – Initiatives possibles des Communautés Européennes*, 19 July 1971: 5.

room for negotiation.⁴⁸³ The essence of the Commission's approach remained, however, that the Community had to participate in the CSCE on all EC matters, not only because of the legal obligations under the Treaty of Rome, but also to render the Member States' integration policy convincing and credible.⁴⁸⁴ The Commission's approach of framing the CSCE as a test case for the EC Member States thus continued to develop.

5.2 Legitimizing the case for the Community in the Conference on Security and Co-operation in Europe

The Commission developed a distinct way of legitimising its approach. Pragmatically and deliberately, it also chose to legitimate EC participation by other texts than the Treaty, such as EPC reports and the Declaration from the Paris Summit.⁴⁸⁵ In addition, the Commission worked in a deliberately non-offensive manner devised not to provoke any reactions from the Member States.⁴⁸⁶ The process of planning the CSCE coincided chronologically with the planning of the EC's Summit, which was to take place in Paris in October 1972. The Commission argued that the EC had a legitimate right to participate in the Summit, in EPC and in the CSCE.⁴⁸⁷ The Commission perceived these three arenas as parts that could eventually form a common foreign policy that would include "economic as well as political considerations of general concern to the Community and thus to the Commission."⁴⁸⁸ Prior to the Paris Summit, Commission President Mansholt claimed that the Commission contribution had the potential to form the basis for a common EC position in the CSCE.⁴⁸⁹

Following the Paris Summit and as the CSCE's Multilateral Preparatory Talks (MPT) were about to begin, the Commission went beyond the Treaty, basing the claim for EC participation in the Conference on texts formulated by the Member States outside the Community structure. In the Commission's view, these texts could and indeed should be used to legitimate the EC and the Commission's participation in the CSCE.⁴⁹⁰ The Commission even reached for legitimization within EPC itself: a report by the Political Committee of 3 October 1972 stated

⁴⁸³ HAEU, EN-1996, SEC (72) 3304, Conférence sur la sécurité et la coopération en Europe – proposition pour une position des Communautés Européennes (Communication de la Commission au Conseil), 26 April, 1972, my translation from the French.

⁴⁸⁴ Ibid.

⁴⁸⁵ HAEU, KM -47, Letter Klaus Meyer to Van Der Valk, 25 October, 1972.

⁴⁸⁶ TNA, FCO 30/1220, Telegram, Preparations for the European Summit and Political Consultation, 25 February, 1972; HAEU KM-47, Letter Klaus Meyer to Palmer, 17 October, 1972.

⁴⁸⁷ The Paris Summit is discussed in this thesis' chapter 3.

⁴⁸⁸ TNA, FCO 30/1220, Telegram, Preparations for the European Summit and Political Consultation, 25 February, 1972.

⁴⁸⁹ TNA, PREM 15/866, Note on Mansholt's visit to the Prime Minister at Chequers, 9 October, 1972.

⁴⁹⁰ HAEU, KM -47, Letter Klaus Meyer to Van Der Valk, 25 October, 1972.

that if Community matters were to be raised during the MPT phase of the CSCE, they would be discussed by the representative of the Member State holding the Presidency of the EC Council.⁴⁹¹ The need to maintain a coordinated position and to reserve for the Community the role it required would continue during the MPT and in the conference itself. The coordination would be performed on the initiative of the Presidency and with Commission participation whenever points were raised that were unanimously deemed Community matters by the Member States.⁴⁹²

The Commission also used point 13 of the Paris Summit Declaration to legitimise the EC's right to participate in the planned CSCE:

13. In order to promote détente in Europe, the Conference reaffirmed its determination to follow a common commercial policy towards the countries of Eastern Europe with effect from 1 January, 1973; Member States declared their determination to promote a policy of co-operation, founded on reciprocity, with these countries.

This policy of co-operation is, at the present stage, closely linked with the preparation and progress of the Conference on Security and Co-operation in Europe to which the enlarged Community and its Member States are called upon to make a concerted and constructive contribution.⁴⁹³

I argue that in applying the EPC Report alongside the Summit Declaration, Klaus Meyer and the Commission tried to offer an acceptable compromise for the manner in which the EC and the Commission could contribute to the CSCE. The Commission's attempt to both make a compromise between national and European interests but also secure participation for the EC and the Commission in the CSCE shows the Commission making deliberate pragmatic choices. The Commission interpreted these texts as concessions made by the Member States conferring the legitimate right to participate in the CSCE upon the EC. Based on these concessions, the Commission thus found it "natural" that the Member States should publicly announce EC participation in the CSCE MPT, as well as indicate the areas of the Conference in which the EC should play a role.⁴⁹⁴

By October 1972, the Commission was more satisfied with the manner in which it was included in the CSCE than it was with the general relationship between the EC and EPC. In

⁴⁹¹ Ibid.

⁴⁹² Ibid.

⁴⁹³ AEI, Bulletin of the European Communities, No.10, 1972, retrieved on 7 September 2015 from http://aei.pitt.edu/1919/2/paris_1972_communique.pdf.

⁴⁹⁴ HAEU, KM -47, Letter Klaus Meyer to Van Der Valk, 25 October, 1972.

the case of the CSCE, Mansholt was quite direct in his characterisation, using the CSCE as a case in point for how the Commission should be included:

*(...) the Commission is not satisfied and cannot be satisfied with trailing the movement of political cooperation between the Member States. It must also intervene and bring in the required procedure whenever the Community as such is at stake. I am pleased to record that the Council of Foreign Ministers has always enabled the Commission to do this as is the case for instance over the Conference on European Security and Cooperation.*⁴⁹⁵

I argue that the Commission could not afford to take what it had achieved in the case of the CSCE for granted; it needed to keep on fighting to ensure that this would always be the case and that such a relationship would become permanent between EPC and the EC in general.

While the Commission had clearly established what it viewed as the EC's legitimate claim for representation in the CSCE, a distinct manner in which it made good this claim was also evident. Two examples serve to illustrate this. The first example was when the Commission was praised by the British in February 1972 for not "dramatizing" the Commission's situation and pleas for inclusion. This implies that "drama" on the Commission's part could have been expected to an extent. At the same time, a form of strategy can be deduced from this: instead of "dramatizing" non-inclusion at the risk of open conflict with "certain members of the Community" (that is, France) and the eventual conflict between Member States that might arise as a result, the Commission employed a "variety of ways of making its views known and of influencing discussion (...) without making unnecessary trouble."⁴⁹⁶ The Commission stated that it was not arguing for inclusion for its own sake; the concern was that the Community should organise itself in such a way that it could take decisions and act as a community and not simply as a group of individual nations in all appropriate fields. To the extent that the Commission had a responsibility to work towards this end, it was felt that it could also claim the right to be associated as closely as possible with the necessary discussions and consultations.⁴⁹⁷

The second example also reflects that the Commission's overarching aim was the EC's participation in the CSCE, and that it made sure to portray its own role in the CSCE as secondary. Just as the MPT phase of the CSCE was about to begin, the Commission was accused of behaving along more 'traditional' lines, meddling and pushing for inclusion just

⁴⁹⁵ AEI, Bulletin of the European Communities, No.11, 1972, retrieved on 7 September 2015 from http://aei.pitt.edu/1919/3/Paris_1972_speeches.pdf: 62.

⁴⁹⁶ TNA, FCO 30/1220, Telegram, Preparations for the European Summit and Political Consultation, 25 February, 1972.

⁴⁹⁷ Ibid.

for inclusion's sake, and catering to formalistic and prestige-related considerations.⁴⁹⁸ Klaus Meyer defended the Commission by claiming that this was certainly not the case; rather, the Commission held politically legitimate concerns in the CSCE. In addition, he highlighted the Commission's intentions to express these concerns in a discreet and low-key manner.⁴⁹⁹ These two illustrations serve as evidence of the Commission's pragmatism, in an expressed form which shows the deliberation behind. They illustrate that at the time of the CSCE's beginnings, the Commission was perceived both in a traditional, dogmatic, and negative "old" manner and a pragmatic and positive "new" manner. They also provide evidence that the Commission wanted to be perceived as a valuable actor. According to Meyer, the elements that would make the EPC Member States want to include the Commission in the CSCE and in EPC would be its technical and economic expertise.⁵⁰⁰

5.3 Securing a place for the Community in the Conference on Security and Co-operation in Europe

The claim that the EC's and the Commission's participation in the CSCE had been "taken for granted" by February 1972 is refuted by the following analysis of the Commission's continuous effort to secure a role in the CSCE for the EC and itself.⁵⁰¹ The fact that the Commission participated in the EPC *ad hoc* group on the CSCE and met in the EPC Political Committee meetings when Community matters were discussed in no way ended the Commission's struggle for a closer, formal association of the EC and the Commission with EPC work on the CSCE. As the (MPT) of the CSCE were about to begin on 22 November 1972, the Commission continued its work on getting the EC "in". By which formula could the EC be represented within the CSCE, as it was neither a state, nor a recognised actor that the Soviet Union would negotiate with? In the literature on the CSCE, the events of 1973 have more often than not been presented as both start and endpoint of the discussion and establishment of both the EC and the Commission in the CSCE.⁵⁰² This analysis shows that a more nuanced picture appears if the period is extended, and the motives for and the results of the Commission's approach and actions become apparent.

⁴⁹⁸ HAEU KM-47, Letter Klaus Meyer to Palmer, 17 October, 1972.

⁴⁹⁹ Ibid.

⁵⁰⁰ HAEU, KM-26, Vermerk für Herrn Präsident Mansholt und Herrn Professor Dahrendorf, 26 October, 1972.

⁵⁰¹ Bitsch 2014: 141.

⁵⁰² See for instance Möckli 2009: 134, and Gäinar, 2012. Nuttall (1992:6) argues that the case of the CSCE "set the pattern of work for the EPC", and that the discussions on the Conference played an important part in the CSCE's outcome, and that, contrary to French opposition and intentions, it required the association of the Community in the "shape of the Commission".

The EPC Member States valued the Commission's contribution to keeping the Nine's position coordinated from early on. This led to an indirect invitation to include a Community representative in the CSCE preparatory talks, even though this individual would not formally be attached to any delegation represented in the MPT.⁵⁰³ This came at a price for the Member States, however; the Commission's inclusion brought the EC and EPC closer together. As a result of the EPC members' invitation, on 5 January 1973 the Commission decided to send Maurice Schaeffer to the MPT in Helsinki as a representative of the Commission.⁵⁰⁴ This decision was based on the EPC (FM) meeting in The Hague of 21 November 1972, at which the Ministers stated that "the presence of a representative of the Community in Helsinki would be desirable."⁵⁰⁵

By January 1973, the Commission was thus somewhat reassured that the EC's interests would be protected by referring to prior EPC statements.⁵⁰⁶ Although satisfactory in theory, two challenges still kept the Commission on guard. The first was that the inclusion of the Community would be up to a unanimous decision by the Member States, which meant that the power of defining Community competence lay in their hands.⁵⁰⁷ The second, related challenge was the lack of certainty of a defined and formalised role, if any, for the Commission, who as the guardian of the Treaty considered itself the most prominent judge of what came under Community competence.

Thus the Commission took it upon itself to define what it viewed as coming under the Community competence, and as this definition was wide and expansionist, it shows the ambitions the Commission held for the EC. The Commission's saw the Community's competences that would be touched by the CSCE as falling into three categories. The first category encompassed issues already defined by the Treaty as Community policy, for instance the CCP. The second, more complex category included areas where the Community's and the Member States' competences were mixed, and the third and even more complex category was

⁵⁰³ HAEU, KM-48, La Conférence sur la Sécurité et le Développement en Europe, 5 January, 1973.

⁵⁰⁴ HAEU, KM-48, Note à l'attention de la direction général du personnel et de l'administration, 10 January, 1973. Maurice Schaeffer, French. Schaeffer had previously worked in Barre's Cabinet with economic and financial affairs.

⁵⁰⁵ Ibid.

⁵⁰⁶ Ibid.

⁵⁰⁷ Ibid.

the policy areas envisaged for the future of the EC in the Paris Summit.⁵⁰⁸ Here, the Commission was on the offensive.⁵⁰⁹

However, when it came to considering its own role the Commission proved more pragmatic and less offensive than in the question of the definition of the Community's competences. It sympathised with the fact that the Commission's participation could cause problems with the East, and expressed its acceptance that non-participation of the Commission in the MPT was likely.⁵¹⁰ However, it remained adamant in its claim that when the inclusion of the EC as such was secured, there had to be a place for the Commission in the work concerning Community matters.

The Commission interpreted the call for a Community representative to attend the MPT as an offer to instate an appropriate relationship between EPC and the Commission; it simply assumed that what EPC defined as "a representative of the European Community" would equal a representative of the Commission for both Member States and the Commission. This was not questioned by the Member States.⁵¹¹ The Commission considered this moment in the preparatory phase for the CSCE to be opportune for sending a Commission representative, as the preliminary discussion up until then had covered mostly general questions concerning the Conference's design; as of yet, there had been no reason for the Nine or the Commission to call for the use of the 'Community's voice' that would be expressed by the Member State holding the Presidency of the Council.⁵¹²

Thus the Commission responded pragmatically in sending Schaeffer to Helsinki and not pushing for more at that time. It used this as 'leeway' and entered the CSCE by invitation, not by 'force', even though its participation remained indirect and only half-formalised, using the argumentation of a test case for the EC. This is illustrated by Klaus Meyer's emphasis on how

*The representative of the Commission is not allowed, at least for the moment, to participate in the Conference itself, it is essentially an effort by personal relationships that Mr. Schaeffer will try to obtain the information necessary to conduct his mission.*⁵¹³

In Meyer's view, Schaeffer would provide an indispensable link between the Member States and the Community machinery in Brussels.⁵¹⁴ Schaeffer was selected due to his expertise:

⁵⁰⁸ Ibid.

⁵⁰⁹ HAEC, BAC 51/1988, 462, JUR/1776/73, Prochains travaux dans le cadre de la CSCE, 19 July 1973.

⁵¹⁰ HAEU, KM-48, La Conférence sur la Sécurité et le Développement en Europe, 5 January, 1973.

⁵¹¹ Ibid.

⁵¹² Ibid.

⁵¹³ HAEU, KM-48, Note à l'attention de la direction général du personnel et de l'administration, 10 January, 1973. My emphasis and translation from the French.

fifteen years in the Commission with first-hand knowledge of all aspects of the “European construction”. He was described by Meyer as someone with concrete experience of the EC’s problems, which seemed “essential for the accomplishment of a mission where a lot of flexibility and pragmatism will certainly be needed.”⁵¹⁵ During Schaeffer’s first days in Helsinki, he met with all of the Member States’ delegations. He also participated in a European coordination meeting, which meant that the Commission’s representative was *de facto* included, albeit without a formal role.⁵¹⁶

Nevertheless, the Member States’ intention of keeping the EC separate to EPC was not satisfactory in the Commission’s view.⁵¹⁷ Based on the non-existent, or at least hesitant movement forward in discussions, Klaus Meyer asked the Belgian Presidency in an EPC Political Committee meeting on 16 January 1973 what the Presidency’s intentions were concerning the division of work between EPC and the Community.⁵¹⁸ The answer was that the CSCE workload would remain within EPC at least for the ongoing preparatory phase to avoid confusion. Meyer accepted Davignon’s answer, but the situation was not considered satisfactory, so while it had managed to secure a foot in the door, the Commission still wanted more.⁵¹⁹

The Commission’s first priority was to find acceptable formulas for the EC’s inclusion in the CSCE; its second priority was to devise a formula for the Commission’s own participation in the CSCE. Here, the Commission flagged suggestions of its ideal solutions alongside suggestions that would be acceptable for the Member States.⁵²⁰ In doing so, it acted in line with its pragmatic approach to the CSCE and EPC, and at the same time managed to highlight the Commission’s treaty-based claims as stated by the Commission’s Legal Service without spurring further conflict.⁵²¹ The Commission demanded an “adequate status” for the Commission in the CSCE, which was in line with the primary aim of securing a place for the

⁵¹⁴ HAEU, KM-48, Letter from Klaus Meyer to Ambassador J. van der Meulen, 10 January, 1973. Here Klaus Meyer presented Schaeffer for COREPER’s president, Belgian ambassador van der Meulen and asked him to introduce Schaeffer to the ambassador’s colleagues in order for Schaeffer to be invited and facilitate his tasks.

⁵¹⁵ Ibid. My emphasis and translation from the French.

⁵¹⁶ HAEU, KM-48, Réunion du Comité Davignon le 16. 1. 1973, 17 January, 1973.

⁵¹⁷ Ibid.

⁵¹⁸ Ibid.

⁵¹⁹ Ibid.

⁵²⁰ HAEU, KM-48, Présence de la Communauté lors de la Conférence de Sécurité. 26 January, 1973; HAEU, KM-48, Annexed to Présence de la Communauté lors de la Conférence de Sécurité: Présence de la Communauté à la Conférence sur la Sécurité européenne, 16 January, 1973.

⁵²¹ HAEC, BAC 51/1988, 462, JUR/1776/73, Prochains travaux dans le cadre de la CSCE, 19 July 1973.

EC.⁵²² The Commission argued that acceptable solutions existed and that there were precedents for formulas for participation, for instance in the UN's ECOSOC, and if EC participation was acceptable in the UN, it should be acceptable in the CSCE.⁵²³

The Commission's approach 'matured' quite rapidly in the early period of 1973. Klaus Meyer and Emile Noël of the SG proved vital in this process, as they balanced the more offensive approach of the Commission's Legal Service with the opposition of the Member States in their work in the SG and EPC. In a note to the Commission President written during a pause in the MPT between 9 and 27 February, Klaus Meyer stated that the EC and the Commission's participation now needed to be settled.⁵²⁴ To that end, the EPC Political Committee invited the Commission's view on the subject. At this point, the Commission had given up upon its most favoured and ideal solution, namely that the EC would participate alongside and with approximately the same status as a state with its own delegation. Two alternative formulas remained. The first was that for the areas under Community competences, the EC should be represented by a Community delegation composed of the President of the Council and the President of the Commission, with where one of them by internal agreement would declare the Community's view.⁵²⁵

As it was likely that suggesting this formula would cause conflict, Klaus Meyer also provided a *pro-et-con* list for these suggestions, and the *contras merit* particular notice. Klaus Meyer's and the Commission's arguments against this first alternative were threefold: first, debating this with the Member States would prove disagreeable and unpleasant. Certain Member States, France in particular, would probably refuse to endorse this using the formation of blocs as a pretext. The Commission's second concern was that the results of discussing this formula with the Eastern Bloc would be highly uncertain. If results were negative, this would harm the Commission's prestige. The third argument against this formula was the Commission's consideration of the possibility that it might lead to a demand for the Comecon to enter the CSCE in the same manner. Even though France had exaggerated the effects of

⁵²² HAEU, KM-48, Présence de la Communauté lors de la Conférence de Sécurité. 26 January, 1973; HAEU, KM-48, Annexed to Présence de la Communauté lors de la Conférence de Sécurité: Présence de la Communauté à la Conférence sur la Sécurité européenne, 16 January, 1973.

⁵²³ Ibid.

⁵²⁴ HAEU, KM-48, Conférence de Sécurité, 9 February, 1973.

⁵²⁵ Ibid.

this, it would be counter to the Commission's interest if demands for Comecon participation came as a result of a Commission proposal.⁵²⁶

For the first formula, the pros were also threefold. First, in a Community delegation the EC would be represented approximately as required by the Treaty, even though the Legal Service later objected that even this was too minimalist.⁵²⁷ The second argument was that as a Community delegation would be instated on the highest level of the CSCE, this should also be applicable on the lower levels, and would indeed give the Commission the role of speaking for the Community in all subsequent CSCE work and, importantly, in the realm of the EC's CCP. The third argument in favour was that this formula would contribute to the normalisation the relationship between the East and the EC.

The second formula, which was not ideal but still acceptable to the Commission, was that the declarations proposed in the name of the Community would be made by a representative of the Member State holding the Presidency of the Council, dropping the Commission's President, but still made expressly in the name of the EC. This formula could be applied on a unilateral basis, so that there would be no demands for agreement with the East, which would be necessary if the Commission was present.⁵²⁸

For this proposal, too, there was a *pro-et-con* list. At the top of the list in favour of this second alternative was the fact that this would evade any discussion with the Member States on the "role of the Commission" at the highest level of the CSCE. Traces of the Commission's non-offensive approach are also evident here. Second was the fact that this formula would require no agreement with the East. Third, it would give Comecon no ammunition for its demands, and fourth, it would enable the Commission to focus its work upon facilitating the negotiations between the Nine to forge common positions.⁵²⁹ As a reason against the second alternative, the Commission argued that if this formula were followed it would be applied on all levels, and the Commission would thus find itself excluded from the entire Conference, including for elements relevant to the EC's CCP. This alternative would thus go against the Treaty. As such, following this formula would set a very visible and dangerous precedent for the external representation of the Community, to the extent that the Commission would risk

⁵²⁶ Ibid.

⁵²⁷ HAEC, BAC 51/1988, 462, JUR/1776/73, Prochains travaux dans le cadre de la CSCE, 19 July 1973.

⁵²⁸ HAEU, KM-48, Conférence de Sécurité, 9 February, 1973.

⁵²⁹ Ibid.

exclusion in in the EC sphere from what by now seemed a set external role for the Commission.⁵³⁰

While the Commission accepted the second alternative, which the EPC meeting of Foreign Ministers had already spoken in favour of, it now turned its energy to combat some of the potentially detrimental effects of this formula. The Commission had contributed to finding an acceptable solution for the inclusion of the EC in the CSCE, but continued to demand Commission presence to keep this inclusion in line with the Treaty.⁵³¹ In a Political Committee meeting in March 1973, an exchange between the Commission's representative Emile Noël and the French Political Director François Puaux was illustrative of the Commission's approach.⁵³² This discussion is also a good example of how the Commission participated in the EPC Political Committee. It engaged in discussions and presented its views alongside and in opposition to the Member States, which gives evidence of the Commission making use of the EPC Political Committee as a place where the EC and the EPC machineries met.

In this meeting, the discussion focused on the formula for EC inclusion in the CSCE. The Commission differentiated between what it saw as an acceptable formula for the MPT and a formula for the following phases of the CSCE, including whether or not a declaration would be made expressly in the name of the EC.⁵³³ France continued to oppose the Commission, claiming that the formula adopted for the MPT was sufficient and no changes or even new deliberations were necessary. This discussion shows both the continuing French opposition, the relentless manner in which the Commission still pursued this issue, as well as the Commission's continuing pragmatism in not wanting to enter into a 'full-blown' confrontation over this. The French Political Director opposed the Commission's proposal of a declaration made in the name of the Community during the upcoming first phase of the CSCE, claiming that it would only provoke a reaction on the part of the Soviet Union to the effect that it would call for the participation of the Comecon.⁵³⁴ The French also claimed that it was unnecessary to take up the question of which formula the Community's participation in the CSCE would follow yet again, as the formula in which the EC's presence would be stated by the country holding the EC Presidency had already been decided by the Ministers in

⁵³⁰ Ibid.

⁵³¹ HAEU, KM-48, Note en vue des prochains travaux du Comité Politique, 13 February, 1973.

⁵³² François Puaux. French. Political Director 1972-1974.

⁵³³ HAEU, KM-48, Letter from Klaus Meyer to Raeymaeckers, 8 March, 1973.

⁵³⁴ HAEU, KM-48, Réunion du Comité politique le 15.3 1973, 15 March, 1973.

November 1972. The Italian Political Director objected to the first point in line with the Commission's view: it was unlikely that actions on the part of the Nine declaring the Community's interest in the CSCE would tip the scales and reinforce the status of the Comecon.

Emile Noël first protested that the Commission had been excluded from the examination of this question, contrary to the EPC Political Committee's express decision, as its note of 13 February had been discussed in the CSCE subgroup and not the CSCE *ad hoc* group. For the Commission, it was important to emphasise that a potential declaration made in the name of the EC would not state merely that the Community existed and that it held certain competences. The declaration would rather emphasise the EC's contribution in the CSCE as stated in the Paris Summit's Declaration point 13, in order to build constructive relationships between East and West. In the Commission's view, a simple declaration of procedure would thus not be sufficient, as this would correspond neither with political reality nor the political role of the EC.⁵³⁵ As for the potential for provoking calls for Comecon participation, the Commission, while not dismissing this potential, urged for political courage on the part of the Member States. Their commitment to the EC demanded that they should not be silent or refrain from mentioning the existence of the Community for fear of the consequences.

On the question of representation, the Commission argued that the Community should be represented as outlined in the Treaty's articles 113 and 228. This would mean that for some sessions the Nine would act as the EC as such and that the EC would speak with one voice: the Commission's. The Commission had already accepted that the EC would not speak with the Commission's voice on the highest level of the CSCE. By doing so, the Commission had removed the aspect of potential calls for Comecon participation used as a pretext by the French. In the following work in the CSCE's sub-committees, however, the Commission demanded that the formula of Community representation through the Commission as its single voice should apply in order to conform to the Treaty.⁵³⁶

Launching yet another French pretext for not including the Commission, Political Director Puaux retorted that this work in the CSCE would not include negotiations, which were explicitly mentioned in the Treaty's Articles 113 and 228, but simply discussions to define new directions within the economic relations between the East and the West. Noël responded

⁵³⁵ Ibid; HAEC, BAC 51/1988, 462, JUR/1776/73, Prochains travaux dans le cadre de la CSCE, 19 July 1973.

⁵³⁶ HAEU, KM-48, Réunion du Comité politique le 15.3 1973, 15 March, 1973.

that the Community procedures were not limited to negotiations, but also, by interpreting the Treaty more extensively, applicable in exploratory conversations and preparatory talks, and thus the entire remit of the CSCE.⁵³⁷ As the Commission was the Guardian of the Treaty, in its interpretation the Community must be represented as such with the Commission as its spokesman. This continued insistence angered the EPC Member States, not only the French.⁵³⁸ The result was a compromise: for the CSCE MPT phase, the second alternative of a declaration made on behalf of the Community by the representative of the Member State holding the EC Presidency was chosen, while the matter of the formulas for the following phases of the CSCE was postponed to be agreed later.⁵³⁹

As a result of this compromise, on 7 June 1973, in the last days of the preparations for the CSCE, the very first declaration on behalf of the Community establishing the EC's legitimate involvement in the CSCE was made by the Belgian Representative in Helsinki:

*The draft mandate for the Economic Committee embraces matters which come under the EEC's [sic] jurisdiction to which belong the nine countries sharing in the preliminary discussion proceedings of the Conference. The Community will be involved according to its authority and both the negotiation procedure itself and the possible outcome will hinge on the Community agreement.*⁵⁴⁰

Although the compromise that constituted this Belgian declaration had been agreed upon, the French still voiced their discontent and continuous opposition to interference between the EPC and the EC spheres, stating that no one could or should "speak on behalf of Europe".⁵⁴¹ As such, French opposition continued and even though the declaration was made, the EC's position in relation to EPC and the CSCE continued to be less than certain. This shows that the French approach was becoming increasingly reluctant, as France initially had agreed to the Belgian declaration but later continued to complain. Nevertheless, this declaration marked the beginning of the EC's participation in the CSCE. Admittedly, the role for the Commission in the CSCE was still pending a decision.

The chosen formula for including the EC in the CSCE reappeared in the opening statements of the first phase of the CSCE conference in Helsinki on the 3 July 1973 where, following the

⁵³⁷ Ibid.

⁵³⁸ Möckli 2009: 137 notes how even the British were aggravated by this.

⁵³⁹ HAEU, KM-48, Réunion du Comité politique le 15.3 1973, 15 March, 1973.

⁵⁴⁰ AEI, Bulletin of the European Communities, no. 7/8- 1973, retrieved on 7 September 2015 from <http://aei.pitt.edu/56421/1/BUL100.pdf>: 95.

⁵⁴¹ Ibid. Jobert, the French Foreign Minister, was interviewed by *Der Spiegel* on 11 June 1973 and said: "As things are at present nobody has the right to speak for Europe. (...) When one or the other of them [the German Chancellor or French President] speaks of European problems he makes it abundantly clear that he is doing so as a European. But nobody does so on behalf of Europe." My additions in brackets.

institutionalised change of presidency every six months, Denmark now held the Presidency. On behalf of the Community, the Danish Foreign Minister and Chairman of the Council declared:

As was indicated by the Belgian delegate at the end of the preliminary multinational discussions, the draft mandate for the economic Committee comprises subjects which are within the competence of the European Economic Community, to which nine of the States taking part in this conference belong. This relates more especially to questions of trade, in relation to which the Community conducts a common policy.

These nine States have therefore also examined the mandate in relation to trade matters in their capacities as members of the European Economic Community. I am in a position to confirm the agreement regarding this mandate in the name of the Community.

At the same time, I wish to draw the attention of participants to the fact that, depending on the subjects concerned, the Community may be implicated as such in the future work of the conference, in conformity with its own procedures and competences; and that the possible results flowing from negotiations on these subjects will depend on agreement with the Community.

I would also recall the intention of the Community and its member States, expressed by the heads of State or government of these States, at the conference held in Paris last October, to make a concerted and constructive contribution to the conduct of the conference.⁵⁴²

5.4 Fighting to gain entrance for the Commission in the Conference on Security and Co-operation in Europe

The question of the Commission's status in the CSCE resurfaced with full force after 3 July 1973. The Commission's stance was by now formulated in a manner conducive to compromise with the Member States. The second phase of the Conference, in which several diverse Committees and sub-committees would begin their work on preparing the final documents for the Conference, was about to begin in September 1973. The work in these sub-committees would touch on areas within Community competence as a result of their mandate. It was recognised early on that this was particularly the case for the sub-committee of "Commercial exchanges". Here EC competence was most evident due to the EC's CCP. This was also where the Commission's efforts on applying a Community procedure had been focused, although it never excluded that the same could be applicable for other sub-committees of the CSCE.

The Commission was satisfied with what it already had achieved in the declarations in the name of the EC at the CSCE. This flexible method of the Nine acting both as nation-states but

⁵⁴² AEI, Bulletin of the European Communities, no. 6- 1973, retrieved on 7 September 2015 from <http://aei.pitt.edu/57089/1/BUL101.pdf>: 18.

also able to “transform into the EC” when necessary had multiple advantages and should be retained for the future in the Commission’s view.⁵⁴³ However, in the case of the CSCE areas that touched on the CCP, the Commission demanded that a Community procedure be applied. This would require a representative of the Commission participating in the work of the CSCE’s sub-committee “Commercial exchanges”, able to intervene in the name of the Community.⁵⁴⁴ The Commission’s insistence on this had angered and continued to anger the Member States, and an acceptable solution needed to be found.

How could the Commission’s representative, who was not formally included in the CSCE as a participant, take the floor in the Conference? A balance needed to be struck between what the Commission viewed as acceptable in line with the Treaty and a solution acceptable to the Member States, some of whom continued to have misgivings concerning the Commission’s inclusion and feared reactions from the Eastern Bloc. The Commission justified its demands by claiming that its approach would facilitate a normalisation of the relationship between the EC and the Eastern Bloc/Soviet Union. In the Commission’s view, since no participants in the CSCE had objected to the Belgian or Danish statement on the legitimate involvement of the EC based on the competences it held, this would be a safe road to take.

Accordingly, the Commission outlined a practical solution where the Commission’s representative could be present at the discussion table of the sub-committee “Commercial exchanges”. The Commission’s representative should be seated next to the Member State representative holding the Presidency of the Council. When the Commission had something to say for the Community, the delegate of the state holding the Presidency would announce that the Commission’s representative would speak on behalf of the Community. This formula was accepted; the national delegation holding the EC Presidency spoke, briefly introduced the subject, and invited the Commission’s representative to speak, who provided for the substance.⁵⁴⁵ This solution respected the Treaty provisions on Community procedures for negotiations, particularly Article 113, which covered the possibility of the Commission intervening as the spokesperson for the Community. Thus the question of whether or not the

⁵⁴³ HAEU, KM-48, Procédure communautaire lors de la 2eme phase de la Conférence sur la sécurité en Europe, 12 July, 1973.

⁵⁴⁴ Ibid.

⁵⁴⁵ Găinar 2012: 280.

Commission would be included was settled, although the issue of exactly how this could be managed remained.⁵⁴⁶

The decision on the Commission's presence was taken by the EPC meeting of Foreign Ministers on 10-11 September 1973. As already mentioned in Chapter 4, Commission President Ortoli played a decisive role in this meeting in devising the final solution that was in line with the Commission's stated interest.⁵⁴⁷ When it came to the case of Community competences, the Member States, referring to the Danish statement of 3 July 1973, judged the participation of a representative of the Commission in the meetings of the CSCE's second basket to be appropriate. This participation was particularly important for but not limited to the sub-committee on "Commercial exchange".⁵⁴⁸

The solution that proved acceptable for both the Commission and the Member States and that rendered potential repercussions from the Eastern Bloc unlikely was that of including the Commission's representatives in the delegation list of the country holding the Presidency. The Commission representatives would thus be able to express Community viewpoints insofar as Community powers and procedures required it. These provisions were also officially recognised by the Council of the Communities and quickly applied in the CSCE's work in Geneva.⁵⁴⁹ And so the meticulous, detailed and difficult work in the CSCE's sub-committees could begin with the EC participating through the Commission.⁵⁵⁰

The other parties to the CSCE duly accepted this formula and it did not lead to increased demands for Comecon participation.⁵⁵¹ However, what Klaus Meyer referred to as a small "guerre des nerfs" took place.⁵⁵² When the Danish representatives were questioned about the list of representatives in its national delegation that were not Danish but from the

⁵⁴⁶ HAEU, KM-48, SEC (73) 3280, Présence de la Commission pendant la 2ème phase de la Conférence pour la Sécurité et la Coopération en Europe, 13 September, 1973.

⁵⁴⁷ Ibid; Nuttall 1992: 110-111.

⁵⁴⁸ HAEU, KM-48, SEC (73) 3280, Présence de la Commission pendant la 2ème phase de la Conférence pour la Sécurité et la Coopération en Europe, 13 September, 1973.

⁵⁴⁹ Ibid.

⁵⁵⁰ HAEU, KM-85, Ordre du jour de la 272e reunion de la Commission – point 8 coopération politique, 12 November 1973; Găinar 2012: 283-4.

⁵⁵¹ Möckli refers to this as a case where the Eastern delegations initially denied the Commission the right to take the floor at the CSCE but then accepted it, Möckli 2009: 137; based on Meyer's account I argue that the formula of Commission participation in national delegations was questioned/challenged rather than denied outright by the Eastern states.

⁵⁵² HAEU, KM-50, C.S.C.E. – 2ème phase, 14 February, 1974. Questions also arose concerning why representatives of the subsequent German Presidency spoke in such a curious dialect that was hard to understand, referring to the Commission representative Ubaldo Zito, who intervened in the sub-committee of environment in Italian.

Commission, they defended the Commission and the EC.⁵⁵³ This was very much to the Commission's satisfaction and serves as evidence that the framing of the CSCE as a test case for the commitment of the Member States to the EC had very much succeeded in spite of initial and to a certain degree continuing opposition from the French. This is seen not least in the unproblematic manner in which the Commission's representatives became part of the French delegation when the French held the Presidency in the second half of 1974.⁵⁵⁴

And thus the more detailed work of the CSCE's second phase commenced, with the explicit presence of the Commission defended by its Member States. Both the Commission itself and the Member States saw the workings of the formula positively as it increased the coordination between the Nine and strengthened the EC.⁵⁵⁵ Soon after the decisions of September 1973 and the start of the second phase of the CSCE, the Commission had come to see its own presence in the CSCE meetings as just like that of any other delegate; interventions made by the Commission's representatives on behalf of the Community were commonplace and happened "every day".⁵⁵⁶

In addition, the Commission was satisfied as the formula for sub-committee "Commercial exchanges" also expanded to other sub-committees.⁵⁵⁷ This was positive for the Commission's wider aims of EPC participation, protecting the EC, linking the EC to EPC and shaping EPC, and presents evidence of two aspects. The Commission's attempts to be included had worked in practice, and in addition the Member States saw the usefulness of the Commission's expertise; it was thus included in other sub-committees and other EPC bodies it previously had been excluded from. The first time this happened was when the Commission representative spoke in the "Environment" sub-committee.⁵⁵⁸ Klaus Meyer promptly and proudly remarked that the Commission now had had left the "ghetto of commercial policy" and expanded its scope to other policy areas in which it held expertise, speaking on behalf of the EC.⁵⁵⁹ In all the sub-committees where the Commission was represented, its

⁵⁵³ HAEU, KM-48, Deuxième phase de la CSCE à Genève, 2 October, 1973; also Găinar 2012: 280.

⁵⁵⁴ HAEU, KM-50, Note from Klaus Meyer to Jacques Andreany, Chef of the French Delegation, 28 June, 1974.

⁵⁵⁵ The Member States were positive, see Găinar 2012:281 and Nuttall 1992. The Commission was also positive, see HAEU, KM-85, Ordre du jour de la 272e reunion de la Commission – point 8 coopération politique, 12 November 1973.

⁵⁵⁶ HAEU, KM-85, Ordre du jour de la 272e reunion de la Commission – point 8 coopération politique, 12 November 1973; Găinar 2012: 280.

⁵⁵⁷ HAEU, KM-50, Letter Klaus Meyer to Lorigan, 19 December 1974; HAEU, KM-85, Ordre du jour de la 272e reunion de la Commission – point 8 coopération politique, 12 November.

⁵⁵⁸ HAEU, KM-86, Conférence de Sécurité – Conclusion du Comité Politique, 11 janvier 1974, 15 January, 1974.

⁵⁵⁹ Ibid.

representatives had spoken and contributed in a constructive manner by May 1974, except in the sub-committee of “Energy”, which in the Commission’s own view was regrettable.⁵⁶⁰

Nevertheless, by May 1974 the overall atmosphere in the Political Committee was not the best due to the overall status of the work on the CSCE, the EAD and the problems with the Americans. Klaus Meyer noted that EPC “discussions were long, muddy [*vaseuses*] and sometimes irritated.”⁵⁶¹ In contrast to this bleak picture of EPC in general, the work in the CSCE’s Second Basket was successful. To a certain degree this was facilitated by the contribution of the Commission and the Nine.⁵⁶² The success was so great that in May 1974, as work in the other CSCE areas neared total stagnation, a Commission representative to the CSCE remarked that if necessary, they could work a bit more slowly.⁵⁶³

5.5 Successfully protecting the Community – the Conference on Security and Co-operation in Europe’s Final Act

Despite the participation in the CSCE it had achieved by 1974 the Commission was relentless in its work at ‘keeping its foot in the door’, and never took its own presence or that of the EC for granted. This was seen not least as the Nine were about to begin examining the questions of the Final Act of the CSCE, finding an approach to the follow-up to the CSCE. The Commission continued to insist that both these elements were essential to the EC’s interest.

The Commission was proactive and showed its capability to plan long term both in the insertion of the EC in the CSCE’s Final Act and in its consideration of the implications the Conference’s “suites” might have.⁵⁶⁴ However, it did not manage to be formally included in EPC work on the CSCE’s ‘suites’. The Commission envisaged that the Community’s competences could change and encompass more than they already did, and that for this reason also the EC should be included in the Final Act.⁵⁶⁵ This is evidence of the Commission being pre-emptive rather than reactionary. In the Commission’s view, the EC as such had to mark

⁵⁶⁰ HAEU, KM-50, Letter Klaus Meyer to M. Van Miert, 21 May 1974; Nuttall 1992:112.

⁵⁶¹ HAEU, KM-86, Coopération Politique - Réunion des Directeurs politiques des 27 et 28 mai 1974 à Bonn, 29 May, 1974.

⁵⁶² Găinar 2012: 303-4.

⁵⁶³ HAEU, KM-86, Coopération Politique - Réunion des Directeurs politiques des 27 et 28 mai 1974 à Bonn, 29 May, 1974.

⁵⁶⁴ The Commission’s concerns for what might follow the CSCE had been evident and expressly stated ever since 1971, see for instance HAEC, BAC 3/1974, 28, SEC (71) 2361, Problèmes de la Conférence sur la Sécurité et la Coopération en Europe – Initiatives possibles des Communautés Européennes, 19 July 1971 and HAEU, KM-50, Réunion ministérielle du 14 et 15 février à Bonn – C.S.C.E, 12 February, 1974.

⁵⁶⁵ HAEU, KM-50, Document du travail, Document final de la CSCE (implications pour la Communauté Européenne), 13 May 1974; HAEU, KM-50, Insertion de la Communauté Européenne dans la phase finale de la CSCE, 16 December, 1974.

its agreement with the CSCE's conclusions that concerned the EC due to its competences in addition to its Member States participating in the Conference.⁵⁶⁶ For the Commission it was thus of the utmost importance that the Community was included expressly in the Final Act of the CSCE and not just by implication.⁵⁶⁷ If the Final Act only mentioned National States, this could create a gap in the rights and commitments that already came or would in future come under the Community's competences.⁵⁶⁸ Indeed, such an exclusion of the EC might lead to an impingement of the development of the EC, as external agreements could have an adverse effect on the EC and its relationship with its Member States in the future.⁵⁶⁹ In December 1974, the Commission continued to stress the importance of having the EC inserted in the final documents in an appropriate manner in order to safeguard the policy-specific aspects of the Common Commercial Policy that were also dealt with by the CSCE.⁵⁷⁰ In addition, the Commission wanted to safeguard the ongoing and (in the Commission's view) ever-expanding political unification of the EC.⁵⁷¹

The work on the 'suites' of the Conference was gathering momentum by March 1975. Klaus Meyer sought the Commission's inclusion in this ongoing work on the basis of the EC's interests:

*It will of course only be possible for the Commission to bring out properly all considerations relating to the Community and to slot them properly into the overall context given regular participation in the relevant deliberations of the Nine.*⁵⁷²

As had been the case before, the French continued to create problems for the Commission, more along the lines of dragging their feet than actually terminating the proposals. The Commission continued to fight the French and at this instance the Commission was supported by the Italians.⁵⁷³ The Commission's Klaus Meyer intervened in the EPC's Political Committee to make sure that the discussion on the 'suites' would take into account the pros and cons of the alternatives to the 'suites' presented for "European unification".⁵⁷⁴ In the Commission's view, by this point certain questions discussed in the First Basket could also

⁵⁶⁶ HAEU, KM-50, Document du travail, Document final de la CSCE (implications pour la Communauté Européenne), 13 May 1974.

⁵⁶⁷ Ibid.

⁵⁶⁸ HAEU, KM-50, Insertion de la Communauté Européenne dans la phase finale de la CSCE, 16 December, 1974.

⁵⁶⁹ Ibid.

⁵⁷⁰ Ibid.

⁵⁷¹ Ibid.

⁵⁷² HAEU, KM -51, Letter from Klaus Meyer to Mr. Bernhard McHugh, Head of the Irish Delegation, 6 March, 1975.

⁵⁷³ HAEU, KM-51, Note à l'attention de Monsieur de Margerie, 21 March, 1975.

⁵⁷⁴ HAEU, KM-51, Suites de la CSCE, 11 April, 1975.

have repercussions for the European unification and the creation of a European Union. As the Commission was not represented in these discussions, it leaned on the Italian Political Director in the Political Committee to make suggestions for some sort of a general ‘disclaimer’ for European unification.⁵⁷⁵

By May 1975, the discussions on the process of inserting the EC into the Final Act of the CSCE had been limited to “bits and pieces” in the EPC CSCE group and in COREPER, and following this slow progress, Meyer asserted that it would be useful for President Ortoli to emphasise this matter, which the Commission already had discussed at length with the EPC Foreign Ministers.⁵⁷⁶ This proved an efficient approach, and Meyer provided Ortoli with everything he needed for the argument and thus contributing to the final formulation of what became the first part of the Moro declaration.⁵⁷⁷ President Ortoli thus went on to reaffirm the Commission’s longstanding request for including the EC in the Final Act of the CSCE based on previous work done by the Commission in the EPC Foreign Ministers’ meeting.⁵⁷⁸

Ortoli focused particularly on the subject of the declaration to be made in the EC’s name by the representative of the Member State holding the EC Presidency. Although to Klaus Meyer’s surprise these points initially were approved without question by the Foreign Ministers, a second round of deliberations in which certain Member States stated their discontent was necessary. Meyer himself attributed the initial acceptance to “absent-mindedness and the absence of experts” in the meeting, and with good reason questioned whether this decision would stand.⁵⁷⁹ Notwithstanding these problems, in Moro’s declaration the Commission’s formulations were evident in three points: firstly and most importantly, a statement that the EC’s competences necessitated the Community’s acceptance of the final conclusions of the CSCE; this acceptance duly was given. Secondly, a clarification of the

⁵⁷⁵ HAEU, KM-51, Note à l’attention de Monsieur Groux, Conseiller juridique, 23 April, 1975.

⁵⁷⁶ HAEU, KM-50, Insertion de la Communauté Européenne dans la phase finale de la CSCE, 16 December, 1974; HAEU, KM-51, Insertion de la Communauté Européenne dans la phase finale de la CSCE, 13 January, 1975.

⁵⁷⁷ HAEU, KM-51, Réunion ministérielle 26 mai 1975 à Dublin, 26 May, 1975.

⁵⁷⁸ The four points that Ortoli made were : 1. That the Community also agreed to the contents of the Final Act; 2. A clarification that the term “Participating State” – applied to the EC as well; 3. A disclaimer – the Final Act could in no way affect/hinder the European integration; 4. This oral EC declaration should be annexed to the Helsinki Final Act.

The points are annexed to HAEU, KM-51, C.S.C.E. - Eléments pour le discours du Président en exercice, concernant la participation des Communautés à la C.S.C.E. et le disclaimer pour l’unification européenne, 6 June, 1975. For the Commission’s longstanding previous work for inclusion see HAEU, KM-50, Document du travail, Document final de la CSCE (implications pour la Communauté Européenne), 13 May 1974; HAEU, KM-50, Insertion de la Communauté Européenne dans la phase finale de la CSCE, 16 December; HAEU, KM-51, Insertion de la Communauté Européenne dans la phase finale de la CSCE, 13 January, 1975.

⁵⁷⁹ HAEU, KM-51, KSZE, 27 May, 1975.

term “Participating State”, which should also apply to the EC. Thirdly and lastly, the inclusion of a disclaimer that the CSCE’s Final Act in no way should hinder present or future European integration.⁵⁸⁰

The fact that some of the CSCE work had been moved to the Community machinery did not end the conflict between the EC and EPC completely, as Klaus Meyer noted on 7 July 1975 when agreement over the text of the declaration to be made in the EC’s name in the CSCE’s final phase finally was reached. Meyer had endured long and difficult negotiations over this, amounting to over 24 hours in total.⁵⁸¹ The Moro declaration formulated for the signing of the CSCE’s Final Act on 1 August 1975 consisted of two parts. The first part of the declaration was a statement of the EC’s agreement to the conclusions of the CSCE, which the double signature of Aldo Moro would represent. The second part of the declaration consisted of a ‘disclaimer’ made in order to protect the EC and future integration from the effects of the CSCE.

The Commission considered it “appropriate” that the work on the Final Act concerning the participation of the EC in the CSCE was treated in the EC machinery, as the EPC machinery held no jurisdiction over this area.⁵⁸² There are indications that certain EPC Member States were not satisfied with this; however, they had to go along with it and finally came to an agreement.⁵⁸³ Still, evidence of movement in EPC’s relationship towards the EC can be seen in the fact that the EPC Political Committee even went to the lengths of strengthening the formulations to protect the EC in the ‘disclaimer’ that formed the last part of the Moro declaration. Here the formulation on how the results of the CSCE changed from should “not affect” to “not impede” on European unification.⁵⁸⁴ The Commission had thus acted to influence the disclaimer also, although it was not formally included in the work concerning this area.⁵⁸⁵ In the end, the result was satisfactory to the Commission.⁵⁸⁶

⁵⁸⁰ HAEU, KM-51, C.S.C.E. - Eléments pour le discours du Président en exercice, concernant la participation des Communautés à la C.S.C.E. et le disclaimer pour l’unification européenne, 6 June, 1975.

⁵⁸¹ HAEU, KM-51, C.S.C.E. – Déclaration communautaire et signature de la Communauté de l’acte final, 7 July, 1975.

⁵⁸² HAEU, KM-51, C.S.C.E. - Eléments pour le discours du Président en exercice, concernant la participation des Communautés à la C.S.C.E. et le disclaimer pour l’unification européenne, 6 June, 1975.

⁵⁸³ Nuttall 1992: 114: “Much to the disgust of the Political Committee [... some of the discussions over the CSCE’s Final Act and the inclusion of the EC] had taken place mainly in the Council framework.” My addition in brackets.

⁵⁸⁴ HAEU, KM-51, C.S.C.E., 14 July, 1975.

⁵⁸⁵ In time, the Commission was included in the work of an EPC working group on the «suites of the CSCE», see HAEU, KM-51, SG (76) D/297, 13 January, 1976.

⁵⁸⁶ HAEU, KM-87, Note à l’attention de Monsieur Klein, Directeur à la DG 1, 17 November, 1975.

The declaration made by Aldo Moro upon signing the CSCE's Final Act on 1 August 1975 is an important piece of evidence of how the EC machinery succeeded in coming closer to the EPC machinery through the relentless work of the Commission. The Moro declaration consisted of formulations that bore the marks of Community institutions such as the Commission and COREPER, as well as of the EPC Political Committee. Nevertheless, opposition towards moving the EPC and the EC spheres closer together was not eliminated completely. By the time of the Moro declaration, however, this opposition had been reduced to mere foot dragging, and closer cooperation between the EC and EPC had been facilitated.

One feature that became evident was that the Commission's battle for EC and Commission inclusion in the CSCE amounted to a deliberate and pragmatic 'two-step' process. The Commission thus 'put first things first': it secured agreement for some form of inclusion, and then turned to hammering out the detailed formulas acceptable to all parties. In this work it is evident that the Commission's SG performed the difficult balancing act of keeping within the treaty-based provisions as insisted upon dogmatically by the Commission's own Legal Service, while at the same time pragmatically inserting acceptable versions of this into the Commission's discussions with the EPC Member States.

An explanation of the CSCE in terms of the Conference developing into a bureaucratic project can also be used to explain the successful work of the Commission.⁵⁸⁷ The main strengths and assets that the Commission could contribute to EPC were its administrative and technical expertise related to EC matters and its experience from the EC sphere of negotiating with the Member States and arriving at acceptable compromises. But here, too, personal experience and efforts must also be highlighted. The 'collective memory' of the European side resided in a few individuals from the Commission who worked with these cases throughout, unlike the national representatives. Here, the names of Noël and Meyer stand out as vital in resolving the Commission's claim for EC and Commission participation in the CSCE.

⁵⁸⁷ Möckli 2009: 134.

6. Finally bridging the divide? The Commission and the Euro-Arab Dialogue

This chapter establishes how the Commission successfully claimed a role for the EC in the Euro-Arab Dialogue (EAD) and managed to make the Dialogue a joint venture between the EC and EPC. The basis for this result was the expertise the Commission had gained through its treaty-based mandate and a range of previous EC initiatives. This expertise made the Commission's contribution to the functioning of the EAD extremely valuable, and the Commission became an important actor in the EAD as a result. This chapter's main argument is that in the case of the Euro-Arab Dialogue, the Commission managed to bridge the divide between the EC and EPC.

From its inception in December 1973, the EAD was a highly political initiative aimed at establishing comprehensive relations between the Nine and Arab states. Over time and as the result of external pressure from the US, the EAD became less political and turned into a regional dialogue between the Nine and the Arab region that consisted mostly of economic cooperation. Still, the EAD represented an unprecedented achievement of EPC. This was the first time the EPC Members had spoken with one voice about the Middle East on the international scene.⁵⁸⁸

By 1975, the Commission led the European delegation in two out of seven EAD Working Groups: trade and agricultural and rural development.⁵⁸⁹ The present chapter establishes how the Commission maintained a secure position for the European delegation in the EAD within the EPC formula, representing the EC on the highest level of the EAD side by side with the EPC Presidency representative. In addition to participating in the EAD and protecting the EC and its policies, the Commission also managed to shape the content and results of the EAD. By 1976, as the Commission co-chaired the first meeting on the EAD's highest level, the important role of the Commission in the EAD brought the EPC sphere closer to the EC sphere.

⁵⁸⁸ Găinar 2012: 214-215.

⁵⁸⁹ The European Commission, *Ninth general report on the activities of the European Communities in 1975*, published 1976, retrieved on 8 September 2015 from http://bookshop.europa.eu/isbin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en_GB/-/EUR/ViewPublication-Start?PublicationKey=CB0175073: 261 stating the EAD's seven Working Groups for industrialisation, basic infrastructure, agricultural and rural development, financial cooperation, trade, scientific and technological cooperation and cultural, labour and social questions.

6.1 The basis for the Commission's role in the Euro-Arab Dialogue – previous initiatives and expertise acquired in the Community sphere

Prior to the EAD, the Commission had established relations with the region that the EAD would encompass. These relations were based on balancing the two sides in the Middle East conflict, Israel and the Arabs.⁵⁹⁰ A commercial trade agreement had existed between the EEC and Israel since 1964.⁵⁹¹ The first initiative to establish formal relations between the Arab League and the Commission came from the Arab side as early as 1962.⁵⁹² Prior to this, most of the Arab League countries had been hostile towards the EEC and seen it as a Western “néo-colonialiste” instrument.⁵⁹³ Since 1962 however, the Arab League countries’ economic interests led them to shift to a more positive view, and the Arab League itself encouraged a change in its member states’ attitude towards the Community.⁵⁹⁴ During the 1960s the Commission had evaluated the Arab League, and by 1969 had concluded that the League constituted an international organisation which it was the Commission’s job to maintain relations with along the lines covered by the Rome Treaty’s Article 229.⁵⁹⁵

The basis for the role of the Commission in the EAD lay in its treaty-based mandate as established in Chapter two, as well as in the Commission’s previous work in the sphere of the EC, where it had initiated development aid, refugee aid, a comprehensive common policy towards the region of the Mediterranean and a common energy policy.

6.1.1 The Commission as an actor in Community development cooperation policy

Development and cooperation with third countries as a developing policy area fell under the Commission’s treaty-based competences, as it was characterised by commercial and economic ties between countries. As such, it was an area that, as it expanded, could offer the Commission a greater role in the EC’s external relations. The Commission played a vital role by initiating an EC development and cooperation policy in 1971 to replace the incoherent

⁵⁹⁰ HAEC, BAC 28/1980, 432, G(69) 160 Etablissement de relations officielles entre la Commission des Communautés Européennes et le Secrétariat Général de la ligue des états Arabes, 5 Septembre, 1969.

⁵⁹¹ Biscop, Sven. *From Common Interests to Joint Actions. The CFSP and Euro-Mediterranean Security*. PhD thesis University of Ghent, 2002:25-26.

⁵⁹² HAEC, BAC 28/1980, 432, G(69) 160 Etablissement de relations officielles entre la Commission des Communautés Européennes et le Secrétariat Général de la ligue des états Arabes, 5 Septembre, 1969. Following the adoption of the Alexandria Protocol in 1944, the Arab League was founded on 22 March 1945. It aimed to be a regional organisation of Arab states with a focus on developing the economy, resolving disputes and coordinating political aims.

⁵⁹³ Ibid.

⁵⁹⁴ Ibid.

⁵⁹⁵ Ibid.

development instruments that already were in use on the EC level.⁵⁹⁶ The regions of the Mediterranean and the Middle East among others were areas at which the EC's instruments for aid, development and cooperation would be directed.

Participants have emphasised that the Commission's role in the field of development policy was conventional in the sense that it held the right to launch initiatives, issued proposals and implemented the decisions made.⁵⁹⁷ The Commission's role was also entrepreneurial as it built the EC's development policy through perseverance and pragmatism, launching "intelligent and courageous initiatives at the politically opportune moment".⁵⁹⁸ The establishment of an EC development policy would, in the Commission's words, "enable the Community to shoulder its responsibilities with greater coherence and efficiency as a large economic entity with a political role to play".⁵⁹⁹ This resembles the Commission's approach to EPC.

Food aid was the first instance of Community aid that was not linked to specific countries. This food aid was related to the EC having signed the International Food Aid Convention (IFAC), which implied commitments on the part of the Community. This instrument facilitated aid to countries with which the EC had no cooperation agreements, as was the case for many of the countries in the region the EAD would encompass. The early Palestinian refugee aid and aid to Egypt before 1972 was founded on this instrument, and constituted an early instance of EPC reaching out to the Commission so it could contribute its expertise.⁶⁰⁰ This aid was based on the Deniau plan of May 1972.

6.1.2 Aid to Palestinian Refugees – The Deniau plan of May 1972

Through the existing development policy instrument of food aid, the EC began its aid to the Palestinians through the UNRWA (United Nations Relief and Work Agency for Palestine

⁵⁹⁶ AEI, European Commission, Memorandum on a Community Policy on Development Cooperation – Synoptic and programme for initial actions, 27 July, 1971 and 2 February, 1972, retrieved on 8 September 2015 from <http://aei.pitt.edu/35609/1/A1777.pdf>.

⁵⁹⁷ For instance by Dieter Frisch, who worked in DG Development from 1964 to 1977, and again as Director from 1982 to 1993.

⁵⁹⁸ Frisch, Dieter. *The European Union's development policy. A personal view of 50 years of Development Policy*, Policy Management Report 15, Maastricht: ECDPM, 2008, <http://ecdpm.org/wp-content/uploads/2013/10/PMR-15-European-Union-Development-Policy-International-cooperation-2008.pdf>: iv, viii, 52.

⁵⁹⁹ AEI, European Commission, Memorandum on a Community Policy on Development Cooperation – Synoptic and programme for initial actions, 27 July, 1971 and 2 February, 1972, retrieved on 8 September 2015 from <http://aei.pitt.edu/35609/1/A1777.pdf>: 11.

⁶⁰⁰ Frisch 2008: 5.

refugees in the near East) in 1971.⁶⁰¹ In November 1971, the EPC foreign ministers instructed the EPC Political Committee to continue the work on aiding Palestinian refugees. The Commission was asked to propose details on this issue.⁶⁰² Commissioner Jean-François Deniau presented the plan for the EPC Nine Foreign Ministers on 27 May 1972.⁶⁰³ Deniau aimed at a limited response, a plan that was “real, possible and useful”.⁶⁰⁴ The plan was meant to be neutral, and was not bound up with a political settlement of the Arab-Israeli conflict. The Deniau plan was seen as having “a symbolic impact in the humanitarian field, and would establish a Community presence.”⁶⁰⁵

Following Deniau’s presentation of the plan, the reactions of the EPC foreign ministers were related to the issues of how to finance the measures, whether this should be an EC or an EPC venture, and that these matters needed to be treated with care and the utmost discretion. More surprising was the fact that there were also calls for more comprehensive efforts, claiming that Deniau’s plan was not wide-ranging enough. Deniau was asked whether there were any proposals for a wider peace plan that the Ministers could discuss, more along the lines of previous proposals from Munich in November 1970.⁶⁰⁶ These calls for more comprehensive efforts are rather interesting, as there was nothing else to indicate that the Commission could or would be allowed to initiate peace plans for the Middle East at this time, a task quite far removed from the Commission’s role in EPC. Deniau pointed out that a more comprehensive approach would be dependent on a peace settlement and was thus not possible for the time being.⁶⁰⁷

The meeting settled without any objections that, with the help of the Commission, proposals for action on urgent aid should be presented by July 1972. The Luxembourg Presidency represented by foreign minister Gaston Thorn who led this meeting repeatedly emphasised discretion; nothing should be said either to the press or the public, EPC should “do good by stealth”.⁶⁰⁸ However, Deniau spoke to the press during a break in the meeting, revealing what had been discussed and thus breaching the EPC confidential code of conduct. This fuelled

⁶⁰¹ Biscop 2002: 113.

⁶⁰² TNA, FCO 30/1225, Letter, EEC Political consultations - ten foreign ministers’ meeting, Luxembourg 27 May, 2 June, 1972.

⁶⁰³ Jean-François Deniau, French. Deniau was in 1972 Commissioner for enlargement, aid and development. Member of the Commission from 1967-1973.

⁶⁰⁴ TNA, FCO 30/1225, Letter, EEC Political consultations - ten foreign ministers’ meeting, Luxembourg 27 May, 2 June, 1972.

⁶⁰⁵ Ibid.

⁶⁰⁶ Ibid.

⁶⁰⁷ Ibid.

⁶⁰⁸ Ibid.

EPC hostility towards the Commission. Deniau was strongly criticised by the EPC Foreign Ministers and was made to apologise.⁶⁰⁹ The incident also served as ammunition to continue to keep EPC separate from the EC sphere.⁶¹⁰

Nevertheless, in contributing its expertise in the field of development policy through the Deniau plan, the Commission gained a position in which it was allowed partial participation in the EPC meetings of the Political Committee and the Working Groups assigned to these questions.⁶¹¹ In the EC sphere, the Deniau-plan resulted in the agreement of a “Special Action” between the EC and the UNRWA signed on 18 December 1972, to last three years, aimed at supplying both foodstuff and money.⁶¹² In time the Deniau plan would be encompassed by the EC Global Mediterranean Policy (GMP), which formed the most substantial part of the EC and the Commission’s legitimisation as participants in the EAD.⁶¹³

6.1.3 The Global Mediterranean Policy of September 1972

The Global Mediterranean Policy that was adopted by the EC Council of Ministers in November 1972 was designed to provide the EC with a framework for bilateral trade as well as financial and technical agreements with a range of Mediterranean countries. The GMP had been adopted on the basis of a proposal from the Commission from 27 September 1972 in keeping with the Community method.⁶¹⁴ The concrete proposals for each country were to be prepared at a later stage; the Commission had set January 1974 as the point where new agreements should be put into effect, by which time the planning for the EAD was underway.⁶¹⁵ The legal basis for the GMP agreements was the Treaty of Rome’s Article 238 on Community association with third countries. By contrast, the EAD initiative entailed wide-

⁶⁰⁹ Ibid.

⁶¹⁰ Ibid.

⁶¹¹ AEI, *Sixth general report on the activities of the European Communities in 1972*, published 1973, retrieved on 8 September 2015 from <http://aei.pitt.edu/31349/>: 3.

⁶¹² Ibid: 295.

⁶¹³ HAEU, KM-39, Sitzung des Unterausschusses «Naher Osten» im Rahmen der Politischen Zusammenarbeit am 10.5 1974 in Bonn, 13 May, 1974.

⁶¹⁴ AEI, SEC (72) 3111 final, *Les relations entre la Communauté et les pays du bassin Méditerranéen*, 27 September, 1972, retrieved on 8 September 2015 from <http://aei.pitt.edu/4436/>; AEI, *The relations between the Community and the Mediterranean countries. Information Memo P-48/72, October, 1972*, retrieved on 8 September 2015 from <http://aei.pitt.edu/30142/>.

⁶¹⁵ However, the first agreement did not meet this deadline, as the agreement with Israel (which also caused problems with the very first meeting of the General Committee of the EAD) was not signed before May 1975, see Tsoukalis, Loukas. “The EEC and the Mediterranean: Is “Global” Policy a Misnomer?” in *International Affairs*, July 1977: 430.

ranging cooperation in the form of a dialogue of two regions: the EPC/EC Nine and the Arab states organised through the Arab League.⁶¹⁶

During the 1960s, a range of agreements between the EC and several Mediterranean states had been concluded to the extent that by the end of 1972, the EC already had associations or commercial agreements with some of the countries that the GMP and the EAD would come to encompass.⁶¹⁷ The diversity of these existing agreements and dissatisfaction with the EC's incoherent approach to the region formed the background for the Commission's initiative for the GMP. The GMP was initially directed towards 17 Mediterranean countries: Albania, Algeria, Cyprus, Egypt, Greece, Israel, Jordan, Lebanon, Libya, Malta, Morocco, Portugal, Spain, Syria, Tunisia, Turkey and Yugoslavia. Some were not interested in cooperation with the EC, which resulted in the GMP being directed mostly at the Arab states of the Mediterranean region.⁶¹⁸

The commercial interests of the European countries constituted an important motive, as the Mediterranean region represented a very important outlet for the EC in terms of exports, equal to the US *and* Japanese market added together.⁶¹⁹ A more coherent Mediterranean policy was considered in the interest of several of the EC's Member States, especially France and Italy, due to their agricultural competition with many of these states. Energy and the European states' dependence on oil was an indirect factor that can explain the emergence of the GMP, since the European countries imported oil from the producers in the area. This factor only became more important as the 1970s wore on, as did the aim of securing the Mediterranean – the shipping route from the oil producers in the Middle East to Europe.⁶²⁰

The GMP as proposed by the Commission had three main targets. The first was to establish a free trade area in industrialised goods between the EC and each of the GMP countries. The second target, in line with the existence of the CAP that made an agricultural free trade area impossible, was that agricultural trade between the EC and the Mediterranean countries would see some concessions on the part of the EC through a reduction in custom duties. The third

⁶¹⁶ Gfeller 2012: 104.

⁶¹⁷ See Biscop 2002: 25-26. These existing agreements included association agreements with Greece in 1961, Turkey in 1963, Malta in 1970 and with Cyprus in 1972. There were also commercial agreements with Israel in 1964, Lebanon in 1965, Morocco and Tunisia in 1969, Spain in 1971 and Egypt and Portugal in 1972

⁶¹⁸ Libya, Albania and Yugoslavia were not interested.

⁶¹⁹ Tsoukalis 1977.

⁶²⁰ Ibid.

target of the GMP was to initiate cooperation the fields of technical and industrial areas in addition to aid given to the less developed countries.⁶²¹

The intention to extend EC presence in the region was undisputable from 1972, and the political and economic rationales for the GMP that this presence was based on were placed under Community competences.⁶²² The potentiality for overlaps between the GMP and any EPC initiative towards the region was noted within the EC machinery quite early on, and notably so before the move towards initiating an EAD in December 1973:

(...) we are dealing here with a question with which – at least in regard to the economic aspects – the Community has had to deal under its own terms of reference even before the Member States decided to consider it under the Davignon procedure.

From the foregoing it is clear to what extent Community activities and intra-governmental political consultation not only overlap: in terms of content they are inextricably linked (albeit not formally speaking).⁶²³

6.1.4 Necessary Progress in Community Energy Policy, October 1972

Before the oil crisis of 1973 occurred, the Commission proposed several initiatives for creating a new form of relationship between the Mediterranean and Arab region in order to protect European energy-related interests.⁶²⁴ Prior to the Paris Summit, on 4 October 1972 the Commission initiative of “*Necessary progress in community energy policy*” was released. This initiative was based the work on agreements for a Community energy policy that had been ongoing since 1964.⁶²⁵ The Commission claimed that the energy policy context had altered considerably since 1969, which made a new strategy necessary.⁶²⁶ This 1972 initiative contained aspects that resembled the later Euro-Arab Dialogue, including consultation with the oil-exporting countries and economic assistance for the purpose of social development.⁶²⁷

⁶²¹ Ibid.

⁶²² Nuttall 1992: 20.

⁶²³ AEI, European Parliament, Report drawn up on behalf of the Political Affairs Committee on European political cooperation and unification, 24 May, 1973, retrieved on 8 September 2015 from http://aei.pitt.edu/1932/1/EPC_EP_doc_12_73.pdf, my additions in brackets.

⁶²⁴ AEI, COM (72) 1200 final, Necessary progress in Community energy policy, 4 October, 1972, retrieved on 8 September 2015 from <http://aei.pitt.edu/5146/>: 5; Allen, David. “*The Euro–Arab Dialogue*”, *Journal of Common Market Studies*, 16(4), 1978: 325.

⁶²⁵ The background for COM (72) 1200 was the Commission’s “First Guidelines for a Community Energy Policy” (COM (68) 1040), 18 December 1968. This was again based on even earlier agreements on the part of the Member States, especially from “The Protocol of Agreement on energy matters concluded between the Governments of the Member States of the European Communities”, 21 April 1964, which laid down common aims for a Community energy policy.

⁶²⁶ AEI, COM (72) 1200 final, Necessary progress in Community energy policy, 4 October, 1972, retrieved on 8 September 2015 from <http://aei.pitt.edu/5146/>: 5.

⁶²⁷ Ibid.

The gain on the European side lay of course in the potential for guaranteed oil supplies at stable prices.

Through the new energy strategy, the Commission also set out its vision for a Community foreign policy based on commercial, economic and cooperative elements. A Community foreign policy “had to pay more regard than hitherto to its increasing dependence on energy imports”. It should have as its guiding principles the regularisation of relationships, and the securing of maximum cooperation with both third countries and regions.⁶²⁸ By this time, the Community had become increasingly dependent on supplies of energy from non-member states. The Commission considered the increasing import of oil as the main reason why progress in the field of Community energy policy was necessary: the export of hydrocarbons from the Arab League countries to the EC constituted 85.6% of their total export in 1970, and rose to 93.9% in 1976.⁶²⁹

The interdependence of the two regions necessitated economic cooperation in many areas. The Commission’s choice of instruments for these challenges encompassed not only the energy sector as its aim was to help the oil exporters’ economies “get on their feet”.⁶³⁰ Framed as ‘necessary progress’ towards a Community energy policy, the Commission believed this economic cooperation should take the form of a consultative procedure. By sending groups of industrialists from the Community to the exporting countries and vice versa, both sides would contribute to identifying practical ways of economic cooperation.⁶³¹ In addition, the EC should negotiate cooperation agreements through which the Community would promote the economic and social development of the exporting countries by providing of technical and financial assistance, also opening up markets for these countries’ industrial and agricultural products.⁶³² According to the Commission, the exporting countries and the EC should aim to agree to rules and guarantees for their mutual economic relations.⁶³³

It seems that in 1972 the Commission foresaw the possibility of oil being used as a weapon against Europe, as reference was made to the potential for the exporting countries to “exploit

⁶²⁸ Ibid: 6.

⁶²⁹ Ibid: 8; AEI, Cooperation – Development, The European Community and the Arab World 169/78, 1978, retrieved 8 June 2012 from http://aei.pitt.edu/7824/1/31735055281335_1.pdf:11.

⁶³⁰ AEI, COM (72) 1200 final, Necessary progress in Community energy policy, 4 October, 1972, retrieved on 8 September 2015 from <http://aei.pitt.edu/5146/>: 14.

⁶³¹ Ibid.

⁶³² Ibid.

⁶³³ Ibid.

the situation by limiting output and raising prices”.⁶³⁴ This was exactly what happened in the oil shock of 1973, which followed the events of the war in the Middle East in October 1973 and the European response to this, which was made within the EPC framework. The energy initiative continued to be framed within the EC machinery, unlike to the oil shock and the conflict in the Middle East that the EPC machinery attempted to handle.⁶³⁵

6.2 European Political Cooperation and the Middle East – the long and winding road to a Euro-Arab Dialogue

The EPC approach to the Middle East went from political to economic, while the Arabs increasingly wanted to politicise the relationship.⁶³⁶ Eventually, the Euro-Arab Dialogue ended up somewhere in between.

The period of the late 1960s and early 1970s had seen some important “shifts” in allegiance towards the parties in the Middle East conflict, which added to an already complex situation that also affected the relations between the Europeans and the US.⁶³⁷ The French feared that a global war might erupt in the Middle East; in any event, the Middle Eastern conflict threatened French interests such as the Maghreb.⁶³⁸ Following the Six Day War in 1967, France announced its neutrality, but in effect acted to support the more pro-Arab position that dominated the UN.⁶³⁹ President de Gaulle shifted from the traditional French support for Israel and offered more allegiance the Arab side than had been the case during the Fourth Republic. The new line in French policy was continued with President Pompidou.⁶⁴⁰ On the other side of the Middle East conflict, the Netherlands supported Israel (which in turn led to a cut of oil supplies from the Arabs), along with the traditional German pro-Israeli stance based on what has been termed “moral debt”.⁶⁴¹

The newly formed EPC framework set out to discuss the Middle East with the intention of forming a common European position - an attempt that was successful quite early. This

⁶³⁴ Ibid: 15.

⁶³⁵ Energy was an area that continued to be treated in the EC and not in the EPC-sphere during the period investigated. This led to the EC being the coordinating framework for European participation in the Washington energy conference in February 1974. See Nuttall 1992: 97.

⁶³⁶ Nuttall 1992, Gáinár 2012.

⁶³⁷ See for instance Gfeller 2012; Möckli 2010 and Nuttall 1992.

⁶³⁸ Kolodziej, Edward A. “French Mediterranean Policy: The Politics of Weakness”, *International Affairs*, 43 (3), 1971: 507.

⁶³⁹ As a permanent member of the UN’s Security Council, France rejected Israeli claims to Jerusalem, thus refusing to recognise the Israeli occupation of Arab territory, see Kolodziej 1971: 507.

⁶⁴⁰ Gfeller 2012: 10.

⁶⁴¹ Hellema, Duco, Cees Wiebes and Toby Witte. *Netherlands and the Oil Crisis: Business As Usual*, Amsterdam University Press, 2004.

position came as a result of the discussion in the first EPC meeting in November 1970, where the Member States discussed the Middle East without the Commission present.⁶⁴² This meeting resulted in an instruction for the EPC Political Committee to produce a joint paper, which became known as the Schumann paper after the French Foreign Minister Maurice Schumann.⁶⁴³ The paper intended to form a concerted position for the EPC Members on the Middle East. Thus, in spite of the complexities of the relationships that defined the area, past divergences between the European Six had been ironed out by May 1971.⁶⁴⁴ The Schumann paper represented a common position for the Six, and meant that EPC was the forum in which the first concerted European stance on the situation in the Middle East was defined.⁶⁴⁵

The Schumann Paper leaned towards the French pro-Arab view, which aggravated Israel and supported its fear that a concerted European view would mean a weakening in the support for Israel. The Schumann paper did call for a withdrawal of Israel from the occupied territories, some minor border changes, the internationalisation of Jerusalem, the establishment of demilitarised zones, and introduced an approach towards refugees of the area. Reactions to the paper were critical, especially in Germany, due to the paper's perceived effects on the relationship with Israel. This led Foreign Minister Scheel to declare that the Schumann paper was nothing but a work in progress, 'a working paper', and this move to diminish the paper's status in turn angered the French. The Schumann paper thus did not succeed in completely erasing the differences between the Member States on the subject of the Middle East.⁶⁴⁶

The next move in the EPC framework following the Schumann paper was the "Appeal for a Suspension of Hostilities in the Middle East of the Nine Foreign Ministers" which came on 13 October 1973, following the onset of the Yom Kippur War on 6 October.⁶⁴⁷ The Appeal was for a cease-fire en route to proper peace negotiations and a solution to the conflict; the solution was to follow the UN Security Council's Resolution 242 of 22 November 1967 in all of its provisions.⁶⁴⁸

⁶⁴² Nuttall 1992: 59.

⁶⁴³ Maurice Schumann, French Foreign Minister 1969-1973.

⁶⁴⁴ Biscop 2002: 113.

⁶⁴⁵ Ibid.

⁶⁴⁶ Ibid; Ifestos 1987: 420-421.

⁶⁴⁷ The Yom Kippur War, also known as the October War, began as Egypt and Syria attacked Israel on 6 October 1973.

⁶⁴⁸ Press and Information Office of the Government of the Federal Republic of Germany, "Appeal of the Nine Foreign Ministers of October 13, 1973, for a Suspension of Hostilities in the Middle East" in *Texts relating to the European Political Cooperation*, Bonn: Press and Information Office of the Government of the Federal Republic of Germany, 1974.

The “Declaration of the Nine Foreign Ministers on 6 November 1973, in Brussels on the Situation in the Middle East” went into more detail than the October Appeal. It marked the Europeans’ first contribution in the search for a “comprehensive solution” to the situation in the Middle East. The aim was that such a comprehensive solution should entail lasting peace following the provisions of Security Council Resolution 242, with negotiations in the UN framework.⁶⁴⁹ The need for Israel to end its territorial occupation since 1967 was mentioned in particular, alongside a formulation of the need to recognise the legitimate rights of the Palestinians.⁶⁵⁰ In addition, the Nine Foreign Ministers linked the EPC declaration to already existing EC policy by referring to the close relationship between the two regions and the fact that the EC had announced its aim to establish a Global Mediterranean Policy, an initiative expanded on above.⁶⁵¹

The three outcomes that constituted the EPC Middle East policy in 1973 – the Schumann Paper, the Appeal of October 1973 and the Brussels Declaration of 6 November 1973 – had some features in common. They were primarily declaratory, somewhat vague but leaning towards a pro-Arab stance, and they dealt with the Middle East conflict or specific events such as the outbreak of the Yom Kippur War. Importantly, none of these declarations resulted in actual actions or new policies on the part of the Europeans as their main contribution was to represent a common stance. Now the EPC Nine spoke with one voice on the subject of the Middle East. This voice challenged the American diplomatic efforts in the Middle East, and caused problems for the relationship between EPC and the US.⁶⁵² Israel stated that this European voice cried “oil for Europe!” and not “peace for the Middle East!”, and was duly critical.⁶⁵³

The initiation of what became the EAD began immediately following the EPC Declaration of 6 November 1973. The EPC Nine engaged in concerted diplomatic efforts towards the Arabs. The aim was to establish a new form of relationship between the Nine and the Arab States.⁶⁵⁴ These European overtures were welcomed by the Arabs, as a Summit of the Arab League on 26-28 November opened up the possibility of entering into a form of cooperation between the

⁶⁴⁹ Press and Information Office of the Government of the Federal Republic of Germany, “Declaration of the Nine Foreign Ministers of November 6, 1973, in Brussels on the Situation in the Middle East” in *Texts relating to the European Political Cooperation*, Bonn: Press and Information Office of the Government of the Federal Republic of Germany, 1974.

⁶⁵⁰ Ibid.

⁶⁵¹ Ibid.

⁶⁵² Nuttall 1992: 95.

⁶⁵³ Ibid, quoting Israel’s Foreign Minister Abba Eban.

⁶⁵⁴ Gfeller 2012: 97.

two regions as long as it represented a “trustful and mutually beneficial cooperation”.⁶⁵⁵ Four Arab Foreign Ministers arrived at the Summit in Copenhagen in December 1973, further expressing the Arab side’s wish for strengthened Euro-Arab relations.⁶⁵⁶ And thus French initiatives for how such a relationship could be formed were formulated in a report at the very end of 1973 and discussed at the EPC meetings of 10 January 1974 and 7 February 1974. The agreement between the EPC Nine to move forward in creating a comprehensively new relationship with the Arab states aimed at strengthening European influence in the region.⁶⁵⁷

By 4 March 1974, the EPC Committee was ready to publicly announce the Euro-Arab Dialogue. By this time, the field of oil had been removed from the cooperation, as had any explicit mention of political issues; both remained indirect aspects of the Dialogue, however.⁶⁵⁸ This announcement was followed by an American outburst; Henry Kissinger was unsatisfied both with the initiative for a Dialogue and with the fact that EPC had failed to consult the US prior to announcing the EAD.⁶⁵⁹ As a result, the preparations for the EAD were stalled until an agreement between the Europeans and the US had been reached based on the informal EPC meeting in Gymnich of 20-21 April 1974.⁶⁶⁰ At this meeting, the parties agreed to accommodate the US on prior consultation concerning EPC activities, paving the way for the EAD’s continuance, albeit now in a form where oil was left out and the relationship to the US played a much greater role.

There were other aspects internal to the EAD that caused further delay to developments in the EAD but that did not shape its content. From November 1975 onwards, the potential inclusion of the PLO in the EAD halted progress; this was solved through the Dublin formula in February 1975, providing for a single European Delegation and a single Arab Delegation without defining the national affiliation of the individual representatives.⁶⁶¹ Finally, one last

⁶⁵⁵ Găinar 2012: 189. My translation from the French.

⁶⁵⁶ By now there is widespread agreement that these three Arab representatives did not arrive out of the blue, but as the result of a French initiative, discreet enough to make the Arab «visit» appear a surprise to the public and the press, see Găinar 2012: 189 and Gfeller 2012: 99.

⁶⁵⁷ Gfeller 2012: 103.

⁶⁵⁸ Ibid.

⁶⁵⁹ Henry Kissinger served as National Security Advisor and later concurrently as Secretary of State in the administrations of Presidents Richard Nixon and Gerald Ford, 1969-77.

⁶⁶⁰ Gfeller 2012: 153-155; Găinar 2012: 195-196.

⁶⁶¹ The European Commission, *Ninth general report on the activities of the European Communities in 1975*, published 1976, retrieved on 8 September 2015 from http://bookshop.europa.eu/isbin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en_GB/-/EUR/ViewPublication-Start?PublicationKey=CB0175073: 260-261.

hurdle in the path towards the EAD was solved by diplomatic efforts: the discontent on the Arab side when the EC signed a GMP agreement with Israel in May 1975.⁶⁶²

6.3 The Commission's role in the development of the Euro-Arab Dialogue as a joint Community and European Political Cooperation venture

Of course, the long and winding road towards a Euro-Arab Dialogue cannot be explained without reference to the external elements briefly discussed above. However, since this thesis focuses on the Commission's role in EPC, the following section of this chapter aims to retain this focus in the chronological analysis of the EAD. The relationship between EPC and the EC and the Commission was initially formed in the traditional manner, with the French attempting to exclude the Commission from the EAD. From the early phase of the EAD initiative in December 1973 onwards, although never denying the Community's competences or the fact that these must be respected, the French quite harshly dismissed the Commission's ability to play a competent part in the initiative that was to become the EAD. France stated that as the "general direction" of the EAD initiative was and should remain political, the institutions in Brussels (that is, the Commission) were not sufficiently equipped or informed of the particular political conditions that prevailed in the Middle East.⁶⁶³ This initial stance seems striking when compared to that of not even two years later: in December 1975, the French (albeit with some reservations) hailed the Commission's Klaus Meyer as "l'homme indispensable" for the EAD.⁶⁶⁴

EPC began the work on the EAD in January 1974 by attempting to agree on the French report on what a Dialogue between the Europeans and the Arabs would entail.⁶⁶⁵ The Commission was present in the EPC work from the beginning and was called into the Middle East EPC expert group when was required.⁶⁶⁶ The Commission started its preparatory work for what would become the EAD in a non-confrontational manner. It stated that before making its proposals to EPC, the Commission's representative should make sure there was "a favourable

⁶⁶² Găinar 2012:203-204; Nuttall 1992: 106-7. The EC agreement with Israel was signed on 11 May 1975; subsequent Arab protests were quieted after meetings between the two sides on 25 May 1975.

⁶⁶³ MAE, 3806, Coopération Europe des Neuf – Pays Arabes, 29 December, 1973.

⁶⁶⁴ Găinar 2012: 360.

⁶⁶⁵ It is of course important to note that due to the continuing conflict between the US and the Europeans, the Energy Conference in Washington 11-13 February 1974 and the continuing US opposition to the EAD, was an external factor that delayed the progress of the EAD-initiative pending on the agreement made in Gymnich 20 April 1974. However, this external factor did not play into the agreement on how to handle intra EC-EPC relations in the case of the EAD, which is the focus of this study. For analysis of the US-EPC relations, see Găinar 2012, Gfeller 2012, Möckli 2009 and Nuttall 1992.

⁶⁶⁶ Nuttall 1992: 104.

climate and atmosphere” for its contribution, deliberately seeking not to cause conflict.⁶⁶⁷ As the Commission was invited to make its views known, it commenced by emphasising that there was an obvious overlap between existing and proposed EC policies and the EPC initiation of a cooperation with the Arab states.⁶⁶⁸ The Commission’s proposals initiated within the EC’s GMP towards the energy-producing countries of the region were emphasised in particular.⁶⁶⁹ The Commission ventured as far as pressuring the Member States of the EC to keeping their commitments made within the EC machinery before venturing into new initiatives directed towards the same aims under EPC machinery.⁶⁷⁰ Duplication would serve only to damage the credibility of Europe, whichever hat it was wearing at the time. The starting point of the Commission’s work towards the EAD was thus characterised by the aim to protect the EC’s existing policies by demanding that the EAD be a joint EC-EPC venture.

Initially the French protested at the Commission’s demands that the EAD amount to a joint action between the EC and EPC. However, France did not completely rule out that this might in fact be the result.⁶⁷¹ Klaus Meyer, one of the Commission’s representatives in the EPC discussions on the status and role of the EC in the Dialogue, noted that the Member States’ delegations did not seem completely opposed to the Commission’s insistence on the importance of the potential overlap between the GMP and the EAD. The national delegations seemed impressed by the precision of the EC’s and thus the Commission’s work in the GMP area, albeit expressing only limited knowledge of the policy area according to Meyer. This can be seen as the Commission mirroring the earlier French misgivings concerning the EC’s non-competence in the political sphere, with the Commission having some misgivings about the Member States’ lack of competence in the economic EC sphere.⁶⁷²

The Community was “associated” with the initiative of the EAD due to the existing GMP, and was included in the work on the EAD from the beginning. But the Commission wanted more. In the Commission’s view, the GMP should never be threatened by the EAD initiative; the only acceptable solution was that the EAD complement the GMP. In response to the French opposition, the Commission continued its approach by lamenting what in its view amounted

⁶⁶⁷ HAEU, KM -39, Letter Klaus Meyer to de Margerie, 24 January, 1974.

⁶⁶⁸ HAEU, KM -39, Discussions dans le cadre de la coopération politique, le 24 janvier 1974, à Bonn, sur la suite du dialogue avec les pays arabes, 28 January, 1974.

⁶⁶⁹ Ibid.

⁶⁷⁰ Ibid.

⁶⁷¹ Ibid.

⁶⁷² MAE, 3806, Coopération Europe des Neuf – Pays Arabes, 29 December, 1973.

to a delay and French reluctance towards the declaration of EAD initiative as a joint EC and EPC venture.⁶⁷³

In a “series of clarifications” in a discussion on 1 February 1974, the Commission was further reassured that the EAD was indeed treated as a joint venture even though it was not declared as one.⁶⁷⁴ These clarifications detailed how the EAD initiative would be linked to the EC machinery. The Member States agreed that once EPC had agreed to the principles of the EAD, the Council of the EC would do the same. Along the same reassuring lines, EPC decided that the term of “the Nine” that was being used in the ongoing discussions with the Arabs would denote “Member States of the EC”, further linking the EC to the EAD.⁶⁷⁵ Finally, it was unequivocally declared that the EPC and EC Presidency at all times would act in its double quality as both EC and EPC representative.⁶⁷⁶ The results of these clarifications were attributed to the contributions made by the Commission’s representatives in the discussions in the Political Committee.⁶⁷⁷ Prior to the EPC Foreign Ministers’ meeting of 14 February 1974, Meyer was satisfied; he was sure that this formula of the EAD as a joint venture would be the reality, and that acceptable compromise would follow.⁶⁷⁸ This indicates that the Commission perceived that the French position was changing, and now amounted to reluctance rather than overt hostility.

However, French misgivings towards the growing closeness of the two spheres and towards the Commission resurfaced, as at the last minute the French inserted the phrase that in the case of the Dialogue the EC Presidency would act “in concert with the Commission.”⁶⁷⁹ Ever pragmatic and un-confrontational, Klaus Meyer urged President Ortolí to consider suggesting, but only if the atmosphere in the next EPC Foreign Minister meeting would allow it, that this phrase could be replaced simply by stating that the EC/EPC Presidency would act *together* with the Commission, removing all doubts of its status.⁶⁸⁰ As it turned out, this delay over the formulation continued, and in June 1974 the French still refused to change this phrase.⁶⁸¹ In practice however, as the Dialogue commenced, the Commission’s role of working together

⁶⁷³ HAEU, KM -39, Discussions dans le cadre de la coopération politique, le 1er février 1974, à Bonn, sur la suite du dialogue avec les pays arabes, 4 February, 1974.

⁶⁷⁴ Ibid.

⁶⁷⁵ Ibid.

⁶⁷⁶ Ibid.

⁶⁷⁷ HAEU, KM-39, Réunion ministérielle de la coopération politique, le 14 février à Bonn - Coopération avec les pays arabes, 12 February, 1974.

⁶⁷⁸ Ibid.

⁶⁷⁹ Ibid. The question was over the formulation: [“de concert avec”] vs simply [“avec”].

⁶⁸⁰ Ibid.

⁶⁸¹ HAEU, KM-39, Dialogue euro-arabe, 7 June, 1974.

with the EC/EPC Presidency was carried out without question. The Commission's work with the EC/EPC Presidency turned out to be very important, as the Commission was the 'longest-lived' actor on the European side; by contrast, the EC/EPC Presidencies rotated every six months.

As the Commission had come to expect, in the EPC meeting of 4 March 1974 the EAD initiative was indeed framed as a joint EC/EPC venture. Although the preferred formulation of the Commission's role in this joint venture was not granted, in practice this role was assured.⁶⁸² The German Presidency in particular asserted that the Commission was the only actor that could provide the EAD with real content.⁶⁸³ During the discussions, the German Presidency made it clear that it considered the Commission's participation natural in the discussions on all levels of Euro-Arab cooperation.⁶⁸⁴

Having secured the EAD as a joint venture, the Commission continued its work. Its first goal was to protect the existing EC policies from the challenge still posed by the EAD. In the EPC Political Committee meeting of 27-28 May 1974, the Commission presented the EC's GMP to the Political Directors of the EPC Nine with a view to how it would relate to the planned EAD. The Commission emphasised that the EC's policy was to keep a balanced relationship between the countries in the Mediterranean, in particular between Israel and the Arab countries.⁶⁸⁵ The Commission highlighted the treatment of the interlinked issues of the GMP and the EAD and the question of which framework they belonged to, the EC or EPC. The Commission requested that the Member States respect the Commission's competences held by the Treaty, particularly the ones related to relations between the EC and third countries. The Commission further demanded that the activities of the EC's GMP should never be usurped by the EAD, but that the activities of the two should be coordinated.⁶⁸⁶

The Commission was not willing to make any concessions in the work on the GMP agreements already in progress because of the development of the EAD.⁶⁸⁷ Initially this unwillingness was seen in how the Commission attempted and succeeded in limiting the

⁶⁸² By 4 March 1974 the principle of the EAD was that it would be a combined effort between the EC and the EPC; see *Ibid.* HAEU, KM-39, Réunion ministérielle de la coopération politique, le 14 février à Bonn - Coopération avec les pays arabes, 12 February, 1974; Găinar 2012: 194; Gfeller 2012: 103.

⁶⁸³ HAEU, KM-39, Note à l'attention de Monsieur Cheysson, 8 May, 1974.

⁶⁸⁴ HAEC, BAC 259/80, 128, COM (74) PV 295, 2e partie final, séance du 15 mai 1974; HAEC, BAC 259/80, 129, COM (74) PV 298, 2e partie final, séance du 5 juin 1974.

⁶⁸⁵ HAEC, BAC 259/80, 128, COM (74) PV 297, 2e partie final, séance du 27 mai 1974.

⁶⁸⁶ HAEC, BAC 259/80, 128, COM (74) PV 297, 2e partie final, séance du 27 mai 1974.

⁶⁸⁷ HAEU, KM -39, Réunion du sous-comité «Proche-Orient» dans le cadre de la coopération politique, du 10 mai 1974, à Bonn, 13 May, 1974.

initiatives of the Member States for the EAD's scope, so that overlapping initiatives were not taken in areas where the Community already was actively pursuing policies. One instance of this was when the Member States suggested that the EAD should encompass aspects that would double the EC instruments already in existence for economic support in reconstructing areas damaged by war in Egypt, Jordan and Syria.⁶⁸⁸ It became evident that the Commission held the upper hand in these discussions because it was the actor with most information about existing EC policies. The EPC Foreign Ministers were not fully aware of the detailed aspects of the Community's existing external relations and had to follow the Commission's lead. The Commission made it quite clear that the Community would neither make its EC policies dependent on the negotiations under EPC, nor would it allow for duplication.⁶⁸⁹

Expertise became the basis for the Commission's role in the EAD. As it turned out, after oil and energy were excluded from the dialogue, it was the Community and thus the Commission which held the key in terms of the actual content of detailed cooperation that could take place 'on the ground' between the Arabs and the Europeans. The Commission had already opened some doors through the developments of policies within the EC.⁶⁹⁰ The Member States and the EPC machinery recognised the role of the Commission. So did the Arabs, who began contacting the Commission directly with EAD-related enquires.⁶⁹¹ Remarks made both in the Political Committee as well as unofficially showed that the Political Directors as well as the 'Middle-East experts' were deeply impressed with the Commission's expertise. The opinion that the Commission's expertise could provide the EAD with "genuine substance" was now widely held.⁶⁹²

By June 1974, the Commission was emerging as an asset for the EPC side on the issue of how to form and conduct the economic side of the cooperation between the Arabs and the Europeans. It kept demanding that the EC's policies should not be made contingent on EPC; the Community procedures and the treaty-based provisions needed to be upheld.⁶⁹³ To this

⁶⁸⁸ HAEU, KM -39, Réunion du sous-comité «Proche-Orient» dans le cadre de la coopération politique, du 10 mai 1974, à Bonn, 13 May, 1974.

⁶⁸⁹ HAEC, BAC 259/80, 128, COM (74) PV 295, 2e partie final, séance du 15 mai 1974; HAEC, BAC 259/80, 128, COM (74) PV 297, 2e partie final, séance du 27 mai 1974; HAEC, BAC 259/80, 128, COM (74) PV 297, 2e partie final, séance du 27 mai 1974; HAEU, KM -39, Réunion du sous-comité «Proche-Orient» dans le cadre de la coopération politique, du 10 mai 1974, à Bonn, 13 May, 1974.

⁶⁹⁰ HAEU, KM-39, Note à l'attention de Monsieur Cheysson, 29 May, 1974.

⁶⁹¹ HAEU, KM-39, Note à l'attention de Monsieur Cheysson, 29 May, 1974; HAEU, KM-39, Coordination des contacts des services de la Commission avec des organisations arabes spécialisées, 11 December, 1974; Gäinar 2012: 360.

⁶⁹² HAEU, KM-39, Note à l'attention de Monsieur Cheysson, 29 May, 1974.

⁶⁹³ HAEU, KM-39, Aspects institutionnels des travaux récents de la coopération politique, 4 June, 1974.

effect, the Commission's representatives should be the ones always expressly imprinting the fact that EAD was a joint EC and EPC venture upon both the Arabs and the EPC Member States.⁶⁹⁴ Acknowledging the asset the Commission would be in the EAD, EPC representatives suggested that the formula for meeting the Arabs would consist of the sitting and future EC/EPC Presidency and, to the satisfaction of the Commission, a Commission representative. By May 1975, this formula had emerged in official terms as the «Troika», now also including the past Presidency.⁶⁹⁵

At the EPC meeting between the Nine's foreign ministers on 10 and 11 June 1974 in Bonn, the Commission's President Ortoli was present throughout, and concluded that it had been a most excellent atmosphere that had produced several politically significant results.⁶⁹⁶ The reassurance of the Commission's status in the Euro-Arab cooperation was repeated by the express confirmation of participation at all levels of the procedures of the cooperation.⁶⁹⁷ One of the Commission's remaining concerns was over trade, especially the possibility that the EAD would create indirect relations between the cooperating parties that resembled "quasi-preferential" relationships. This was one of the specific points the Commission kept close tabs on.⁶⁹⁸

As the developments of the EAD initiative commenced, the Commission continued its stance of protecting the EC policies within the GMP. The Commission demanded that content-wise, the EAD initiative had to conform to the line of policy already adopted by the Community by not encouraging Arab hopes for the extension of association agreements to non-European countries except for the ones already covered by the EC, by not giving the impression that the EAD would entail preferential agreements with non-European countries except for the ones already covered, and to ensure that the EAD was in keeping with strict equality in the treatment of Israel and the Arab countries.⁶⁹⁹

At this June EPC meeting, the Foreign Ministers officially agreed to begin the EAD by sending a "European mission" to Cairo for initial talks with the representatives from the Arab League.⁷⁰⁰ This "mission" would include the persons responsible for the Middle East, namely

⁶⁹⁴ HAEU, KM -39, La Communauté dans le dialogue euro-arabe, 30 May, 1974.

⁶⁹⁵ Ibid.

⁶⁹⁶ HAEC, BAC 259/80, 129, COM (74) PV 299, 2e partie final, séance du 12 juin 1974.

⁶⁹⁷ Ibid.

⁶⁹⁸ HAEC, BAC 259/80, 130, COM (74) PV 305, 2e partie final, séance du 24 juillet 1974.

⁶⁹⁹ HAEC, BAC 259/80, 128, COM (74) PV 297, 2e partie final, séance du 29 mai 1974.

⁷⁰⁰ HAEC, BAC 259/80, 129, COM (74) PV 299, 2e partie final, séance du 12 juin 1974; HAEU, KM-39, Note Dialogue euro-arabe, 24 June, 1974.

Redies from the Auswärtiges Amt, Rouillon from the Quai d'Orsay, and Meyer from the Commission, a position that served to place both Meyer and the Commission in an influential position in the EAD.⁷⁰¹ These three then formed an early version of the EPC "Troika" on the lower level of representatives from Foreign Ministries and the SG of the Commission. They went to Egypt from 18 to 20 June 1974 to hold preliminary discussions with their counterparts in the Arab League.⁷⁰² By the time of Meyer's trip to Egypt, he was under the impression that the impending French Presidency would indeed honour the German Presidency's promise of Commission involvement in all levels of the EAD.⁷⁰³

By July 1974 the Commission also ventured as far as making suggestions for the institutional framework of the EC, the EAD and EPC that would serve to protect the EC. Regardless of the assurance of its own role and competence, the Commission expressed concern that the EC machinery as such was not up to the task of handling the EAD in the same way as EPC. In the Commission's view, EPC was better equipped through its organisation of expert groups, the Political Committee and the Foreign Ministers' meetings.⁷⁰⁴ The Commission suggested two improvements to the EC structure. First, that an expert group for the COREPER be set up to prepare adequately for EAD questions within the EC; this was achieved, as the EC Member States indeed went on to set up a sub-group for the COREPER to prepare its discussions on the EAD.⁷⁰⁵ Second, for the 'mixed' EC and EPC work that the work towards the EAD already entailed, that a "group of coordination of the Nine" be set up that would be made capable of dealing with issues that came within the spheres of both the EC and EPC, and thus managing the day-to-day work between the spheres. The Commission suggested that this group be formed by the EPC expert groups and the suggested COREPER group.

6.4 The Commission's acquirement of a role in the Euro-Arab Dialogue

By July 1974, the EC and the Commission's role in the EAD had been secured and strengthened. On the highest level, the Commission's position in the EAD was visible by the decision, made without conflict, that the Commission's President Ortolí would go to the

⁷⁰¹ These three were representatives from the sitting German Presidency, the future French Presidency and the Commission, see also Găinar 2012: 198.

⁷⁰² HAEU, KM-39, Dialogue euro-arabe, 24 June, 1974.

⁷⁰³ Ibid.

⁷⁰⁴ HAEU, KM -39, Problèmes d'organisation en vue du dialogue euro-arabe, 22 July, 1974.

⁷⁰⁵ Ibid. For the establishment of the COREPER-group see Nuttall 1992: 105.

official launch of the EAD's preparatory phase in Paris on 31 July 1974 as one of the two representatives of the European side.⁷⁰⁶

The Commission's role and function in the EAD was to represent the Community alongside the Presidency, which represented EPC vis-à-vis the Arabs. In the CSCE, the Commission had been part of the EC Presidency, forming a part of the national delegation of the country holding the Presidency. In the EAD, the Commission was by contrast an acknowledged and independent representative of the EC, as it alone could take the word and speak on the EC matters on which the Treaty defined it as the sole negotiator. In a manner similar to the CSCE, in the cases where competences were shared between Member States and the Community it would share this role as negotiator with the EC's Presidency. It was the Commission's task to make sure that the EAD was considered a joint EC/EPC venture by the Arabs.⁷⁰⁷ Likewise, the Commission would have to ensure that the normal Community procedures were used when this was appropriate.⁷⁰⁸

As the official preparatory phase of the EAD commenced on the 31 July 1974, the European side was jointly represented by the French Foreign Minister Sauvagnargues (representing EPC) and the Commission's President Ortoli (representing the EC).⁷⁰⁹ In this meeting, the two sides decided that a General Committee of the rank of ambassadors would form the highest level of the EAD.⁷¹⁰ In the General Committee, the European side would be jointly represented by the EPC Presidency and the Commission. Following the meeting, both the Arab and the European sides went on to prepare their internal organisation for the EAD.

French misgivings towards the Commission were still evident, regardless of the concessions that had been made to the Commission's demands on all levels of the EAD. One instance of this distrust was the initial failure to invite the Commission's President Ortoli to a working dinner with the Heads of State and Governments organised by the French President on 14 September 1974.⁷¹¹ In the days before the planned dinner, the Commission voiced its discontent that Ortoli had not been invited; it brought up the commitment the Member States

⁷⁰⁶ HAEU, KM -39, La Communauté et la Commission dans le dialogue euro-arabe et les procédures ultérieures, 8 July, 1974.

⁷⁰⁷ Ibid.

⁷⁰⁸ Ibid.

⁷⁰⁹ HAEU, KM-39, Réunions de la coopération politique à Paris, le 11 juillet – Dialogue euro-arabe, 12 July, 1974. Jean Sauvagnargues, French. Foreign Minister, 1974-1976.

⁷¹⁰ The fact that it was not the level of ministers that would meet here was in line with the EPC aim of further depoliticising the EAD.

⁷¹¹ HAEC, BAC 259/80, 141, COM (74) 307, 2e partie final, séance du 11 septembre 1974.

had to the EC, and reminded the Member States that attaching the EC machinery to EPC would serve to strengthen EPC policies, including the EAD.⁷¹² Following a meeting between Pompidou and Ortoli on 9 September in which Ortoli presented his arguments, the French President changed his mind, and on 12 September the Commission's President received an invitation to the dinner.⁷¹³

The Commission continued to protest against what it perceived as "an exaggerated insistence on intergovernmental solutions where logic and efficiency would demand common instruments."⁷¹⁴ In a speech given on 13 September, Ortoli referred to the current period of the European project as one of potential stagnation. While he saw there was considerable desire to get Europe "moving" again, Ortoli had qualms over the basis for these moves and the intergovernmental direction they would lead Europe in. Countering this intergovernmental direction, Ortoli emphasised what integration within the EC could provide Europe with. In the context of the EAD, he highlighted the EC's GMP policies and the Commission's initiatives for an energy policy and a development policy as important steps towards a more substantial European external vocation.⁷¹⁵

Ortoli can be seen as criticising EPC and the EAD as he spoke for the need for Common policies as the basis for success on the European level; in his view, mere cooperation was potentially useful, but could never advance the construction of Europe.⁷¹⁶ Ortoli placed the role of the Commission at the heart of the Community's political and institutional set-up. This role, which was given to the Commission by the Treaty, constituted a "guarantee against the imbalances which could one day arise as a result of the varying importance of our Member States" by providing institutional continuity; the Commission was the actor that would balance national and European interests.⁷¹⁷

Following Ortoli's criticism of the intergovernmental direction of European cooperation, the Commission continued to make further progress in shaping the EAD. Any remaining doubts about the EC's and the Commission's position in the EAD came to an end as the position of the Commission was institutionalised within the EAD by the creation of a Coordination Group. This Coordination Group was created on the basis of a French and Belgian proposal to

⁷¹² Ibid.

⁷¹³ Ibid.

⁷¹⁴ AEI, The construction of Europe: balance-sheet and outlook, address given by Ortoli, Mainz, 13 September 1974, retrieved on 8 September 2015 from <http://aei.pitt.edu/10560/1/10560.pdf>: 10.

⁷¹⁵ Ibid: 3.

⁷¹⁶ Ibid: 9.

⁷¹⁷ Ibid:13.

the EPC Foreign Minister's meeting on 16 September 1974 and merged the EC and EPC machinery for the EAD.⁷¹⁸ This proposal and the resulting Coordination Group was in line with the suggestions the Commission had already made in July.⁷¹⁹

The creation of the Coordination Group strengthened the Commission's role in the EAD. The task of this group was to prepare the European position in the EAD and prepare the work of the EAD's General Committee and its Working Groups. The Coordination Group, which took over the work carried out in the Middle East expert group with the Commission present when needed, now comprised the Commission as a regular member to ensure consistency between the EC and EPC. The Coordination Group reported to both the EPC Political Committee and to COREPER on Community matters. The Commission was the only actor represented in both forums. The EC Member States had set up a sub-group for the COREPER to prepare its discussions on the EAD. However, this group did not consist of the same members as the Coordination Group of the EAD, except for the Commission.⁷²⁰ The Commission was placed in an ever more advantageous position.

In Meyer's and the Commission's view, the formula of the "double-hatted" Coordination Group was an institutional innovation representing the optimal solution to the challenges the EAD posed for the EC-EPC relationship.⁷²¹ Emile Noël suggested Klaus Meyer as the Commission's representative in the Coordination Group, undoubtedly by reason of his personal ability and experience in the area. He was deliberately chosen in line with the Commission's aim to "work efficiently". In Noël's view, Meyer would be able to assure the quality of the work, which was required due to the great complexity and large number of areas the EAD would comprise. Meyer would also be able to provide "the delicacy" needed to create adequate relations between the EC and the EPC machinery.⁷²² For the same reasons, Klaus Meyer was also put forward as one of the candidates for the Commission's seat in the EAD's General Committee.⁷²³

⁷¹⁸ HAEU, KM -39, Problèmes d'organisation en vue du dialogue euro-arabe, 22 July, 1974; HAEU, KM-39, Organisation interne en vue du dialogue euro-arabe, 13 September, 1974; HAEC, BAC 259/80, 142. COM (74) PV 308, 2e partie final, séance du 18 Septembre 1974.

⁷¹⁹ HAEU, KM -39, Problèmes d'organisation en vue du dialogue euro-arabe, 22 July, 1974.

⁷²⁰ Nuttall 1992:105.

⁷²¹ HAEU, KM-39, Proche-Orient, Dialogue euro-arabe, 11 September, 1974.

⁷²² HAEU, KM-39, Organisation interne en vue du dialogue euro-arabe», 13 September, 1974. My translation from the French.

⁷²³ Ibid.

The Commission was satisfied.⁷²⁴ By September 1974, it had obtained adequate inclusion in the work that already had been done in the EAD. Inclusion was formalised by the Commission's now permanent seat in a new joint EC and EPC structure. The Coordination Group was created to ensure that both sets of EC/EPC machinery were included and worked according to their respective competences. An illustration of how well the Commission was integrated into EPC work on the EAD by this time is seen in Klaus Meyer's remark that he had faced no difficulties when stating what the Commission viewed as its legitimate rights.⁷²⁵ In the Political Committee's discussions leading to the creation of the Coordination Group, the Commission had reserved for itself the right to work within the ordinary Community procedure, independently of the work in the Coordination Group.⁷²⁶ The lack of protest about this reassured the Commission that the Community procedure and interests were duly protected and that its own role was respected. To illustrate the acceptance of the Commission's contribution within the Coordination Group further, there were no objections when Klaus Meyer was allowed to speak in the Coordination Group on the highly political issue of the formula for the inclusion of the PLO. Admittedly Meyer himself remarked that they were his personal views, but they were made by Meyer as a member of the Commission competent in the area and he faced no objections.⁷²⁷

The next milestone in the work on the EAD came following the settling of the PLO issue by the EPC Foreign Ministers meeting in Dublin 13 February 1975, which provided for meetings of experts in a single European Delegation and a single Arab Delegation without individual representation for the respective member countries. The work on the EAD commenced with the launching of the Expert Groups in the summer of 1975, when three EAD Expert Group meetings were held. In their plenary sessions, the European side was represented by the Presidency of the EC/EPC and the EC was represented by the Commission and Klaus Meyer. By then, the emerging Troika formula (without the former Presidency) had been used in the preparations for the EAD from June 1974 and at the start of the preparations for the first EAD-GC meeting on 18 December 1974.⁷²⁸ The full Troika formula comprising the sitting EC Presidency and the Commission's representative, assisted by the former and following EC Presidency, was baptised as such and formally used from the first General Committee

⁷²⁴ HAEC, BAC 259/80, 142. COM (74) PV 308, 2e partie final, séance du 18 Septembre 1974.

⁷²⁵ HAEU, KM-39, Proche-Orient, Dialogue euro-arabe, 11 September, 1974.

⁷²⁶ Ibid.

⁷²⁷ HAEU, KM-39, Dialogue euro-arabe, Réunion du Groupe de coordination à Paris le 17.12 1974, 19 December, 1974.

⁷²⁸ Găinar 2012: 208.

meeting, while the decision to instate it was taken at the EPC Foreign Minister's meeting on 3 May 1975.⁷²⁹ The Commission had experienced no problem in being included.

In the first meeting of the Expert Groups in Cairo from 10 to 14 June 1975, the EAD's principles and objectives were settled. Seven EAD Working Groups were established to study and examine the areas of cooperation agreed upon in detail.⁷³⁰ The decisions made in the first Expert Group meeting in Cairo strengthened the Commission's status in the EAD. Two of these EAD Working Groups – the one for agriculture and rural development as well as the one for trade – would be chaired on the European side by the Commission.⁷³¹

This made the Commission responsible for one of the EAD's most difficult aspects: trade. The Europeans and the Commission had for some time tried to keep trade out of the EAD as a defined area, unwilling to concede to Arab demands. According to the Treaty, it would fall to the Commission to negotiate trade with third countries on behalf of the Europeans. When trade was included as a defined Working Group in the EAD, the Commission's role in this area was not disputed within EPC.⁷³² The Commission was thus placed in a position where it was able to protect the CCP in the EAD as well as the other aspects that were Community matters.⁷³³ The results of the Expert Group meetings were to the Commission's satisfaction. In community matters, the work in the EAD would follow the proper Community procedure and be prepared by the Commission and the COREPER's machinery.⁷³⁴

The internal and external success of the formula found for the EAD was in part based on the Commission's contribution. In that respect, the first EAD Expert Meeting in Cairo had been a test case for the European side, not least for the Commission and Klaus Meyer, who held the task of coordinating the EC and EPC work. The Commission succeeded. The meeting in Cairo was highly complex, as the material the European delegation and the Commission had to handle was diverse. It covered matters under the jurisdiction of sole Member State competence, matters under the sole jurisdiction of EPC competence and matters under

⁷²⁹ Nuttall 1992: 108.

⁷³⁰ The seven Working Groups of the EAD: 1. Industrialisation, 2. Basic infrastructure, 3. Agricultural & rural development, 4. Financial cooperation, 5. Trade, 6. Scientific and technological cooperation, 7. Cultural, labour and social questions.

⁷³¹ The European Commission, *Ninth general report on the activities of the European Communities in 1975*, published 1976, retrieved on 8 September 2015 from http://bookshop.europa.eu/isbin/INTERSHOP.enfinity/WFS/EU-Bookshop-Site/en_GB/-/EUR/ViewPublication-Start?PublicationKey=CB0175073: 261.

⁷³² HAEU, KM-40, Dialogue euro-arabe, 16 June, 1975.

⁷³³ For instance social questions and nuclear energy which were placed under the EAD's Working Groups for Agriculture and rural development and Scientific and technological cooperation.

⁷³⁴ HAEU, KM-40, Dialogue euro-arabe, 16 June, 1975.

Community competence.⁷³⁵ The Commission proudly declared its satisfaction with the fact that the European delegation had been able to act outwards with perfect unity and effectiveness and that internal institutional quarrels had been avoided.⁷³⁶

6.5 Playing a double game or finally bridging the divide?

According to the above account of the development of the Commission's role in the EAD, smooth sailing seems to have been the case. But while there was less debate over whether and how the EC and the Commission should and could participate in the case of the EAD than there had been in the case of the CSCE, there were instances of criticism towards the Commission and instances of what might have amounted to subtle forms of excluding the Commission. Before turning to the culmination of the Commission's role in the EAD, the General Committee's first meeting, the fact that the Commission's journey in the EAD was not completely unproblematic needs some attention.

Interestingly, what this analysis shows is a shift. The Commission was criticised, but as its role in the EAD increased, the criticism was no longer limited to the Commission's role in EPC. In the case of the EAD, criticism was also extended to accusing the Commission that its role in the EAD affected the EC and the Commission's role in the EC negatively. However, criticism along the traditional lines claiming that the Commission did not 'fit' in the EPC framework still existed. For instance, there were questions concerning the Commission's ability to keep EPC matters confidential when the EAD preparations of the EPC meeting of 4 March 1974 were leaked. The Commission's interpreters were blamed for this leak, which resulted in a "certain reluctance" in providing the Commission with the EPC documents it was entitled to, and the failure to invite the Commission to a privately held meeting of the EC/EPC Presidency and the Foreign Ministers. Deservedly or not, the Commission still experienced being shut out from parts of EPC to a certain extent, even after having been let into the EAD.⁷³⁷ The account of how the Commission still managed to place itself in a pole position in the EAD indicates that its skills were deemed too valuable to exclude.

⁷³⁵ Ibid.

⁷³⁶ Ibid.

⁷³⁷ HAEU, KM-39, Fuites sur les travaux de la Conférence ministérielle de la coopération politique du 4 March 1974, 19 March, 1974.

In the second half of 1974, the Commission questioned how it would fare as the French were about to take over the EC/EPC Presidency.⁷³⁸ In practical terms, the Commission's role in the process towards an EAD continued unchallenged during the French Presidency. In fact, the developments that particularly tied the Commission to the leadership of the European side of the EAD process occurred within this period. Nevertheless, there were instances of what might be seen as evidence of remnants of French misgivings towards the Commission, for instance when Klaus Meyer had to approach the French Presidency because the Commission had not received several transmissions related to the EAD.⁷³⁹ The initial refusal to invite Ortoli to the EPC dinner discussed above can also be seen as remaining reluctance on the part of the French.⁷⁴⁰

While Gfeller's assertion that France adopted a more conciliatory approach towards the Commission within the remit of the EAD holds true on the whole, the Commission continued to face opposition.⁷⁴¹ Now the criticism was that the Commission had increased its role in the EC at the expense of the Member States' control due to its more evident role in EPC and the EAD in particular.⁷⁴² Contrary to what had been the case when the Commission worked for inclusion in EPC, for instance in the case of the insertion of the EC and the Commission into the CSCE, the criticism now came from within the EC machinery. Previously the EPC Member States (and France in particular) had criticised the Commission for demanding too much in aiming for inclusion in EPC.⁷⁴³ The problem was now that that the Commission 'finally' had entered EPC the Member States within the EC machinery complained through COREPER that the Commission had become too entrenched in the EPC machinery, acting too autonomously within the EPC sphere of the EAD and disregarding EC procedures.⁷⁴⁴

The accusation that the Commission was disregarding its role in the EC is illustrated by several instances where the Commission was heavily criticised over the procedure it used

⁷³⁸ HAEU, KM-39, Problèmes d'organisation en vue du dialogue euro-arabe, 22 July, 1974; HAEC, BAC 259/80, 140, COM (74) PV 298, 2e partie final, séance du 5 juin 1974; HAEC, BAC 259/80 140, COM (74) PV 299, 2e partie final, séance du 12 juin 1974.

⁷³⁹ HAEU, KM-39, Letter from Klaus Meyer to Monsieur Richard, 13 November, 1974.

⁷⁴⁰ HAEC, BAC 259/80, 141, COM (74) 307, 2e partie final, séance du 11 septembre 1974.

⁷⁴¹ Gfeller 2012:103-4

⁷⁴² HAEU, KM-40, Letter from Klaus Meyer to Kennan, 29 January, 1975; TNA, FCO 30/3023, Letter from Gore-Booth to Sinclair, Euro/Arab Dialogue: Commission paper and questionnaire, 7 February, 1975; TNA, FCO 30/3023, Letter from Sinclair to Gore-Booth, Euro/Arab Dialogue: implications for Political Cooperation, 20 February, 1975.

⁷⁴³ TNA, FCO 30/1220, Telegram, Preparations for the European Summit and Political Consultation, 25 February, 1972; HAEU, KM-47, Letter Klaus Meyer to Palmer, 17 October, 1972.

⁷⁴⁴ TNA, FCO 30/3023, Letter from Gore-Booth to Sinclair, Euro/Arab Dialogue: Commission paper and questionnaire, 7 February, 1975; TNA, FCO 30/3023, Letter from Sinclair to Gore-Booth, Euro/Arab Dialogue: implications for Political Cooperation, 20 February, 1975.

when working in the EPC sphere. While this criticism came from France in the first instance, it was not the only Member State to voice its misgivings concerning what they perceived as the Commission acting on its own in EPC without including the EC machinery in the appropriate manner.⁷⁴⁵ The French representatives were vocal in their laments immediately before France took over the EC Presidency on 1 July 1974, marking the French stance on the Commission's role in EPC and the EAD. The intention behind this might have been just to make a traditional statement of discontent before taking over the Presidency in relation to France's long-held aim of keeping the EC and EPC spheres separate.⁷⁴⁶

This illustration from the COREPER meeting of 27 June 1974 might also signalise a shift in the criticism of the Commission. The French permanent representative in Brussels reported that he had reacted to the proceedings in the COREPER meeting in the discussion regarding the Euro-Arab Dialogue.⁷⁴⁷ The French representative highlighted the inappropriateness of the Commission being the one to report on discussions held with the Arab League concerning the EAD. In his view, this task fell to the EC Presidency, which was and should continue to be the body holding the double role with participation both in the EC and EPC. The French conclusion, which admittedly followed the lines of a more traditional critique of the Commission, was that the Commission's action was a result of its attempts to achieve as much control as possible over processes outside the EC's and thus the Commission's sphere. The EAD was used specifically by the French as an example of a project outside the EC, the type of activity that the Commission feared and thus tried to control. The French believed that they were the only ones to react to this as the other EC/EPC partners were afraid that the EAD would turn into a French-German-led enterprise, and that this was why they supported the Commission in its struggle to be included.⁷⁴⁸ Traditionally, the French view had been and continued to be that the EPC and the EC spheres could and should be kept separate. To include the Commission further was not recommended by the French representative.⁷⁴⁹

The Member States' representatives within COREPER continued to criticise the Commission for the manner in which it operated the EPC sphere, allegedly circumventing 'normal EC-procedure'. In yet another COREPER setting (a lunch this time) a Commission paper and

⁷⁴⁵ TNA, FCO 30/3023, Letter from Gore-Booth to Sinclair, Euro/Arab Dialogue: Commission paper and questionnaire, 7 February, 1975; TNA, FCO 30/3023, Letter from Sinclair to Gore-Booth, Euro/Arab Dialogue: implications for Political Cooperation, 20 February, 1975.

⁷⁴⁶ The French permanent representative in Brussels was Étienne Burin des Roziers. MAE, 3806, Telegram, Dialogue Euro-Arabe, 1 July, 1974.

⁷⁴⁷ MAE, 3806, Telegram, Dialogue Euro-Arabe, 1 July, 1974.

⁷⁴⁸ Ibid.

⁷⁴⁹ Ibid.

questionnaire on the EAD were discussed.⁷⁵⁰ Unsurprisingly, in light of the permanent representatives' misgivings concerning the Commission's extensive role in the EAD, the Commission came under "heavy fire" from many of the representatives for its handling of this subject.⁷⁵¹ The Commission's 'crime' was that it had circulated the documents in question within the EPC sphere by addressing them directly to Mr. Kennan of the Irish Ministry for Foreign Affairs as the representative of the ECP Presidency *without* going via the Irish Permanent Representative and asking him to forward it to the EPC machinery.⁷⁵² The Permanent Representatives noted that if the Commission had followed procedure they would all have had to agree to the documents being sent over, thus retaining some control over the Commission's activity in the EPC sphere.⁷⁵³

Meyer defended the Commission's actions "as best he could" and did so coolly and unapologetically, but still along non-provocative lines. He merely stated that the contents of the documents in no way were meant to be hidden from the Permanent Representatives and contained nothing to "get worked up about".⁷⁵⁴ In fact, Klaus Meyer and the Commission emphasised that in sending these documents he followed the agreed procedures for EC-EPC.⁷⁵⁵ But the letter to Kennan reveals that as Klaus Meyer had made an agreement with Kennan to send it directly via the EPC network, he was acting somewhat autonomously. He also made a reference to merely "keep the Committee [COREPER] in the picture", which of course would be provoking to the permanent representatives.⁷⁵⁶

These incidents are illustrations both of the Commission's role within EPC and of this role's effects on the Commission's status in the Community sphere. The Member States allowed and took advantage of the Commission's expertise within EPC. In the EC sphere, however, they voiced criticism of the Commission for disregarding the appropriate EC machinery. The Member States wanted the link between the EC and EPC to be held by the EC Presidency, thus retaining intergovernmental control over both spheres. However, as the analysis of EPC

⁷⁵⁰ HAEU, KM-40, Letter from Klaus Meyer to Kennan, 29 January, 1975: this letter contains the attachments of the Commission paper and questionnaire on the EAD sent by Klaus Meyer directly to Mr. Kennan of the Irish Ministry for Foreign Affairs as representative of the Presidency of the EPC that formed the basis for this disagreement.

⁷⁵¹ TNA FCO 30 3023, Letter from Gore-Booth (UKREP) to Sinclair (EID) «Euro/Arab Dialogue: Commission paper and questionnaire», 7 February 1975

⁷⁵² HAEU, KM-40, Letter from Klaus Meyer to Kennan, 29 January, 1975.

⁷⁵³ TNA, FCO 30/3023, Letter from Gore-Booth to Sinclair, Euro/Arab Dialogue: Commission paper and questionnaire, 7 February, 1975.

⁷⁵⁴ *Ibid.*

⁷⁵⁵ HAEU, KM-40, Letter from Klaus Meyer to Kennan, 29 January, 1975.

⁷⁵⁶ *Ibid.* My additions in brackets.

in general and the cases of the CSCE and the EAD in particular have shown, even from within this Presidency formula the Commission had managed to enter EPC, and ended up with a role more autonomous than that desired by the Member States. Importantly, the discontent over this was visible in other Member States than France alone; the UK was also worried about the implications this could hold for the future role of the Commission.⁷⁵⁷

As the Commission was gaining a greater role in EPC by its work in the EAD, the Member States increasingly argued that it was “playing a double Community and Political Cooperation game” by attempting to straddle the bridge between the EC and EPC that should really be done by the EC Presidency.⁷⁵⁸ For the British, the question was the extent to which it should support the Commission in this case, as it was important to control just how “substantial a foothold” the Commission gained in EPC in light of the implications this might hold for a potential common foreign policy.⁷⁵⁹ This is evidence that some Member States at least were alerted to the possibility that the Commission’s agency might impose a form of path dependency for future development.⁷⁶⁰

Notwithstanding the fact that the Commission had faced opposition in the case of the EAD also, the culmination of its role in the EAD came in May 1976. By the time of the first meeting of the EAD’s highest level, the General Committee of the EAD, from 18 to 21 May 1976, the Commission was participating at all levels and in all forums of the EAD.⁷⁶¹ Again, Klaus Meyer was the Commission’s and the EC’s voice. The Commission’s involvement in the EAD went beyond mere participation. This was seen in the opening session of the EAD’s General Committee, where Klaus Meyer gave the initial statement on behalf of the Community following the initial statement of the Luxembourg Ambassador Jean Wagner, who was representing the EC/EPC Presidency.⁷⁶² Meyer also took part in the following discussions and negotiations, in which he expressed satisfaction with how well prepared the European side was compared to its Arab counterpart, a trait that reflected the Commission’s

⁷⁵⁷ TNA, FCO 30/3023, Letter from Sinclair to Gore-Booth, Euro/Arab Dialogue: implications for Political Cooperation, 20 February, 1975.

⁷⁵⁸ TNA, FCO 30/3023, Letter from Gore-Booth to Sinclair, Euro/Arab Dialogue: Commission paper and questionnaire, 7 February, 1975.

⁷⁵⁹ Ibid.

⁷⁶⁰ TNA, FCO 30/3023, Letter from Sinclair to Gore-Booth, Euro/Arab Dialogue: implications for Political Cooperation, 20 February, 1975.

⁷⁶¹ The meetings of the EAD’s GC were scheduled for 18-20 May, but they dragged on and lasted until the 21 May, which explains some discrepancy of dates within the sources.

⁷⁶² HAEC, BAC 327/ 1993, 8, SI (26)394, Dialogue euro-arabe, Réunion de la Commission générale de 18-21 mai 1976, 26 May, 1976; Nuttall 1992: 108. A note can be made here of the fact that the Arab side included a PLO representative as one of its co-chairmen, Dr. Ahmad Sidqi al-Dajani.

express aim of efficiency and the prior experience it had gained from the meeting in Cairo in June 1975 as a test case.⁷⁶³

The meeting included long and difficult negotiations with the Arab side over the principles of the EAD's economic aspects. These negotiations on the substantial, complex and detailed economic aspects were almost entirely negotiated for the European side by the Commission's representatives.⁷⁶⁴ Meyer was satisfied with the Commission's contribution, as the Commission's representatives had almost singlehandedly negotiated the elements of the Final Communiqué in which the detailed contents of the EAD were set out, also succeeding in determining their specific terms.⁷⁶⁵ Klaus Meyer placed particularly high value on the Commission's vital contributions in protecting the EC's GMP and the CCP in the Final Communiqué's paragraph 7 on trade.⁷⁶⁶

The basis of this success was that the Commission at no point conceded to any of the Arabs' more challenging requests for multilateral agreements in the field of commercial policy, for the creation of a Euro-Arab free trade zone, and for agreements of non-preferentiality. The Commission's representatives had made the Arabs agree to a paragraph on this that in Meyer's view was innocuous, limited and declaratory.⁷⁶⁷

The Commission was instrumental of protecting the EC by never letting the "Dialogue tail wag the Community dog".⁷⁶⁸ Prior to the negotiations, the Commission had urged the EPC Member States to commit to the EAD so as not to place too much of a strain on the GMP and the CCP, which inevitably would be the result if the Europeans came to the Dialogue visibly "empty-handed".⁷⁶⁹ EPC's aim of avoiding the political elements, which the EPC Political Committee still saw too positively according to Meyer, would come at the price of pressure on the EC's policies. In the end, in the negotiations concerning the General Committee's Final

⁷⁶³ HAEC, BAC 327/ 1993, 8, SI (26)394, Dialogue euro-arabe, Réunion de la Commission générale de 18-21 mai 1976, 26 May, 1976.

⁷⁶⁴ Ibid.

⁷⁶⁵ Ibid.

⁷⁶⁶ HAEU, KM-169, The Euro-Arab Dialogue General Committee, Final Communiqué, 21 May, 1976, in which the exact wording of paragraph 7 was: "The General Committee stressing the importance of promoting and diversifying trade between European and Arab countries invites the working committee to complete shortly studies submitted by both sides at Abu Dhabi. The working committee should explore further the possibilities for closer cooperation in this field."

⁷⁶⁷ HAEC, BAC 327/ 1993, 8, SI (26)394, Dialogue euro-arabe, Réunion de la Commission générale de 18-21 mai 1976, 26 May, 1976.

⁷⁶⁸ TNA, FCO 30/3028, Telegram, Euro-Arab Dialogue: Coordination group meeting. Dublin, 23 May, 24 May, 1975.

⁷⁶⁹ HAEC, BAC 327/1993, 11, Dialogue euro-arabe, Résultats de la réunion du Comité politique du 20 janvier 1976, 23 January. 1976.

Communique, something had to give for agreement to be reached, and it proved to be not the economic realm over which the Commission reigned. The Europeans, who were led by the Commission in the negotiations, made the publication of the EAD's Final Communique (which did entail a political "handout" of sorts to the Arabs) contingent on the Arabs dropping, for the time being at least, trade agreements with the EC from their demands for further concessions in the EAD's contents.⁷⁷⁰

In his initial statement in the General Committee, Klaus Meyer stated that the EAD was a novelty and that it constituted a new dimension for both the EC and EPC.⁷⁷¹

*By these provisions and the fact that the political subjects have ceased to be taboo in this context [of the EAD] one can consider that the Euro-Arab Dialogue from now, after this first meeting of the General Committee, is a permanent reality, adding a new global dimension to the bilateral relations of the Member States, and the relations of the Community with a certain number of Arab countries.*⁷⁷²

Klaus Meyer's individual role made him the 'living memory' of the European side, a role which even the French acknowledged.⁷⁷³ The manner in which the Commission not only participated, but even led discussions, chaired EAD Working Groups for the European side, and thus made its mark upon and shaped the EAD is remarkable, since this was a Dialogue that from its outset was an EPC venture. By the time it finally commenced as a regional dialogue at the highest level of this cooperation, it was a joint effort in which both the EC machinery and the EPC machinery worked both side by side and together, thus linking the EC to EPC in the manner that had been the Commission's aim ever since the early days of EPC in 1971.⁷⁷⁴

The Commission had made the EAD work by providing it with what it needed: administrative, juridical and technical expertise. It had protected the EC's economic policies by pressuring the Member States to give some political concessions, however limited, to the Arabs.⁷⁷⁵ The Commission contributed to the EAD in a manner that was acceptable even for

⁷⁷⁰ Găinar 2012: 212.

⁷⁷¹ HAEC, BAC 327/ 1993, 8, SI (26)394, Dialogue euro-arabe, Réunion de la Commission générale de 18-21 mai 1976, 26 May, 1976.

⁷⁷² Ibid. My translation from the French and additions in brackets.

⁷⁷³ Găinar 2012: 360.

⁷⁷⁴ HAEU, FMM-37, SEC (71) 650, Coopération en matière d'« Union Politique », 17 February 1971.

⁷⁷⁵ The political 'concessions' of the EPC amounted to stressing the importance that the EPC still placed upon its declaration of 6 November 1973, in which its attitude to the Palestinian question was stated. This was of course a question that left the Arabs wanting much more, but a limited concession was still given as seen in HAEU, KM-169, Supplementary declaration by Mr Jean Wagner, European Co-Chairman of the Euro-Arab Dialogue, 18 May, 1976.

the Member States that previously had ordered it “back where it belonged” – to the EC sphere – at a time where there was little or no room for it in the EPC sphere. By May 1976, this was no longer the case. The EC was now represented within EPC, as the EAD had developed from being an EPC initiative to a joint venture between the EC and EPC.

7. Conclusion – a second generation Commission and its role in European Political Cooperation

*Each man begins the world afresh. Only institutions grow wiser; they store up the collective experience; and, from this experience and wisdom, men subject to the same laws will gradually find, not that their natures change but that their experience does.*⁷⁷⁶

This thesis has studied the Commission, a supranational institution that played an unintended role in the intergovernmental structure of EPC. To answer the main research question posed by this thesis of how the Commission ended up with a role in EPC, I have investigated the period 1969-1976 and applied a two-step analysis.

In the first step my analysis investigated the Commission's activity towards EPC and answered the questions of how the Commission responded to the establishment of EPC, and how its approach to EPC developed. I argue that the Commission's activity was characterised by a relentless quest for participation, driven by a wish to protect the EC. Moreover, I argue that the Commission's approach aimed to link the EC to EPC and to shape EPC. The second step of the analysis is on an aggregate level and addresses the question of what kind of actor the Commission that acquired a role in EPC was. On this level the results from the first step were used as departure points for an analysis of the Commission as an actor. I argue that the Commission as an actor approached EPC in a distinct manner, as I suggest that it was a second generation Commission which had adjusted to its environment that successfully managed to acquire a role in EPC.

In the thesis the basis for and the Commission's response to the establishment of EPC has been investigated in chapters two and three. By breaking the chronological approach to the theme of the thesis, chapter four enables the investigation of the developing approach of the Commission towards EPC that is found in chapters five and six while at the same time initiating the investigation of the Commission as an actor. The thesis' conclusion in this present chapter is however structured along the lines of the two-step analysis followed by some concluding remarks and implications.

⁷⁷⁶ Monnet, Jean. *Memoirs*, London: Collins, 1978: 393. Jean Monnet, French. "Founding father" of the European Coal and Steel Community and proponent of the supremacy of supranational institutions and integration often used this quote by the Swiss philosopher Henri Frédéric Amiel.

7.1 The Commission's response to the establishment of European Political Cooperation

In search for the Commission's response to the establishment of EPC, I explored the Commission's struggles to gain entrance to certain activities that the Member States of the EC engaged in in the period following the empty chair crisis.⁷⁷⁷ These activities had the effect of bypassing the EC-structures and the Commission. In the case of France, this was an intentional effect. The evidence shows that the Commission responded with calls for EC and Commission inclusion even before the initiative to EPC was a fact, beginning with the Summit in The Hague. As EPC was initiated and established, it became clear that this structure for political cooperation was intended to be a separate structure from the EC, with no defined role for the Commission. The Commission disputed this separation and exclusion.

Through the investigation I found that the basis for the Commission's response to the establishment of EPC was what the Commission itself viewed as legitimate claims for participation based on its role in the EC. I present the basis for these claims in chapter two's overview of the Commission's legitimation for participation. I argue that in general the Commission resorted to treaty-based legitimation claims from a stated mandate for the Commission to independently perform its duties in the general interest of the Community.⁷⁷⁸ This mandate in turn served as a basis for the myth of the Commission as sole holder of the Community's interest.⁷⁷⁹ More specifically for the EC's external relations, the Commission claimed inclusion in EPC based on the Treaty's provisions for its role in Community agreements with third countries and its role in negotiations with international organisations. In particular, the Commission legitimated participation in EPC based on the Treaty's provisions for a Common Commercial Policy, an area that was touched by the establishment of EPC.

The legitimating aspects found in the thesis' chapter two form the basis for the thesis' further investigation of determining factors of the Commission's response to EPC where the activity towards EPC in the period 1969-1973 is assessed. I argue that in this initial response seeds of an adjustment of the Commission were sown by the first Commission President that faced

⁷⁷⁷ Prior to the establishment of EPC, Summitry and in particular the Hague Summit in 1969 that led to the initiation of EPC were examples of such activities that had these effects.

⁷⁷⁸ Treaty of Rome - Article 157(2) The members of the Commission shall perform their duties in the general interest of the Community with complete independence.

⁷⁷⁹ Ibid.

EPC, Franco Maria Malfatti.⁷⁸⁰ I argue that evidence of these seeds were found in Malfatti's expressed statements that the Commission held no ambitions to become a super-government along with his calls for realism and flexibility as the new manner in which the Commission should act.⁷⁸¹ Malfatti continued to legitimate the Commission's claims by the Treaty, but in a markedly un-expansionist manner, as he explicitly stated that the Commission would use the Treaty; but not go beyond it. I argue that these endeavours by Malfatti signify the emergence of the Commission as a realist in an attempt to change the image of the Commission as an actor.

As the chronological analysis in chapter three makes evident, the formation of a response to the establishment of EPC contained discussion and internal division over how and why the Commission should seek participation in EPC. I argue that three distinct fractions existed within the Commission at the time of the establishment of EPC: the first was a traditional, federalist fraction inclined to look back in time to the 'golden age' of the first generation Commission under Hallstein. For this group, the EPC was an unwanted structure to which the Commission needed to boldly react in order to minimise damages to the EC and political unification that belonged there. Caution and strategy were not the concern for this group who were 'expansionists' at heart. The second fraction, that the analysis proves gained the upper hand in the formulation of a response to EPC, argued for a cautious, pragmatic approach to EPC based on concrete contributions the Commission could offer EPC and strategic considerations. Opposed to what was termed as 'blindness' induced by supranational idealism, a third fraction influenced the Commission's response. I argue that the influence of this third fraction was increasingly seen in the developing approach towards EPC. This fraction represented a more positive stance toward the creation of EPC, and was more geared towards how the Commission could contribute in order to make EPC a success, with what I claim to be the interest of the EC at heart.

In tracking the formation of the Commission's response, while I argue that seeds were sown by Malfatti's attempt of changing the Commission's image, I furthermore argue that elements of both change and continuity were found in the document SEC (71) 650. This document was the result of a debate which I argue was marked by internal division where new ideas of how

⁷⁸⁰ TNA, FCO 30/568, copy of interview with Malfatti in *Le Figaro* 23 September 1970 attached to Political Unification: the place of the European Commission, 25 September, 1970; AEI, Franco Maria Malfatti: A Realist's Europe in European Community no.144, April, 1971, retrieved 15 June 2015 from <http://aei.pitt.edu/43786/1/A7529.pdf>.

⁷⁸¹ Ibid.

the Commission should act towards EPC were found.⁷⁸² SEC (71) 650 was the most directly expressed element of the Commission's response to EPC. It covered the Commission's view of the implications of EPC on the EC as well as role of the Commission in EPC in particular. In the document the Commission presented what appears as a coherent view; where it was critical to the establishment of EPC, but where the Commission forcefully presented its case for participation.

The role the Commission wanted to play in EPC was in SEC (71) 650 described as one that would serve to achieve three goals; the first was to participate in EPC in order to protect the EC from unwanted effects of the establishment of EPC. The second goal was to become the institutional link between the EC and EPC-machineries and what I argue as an implicit intention of drawing them nearer. I argue that implicit to these two goals and the Commission's stated response was that it would pursue these goals in a relentless manner. Moreover I argue that in this response there were seeds of an adjustment of the Commission's actions, evident in the internal division that shaped the Commission's response and approach. I claim that forces within the Commission that argued for a more pragmatic manner in which the Commission could play a role in EPC were visible in this approach. In addition, I argue that this pragmatic manner signified a more constructive approach to the intergovernmental direction European integration was characterised by in the period investigated. Furthermore, I claim that the manner in which SEC (71) 650 described how it should approach the Member States in order to facilitate a realistic role viable in the long-term implies caution on the part of the Commission. The third goal expressed in SEC (71) 650 was explicit; the Commission should participate in the work of formulating the second report of EPC commissioned by the first report. I argue that implicit to this third goal was a more general intent for the Commission to shape EPC, in the interest of protecting the EC. By the time of the second report on EPC and the end of EPC's earliest and most formative phase the Copenhagen report of July 1973 EPC moved ever so slightly in the direction closer to EC. I argue that by the time of the Copenhagen Report the Commission's response to the established EPC had resulted in a foot in the door for the Commission, but that this was not satisfactory to an institution that wanted more. The relentless work continued as EPC developed.

⁷⁸² HAEU, FMM-37, SEC (71) 650, *Coopération en matière d'« Union Politique»*, 17 February 1971.

7.2 The Commission's developing approach to European Political Cooperation

In answer to the second operationalising question of how the Commission's approach to EPC developed, I argue that the results of the analysis show a continuation of the Commission's claim for participation in EPC. I argue that the developing approach was marked by the same elements that had been decisive for the Commission's response to the establishment of EPC, for instance the calls for realism and flexibility in the Commission. As EPC developed, the Commission's approach matured.

The CSCE and the EAD were areas that in the Commission's view merited EC and Commission participation. The analysis of the Commission's acquirement of a role shows how the Commission increasingly used its expertise-based role in the EC as a legitimating factor for a role in both the CSCE and the EAD. The Commission's expertise on areas like trade, agriculture, energy, environment policy, development and cooperation policy, and not least on the regions that EPC now entered into were skills that the Member States of EPC seemed keen to take advantage of. The result was EC and Commission participation in the two most prominent cases in EPC's early phase; the CSCE and the EAD. I argue that the unprovocative manner in which the Commission made this expertise available to EPC was crucial in order to gain the Member States' acceptance.

I claim that the continuing feature of the conflict between France and the Commission had an effect on the Commission's developing approach to EPC. This effect is found in the analysis of both the CSCE and the EAD. Chapter five presents evidence for continuous French opposition to the Commission in the case of the CSCE, and an initial opposition towards the Commission's participation in EAD is found in chapter six. Conflict between France and the Commission was still visible in the case of the EAD, although less prominent than in the case of the CSCE. The Commission was initially attempted excluded from the EAD in December 1973 by a French dismissal of the Commission's competences in the area. There were still remnants of French opposition by late June 1974 as the French criticised what in their view was the Commission's "intrusion" in the EAD. However, in the case of the CSCE I present evidence for how the Commission deliberately approached it in way that made it able to bypass this French opposition. I argue that the Commission framed the case for its participation in the CSCE as a test-case for the Member States' commitment to the EC. The same is found in the case of the EAD. However, in the case of the EAD the Commission went

even further to protect EC trade policy in the negotiations with the Arabs. While the costs for the Member States of EPC were admittedly minor, I argue that in this case the Commission successfully and directly pressured the Member States. This pressure was undertaken by the Commission confronting the Member States and demanding that they gave some political concessions to the Arabs in the first meeting on the highest level of the EAD in May 1976, in order to ease the pressure on the demands for EC trade agreements. I argue that these findings signify a development in the Commission's approach, but that it was based on the same elements as the response to the establishment of EPC; to participate in order to protect, link and shape.

The role of the Commission in the EAD was based on what it already had achieved in the CSCE and on competence acquired in the EC that now was needed in the EPC. Following its inclusion at all levels in the EAD, and its function as a coordinator between the EC and the EPC, it is fair to say that in the case of the EAD it most clearly both linked the EC-machinery to the EPC-machinery, and indeed shaped the EPC through its role in the EAD. Expertise formed the basis for the Commission's advantageous position in the EAD, through its standing in the existing EC policies and initiatives. In addition to this came the fact that the Member States' representatives in EPC held little knowledge of for instance the GMP in contrast to the Commission's competence, while the Commission received recognition for its expertise by the EPC's Political Committee.⁷⁸³ The importance of the Commission became even more evident when the Arabs began consulting the Commission directly over EAD questions. The notion that the Commission would provide the EAD with "genuine substance" became widespread.⁷⁸⁴ This resulted in the Commission having the upper hand in the negotiations with EPC Member States over the contents of the EAD, which again enabled the Commission to protect the EC by not allowing for overlap between the GMP and the EAD initiatives.

The EAD provided the Commission with a highly coveted link between the intended separate spheres of the EPC and the EC. The first meeting of the EAD's GC provides for a suitable end point for an analysis of the Commission's contribution to the EAD that went beyond participation and that amounted to both linking the EC to the EPC and shaping the EPC. These elements form the basis for the argument that the Commission had by 1976 in the EAD and by in the previous case of the CSCE now managed to reach *de facto* and to some extent

⁷⁸³ HAEU, KM-39, Note à l'attention de Monsieur Cheysson, 29 May, 1974.

⁷⁸⁴ Ibid.

formally the aims from its response from 1971 that had developed into a successful approach of the Commission towards the EPC.

7.3 The Commission as an actor that acquired a role in European Political Cooperation

I argue that this thesis presents evidence of an actor that adjusted. Furthermore, I argue that this adjustment was deliberate and characterised by a pragmatic approach in order not to provoke member states. In chapter four of the thesis I open the black box of the Commission by investigating voices of change and of continuity and the Commission's presidents in the period 1958-1976. I argue that while forces of both change and continuity were represented in the case of the Commission's approach to EPC, forces of change proved to be determining for the formation of the Commission as an adjusting actor. The development of an adjusting actor was particularly visible in the investigation of the Commission at its highest level over time. The changes in European integration that EPC represented was an environment where it was no longer, if ever, a good idea for the Commission to present itself as an institution attempting to be a super-government or a proponent of an European interest that had to "hurt" for it to be the true European interest.⁷⁸⁵

In this thesis I trace the beginning of a process of adjustment to the time of the initiation and establishment of EPC. This process of adjustment is partially seen in Rey's last period as he cautiously argued for inclusion in Summits, and is more evident in Malfatti's attempt to remove the perception of the Commission as an ambitious super-government. The deliberate adjustment of the Commission as an actor over time is even more pronounced when the 'break' of Mansholt's period as Commission President is taken into account. The Mansholt period is by this thesis seen as a contrast to Malfatti's period as well as the period after. I argue however that the legacy that Mansholt's period built on most clearly was that of the first generation Commission, but also that the effects of this was mostly rhetorical and had few

⁷⁸⁵ Dahrendorf 1979. The quote in its entirety is found on page 19-20: "This however leads me to the *second* main ingredient of a reappraisal of European policies which is necessary. I have often been struck by the prevailing view in Community circles that the worst that can happen is any movement towards what is called an *Europe a la carte*. This is not only somewhat odd for someone who likes to make his own choices, but also illustrates that strange puritanism, not to say masochism which underlies much of Community action: Europe has to hurt in order to be good. Any measure that does not hurt at least some members of the European Community is (in this view) probably wrong. In any case it is regarded as unthinkable that one should ever allow those members of the Community who want to go along with certain policies to do so, and those who are not interested to stay out. The European interest (it is said) is either general or it does not exist."

consequences for the Commission other than some reinforced ill-will being thrown in its direction.

The Commission was led by President Ortoli in the last phase of the period investigated by the thesis when the Commission undoubtedly had gained a role in EPC. I argue that by this time the Commission had recognized that in order to make European integration function and move forward its best chance was to become a mediator and a go-between between the Member States' national interests. The claim is that the Commission at this time intended to be a compromise-maker more than an independent initiator of a European interest that to an extent had been its intention in the period of the first Commission. As European integration and the EC changed, I argue that the Commission adjusted, and that the case of the EPC is a good illustration of how this adjustment occurred, what forces that was at play and which factions that "won".

The distinct manner in which the Commission approached EPC that I argue illustrates a process of adjustment is found in both cases analysed in this thesis. I argue in the thesis that one of the main aims for the Commission was to evade detrimental discussions with the Member States over its role in EPC. In the case of the CSCE the desire to evade conflict was expressly stated, and the Commission presented a deliberate stance to act in a discreet and low key manner. I claim that the relentlessness of the Commission's approach is seen as it worked towards its aim of protecting the EC continuously, which is tracked in the thesis' analysis of the CSCE in chapter five from 1971 until the formulation of the Moro-declaration and the signing of the Final Act of 1 august 1975. The analysis points on an individual level to the importance of Noël and Meyer. They were relentlessly working for the Commission, and in addition to the level of the SG they emerged as collective memory. I argue that the feature of the Commission as a collective memory was an advantage for the Commission in its battle for inclusion in first the CSCE, later also in the case of the EAD.

The result of the two-step analysis that I have undertaken in this thesis is the emergence of a second generation Commission that approached EPC in order to participate in order to protect the EC, to link the EC to EPC and to shape EPC. The Commission managed to draw EPC closer to the EC, by securing an unintended role for itself. This adjustment and its results was a success for the Commission.

7.4 Concluding remarks on the implications of a second generation Commission's role in European Political Cooperation

This thesis' investigation of the role of the Commission in EPC in the period 1969-1976 presents evidence of an instance where a supranational institution "mattered" in an intergovernmental setting.⁷⁸⁶ I argue that the Commission mattered as it managed to achieve a role in EPC; it mattered as it participated and protected the EC, linked the EC to EPC and even to an extent managed to shape the contents of EPC. Furthermore, I argue that the results of my analysis on the activity and on the Commission as an actor prove that while EPC was in essence Member State-controlled, and thus a Principal led structure; the Commission as an Agent managed to carve out a role for itself within this structure. I claim that the acquirement of an unintended role for the Commission in EPC proves that it to an extent still could follow its own preferences despite the fact of the intergovernmental characteristics of this period, which in essence was hostile to Commission agency. In this thesis I present evidence of the Commission as a competence-maximizer on the EC's behalf as it aimed for inclusion in order to maximise the scope of the EC's activities. In addition the thesis presents evidence for how the Commission acted as a purposeful opportunist through the analysis of the manner in which the Commission approached EPC. I argue that this merits a particular conceptualisation of the Commission as a second generation Commission. Moreover, based on the findings in the thesis I claim that the role the Commission acquired in EPC illustrates the effect of a deliberate change where the Commission adjusted from a first generation to a distinct second generation Commission. The characteristic of this second generation Commission were one of active supranational agency, where deliberate choices were made on the basis of adjusting to a changed environment but also based on diverging views within the Commission.

The thesis thus presents evidence of the resilience of supranational institutions. Even after what has been termed as an "intergovernmental turn" of the European integration project the Commission managed to gain access to new areas of cooperation between the European national states that were intended as intergovernmental. As a result the thesis' main findings and argument underpin Rational Choice Institutionalism notions of supranational agency. This thesis contributes a historical perspective to these RCI-notions that might serve to expand

⁷⁸⁶ The question "do supranational institutions matter" as in "do they deserve the status of an independent causal variable" is posed by one of the main scholars adhering to Rational Choice Institutionalism, Mark A. Pollack (1997: 99). Here, Pollack also questions "the conditions under which, and the ways in which, supranational institutions exert an independent causal influence on either EC governance or the process of European integration".

them based on the new empirical material presented. The thesis might thus inform P-A models occupied with questions over the potential for supranational agency versus an instrumental role for institutions. The thesis' empirical evidence of the Commission's agency holds implications for the notion of path dependency. I argue that the Commission deliberately made use of the prior commitments the Member States held through the existence of the EC and that these commitments constituted a 'path'. Furthermore, I argue that the Commission successfully played the card of prior commitments of the Member States to its advantage in the case of entering into EPC, in order to keep them within this path. As a result I claim that the Commission's use of these commitments amounts to an instrumental use of path dependency, which is part of what I suggest as defining a second generation Commission. The Member States were less autonomous in EPC as an effect of their creation of the EC and the Commission, and importantly, it was the Commission that could make use of this effect, and my argument is that it did.

Admittedly, the autonomy of agency is difficult to measure, but this has not been an aim for this thesis.⁷⁸⁷ Neither is autonomous agency my claim for the Commission in EPC. The resilience of the supranational institutions presented in this study does not signify their supremacy or domination over national states, but it should serve as a foundation for questioning of total intergovernmental supremacy. The development of a role for the Commission in the EPC in the period covered by this thesis is undebatable, but the material that exists does not expressly describe a causal relationship in which the Commission did one thing, and the Member States based their decisions and actions in the EPC expressly and directly on this. However, based on the findings of my analysis I argue that the agency of the Commission had effects on EPC. This argument is based on the fact that the results of the Commission's participation in EPC compares well with its stated objectives and goals. Additional support for this argument is found as the Commission directly stated that it was satisfied with what it had achieved in both of the early, formative and influential EPC-cases explored in this thesis.

Based on the results of this thesis' analysis I argue that Member State control over the Commission as an agent was not total, and that the Commission was in a position where it to an extent could pursue its own preferences. My argument is that in the case of EPC the Commission acted deliberately, rationally and in accordance with what it anticipated from

⁷⁸⁷ Pollack 1997: 110 notes the exceedingly difficulties in measuring the autonomy of agency as the Agents rationally anticipate the behaviour of the Principals, and act accordingly.

Member States, and that this was the successful approach of a second generation Commission. My claim is that the manner in which the Commission rationally anticipated the behaviour of the Member States; along with an acceptance that an adjustment of the Commission as an actor was necessary, was exactly what made a much wanted role in EPC possible.

The argument of the resilience of supranational institutions is not unconditional. I call for a greater sensibility for the complexity of such Principle-Agent relationships that has been investigated in this study. In no way can it be argued that the Commission or any other supranational institution of the EC were dominant in the period of European integration explored in this thesis. The Commission managed to play a role in EPC in the 1970s, but at the same time it failed in its quest for political unification within the EC. There was no European Union before the Maastricht Treaty 1993, more than 20 years after the Commission began its work for inclusion in EPC. Based on this, studies in European integration history should strive to refrain from treating it as a zero-sum game in which it is either Member States or supranational institutions that “wins”. I suggest rather embracing the complexity of these structures and actors. Further studies should seek to accept what can be termed as high and low tides of the Commission as an institution, but also the ability of the institution to manoeuvre an ever-changing environment more or less hostile to ambitious supranational institutions in order to survive.

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⁷⁸⁸ The Archive of European Integration (AEI) is an electronic repository and archive for research materials on the topic of European integration and unification, see <http://aei.pitt.edu/>.

⁷⁸⁹ I have consulted HAEU's online resources, see <http://archives.eui.eu/>.

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