

UNITED WE STAND, DIVIDED WE FALL

*THE EUROPEAN COMMUNITY AND ITS MEMBER STATES IN THE
WTO FORUM: TOWARDS A COMMON POSITION ON ISSUES OF
MIXED COMPETENCE?*

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ABSTRACT

Both the European Community (EC) and its Member States agree that it is in their best interest to coordinate their action *vis-à-vis* the rest of the world in international agreements. This dissertation examines the law and practice of the EC external trade relations. The major point of analysis is to find ways to ensure the unitary character of the EC external trade relations in areas of mixed competence between EC Member States and EC Institutions as well as understand the management of the EC external trade relations. It begins with an analysis of the EC's external trade problem and the evolution of the EC common commercial policy, through which the author examines the checks and balances at the micro, meso and macro levels. The legal complexity of mixity is then analyzed. This unique legal phenomenon (mixed agreements) is tackled from an intra-EC perspective as well as from its external dimension, where its various implications for third parties are taken into account. The major EC Institutions are examined: the Commission as the negotiator of international agreements, the EU Council as the consultator and concluder of agreements, the European Parliament in its role of consultator and the role of the European Court of Justice in relation to shared competence between the EC and its Member States in the framework of international trade. The decision making process of the EU and its relation with national institutions are analyzed as an important part of this dissertation. It finally diagnoses a specific case study in international trade, the so-called "open skies" agreement between the EC and the U.S. The methodology used has been the analysis of Treaty provisions of the European Communities, case law from the European Court of Justice, interviews with officials of the EU institutions and primary and secondary sources. This dissertation concludes that although the European Union is composed of 15 sovereign Member States with unique needs and circumstances, in most cases it is in their national interest to give up their national sovereignty to the European level to have a stronger negotiating position in international negotiations. This would only be legally possible by amending the Treaties.

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