

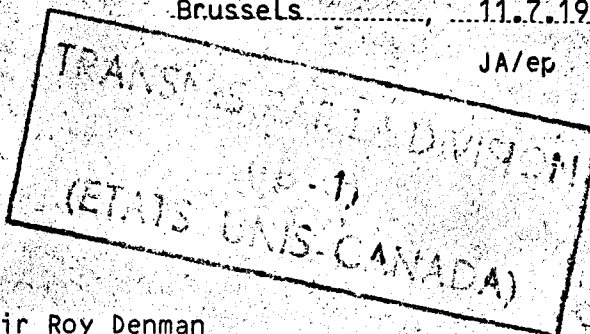
COMMISSION
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Directorate-General for
External Relations

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Special file

Note to Sir Roy Denman

Subject: US-EC trade relations since the MTN: a critical assessment

Please find attached a note describing the present status of US-EC trade relations six months after the conclusion of the MTN, pointing out at the same time potential trade issues in the near future.

The aim of this paper is to give a general assessment of present and potential trade issues without purporting at policy-making; it is intended to give general information on our trade relations with the US for those who need to be informed.

Caspari
M. CASPARI

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Brussels, 2 July 1980

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Directorate-General for
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NOTE

US - EC trade relations since the MTN:
a critical assessment

A. The issue

1. At the end of the first semester of 1980 it seems appropriate to take stock of the evolution of EC-US trade relations since the conclusion of the MTN: while until the final conclusion of the MTN negotiations, both partners managed to keep protectionist forces under control, there seemed to be reasons for considerable apprehension thereafter. Firstly, in the context of a world wide economic slow down, the economies of both partners encounter serious structural difficulties. Secondly, the trade policy scenario in the United States had changed since the passage of the Trade Agreements Act: less firm US leadership in the trade field, coupled with an increased sectoral pressure and the fact that 1980 is an election year in the United States, with local and sectoral trade interests pressing hard for attention.

2. So far despite these new elements and apart from a few though important cases such as steel and cars in the United States and synthetic fibres in Europe, the situation has not exploded. A main reason for this, no doubt, has been the good cooperation between the US and the EC on the trade policy management front, as a result of which a number of trade issues have been solved. However, the near future still looks not bright and there are no doubt many instances for a potential trade conflict. This note analyses both the trade cases known to date and those forthcoming in the foreseeable future.

B. The situation so far: a summary report

3. So far, the outcome of a number of trade disputes has been satisfactory. A number of past cases, a legacy of the MTN period, have been resolved. In two sensitive cases of countervailing duties proceedings, i.e. butter cookies and canned ham, the ITC has ruled that there was no evidence of injury nor of a threat of injury. Furthermore, the US Administration has decided not to pursue two pending cases of Section 301 complaints involving Community agricultural exports (barley malt and canned fruit). The kraft issue has at least been temporarily shelved, while the controversial ASP-kraft linkage has been solved.

Apart from these types of cases, on footwear the US administration has so far been able to resist any restrictive measures, although at a certain moment of time imports from the Community had sharply increased. An open

conflict over the UK safeguard measures on synthetic fibres has been avoided so far as well.

4. The number of cases that have affected the Community trade to the US since the conclusion of the MTN is rather limited, though some of them (steel anti-dumping and car escape clause) involve a high trade volume. ANNEX I gives more details on all these cases.

5. So far both the US and the European Community have thus managed rather well to keep protectionist pressures under control.

C. Foreseeable trade problems

6. For the months to come, however, the outlook is less favourable. There are several basic reasons for this. Firstly the economic outlook is not good and the economy will not recover until the beginning of 1981. For this reason both partners may be exposed in the coming months to increased pressure for sectoral remedies, in particular in those cases where import pressures continue. One of the most serious cases with which we might be faced is the possibility of a safeguard action in the US against automobile imports. The ITC determination in this case is for November 10, 1980. Although Community exports of cars and trucks to the US are small, compared with those of Japan, the imposition of quotas (which is requested by US petitioners) would hinder the future growth of our exports. More important, there may be a reflux problem of Japanese cars to our markets. Likewise, potential difficulties lie ahead in the footwear field, where US industry continues to press for a global quota. Secondly, a number of US trade procedures against EC firms will have to be resolved. The most prominent example of these procedures is the steel antidumping case, where indications as to dumping margins and a consequent suspension of customs liquidation can be expected by the middle of October. Furthermore, for several cases under Sections 301 and 303 of the Trade Agreements Act the USTR will have to propose to President Carter by July 26th 1980 either to dismiss the cases or to take retaliatory action: all these cases concern exports of agricultural products from the Community. Thirdly, US trade requests concerning the Community's enlargement may give rise to a series of trade disputes. The US side stressed the political difficulties involved and the personal interest of Governor Askew in a satisfactory solution. Fourthly, the continued application of the Common Agricultural Policy and possible changes in it may become areas of renewed attention by the US trade policy authorities. Fifthly, a whole new area of trade disputes might open when for several products tariff duties would go up considerably as a result of reclassification procedures that are now pending before the US customs service. In that case a GATT dispute could well arise. Sixthly, there is a potential problem in the field of regulatory action by US agencies. In particular problems could arise in the field of aircraft noise, toxic substances and wine labelling. Finally the competitive advantage US producers enjoy because of lower oil and natural gas prices and the resulting lower feedstock prices for US chemical exports to Europe could cause serious trade problems in the months ahead, as had earlier been the case with synthetic fibres.

7. In Annex II some more details are given. This evolution has to be projected against a worsening bilateral trade balance for the Community: whereas in 1979 the Community had a trade deficit with the US of around 13 billion dollars, it may be expected that this deficit will even increase in 1980.

Conclusions

8. Despite apprehension for a multiplication of trade complaints since the conclusions of the MTN, the overall economic recession and a new trade policy management and legislation in the US, so far the situation has shown no "signs of despair" and only a relatively small number of complaints have been brought. Moreover, a number of other issues have been kept under

control as a result of active trade policy management both in the Community and the United States. Finally, a number of old trade problems have disappeared.

9. However, as the economic recession gains momentum in the coming months, sectoral pressures for protectionism may more openly come to the fore. This might not necessarily lead to a great number of trade complaints but trade involved in each one might be substantial, as the recent escape clause petition regarding imports of cars demonstrates.

10. The Community should continue to take a firm stand against protectionist solutions. Moreover, it should resist any temptation to link trade problems (such as in the recent Kraft/ASP disputes). A formal linkage would enhance the risk of jeopardizing the delicate balance of the MTN results. Furthermore, it could considerably complicate the Community's already cumbersome decision making mechanism (in the light of the often divergent interests of EC Member States) and increase - in the case of protracted negotiations - the danger of escalation leading to an overall trade conflict. Apart from that, any trade off between US and EC complaints would be biased from the start as the main US actions cover a much greater volume of trade.

11. In this context the EC should continue to examine with the necessary restraint complaints against US trade threats: escalation has to be avoided by both sides and the EC should avoid giving such an impression especially if the signs of easing in the steel sector should lead to an acceptable solution.

12. Restraint on substance, however, has to go together with a firm presentation of our legitimate interests from the start, so as not to give the US Administration unwarranted expectations which could ultimately only lead to a deterioration of the overall climate of bilateral relations.

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The actual status of bilateral trade issues with the United States -
some details

General bilateral issues

(a) Customs reclassification

Since the conclusion of the MTN, the Community has noticed a considerable increase in reclassification procedures before the US customs authorities. Some of these cases have an impact far beyond the particular product involved, with results for Community trade in a large number of other products. The first case which falls into this category, concerns substantially completed articles which may potentially fall into the higher tariff category of finished products as a result of the reclassification of CAB chassis. The second case is the reclassification of ornamented garments, in which the US Customs Court appears to be directing the Customs Service to revise a definition affecting products well beyond those originally involved (Scottish kilts). In all cases, a substantial duty increase would result from reclassification. The Commission considers that this nullifies concessions made in the MTN and has repeatedly told the US in oral and written demarches that either they should reclassify by keeping the original tariff or that they should pass through existing GATT procedures (Article II(5) or Article XXVIII). Without counting the potential extension of reclassification to the categories mentioned above, the actual amount of bilateral trade involved in the reclassification cases, initiated to date, amounts to 55 million dollars.

(b) Extension of Buy American principles

The Commission is concerned about Buy American provisions in the Surface Transportation Act which are considered to be in conflict with the exchange of letters between Mr Strauss and Mr Davignon concerning the Government Procurement Code. The Commission has also protested by "note verbale" to the State Department on Buy American legislation recently passed in New York State and similar legislation pending in California where Buy American principles will be applied to all procurement of steel products and products containing steel by these State authorities. Although it is difficult to estimate the exact amount of potential trade involved, they add further harassment to our steel trade with the United States. In its diplomatic notes, the Commission has also pointed out that these types of extension of Buy American practices would certainly have an unfavourable effect on EC willingness to extend the application of the Government Procurement Code.

(c) Problems regarding regulatory actions

A number of US regulatory agencies pass implementing legislation which differs from rules that the US has accepted internationally. A recent example of this concerns US rules on aircraft noise and smoke emission standards for aircraft: the Federal Aviation Administration has published draft regulations which, if passed, would be contrary to the established practice of not unilaterally applying domestic regulations to foreign registered aircraft: in this case, the United States would prohibit entry of non-complying aircraft well before the dates agreed upon internationally. Although actual trade involved is minor, the problem is one of principle and we have drawn the attention of the US authorities to this on several occasions, most recently by two diplomatic notes.

The labelling of alcoholic beverages

A second example of national regulatory actions. The Treasury Department advised the Commission on 16 April 1980 of its intention to announce a regulation on compulsory listing of ingredients on the labels of alcoholic beverages. The regulation provides for ingredient labelling as of 1 January 1983. Since the Commission is currently preparing proposals for Community regulations in the same field, this US move militates against efforts to harmonise legislation and could therefore result in a non-tariff barrier, as all alcoholic beverages fall in principle under the proposed regulations and the Community is an important exporter of wine, beer and spirits to the US. The potential trade impact of a disharmonious legal development is substantial. The Commission services had several consultations with the US authorities in order to find a suitable solution, but the US Treasury published its final rules unchanged in the Federal Register of 15 May 1980.

(d) DISC

It appears from reports that we recently received from Washington that the tax exemption for US exporting companies under the DISC system has increased considerably in recent years. One reason for this is the present high levels of interest rates which have increased the DISC advantage to US companies. In a number of sectors, the cost advantage thus accruing to US industry may well reach 3-4%.

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Sectoral bilateral issues

Industrial products

(a) Steel

EC steel exports to the US could be virtually brought to a halt in October 1980 if under the present antidumping investigation against Community steel producers the International Trade Commission would judge that our sales have been at less than market value and consequently liquidation of customs entries would be suspended. In practice, this could lead to our exports drying up as early as July. The Commission has warned the US Administration about the dangers of such unacceptable developments, most recently when President Jenkins spoke to President Carter in Venice. What the Commission wants is action by the US Government which would induce US Steel to withdraw their antidumping suit. However, the US Administration, itself is under various legal and other constraints in seeking an acceptable way out. This problem affects more than half of Community steel exports to the United States or at least one billion dollars.

(b) Synthetic fibres and double price oil/gas

The existence of price regulations in the US for oil, natural gas and certain of the derivatives together with export restrictions resulting in lower feedstock prices for US producers, is a significant factor in giving the US synthetic fibre industry a competitive advantage over their European competitors. This has resulted since 1979 in greatly increased US exports of certain synthetic fibre products to some regions of the Community. The Commission has complained under Article XX(i) of the GATT against the underlying double price system oil/gas. Four consultations have been held in Geneva so far and the Americans have shown a willingness to consider a liberalisation of certain naphta exports to the Community, so as to reduce part of the artificial cost advantage. However, concrete results so far have not emerged and these consultations will be continued in September.

The sudden surge in imports of synthetic fibers in the UK has led the Commission to authorise Community measures to permit the United Kingdom to restrict by quota imports from the US of polyester filament yarn and nylon carpet yarn. This in its turn has invited the United States to come up with outrageous compensation requests far beyond the potential trade volume involved. So far the US has rejected the Community's compensation offer and a potential GATT conflict could well arise over this.

Moreover, the Commission has now concluded two antidumping investigations and imposed antidumping duties against imports from the US of discontinuous fibre (staple) (13,7%) and continuous filament (tow) (17,6%).

(c) Automobiles and trucks

An important trade conflict could arise out of the safeguard petition of the United Auto Workers, filed with the ITC on 12 June 1980, and requesting the ITC to recommend both substantial increases in duty and import quotas on automobiles, trucks and parts. Community trade is substantial (1979 4.8 billion dollars). But US trade restrictions could not only seriously hamper future growth of our exports but could also cause a reflux of Japanese cars on the Community markets.

(d) Float glass

This case originated in a negative determination by the US Treasury in 1979, (no subsidy proved) but unfortunately it is still to come up for an injury determination before the ITC. So far legal problems have prevented this. Partly because of the legal harassment involved for our producers (the suspension of customs liquidation applied) EC trade to the US has virtually disappeared. We have protested on several occasions, so far without apparent success. (EC trade involved approximately 3 million \$).

(e) Miscellaneous antidumping and countervailing duty procedures

Recent US antidumping cases involving Community producers in which dumping duties have been imposed are acrylic yarn from Italy and melamine from Italy and the Netherlands; moreover, the ITC has made an affirmative alternative in its preliminary determination concerning sodium metasilicate from France.

The EC has imposed dumping duties on the following products, involving US producers: kraft liner paper, polyamide and polyester yarn, lithium hydroxide and acrylic fibres. Antidumping investigations are still under way for saccharin, quartz crystal units, chemical fertiliser, polyester yarn and pressure sensitive tape.

As far as countervailing duty procedures are concerned, there are no past or pending EC procedures involving US products.

On the other hand there is a long list of cases involving EC products where, under the old trade Act of 1979, countervailing duties have been imposed because of a positive subsidy determination by the US Treasury. Under the 1979 Trade Agreements Act, the ITC has still to look into the injury as part of these cases. For the most part, EC trade interest is very limited (although trade has, of course, diminished as a result of countervailing duties). The following products are involved: barley and molasses from France, spirits from Ireland and the UK, certain steel products, chains and parts, compressors and parts, die presses, refrigerators, freezers and parts, screws, ski lifts and parts, steel units for electrical transmission towers, float glass and steel welden wire mesh, all from Italy.

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Agricultural issues

US agricultural exports

(f) Citrus (Mediterranean Preferences)

The US consider that damage has been caused to their exports of citrus by the preferential tariffs applied to EC imports from Mediterranean countries. This is at the base of one of the remaining unsettled Sec 301 cases dating from before the Tokyo round which must be settled by 26 July 1980. Governor Askew has suggested that if no solution is found, the case will be settled in a way unfavourable to the Community.

Consultations under the Casey-Soames understanding on Mediterranean preferences have been held. The Commission has not accepted that difficulties arise to US exports from the preferences.

It is relevant to the discussion of the subject that the Community's principal supplier of oranges - product most concerned - is Spain, and the impact of Spain's accession to the Community on this trade will almost certainly be the subject of Article XXIV (6) negotiation.

(g) Community enlargement

The US fears that the accession of Mediterranean countries might be disadvantageous to their trade, particularly because of the existence of Q.R.s and tariffs, in a substantial number of agricultural and industrial products. The Commission so far has replied that it was within the logic of US/EC cooperation to have an exchange of information on EC enlargement and that we should handle this with the utmost discretion. We will have exploratory talks with the US on this issue but we have already pointed out that contrary to their expectations, the accession of the new members will be profitable to the US, because it will bring those Q.R.s and tariffs down.

Specific examples of the American fears are

- raisins: Greece is a major producer and US fears the impact of CAP on Greek production,
- almonds (and other nuts): Spain is a major producer, and it is feared that access to the EC market may be limited by the imposition of variable levies,
- wheat and cereals: the potential for Spanish production is great and may lead to raising of barriers to US exports,
- olive oil: measures in favour of production may affect US soya exports.

(h) Immersion chilling of poultry (UK)

The US has expressed its concern over the UK decision to implement the EC Directive regarding immersion chilling, which they regard as discriminatory. They have asked for consultations with the EC under Article XIV(1) and (2) of the Standard Code, and for consultations with the US on the application of the Directive in the UK. The potential trade impact is insignificant.

(i) Restitutions - Wheat

Although the US side has appreciated that the EC has exercised restraint in its exports to third markets (there have been no EC sales to Latin America (tender 300.000 T only) or China (150.000 T)), they are concerned over the overall increase in EC exports. The Commission has pointed out that EC exports do not affect markets which are of primary interest to the US. This will become increasingly so with the increase in fuel costs associated with sea freight. The EEC thus becomes less competitive on distant markets and concentrates on traditional markets nearby.

(j) Wheat flour

This also is a pending Section 301 complaint, thus to be decided before the end of July. The US industry is concerned by its declining share of the world market faced with the EC which they consider has sharply increased its own share. We have replied that this last increase results from increased sales to traditional markets, and that on the other hand, in markets where the EC competes with the US, there has been no abnormal development.

Furthermore, one notes a policy of increased US/wheat grain sales coupled with investment in local milling capacity.

A further problem would appear to result from a cut back in the PL 480 programme in wheat flour. The consequence of this is that the US milling industry is now called upon to secure sales on commercial rather than concessionary terms.

Meanwhile, bilateral discussions are going on to solve this issue.

Potential US/EC disputes - some details

General

As pointed out in part C above, a number of pending procedures against Community exports in the US will come to an end in the near future. This is first of all the case with a number of old Section 301 cases. Although so far a few cases have been resolved satisfactorily, problems may arise with the others. On steel, a major part of our traditional trade with the US may be virtually stopped when procedures should lead to a suspension of customs liquidation in the US by the middle of October 1980. It is still too early to speculate on the results of the discussion President Jenkins had with President Carter in Venice on this, so that the potential for a major conflict remains. Furthermore, and as observed above, the US request to be compensated for the UK safeguard measures against imports of synthetic fibres is still not resolved.

Other potential bilateral trade disputes

Industrial products

(a) Automobiles and trucks

Most important, the pending safeguard investigation on automobiles and parts must be decided around Christmas 1980, but the danger exists that temporary import restrictive measures will be taken in the US before that date. Even if such measures do not restrict our trade directly, any US pressure on Japan to restrict its exports to that country might induce Japanese producers to increase their share in Community markets, which in those Member States that do not have import restrictions has already considerably risen since the end of 1978.

(b) Reclassification issues

Many of these issues, mentioned in Annex I above, will come up for decision within the next months. Decisions by the US customs authorities which would be adverse to the Community trading interests, could well lead to trade clashes in case the US would be unwilling to respect the appropriate GATT procedures.

(c) Chemicals

Differential feedstock prices

The competitive advantage which US producers enjoy because of lower oil and gas prices and which is described above can easily mark its impact on the petroleum chemical field; there are already signs of alarm from the European chemical industry. Moreover, the Commission has started an antidumping investigation into imports from the US of vinyl acetate monomer.

Agricultural products

Commission subsidies for grains

(d) Grains to be used in distilled spirit production

Commission services are in the process of formulating a proposition which would have the effect of extending the restitution system to cover the cereal component in the production of alcoholic beverages (whisky, gin, genevre etc.). While this proposed measure is not specifically designed to increase penetration in the US market it would have the result if enacted of precipitating an immediate action under Section 301 by the US industry, seeking compensatory duties or other measures, which could threaten in turn EC exports valued at about \$ 500 million annually.

(e) Tax on soya

A proposal was put forward last autumn to encourage the use of milk products in the Community through the taxation of soya. This proposal has been shelved in the Commission services. In view of the high trade that the US have with us in soya, any move from the EC side to restrict that trade would no doubt lead to vigorous protests from the US government.