

WASHINGTON FOREIGN LAW SOCIETY
THIRTIETH ANNIVERSARY DINNER 25 FEB 1983
ADDRESS BY SIR ROY DENMAN
HEAD OF THE DELEGATION OF THE
COMMISSION OF THE EUROPEAN COMMUNITIES

MR CHAIRMAN, LADIES AND GENTLEMEN,
ANYONE WHO IS NOT A LAWYER AND WHO HAS THE TEMERITY TO
HARANGUE A LARGE GROUP OF DISTINGUISHED LAWYERS MUST
FEEL RATHER LIKE DANIEL IN THE LIONS' DEN. SO LET ME TRY
THIS EVENING TO DO TWO THINGS. THE FIRST IS TO PUT TO
YOU A EUROPEAN VIEW ON SOME OF THE PROBLEMS BETWEEN US.
THE SECOND IS TO GIVE YOU SOME GLAD TIDINGS. THESE ARE
THAT THE STORMY TIMES THROUGH WHICH WE ARE PASSING AND
THE PRESSURES ON BOTH SIDES OF THE ATLANTIC WILL MEAN A
PROSPEROUS 1983 FOR ALL THOSE CONCERNED IN TRADE
LITIGATION.

LET ME BEGIN BY A GENERAL REFLECTION.

WHY ARE U.S.- EEC RELATIONS SO IMPORTANT?

SHOULD WE NOT BE WORRYING ABOUT OTHER AREAS OF THE
WORLD?

) QUESTIONS OTHER THAN TRADE.

IN ANSWER I GIVE YOU SEVERAL REFLECTIONS.
FIRST THE INTERESTS OF THE U.S.

FOR SOMETHING LIKE 100 YEARS AFTER THE CIVIL WAR FOREIGN TRADE DID NOT ACCOUNT FOR MORE THAN 3-4% OF AMERICAN GNP. THEN IN THE 1970'S IT TOOK OFF. IN 1980 IT ACCOUNTED FOR NEARLY 9%.

SOMETHING LIKE ONE FIFTH OF AMERICAN INDUSTRIAL PRODUCTION IS EXPORTED.

4 OUT OF EVERY 5 MANUFACTURING JOBS CREATED IN THE U.S. BETWEEN 1977 AND 1980 WERE LINKED TO EXPORTS.

SO FOREIGN TRADE IS VITAL TO AMERICAN JOBS AND THE AMERICAN STANDARD OF LIVING. UNEMPLOYMENT NOW IS THE HIGHEST FOR 40 YEARS. WHAT WOULD IT BE IF YOUR FOREIGN TRADE COLLAPSED?

THEN YOUR INTERESTS IN COMMUNITY MARKET

WITH THE COMMUNITY AS A TRADING PARTNER IN 1980 YOU RAN WITH US A SURPLUS OF 25 BILLION DOLLARS ON MERCHANDISE TRADE, 7 BILLION IN THE AGRICULTURAL FIELD.

OUR JOINT WORLD RESPONSIBILITY

THE U.S.-EEC TOGETHER ACCOUNT FOR ONE THIRD OF WORLD TRADE. NEARLY HALF IF YOU COUNT TRADE BETWEEN THE MEMBERS OF THE EUROPEAN COMMUNITIES.

WE ARE THE WORLD'S BIGGEST TRADING PARTNERS AND THUS OUR RELATIONSHIP IS FUNDAMENTAL TO THE SURVIVAL OF THE OPEN WORLD TRADING SYSTEM.

BUT DANGERS PROWL AROUND LIKE MEDIEVAL BEASTS IN THE FOREST - SOME IN THE AMERICAN FOREST AND SOME BEYOND THESE SHORES.

FIRST, THE ECONOMIC DEPRESSION

THE CURRENT RECESSION WHICH STARTED IN JULY 1981, HAS BEEN LONGER AND DEEPER THAN ANY POST-WAR DEPRESSION. UNEMPLOYMENT IS THE HIGHEST IN 40 YEARS AT NEARLY 12 MILLION.

SOME BRIGHT SPOTS - INFLATION DOWN TO BELOW 5%. INTEREST RATES HAVE FALLEN. IT COULD BE ARGUED THAT ON THIS BASIS WE SHOULD BE IN A BOOM. BUT CONSUMERS FACE DOUBLE DIGIT UNEMPLOYMENT AND GROWING LAY-OFFS. THERE WILL BE A RECOVERY THIS YEAR. BUT HOW MUCH AND HOW QUICKLY - THE

INDICATORS ARE STILL FLASHING CONTRADICTIONARY SIGNALS.

THEN THE STRONG DOLLAR

UNEMPLOYMENT AND LOW CAPACITY UTILISATION GENERALLY CALL FOR SELECTIVE MEASURES. MORE GENERAL PROTECTIONIST PRESSURES FROM OVER-VALUATION OF THE DOLLAR.

LET US LOOK BACK ON THE '70'S. IN THE FINAL PHASE OF THE BREAKDOWN OF THE BRETTON WOODS SYSTEM, THE DOLLAR WAS OVER-VALUED BY SOME 15%. RESULT : THE MILLS BILL IN 1970 AND THE BURKE HARTKE BILL.

IN 1976-77 THE DOLLAR WAS AGAIN OVER-VALUED. THE NUMBER OF TIMES ANTI-DUMPING OR COUNTERFEITING DUTIES WERE IMPOSED OR ESCAPE CLAUSES INVOKED ROSE FROM 5 IN 1975 TO 26 IN 1976. IN 1974 UNEMPLOYMENT WAS HIGH BUT THE DOLLAR AND THE CURRENT ACCOUNT THEN IN EQUILIBRIUM THE TRADE ACT BASIS OF THE TOKYO ROUND WAS PASSED. BUT THE DOLLAR IS NOW SUBSTANTIALLY OVER THE '80 LEVEL, THE YEN SUBSTANTIALLY LESS. RESULT : RISING PROTECTIONISM, RECENT STRUGGLE IN CONGRESS OVER DOMESTIC CONTENT BILL - WHICH WILL BE RESUMED - A BILL IN CLEAR VIOLATION BOTH OF THE PRINCIPLES OF THE GATT AND THE MINISTERIAL DECLARATION AT GATT MEETING END NOVEMBER.

THESE ARE SOME DIFFICULTIES TO BE SEEN IN THE U.S.
BUT OF COURSE THE SCENE RANGES WIDER THAN THAT. WHAT IS
BADLY NEEDED IN 1983 WORLD WIDE IS ECONOMIC EXPANSION.

HOPES OF ECONOMIC RECOVERY MAY ALREADY HAVE DAMAGED
BUSINESS AND CONSUMER CONFIDENCE SO THAT SPENDING PLANS
CONTINUE TO BE DEFERRED AND FINANCING CONSTRAINTS MIGHT
BE MORE SEVERE THAN PREDICTED.

"HOPE DEFERRED" AS THE POET SAID, "MAKETH THE HEART
SICK".

UNLESS WE CAN BREAK OUT OF THE WORLD ECONOMIC RECESSION
THE STRAINS ON THE ONE WORLD TRADING SYSTEM ARE GOING TO
BE GREATER THAN ANYTHING WE HAVE SEEN FOR THE LAST 35
YEARS.

THEN OUR MAJOR AND CONTINUING ANXIETIES ABOUT THE
ABILITY OF DEBT-RIDDEN COUNTRIES INCLUDING SOME OF THE
BIGGEST IN THE DEVELOPING WORLD - AND SOME OF THE MAJOR
COMPANIES - TO REPAY AND RESERVICE THEIR BANK
BORROWINGS.

THEN THE STRAINS IMPOSED ON THE WORLD TRADING SYSTEM BY
OUT OF LINE EXCHANGE RATES, A SITUATION WHERE THE DOLLAR

IS OVER-VALUED BY 20% AND THE YEN UNDERVALUED BY 20% IS
A RECIPE FOR MAYHEM.

ONLY LAST FALL THE WHOLE STORMY SCENE WAS COMPLICATED BY
INCREASING TENSIONS ON BOTH SIDES OF THE ATLANTIC -
STEEL, THE PIPELINE AND THE RUN UP TO THE GATT
MINISTERIAL MEETING.

BUT THEN IN OCTOBER AND NOVEMBER SOME OF THE CLOUDS
BEGAN TO LIFT. ON STEEL WE CUT A DEAL.
NOT A COPYBOOK SOLUTION BUT ANYONE WHO CRITICISES IT
SHOULD BE REMINDED OF CLEMENT ATTLEE'S COMMENT WHEN
ASKED WHAT LIFE WAS LIKE AT THE AGE OF 80, "BETTER" HE
SAID, "THAN THE ALTERNATIVE".

THE PIPELINE SANCTIONS HAVE BEEN LIFTED.

WE HAVE BEGUN TO SEARCH FOR A COMMON APPROACH ON THE
DIFFICULT BUT IMPORTANT SUBJECT OF ECONOMIC RELATIONS
WITH THE SOVIET BLOC.

THEN THE GATT MINISTERIAL MEETING AT THE END OF
NOVEMBER.

IN OUR VIEW THE GATT MINISTERIAL MEETING WAS A SUCCESS. IT COULD NEVER HAVE HERALDED THE START OF A NEW NEGOTIATION. ON SERVICES A LOT OF GROUND HAS TO BE CLEARED BEFORE THE POSSIBILITY OF A NEGOTIATION CAN BE SERIOUSLY LOOKED AT. AND IN THE TRADITIONAL AREA OF TARIFFS AND NON-TARIFF BARRIERS THE RESULTS OF THE TOKYO ROUND WHICH FINISHED ONLY IN 1979 ARE STILL BEING DIGESTED. BUT FOR THE TRADING NATIONS OF THE WORLD TO AGREE IN THE MIDDLE OF THE BIGGEST RECESSION FOR 50 YEARS ON A FIRM COMMITMENT AGAINST PROTECTIONISM AND ON A SENSIBLE AND COMPREHENSIVE PROGRAMME OF WORK WAS A CONSTRUCTIVE ACHIEVEMENT.

SINCE WHATEVER OUR BILATERAL DIFFICULTIES WE MUST OPERATE WITHIN THE GATT AS A RULE OF LAW IN WORLD TRADE LET ME DEAL WITH SOME OF THE SUBJECTS WHICH OCCUPIED US IN THE RUN UP TO THE GATT MINISTERIAL MEETING AND SOME OF WHICH WILL CONTINUE TO CLAIM A GOOD DEAL OF OUR ATTENTION IN THE COMING YEAR.

FIRST DISPUTE SETTLEMENT. HERE WE RUN UP AGAINST A CULTURAL DIFFERENCE BETWEEN BOTH SIDES OF THE ATLANTIC. THE NUMBER AND SCALE OF ATTORNEYS IN THE U.S. IS SO PRODIGIOUS - THIS I VOICE NOT AS A CRITICISM BUT IN

ADMIRATION - THAT THE NATURAL INSTINCT IN THE U.S. IS TO GO TO LITIGATION AND GET A CLEAR DECISION. IN EUROPE THE TENDENCY IS MUCH MORE TO GO FOR A PRAGMATIC SOLUTION. THIS SPILLS OVER INTO THE ARGUMENT ABOUT SETTLEMENT OF DISPUTES IN THE GATT. HERE THE TENDENCY IS TO TAKE A CASE TO COURT AND ASK FOR A QUICK CLEAR JUDGEMENT. BUT THE DIFFICULTY IS THAT THE GATT IS A CONTRACT ACROSS THE WORLD BETWEEN 88 SOVEREIGN STATES. IT HAS NO SHERIFF AND NO JAIL. SO WE DO NOT THINK THAT QUICK AND AUTOMATIC PROCEDURES WILL EVER FULLY WORK. THE GATT IS NOT A SLOT MACHINE IN WHICH YOU PUT A CARD KNOWING THAT IT WILL POP OUT IN A MINUTE OR SO LIKE SOME UP TO DATE DELPHI ORACLE. DOES ANYONE HERE THINK THAT IF THE STEEL DISPUTE BETWEEN US LAST FALL HAD BEEN UP TO A PANEL IN GENEVA AND THAT THE FINDINGS OF THESE WORTHY GENTLEMEN HAD BEEN BROUGHT BY RUNNER WITH A CLEFT STICK TO MR DAVE RODERICK OF U.S. STEEL THE RESULT WOULD HAVE BEEN AN INSTANTANEOUS SETTLEMENT? THAT IS WHY WE THINK THAT THE EMPHASIS HAS TO BE ON CONSULTATION AND NEGOTIATION. WE ARE GLAD THAT THIS WAS REFLECTED IN THE AGREEMENT REACHED TO IMPROVE DISPUTE SETTLEMENT PROCEDURES.

THIS BRINGS ME NATURALLY ENOUGH TO OUR DISPUTE ON STEEL WE SOLVED TOWARDS THE END OF LAST YEAR. BUT HOW FAR WAS

THE GATT RELEVANT. MANY OF YOU PARTICULARLY THOSE WITH CONTACTS IN THE U.S. STEEL INDUSTRY MIGHT THINK THE STEEL ISSUE WAS AN OPEN AND SHUT CASE. HERE WAS THE U.S. STEEL INDUSTRY GOING THROUGH ONE OF THE WORST PERIODS IN ITS HISTORY. HERE WERE THESE CUNNING FOREIGNERS SUBSIDISING THEIR STEEL EXPORTS TO THE U.S. AND DUMPING LEFT AND RIGHT, WHAT THEN HAVE THE EUROPEANS TO COMPLAIN ABOUT IF ACTION IN ACCORDANCE WITH THE DUE PROCESS OF U.S. LAW IS TAKEN TO STOP THESE ILLEGAL AND DAMAGING ACTS.

LET ME MAKE THREE BASIC POINTS.

IN 1977 WE, THE U.S., THE EC AND OTHERS AGREED IN WHAT WAS CALLED THE OECD CONSENSUS THAT WE SHOULD COOPERATE IN A MULTILATERAL FRAMEWORK AND THAT THE BURDEN OF RESTRUCTURING STEEL ON BOTH SIDES OF THE ATLANTIC SHOULD NOT BE SHUNTED ONTO OTHERS. WE BOTH HAD PROBLEMS, OUT OF DATE PLANTS, INADEQUATE INVESTMENT, HIGH LEVEL COSTS, BUT WE AGREED NOT TO TRY AND EXPORT OUR PROBLEMS FROM ONE SIDE OF THE ATLANTIC TO THE OTHER. OUR CONTENTION WAS THAT WE HAD KEPT OUR SIDE OF THE BARGAIN, A CUT OF ONE THIRD IN THE STEEL WORKFORCE IN THE COMMUNITY AND A DECISION BY THE COMMISSION IN AUGUST 1981 THAT MEMBER

STATE AIDS TO THE STEEL SECTOR WERE STRICTLY PROHIBITED UNLESS GEARED TO CAPACITY AND NO REPEAT NO AIDS AFTER 1985. THAT WAS ONE OF OUR CONTENTIONS.

THE SECOND RELATES TO ANTI DUMPING AND SUBSIDIES. HOW WELL WERE THESE CALCULATED. WE CONTESTED HERE A WHOLE NUMBER OF POINTS. LET ME GIVE SIMPLY TWO EXAMPLES. IN THE CASE OF ANTI DUMPING A NOTIONAL - SOME MAY SAY MYTHICAL - PROFIT MARGIN OF 8% WAS AUTOMATICALLY INCLUDED IN THE U.S. CALCULATIONS. WE DID NOT THINK THIS REALISTIC. AND ANY LOAN TO A SO CALLED UNCREDIT WORTHY COMPANY WAS CALLED A SUBSIDY. SOME OF YOU MAY HAVE SHARES IN COMPANIES LIKE THESE BUT YOU WOULD HARDLY AGREE THAT YOU ARE SUBSIDISING THEM. AND THIS LEADS TO A GENERAL POINT. NOT EVERYTHING IN THE GATT IS AGREED DOWN TO THE LAST COMMA. IT SIMPLY WAS NOT POSSIBLE TO NEGOTIATE AS FAR. SO WE HELD THE VIEW THAT IT WAS NOT A GOOD THING FOR PARTNERS WHO HAVE TO TRADE WITH EACH OTHER TO MAKE UNILATERAL INTERPRETATIONS OF GREY POINTS IN THE GATT RULES.

A THIRD POINT WAS THAT FINDING IMPORTS ARE SUBSIDISED OR DUMPED WAS NOT ENOUGH. THERE IS NOTHING IN THE INTERNATIONAL TRADE RULES AGAINST THIS PRACTICE AS SUCH.

A BRITISH BUSINESS FRIEND OF MINE WAS ONCE ASKED IF HE WAS DUMPING OVERSEAS. HE BECAME INDIGNANT. HE WAS NOT DUMPING HE SAID, HE WAS EXPORTING AT A LOSS IN THE NATIONAL INTEREST. WHAT THE GATT RULES PROVIDE IS THAT ACTION CAN BE TAKEN AGAINST SUBSIDISED OR DUMPED IMPORTS IF THEY CAUSE INJURY. AND THIS JUDGEMENT HAS TO BE INTERNATIONALLY ACCEPTABLE. WE DID NOT THINK THAT IMPORTS OF COMMUNITY STEEL AMOUNTING IN THE YEARS '79 - '81 TO JUST OVER 5% OF THE U.S. MARKET COULD REASONABLY BE HELD TO BE A SIGNIFICANT REASON FOR THE ADMITTEDLY VERY SERIOUS PROBLEMS OF THE U.S. STEEL INDUSTRY.

MR CHAIRMAN, I DO NOT MENTION THESE POINTS TO RAKE OVER OLD COALS, BUT SIMPLY TO GIVE YOU AS LAWYERS SOME INDICATIONS OF THE ARGUMENTS THAT CAN AND DID ARISE IN WHAT ONE COULD THINK WAS A SIMPLE APPLICATION TO COMMERCIAL PROBLEMS OF THE GATT CODES.

THEN AGRICULTURE. THIS SHOWS ALL THE SIGNS OF BECOMING A FLASHPOINT IN U.S./EC RELATIONS IN 1983. LET ME MAKE JUST SIX QUICK POINTS.

IN THE FIRST PLACE THE COMMON AGRICULTURAL POLICY IS ESSENTIAL TO THE EXISTENCE OF THE EUROPEAN COMMUNITY. WITHOUT IT THERE WOULD NOT HAVE BEEN A COMMUNITY.

IN THE SECOND PLACE ITS OBJECTIVE IS NOT TO KEEP OUT FOREIGN FARM PRODUCTS. THE COMMUNITY IS THE AMERICAN FARMERS' BIGGEST FOREIGN CUSTOMER. IN 1981 WE BOUGHT 9 BILLION DOLLARS WORTH OF FARM PRODUCTS FROM THE U.S.

THIRDLY IT IS TRUE THAT THE COMMON AGRICULTURAL POLICY SUPPORTS EUROPEAN AGRICULTURE. BUT THE AMERICAN FARMER ALSO ENJOYS MASSIVE FARM INCOME SUPPORT FROM FEDERAL FUNDS, MORE IN TERMS OF DOLLAR PER FARMER THAN IN THE EC.

SO FOURTHLY, AGRICULTURAL SUBSIDIES WERE RECOGNISED IN THE GATT AS A FACT OF LIFE. WHAT WAS AGREED IN THE TOKYO ROUND WAS THAT NO ONE SHOULD USE THEM TO TAKE MORE THAN A FAIR SHARE OF WORLD FARM TRADE. WE THINK WE HAVE HELD TO THIS AGREEMENT.

FIFTHLY, THE COMMUNITY IS NOT TO BLAME FOR THE PROBLEMS FACING AMERICAN AGRICULTURE. THESE PROBLEMS ARE A RESULT OF HIGH INTEREST RATES, A STRONG DOLLAR, LOWER SALES TO THE SOVIET UNION, RECORD U.S. HARVESTS AND THE WORLD RECESSION.

FINALLY THE CAP IS NOT IMMUTABLE. IT IS BECOMING MORE MARKET ORIENTATED AND ADJUSTED TO DEAL WITH OVER

PRODUCTION.

I SHOULD LIKE NOW TO MENTION ANOTHER ISSUE WHICH HAS INCREASINGLY TROUBLED US IN RECENT YEARS - EXTRATERRITORIALITY. NOW I KNOW THIS IS A TOPIC WHICH HAS LONG EXERCISED THE MINDS OF MANY LAWYERS ON BOTH SIDES OF THE ATLANTIC. BUT IT IS NOT JUST AN INTERESTING LEGAL PROBLEM. THE EXTRATERRITORIAL APPLICATION OF LAWS HAS ALSO IMPORTANT POLITICAL AND ECONOMIC IMPLICATIONS.

THE DISPUTE WHICH ERUPTED LAST YEAR BETWEEN THE U.S. AND WESTERN EUROPE OVER U.S. SANCTIONS RELATING TO THE CONSTRUCTION OF THE PIPELINE FROM SIBERIA TO WESTERN EUROPE WAS A DRAMATIC EXAMPLE OF THE PROBLEMS WHICH CAN OCCUR WHEN A COUNTRY SEEKS TO APPLY ITS LAWS EXTRATERRITORIALLY. HAPPILY THAT PARTICULAR INCIDENT WAS BROUGHT TO A SATISFACTORY CLOSE, BUT NOT UNTIL AFTER MUCH INTENSE DIPLOMATIC ACTIVITY, COURT CASES AND DISRUPTION TO TRADE.

AS THE U.S. EXPORT ADMINISTRATION ACT IS UP FOR RENEWAL THIS YEAR AND WILL CERTAINLY BE THE SUBJECT OF INTENSE DEBATE BOTH WITHIN AND OUTSIDE CONGRESS, I SHOULD LIKE TO RECALL SOME OF THE PROBLEMS WHICH HAVE ARISEN FOR US UNDER THE EXISTING LEGISLATION.

THE EXTRATERRITORIAL APPLICATION THAT THE U.S. HAS SOUGHT TO GIVE TO ITS EXPORT CONTROLS UNDER THE ACT HAS CAUSED US VERY REAL CONCERN.

THERE ARE SEVERAL ASPECTS OF THE WAY IN WHICH THE EXPORT ADMINISTRATION ACT HAS BEEN USED WHICH ARE OF PARTICULAR CONCERN TO US. FOR EXAMPLE :

- THE APPLICATION OF U.S. EXPORT CONTROLS TO COMPANIES INCORPORATED IN THE MEMBER STATES OF THE EUROPEAN COMMUNITY, BUT OWNED OR CONTROLLED BY A U.S. COMPANY.

- THE EXTENSION OF U.S. CONTROLS TO TRADE BETWEEN THIRD COUNTRIES IN GOODS OR TECHNOLOGY WHICH WERE ORIGINALLY OF U.S. ORIGIN.

WE DO NOT BELIEVE THAT SUCH AN EXTENSION OF U.S. JURISDICTION IS IN CONFORMITY WITH THE ACCEPTED PRINCIPLES OF INTERNATIONAL LAW.

THESE KIND OF CONTROLS ARE NOT ONLY IN OUR VIEW OBJECTIONABLE ON LEGAL GROUNDS, THEY ALSO POSE SERIOUS POLITICAL AND ECONOMIC PROBLEMS. U.S. EXPORT CONTROLS CAN BE INTRODUCED UNILATERALLY, FOR EXAMPLE, FOR THE FURTHERANCE OF U.S. FOREIGN POLICY GOALS WHICH ARE NOT

NECESSARILY SHARED BY THE EUROPEAN COMMUNITY AND ITS MEMBER STATES. WE TOO HAVE OUR OWN FOREIGN POLICY GOALS. EUROPEAN SUBSIDIARIES OF U.S. COMPANIES MUST ALSO ABIDE BY THE LAWS AND POLICIES OF THE COUNTRY IN WHICH THEY ARE INCORPORATED. IT IS UNACCEPTABLE TO US THAT THESE COMPANIES ESTABLISHED IN A MEMBER STATE OF THE COMMUNITY BE CONSIDERED TO BE SUBJECT TO U.S. LAW WHEN THIS SUITS THE UNITED STATES GOVERNMENT. SUCH A SITUATION COULD ADVERSELY AFFECT THE EUROPEAN COMMUNITY'S ATTITUDE TOWARDS U.S. INVESTMENT IN EUROPE.

THE EXTENSION OF U.S. PUBLIC EXPORT CONTROLS TO THE TRADE BETWEEN THIRD COUNTRIES IN GOODS, WHICH ARE CLAIMED TO BE SUBJECT TO U.S. JURISDICTION IS ALSO OBJECTIONABLE FOR COMMERCIAL AND POLITICAL REASONS. MANY INDUSTRIES IN THE COMMUNITY HAVE QUITE READILY ACCEPTED U.S. KNOW-HOW IN THE PAST AND TO A CERTAIN EXTENT HAVE BECOME DEPENDENT UPON THEM FOR THEIR OWN PRODUCTION. IF IT TURNS OUT THAT THEY MAY BECOME SUBJECT TO U.S. JURISDICTION AT ANY MOMENT, THEY MIGHT FEEL CONSTRAINED TO CHANGE THEIR POLICY AND SEEK TECHNOLOGY AND ADVANCED PRODUCTS ELSEWHERE.

THE PROBLEMS CAUSED BY THE EXTRATERRITORIAL APPLICATION

OF U.S. EXPORT CONTROLS ARE COMPOUNDED BY THE FACT THAT SUCH CONTROLS HAVE BEEN APPLIED AT TIMES RETROACTIVELY, LONG AFTER CONTRACTS HAVE BEEN CONCLUDED IN GOOD FAITH.

I KNOW THAT THE BUSINESS COMMUNITY IN THE UNITED STATES IS AS PREOCCUPIED AS WE ARE ABOUT THE PROBLEMS CAUSED BY EXTRATERRITORIAL AND RETROACTIVE APPLICATION OF U.S. EXPORT CONTROLS. I HOPE THAT THE U.S. ADMINISTRATION AND CONGRESS WILL ALSO RESPOND POSITIVELY TO OUR LEGITIMATE CONCERNS. IF NOT, I BELIEVE THAT THERE WILL BE A GROWING TENDENCY AMONGST COUNTRIES TO ADOPT BLOCKING LEGISLATION WITH THE INTENT OF NEGATING THE APPLICATION OF U.S. MEASURES IN THESE COUNTRIES.

NOW, I CERTAINLY DO NOT WISH TO GIVE YOU THE IMPRESSION THAT IT IS THE INTENTION OF THE EUROPEAN COMMUNITY TO SEEK WAYS OF THWARTING U.S. FOREIGN POLICY OR NATIONAL SECURITY CONTROLS. INDEED, THERE WAS A FIRM COMMITMENT GIVEN BY THE EUROPEAN COMMUNITY TO DISCUSS WITH THE UNITED STATES A BROADRANGING SERIES OF PROBLEMS RELATING TO TRADE WITH THE SOVIET UNION. WITH THE PIPELINE DEBACLE WE HAVE SEEN THE DANGERS INHERENT IN UNILATERAL ACTIONS WITH EXTRATERRITORIAL EFFECT. THROUGH COOPERATION AND COORDINATION, I HOPE WE CAN AVOID A REPEAT PERFORMANCE OF SUCH AN EVENT.