

**THE DISPUTE BETWEEN THE COMMUNITY AND THE UNITED STATES**

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# 1. The dispute between the Community and the United States

1.1.1. For more than a year now relations between the Community and the USA have been marked by an atmosphere of permanent tension due first and foremost to the difficulties generated in the areas of economic and monetary policy in Europe by the high level of interest rates prevailing in the USA. Further sources of problems have surfaced during 1982 involving steel<sup>1</sup> and exports of equipment for the Europe-Siberia gas pipeline.<sup>2</sup> The months of July and August saw an intensive round of negotiations and contacts: in the case of steel, the Commission and the US Administration negotiated a voluntary restraint arrangement which bears witness to the willingness of the Community to achieve an overall settlement of the difficulties concerning trade in steel and to avoid unilateral or restrictive measures in such a depressed sector; and on supplies for the Siberian gas pipeline, the Ten have confirmed their solidarity on a number of occasions and talks between them are continuing.

## **Steel: a voluntary restraint arrangement**

### **The negotiations**

1.1.2. Over the past 12 months, a very substantial proportion of Community steel exports has been the subject of anti-dumping suits lodged by the US industry, and countervailing duties were imposed. In response to the suits that were lodged, the American authorities commenced anti-subsidy and anti-dumping proceedings.<sup>1</sup> On 10 June and 9 August respectively it published the findings of its investigations and announced provisional duties on the relevant imports. These proceedings and the provisional measures taken in respect of imports from the Community had the effect not only of jeopardizing the normal development of trade in steel but also further aggravated the strained relations between the Community and the USA.

After trying to seek an amicable solution, the Community eventually came down in favour of an emergency partial solution before going on to negotiate a general agreement with the US Government.

The Community endeavoured first of all to resolve this dispute on an amicable basis: discussions in Brussels with Mr Baldrige, the Secretary of Commerce, continued in Washington between Mr Haferkamp and Mr Davignon and Mr William Clark, National Security Adviser, and Mr Bill Brock, United States Representative for Trade Negotiations. This meeting in Washington constituted the final high-level attempt to reach a solution which would enable the anti-dumping suits and countervailing duties to be withdrawn.

As soon as provisional duties were imposed by the Department of Commerce in June,<sup>3</sup> the Commission challenged the methods and criteria used by the American authorities to define export subsidies and calculate their impact. It also argued that the share of the market supplied by Community products (a little over 6%) could not be taken as an indicium of damage to the American industry, and called for preservation of traditional trade flows.

Following the failure of the attempt to reach an amicable solution, the Council meeting of 20 July came out in favour of an emergency partial solution seeking to obtain the suspension of the provisional duties in exchange for voluntary restraint covering solely those products and firms affected by the duties. On 22 July the Community then presented an offer designed to achieve a 10% cut in its 1981 share of the US market for seven ECSC products in the context of arrangements to be concluded by the USA with the Community and four of its Member States (Belgium, France, Italy and the United Kingdom). Following the rejection of this offer

<sup>1</sup> Bull. EC 1-1982, point 2.2.24; Bull. EC 6-1982, point 2.2.42.

<sup>2</sup> Bull. EC 6-1982, point 2.2.43.

<sup>3</sup> Bull. EC 6-1982, point 2.2.42.

the Council, at a special meeting on 24 July, gave the Commission an exclusive mandate to negotiate an overall arrangement with the US Government.

### Content of the arrangement

1.1.3. On the basis of the overall mandate entrusted to the Commission by the Council, discussions were held from 3 to 6 August between the Community and the USA. They culminated on 6 August in an agreement between Mr Haferkamp and Mr Davignon for the Commission and Mr Baldrige, the US Secretary of Commerce, on an arrangement under which the proceedings then in train could be terminated. President Reagan himself welcomed the success of these negotiations which, he said, had been very difficult and complex and had reached a positive outcome thanks solely to the determination of the two sides to succeed in a spirit of understanding and cooperation.

In a joint statement released at the conclusion of the negotiations, Mr Haferkamp, Mr Davignon and Mr Baldrige declared that the arrangement constituted a major step towards resolving the incessant disputes and differences involving trade in steel, which for a number of years had been a source of irritation between the Community and the United States.

The objective of the arrangement is to bring in a period of trade stability. To this end, the Community will restrain its exports to the United States of the steel products listed in the arrangement for the period 1 October 1982 to 31 December 1985. For the period 1 October 1982 to 31 December 1983 and thereafter for each of the years 1984 and 1985 export licences will be required for the products covered by the arrangement. Such licences will be issued to Community exporters for each product in quantities no greater than the following percentages of projected US apparent consumption for the relevant period:

<i>Product</i>	<i>Percentage</i>
Hot-rolled sheet and strip	7.43
Cold-rolled sheet	5.15
Plate	5.98

Structurals	10.90
Wire rods	4.29
Hot-rolled bars	3.01
Coated sheet	3.32
Tin plate	2.20
Rails	8.90
Stainless steel sheet and strip	4.08

The calculation and revision of the US apparent consumption forecast and of export limits will be carried out by independent experts. Appropriate adjustments will be made at regular intervals in the light of the trend of consumption forecasts. In special cases, limited technical adjustments can be made between the products in question. Special adjustments can also be made—on a limited basis—in the event of a shortage of a specific steel product on the US market.

A monitoring procedure will enable the two sides to keep track of the allocation of export licences or of any measures adopted in respect of imports of arrangement products for violations of US customs law.

The entry into effect of the arrangement is conditional on the withdrawal of the petitions filed by the US industry in respect of imports originating in the ECSC and on the termination of all proceedings and investigations concerning countervailing duties, anti-dumping duties and the petitions based on Section 301 of the US Trade Act initiated before the conclusion of the arrangement. This withdrawal should be implemented or rejected by 15 September. On the Community side the legal texts for the application of the arrangement have been prepared and finalized so that it can enter into force on 1 October.

Entry into force is also conditional on an undertaking by the petitioners not to file any new petitions seeking import relief under US law, including the imposition of countervailing duties and anti-dumping duties. If, during the period in which the arrangement is in effect, any such investigations were initiated following petitions by US firms in respect of products covered by the arrangement, the Community would be entitled to terminate the arrangement with respect to

some or all of the products covered after consultations with the United States. If, during the same period, any proceeding was initiated by the United States against steel products imported from the ECSC which are not subject to the arrangement and substantially threatened its objective, then the two parties, before taking any other measure, will consult to consider appropriate remedial measures.

### **Embargo on supplies for the Siberian gas pipeline: Community solidarity**

1.1.4. On 22 June the United States authorities adopted certain measures to extend to European firms the December 1981 embargo on exports to the Soviet Union of equipment intended for oil and natural gas exploitation.<sup>1</sup>

The Community's initial response was to send the US State Department an *aide-mémoire* on 14 July, calling on the US authorities to lift the embargo and formally challenging the extra-territorial and retroactive nature of the measure decided on by Washington.

Subsequently, the Community made a second approach to the State Department on 12 August: the Community once again voiced its great concern at the political and economic effects of the measures adopted on 22 June and reiterated its call for the withdrawal of those measures, including their repercussions on the Community's commercial

policy. The Community took the opportunity to forward its comments on the legal aspects.

The European position was also made clear by Mr Thorn: 'We have now reached a stage', he said, 'where it is becoming dangerous for all concerned to let matters go any further'. He stressed that it was necessary to take the heat out of the conflicts and create new confidence in order to provide a firm basis for solidarity and partnership. 'Constant squabbling between partners is certainly not a sign of strength', he continued, 'and we must therefore do everything possible to improve our procedure for ongoing and comprehensive consultations between the European Community and the USA. We in Brussels are ready to arrive at practical decisions before the end of the year'.<sup>2</sup> Mr Thorn said that the Commission's 12 August memorandum should be given the attention it merited as a communication between 'the friends and partners we are and intend to remain'. Negotiations on the political and legal planes should be continued. Mr Thorn emphasized the soundness of the arguments put forward by the Commission and insisted that it was essential not to exacerbate the differences. Contacts were being maintained.

<sup>1</sup> Bull. EC 6-1982, point 2.2.43.

<sup>2</sup> Address given at a symposium at the European Forum, Alpbach, Austria on the subject: 'America — Japan — Europe: triangle in conflict'.