



PROGRESS REPORT on EU-US Relations

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EUROPEAN COMMISSION - 200, rue de la Loi - T 120 - 8/93 - B-1049 Brussels

Tél. (322) 299.90.48 - Fax. (322) 299.92.88

Information services in the USA:

2100 M Street, NW, Suite 707, Washington, DC 20037 - USA - Tel. (202) 862-9500

305 East 47th Street, 3 Dag Hammerskjold Plaza, New-York, NY 10017 - USA - Tel. (212) 371-3804

44 Montgomery Street, Suite 3830, San Francisco CA 94104 - USA - Tel (415)2.88- 19.90.

INTRODUCTION

This is the first Progress Report of 1994 and also the first one to be produced jointly by DG I and DG IA, the Commission services dealing with external economic and external political relations respectively. The Progress Report will thus deliver a more complete picture of the multifarious contacts across the Atlantic not only referring to trade and economic issues but also reporting on how cooperation in the field of Common Foreign and Security Policy (CFSP) has evolved in the few first months since the entry into force of the Maastricht Treaty.

The four months (December 1993 - March 1994) this issue covers, have been good ones for the transatlantic relationship. Frictions and misunderstandings sometimes prevalent in 1993 have been replaced by a better understanding of each sides' concerns and by a closer cooperation on the whole range of political and economic issues in which the European Union and the United States share an interest.

It is of course a truism that the world on 31 March 1994 looks different from what it did on 1 December 1993, but it is one particularly apt to describe EU-US relations. They were under some strain at the beginning of December 1993: in the US, the EU was widely seen as responsible for not preventing the escalation of the conflict in former Yugoslavia and was regarded as somewhat parsimonious in its efforts to assist the reform process in the countries of Central and Eastern Europe, Russia and the CIS. The US saw the EC struggling first over the ratification of Maastricht and then over enlargement and it considered that the prospects for deeper monetary integration were shattered. Europeans, on the other hand, were disappointed by the lack of interest the Clinton Administration initially appeared to have in European affairs. Its foreign policy focus on NAFTA and APEC coupled with the time-consuming domestic issues of budget, health and crime largely absorbed the Administration's energies and left the EU wondering what role it would play in future US policies. In addition, the seven-year-long GATT negotiations dragged on and, with only two weeks to go until the deadline for their conclusion, the EU and the US were still divided over a substantial number of issues.

No miracles have taken place since then. However, among the various political factors contributing to a revitalisation and intensification of the EU - US dialogue on practically every issue of common concern, two events were of outstanding importance: the conclusion of the Uruguay Round negotiations on 15 December 1993 and President Clinton's first visit to Europe between 9 - 16 January 1994. Both are described in greater detail in the section of this Report entitled "Two big steps forward".

The successful conclusion of the Uruguay Round, in itself a ringing confirmation of the primacy of open trade rules, demonstrated that both the EU and the US

have the political will to work together constructively. Their joint leadership made an agreement possible which provides for trade rules wider in scope and more effective in their protection of fair trade, a more level international playing field and greater legal security for traders. In a nutshell, the potential for trade disputes between the world's largest trading partners has been significantly reduced while the scope for cooperation has been enlarged.

President Clinton's visit to Europe and in particular his Summit meeting with President Delors and the President of the European Council, Mr Papandreou, did a lot to dispel European anxieties about a shift in US interest towards the Pacific area and away from their commitments in Europe. In what President Delors described as the best Summit yet held, the US President wholeheartedly supported European integration, underlining the importance of the EU for the United States and emphasising that "America's commitment towards Europe's safety and stability remains as strong as ever".

Supported by this new understanding between the partners on both sides of the Atlantic, the transatlantic dialogue now covers more areas than ever before. While the basis for a working partnership between the two sides was already defined in the Transatlantic Declaration of November 1990, it is only now that the EU and the US have begun to make full use of the procedures established for regular consultation and interaction.

The Progress Report provides information on some of the issues currently under discussion, denoting progress achieved and obstacles encountered. It has no claim to completeness. More general information on the transatlantic relationship as well as a copy of the Transatlantic Declaration are available on request. Of particular interest are the Commission's annual "Report on US Barriers to Trade and Investment", the annual "General Report on the Activities of the Communities" and the monthly "Bulletin of the European Union". The latter two publications include chapters on EU-US relations, with the Bulletin focusing on the ongoing dialogue at the highest political level. For further information on economic and trade aspects, contact Ms A. Schomaker, DG I.B.1, tel ..32-2-299.01.73, and on political aspects contact Mr I. Czigány, DG IA, tel ..32-2-299.07.03, both with the European Commission in Brussels or our information services in the US, the addresses of which are listed on the front page.

TWO BIG STEPS FORWARD

CONCLUSION OF THE URUGUAY ROUND

After 2643 days of negotiations, the conclusion of the Uruguay Round on 15 December 1993 brought a sense of relief and achievement to the 107 current GATT Member States and gave a positive signal to business and investment across the world. The results achieved will boost the world economy and are expected to provide a very much needed impetus to help overcome the global recession.

Even conservative estimates suggest that the overall economic benefits of the Uruguay Round agreement will be tremendous. According to a study of the GATT Secretariat (based on the offers made by trade negotiators by 19 November 1993), the projected increase in global economic welfare will amount to US\$ 230 billion by the year 2005 and many commentators think that this estimate is too low.

But the conclusion of negotiations was not only important because of the economic benefits it conferred on the contracting parties, it also demonstrated that international cooperation was capable of achieving results even in a world hit by recession.

In a nutshell, the Round went beyond the consolidation and the reduction of tariff and non-tariff measures to address and cover new areas including intellectual property, services and trade-related investment measures. Furthermore, it has encompassed in a single undertaking the Final Act creating the World Trade Organisation, a Memorandum of Understanding on dispute settlement procedures and a wide range of expanded Codes (TBT (Technical Barriers to Trade), procurement, subsidies, dumping, etc) and comprehensive sectoral agreements.

More specifically, there are the achievements of the traditional GATT activity of tariff reductions. Here, the Uruguay Round produced a final market access package which constitutes the biggest liberalisation in trade history. Overall, developed country contributions reduce import duties by between 35 and 40 per cent, bettering targets set earlier in the negotiations. The US will reduce its industrial tariffs on EU exports by 46%; while the EU, for its part, will reduce industrial tariffs for US imports by 50%. In various sectors, such as pharmaceuticals and intermediate chemicals, paper, steel, construction equipment as well as scientific instruments, total tariff elimination was achieved. However, despite these commitments, many US tariff peaks (tariffs of 15% and above), in particular in the textile, footwear, ceramics and trucks sectors, will be upheld even after the implementation of the Uruguay Round results.

Furthermore, the negotiations included within the sphere of multilateral law international economic relations in the field of services, intellectual property and foreign direct investment.

With regard to services: we now have a multilateral framework of open trade rules ie transparency, MFN (most-favoured-nation treatment) and national treatment together with the first package of market-opening commitments. The rules are comprehensive and no sector is excluded, though many substantive commitments were ultimately deferred to future work programmes. The audiovisual sector is also part of the services framework although the EU has not undertaken any market access obligations.

The agreement on intellectual property will level up protection for a range of forms of intellectual property thus providing significant benefits for a wide spectrum of US and European industry: consumer goods, textiles and clothing, processed food, wines and spirits, pharmaceuticals, chemicals, computer programming and entertainment.

The third major achievement was a strengthening of the institution charged with the promotion of harmonious economic relations - there will now be a World Trade Organisation (WTO). The WTO will have the authority necessary to be more active in co-operation with other key international bodies such as the IMF and the World Bank. The WTO will also be a more transparent organisation combining a higher political profile with a new statutory openness. It will take more frequent initiatives to steer world economic cooperation towards greater openness and less friction.

Yet another major attainment is the strengthening of the multilateral dispute settlement procedures and the related removal of scope for unilateral action. To counterbalance the abolition of the virtual power of veto that has applied to GATT dispute settlement up to now, the legal findings of WTO panels will be open to review by a separate appeals body. For the first time, there will be clear rules on the timetable for dispute settlement, on the implementation of panel findings and on the steps to be taken in cases of non-implementation. Alongside this system there is the explicit reaffirmation that WTO members shall not take it upon themselves to determine a breach of international rules or to apply unilateral sanctions (however, see below for a discussion of President Clinton's recent decision to reinstate "Super 301").

Numerous additional results deserve a mention. To pick out just one, but one of particular importance to the European Union: thanks to the Uruguay Round, after decades of excessive subsidisation of agricultural

production and the corresponding external protection it is difficult to overstate the importance of binding agreements in the field of agriculture. The Uruguay Round represents the integration of agricultural trade into the multilateral trading system and the agreement, once implemented, will ensure that in the future agricultural trade will be subject to rigid multilateral rules. In addition, the GATT Contracting Parties have agreed to specific disciplines on internal support measures, on export subsidies and on market access. Market opportunities for efficient producers are thus improved and consumers on both sides of the Atlantic should be able to benefit from lower food prices.

Despite the overall very positive outcome of the Uruguay Round, substantive work remains to be done as the results achieved did not in all cases match the ambitious objectives of the negotiating parties. With the aim of concluding them by 15 April 1994 (expiry of the US President's "fast-track" negotiating authority), further negotiations are under way on public procurement. As regards services where most "unfinished business" remains, negotiations on Basic Telecommunications should be concluded by 30 April 1996. It was also agreed to continue negotiations on certain aspects of the financial services commitments. On maritime transport further negotiations will be pursued as of April 1994 with the aim of concluding them by June 1996. Professional services and free movement of persons will be discussed by specific working groups, the aim being to achieve higher degrees of liberalisation in these areas. Finally, certain plurilateral agreements still have to be negotiated: a Multilateral Steel Agreement and a Civil Aircraft Agreement.

For the time being efforts need to be concentrated on the process of formal ratification of the Uruguay results and the adoption of the final text. Accurate implementation of the Uruguay Round is essential and any backsliding on the commitments made on 15 December last year must be resisted. The EU and the US clearly have a mutual interest in understanding how each other will complete the implementation process, both in order to provide continued leadership to other countries and to achieve as much convergence as possible between themselves in order to maximise the benefits of the Round.

Beyond these practical considerations lies the question of beginning work on the new main priorities for strengthening world trade. Some have already been identified: the key ones are the relations between trade and environment policy, as well as the need for stronger international rules on competition and the issue of trade and social questions. Headway already made will be discussed in greater detail in the section entitled "Spotlight" in this Report.

From a political perspective, the conclusion of the Uruguay Round not only cleared the way for a successful EU-US Summit, but also rendered it possible to

focus on another important element of EU-US cooperation, the establishment of an overall security framework for post Cold War Europe.

PRESIDENT CLINTON'S FIRST VISIT TO EUROPE

President Clinton's first visit to Europe from 9 to 16 January 1994 constituted a landmark in bilateral relations and proved that - after 1993 as transitory year for the new Administration's policy formulation - Europe has regained priority status on the US' international political agenda. He followed an impressive schedule involving meetings at NATO and with EU leaders in Brussels, with the heads of state and government of the Visegrád countries in Prague, with the Ukrainian President in Kiev, the Russian President in Moscow and finally with the Syrian President, Assad, in Geneva. The US President left his interlocutors throughout the continent impressed both by his capacity for mastering a whole range of diverse issues in great detail and by his genuine commitment to furthering European integration.

President Clinton set the tone by sharing his thoughts on the future of the transatlantic relationship with 300 young Europeans, whom he addressed in a speech in Brussels' townhall at the outset of his visit. He emphasised that his "Administration supports European Union and Europe's development of stronger institutions of common purpose and common action" and went on to say that the US recognise that they "will benefit more from a strong and equal partner than from a weak one".

Following the NATO Summit, the EU-US Summit on 11 January brought together President Delors, the current President of the European Council Mr Papandreou, and President Clinton for substantial and lively discussions on various issues focusing in particular on economic growth and employment. Participants at the meeting subsequently described the atmosphere as excellent; one observer stated that it had been a true meeting of minds confirming the special nature of the transatlantic relationship.

President Clinton used the opportunity to reiterate his Administration's support for the continuing process of European integration and to confirm the EU's role as the United States' most valued trade and investment partner. The Summit also served to establish a consensus on the particular importance of tackling jointly the problem of unemployment. The Commission's White Paper was well received by President Clinton and ideas were exchanged about how best to generate employment growth on both sides of the Atlantic. In this context a more intensive cooperation in the preparation of the G-7 Jobs Summit was agreed upon. As regards the conclusion of the Uruguay Round negotiations, the

Summit provided a solid basis for dealing with the outstanding issues, collaborating further on improving third country market access and providing joint leadership in the discussion of the next generation of trade issues.

Given the itinerary for President Clinton's visit, discussions over lunch naturally focused on NATO and the EU's enhanced role within this organisation as well as on Russia. Both sides agreed that it was difficult to determine how the reform process in Russia could be best supported and that the Russian government should be made more aware of the importance of their trade relationship with the EU, given that current Russian

exports to the EU are thirty times higher than to the US. Further political achievements are set out in detail in section E of this Report.

In summary, it can safely be stated that the EU-US Summit provided a new impetus for bilateral relations both in political and economic terms. The unique nature of the transatlantic partnership was confirmed and the high personal regard Presidents Delors and Clinton have for each other will certainly contribute to a further strengthening of the bond between the United States and the European Union.

OTHER HIGH LEVEL BILATERALS

WARREN CHRISTOPHER IN BRUSSELS

After attending the CSCE-ministerial meeting in Rome, Secretary of State Warren Christopher met the President of the Commission and the then President of the Council, Belgian Foreign Minister Claes, on 1 December 1994. Relevant foreign policy topics of common interest were discussed such as developments in Russia, the Central and Eastern European countries, ex-Yugoslavia, the Middle East and Iran.

MICKY KANTOR IN BRUSSELS

EU Commissioner for External Economic Relations, Sir Leon Brittan, and US Trade Representative (USTR), Mickey Kantor, used their first meeting since the conclusion of the Uruguay Round (UR) to look chiefly towards the future and to identify a number of topics requiring particular attention during the months to come. The implementation of the UR results naturally figures high on the political agenda on both sides of the Atlantic. Questions concerning maritime transport, government procurement and other "unfinished business" from the UR were discussed in some detail. The new trade issues, in particular the problem of social issues, formed another focal point of the discussions. The two trade negotiators also touched on graduation, APEC and the US-Japan Framework Agreement. On this last point, Sir Leon re-emphasised Europe's opposition to managed trade and said that any such arrangement must be MFN-based and non-discriminatory.

EU-US SUB-CABINET

The first EU-US Sub-Cabinet meeting of 1994 (these are meetings at the highest administrative level which are held biannually) took place on 2 February. The spirit of open and constructive cooperation established at the first Sub-Cabinet meeting with the Clinton Administration in July 1993 was confirmed and both sides agreed to cooperate more closely on a whole range of issues. The respective delegations were headed by Mr Krenzler, Director General for External Economic Relations, and Ms Spero, Under Secretary for Economic and Agricultural Affairs at the US Department of State. At a press conference, Ms Spero described the meeting as very positive, saying that the US and the EU were at a point in their relations where "things are really very very good". Both parties agreed that the Sub-Cabinet meetings provided a useful means of actively reviewing the transatlantic dialogue and that the meetings have developed into an appropriate forum for overall coordination of EU-US relations, as well as for medium and longer term policy planning. They will continue to be used to assure the follow-up of agreements reached at previous meetings.

As regards specific subjects, the so-called "next generation of trade issues"; namely the links between trade and the environment, trade and competition policy and trade and social matters, was one of the main themes of the consultations, as was the state of the economy and, in particular, cooperation over the preparation of the Jobs Summit. Under the agenda item "early warning" the Sub-Cabinet looked at issues which could escalate into disputes if not kept under close political purview, such as conditional national treatment, computer reservation systems and illicit payments (ie the bribery of foreign officials). Other subjects discussed included

regulatory cooperation and, over lunch, with the participation of Mr Burghardt, Director General for External Political Relations, the Energy Charter, Japan, Russia and the countries of Central and Eastern Europe.

TRANSATLANTIC MINISTERIAL MEETING IN WASHINGTON

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In keeping with the framework of the on-going political dialogue as set out in the Transatlantic Declaration, EU Commissioner for External Political Relations Hans van

den Broek and the current President of the Council, the Greek Foreign Minister Papoulias met US Secretary of State, Warren Christopher, in Washington on 31 January 1994.

There was a frank and constructive exchange of views on a wide range of issues of mutual interest, namely former Yugoslavia, Russia and CIS, the Middle East and Central and Eastern European countries. Mr van den Broek and Foreign Minister Papoulias also met with Mr A. Lake, National Security Advisor, and Mr L. Hamilton, Chairman of the Foreign Affairs Committee in the House of Representatives.

THE EUROPEAN PARLIAMENT'S ACTIVITIES IN THE FIELD OF EU-US RELATIONS

The 42nd EP/US Congress inter-parliamentary meeting was held in Athens from 14-16 January 1994, just a few days after the Transatlantic Summit in Brussels. It was the first such meeting since both the ratification of the Maastricht Treaty and the successful conclusion of the Uruguay Round. It took place in a constructive atmosphere and dealt with a number of political, economic and trade related issues. Both the European and American representatives warmly welcomed the results of the Summit, with Mr Lantos, chairman of the US Congress delegation pointing out that the US and the EU had never needed each other as much as now and Mr Donnelly, chairman of the EP delegation, stressing that the EU-US Summit had got "the transatlantic relationship back on track".

The ensuing exchange of views focused first on the "unfinished business" from the Uruguay Round, but then turned to the benefits of closer regional economic cooperation as witnessed by both NAFTA and the EU's efforts for trade liberalisation with Eastern Europe. Both sides also explained their views on a number of specific subjects such as aviation, unitary taxation and steel. The two sessions devoted to a discussion of foreign policy issues concentrated on the EU's future role in NATO and the role of NATO itself. Finally, an intensive and detailed discussion took place on how to reinforce cooperation with and improve the investment climate in Russia.

In February/March the European Parliament debated and adopted a series of reports related to EU-US relations, notably the Penders Report "on relations between the European Union and the United States of America", and the Prag Report "on developments in East-West relations and their impact on relations between the US

and Europe in the field of security". Both reports underline the importance of strengthening existing transatlantic cooperation in the economic, political and security spheres and call for a re-appraisal of the transatlantic partnership and EU-US security relations.

EU-US POLITICAL DIALOGUE; FOREIGN AND SECURITY POLICY

With both the NATO and the EU-US Summit taking place in Brussels in January, the EU-US political dialogue was significantly intensified during the first month of 1994.

The role and importance of the EU in building up a European security and defence identity obtained full US support. To develop its Common Foreign and Security Policy, the EU will take greater responsibility for security matters and will strengthen the European pillar of the Alliance. Developments in Russia and the other CIS, the Central and Eastern European countries, former Yugoslavia and the Middle East were also discussed.

The WEU, as a new element and specifically European defence component, will complement NATO and share the same strategic interests. The Combined Joint Task Forces using NATO resources will be at the disposal of the WEU for certain military operations. The division of labour between the two defence structures, although not yet clearly defined, will ensure more flexibility in reacting to potential future local conflicts in Europe. Greater European involvement in security and defence matters was strongly supported by the US side.

The main outcome of the NATO Summit was the reintegration of NATO's original objectives as a collective defence community and "guarantor" of security in a period of transition affecting the whole continent. The stationing of 100,000 soldiers in Europe reaffirmed the US' commitment towards the Alliance which is based on a strong transatlantic link in the face of a shared destiny. NATO will continue to adapt its structures to the new situation which will involve an increased European contribution. Out of area operations under the authority of the UN Security Council can be considered on a case-by-case basis.

There was a general consensus on Russia's importance with regard to the European security architecture and the political line to be taken in form of conditional support of reforms which aim to transform the society according to democratic standards.

In response to the applications of various former Warsaw Pact countries to become NATO members, the US introduced the formula of "Partnership for Peace" (PfP) which was unanimously adopted during the Summit. Short of immediate membership it aims to instigate closer political and operational military cooperation in planning and training activities. The prospect of future membership of NATO was also addressed, but without setting precise deadlines and membership criteria. During his stop-over in Prague, President Clinton met with the representatives of the Visegrád Four and

set out the EU-US joint position on the dimension and potential of this partnership for the countries concerned. The "Partnership for Peace" initiative met with some scepticism from the countries of Central and Eastern Europe in the beginning but has now been largely accepted. Including Slovenia, 14 States will have signed the agreement by the end of March. Russia is also considering joining the partnership scheme.

The trilateral agreement reached in Moscow between the US, Russia and Ukraine on denuclearisation of the Ukraine covers the disposal of the world's third largest nuclear arsenal and also improves the prospects of enhancing security in Europe. After having finally obtained support from the Ukrainian Parliament, practical implementation is on the way. The fact that the Ukraine recently joined the PfP is another encouraging step in the right direction. Ukrainian President Kravchuk's recent visit to the US was accompanied by the announcement of an initial aid package of US\$ 700 Million, and the US is inviting further assistance from the EU to help the Ukraine in its efforts to undertake economic reforms. In this context, the EU and the Ukraine initialed a partnership and cooperation agreement on 23 March 1994 in Brussels.

A major recent development in US foreign policy in Europe has been its more active involvement and leadership with regard to Bosnia-Herzegovina. The formal signing of a document endorsing the draft constitution of a Muslim/Croat Federation in Bosnia-Herzegovina took place in Washington on 18 March 1994 in the presence of President Clinton, Vice President Gore, the EU Troika Ministers Papoulias, Kinkel and Claes and Commissioner Hans van den Broek. The firm stand of NATO on the removal of heavy weapons deployed around Sarajevo by 20 February has facilitated the improvement of conditions in the city and has given an important boost to the political process. However, important issues remain to be resolved in ex-Yugoslavia and the EU and the US will continue to consult closely on these.

EU-US TRADE AND ECONOMIC RELATIONS - RECENT DEVELOPMENTS

SPOTLIGHT:

NEXT GENERATION OF TRADE ISSUES

Trade and Environment / Trade and Competition /
Trade and Social Issues

There is a common understanding between the EU and the US that, following the successful conclusion of the Uruguay Round negotiations last December, a new set of trade issues will have to be focused on without delay. In this respect, the issues of trade and environment, trade and social aspects, and trade and competition were highlighted during the last EU-US Sub-cabinet meeting. The very frank and open exchange of views enabled both sides to gain a fair picture of both the preparatory work undertaken so far and the current political environment.

• Trade and Environment

The discussion on trade and environment is the most advanced of the three. During the Scheveningen Round Table on Environment and Trade, which took place in January 1994, the EU and the US engaged in a broad and more in-depth discussion of the various aspects of the issue leading to an increasing convergence of views. It was agreed to cooperate closely on the establishment of a Working Committee on Trade and Environment in the framework of the new World Trade Organisation. This Committee should have an appropriate status comparable to that of the Committees established by the Ministerial Conference according to Article IV of the WTO Agreement. Its proceedings should be transparent and open to outside environmental expertise and its work programme flexible while still encompassing all relevant subjects. Both partners understood that developing countries had to be brought on board and that their concerns about a possible "ecological colonialism" had to be taken seriously.

On the issue of unilateral measures in the context of the environmental protection, it was possible to find considerable common ground although there still exist important differences of appreciation in the respective positions of the EU and the US. The EU is of the opinion that multilateral measures are clearly to be preferred over unilateral actions.

With regard to more specific aspects, the Round Table took up the issues of nature conservation, chemical safety, ecolabels and waste.

On nature conservation, it was considered necessary to look for incentives to encourage sustainable development projects which involve local people in conservation, giving them an incentive to work for sustainable development and green trade. Examples cited were trade incentives such as the Generalised System of Preferences (GSP) and export credits, and also the use of financial resources in aid programmes.

On chemical safety, it was agreed that there should be a joint EU-US workshop with the chemical industry in order to look at existing problems, underline success stories and work out better methods of cooperation for the future.

The ecolabel presentation generated great interest amongst the Americans present and in general with the NGOs. The need for transparency in the ecolabelling procedure was heavily underlined. An information meeting was proposed in view of the interest expressed by the US authorities.

On waste, the EU's legislation to ratify the Basel Convention has already been adopted and the Convention was ratified on 7 February by the EU and most of the Member States. Much of the discussion focused on waste management and the problems which have occurred in the German dual system. The question of total bans on export of waste to third world countries was raised and it was acknowledged that this would be a major problem at the next meeting of the contracting parties to the Basel Convention. This was deemed to be an area where cooperation between EU and US would be necessary if the meeting is to be a success.

• Trade and Social Issues

There is agreement between the EU and the US on the political importance as well as the complexity of trade and social questions. Ongoing discussions between the two partners aim to assess the scope of the problem and to determine the most appropriate international fora to deal with the matter. It should be noted that emphasis is being placed on the question of full and faithful implementation of human rights rather than the transposition of certain social standards. As far as multilateral fora are concerned, both the EU and the US are of the opinion that for the time being the OECD is the most appropriate international institution in which discussions on the issue should be intensified. However, the work of the International Labour Organisation (ILO) should be further supported. The new World Trade

Organisation should only be concerned with the issue at a later stage.

• **Trade and Competition**

The issue of trade and competition will also require international rule making in the future. During the last Sub-Cabinet meeting it became apparent that although bilateral discussion between the EU and the US on the substance of the issue are well advanced, they still need to be intensified in order to provide a basis for multilateral cooperation. It was also understood that there is a need to integrate the developing countries more fully into the discussion.

GATT ISSUES



• **Tobacco**

The provisions of the US Omnibus Budget Reconciliation Act of 1993 contain inter alia, a requirement that at least 75% of the tobacco used in the manufacture of cigarettes in the US be from domestic production. The EU considers that these measures infringe its GATT rights, notably with respect to GATT Article III, and has engaged in consultations with the US under Article XXIII.1 of the GATT which did not resolve the issue. Therefore, in the meeting of the GATT Contracting Parties of 25 January 1994, the EU stated its intention formally to intervene in the Panel requested by Brazil et al.

• **Trade Policy Review Mechanism (TPRM)**

On 16-17 February 1994, US trade policy was reviewed for the third time under the GATT Trade Policy Review Mechanism (which will be institutionalised in the World Trade Organisation as a result of the Uruguay Round). On the basis of a report by the US government and one established by the GATT Secretariat, US trade was discussed at the GATT Council. As the Chairman of the Council, Ambassador Zahzan (Egypt) concluded, the overriding theme is the "multi-track" approach of US policy :

- multilateralism
- regionalism
- bilateralism
- unilateralism

As far as the first two tracks are concerned, the result of US trade policy is satisfactory. Concerns primarily exist over the bilateral and unilateral approach in US trade policy. The most striking examples are the attempts of the US to open up the Japanese market on the basis of

quantitative targets and the panoply of unilateral trade measures still provided for under Section 301, Special 301 and Super 301. This underlines the importance of the new dispute settlement procedures agreed in the Uruguay Round and the need to monitor closely that the US brings its legislation into conformity with the WTO as agreed in Article XVI.4 of the Uruguay Round Final Act.

SOME PROBLEMS



• **Super 301**

On 3 March 1994 USTR Kantor announced President Clinton's decision to reinstate, by an Executive Order, the so-called "Super 301" authority for a two year term after the old Super 301 had lapsed in 1990. The new Super 301 is broadly similar to the old one. It will lead to an annual report (the first one not later than 30 September 1994) in which the USTR will identify priority foreign country practices, following which the USTR would have to initiate standard Section 301 investigations within 21 days. Under Section 301 of the 1974 Trade Act the US Administration is authorised to take unilateral action to enforce US rights under international trade agreements and to combat foreign government practices judged to be unreasonable or discriminatory and to burden or restrict US commerce.

With regard to the conformity of Super 301 and Section 301 with GATT, the USTR has indicated that where the practices at issue constitute violations of trade agreements such as the GATT or the new WTO, the US will take those practices to the relevant dispute settlement procedures.

However, there are provisions in the 301 legislation which contain elements of automaticity and compulsion of the USTR to identify and investigate and to use in the last resort sanctions, which are not foreseen as such in the GATT and WTO dispute settlement procedures.

The EU is on the record as strictly opposing all kinds of unilateral action and has again expressed its concern over the resurgence of such a unilateral trade provision in US trade legislation. It will scan its implementation to determine if there is a violation of its GATT rights. The Council of Ministers of 7 March 1994 agreed to monitor the development very carefully and asked the Commission to report to the Council. The Council will, if need be, decide on any appropriate actions.

• **Horsemeat**

Following an outbreak of illness in France in late December 1993, allegedly caused by trichinae found in imported horsemeat, the EU imposed a temporary ban on fresh cuts of horsemeat from the US. Carcasses and frozen cuts could still be imported except from a specific slaughterhouse from which an infected sample of meat had been found.

At the end of January 1994, the ban was lifted because the US proved willing to provide explicit guarantees regarding testing. However, certain difficulties continued to be experienced by US exporters to France, as a consequence of a unilateral French ban on imports of all cuts of less than 3 kg. Currently, the US seems prepared to enter into an arrangement, involving the provision of tested samples, which should allow the full resumption of US horsemeat exports to the EU.

• **Seafood**

In an unrelated incident, US exports of seafood to France experienced some difficulties in early February 1994, when the French authorities unilaterally took certain measures including ceasing to accept exports from third countries which had not provided them with an approved list of exporting establishments. This problem was resolved on 12 February when the US provided such a list. However, the French authorities then began a policy of rigorous inspection and testing of each shipment of imported seafood and closed Roissy Charles de Gaulle airport to imports. The US authorities complained that these measures severely disrupted US exports of seafood to France.

Consequently, following high-level contacts between the French and the US authorities, France agreed that Roissy Charles de Gaulle be reopened on 7 March, that normal inspection and testing procedures be resumed for all US establishments exporting seafood for which no problems had been found during the period of intensive inspection, and that for a small number of establishments where problems had been found, rigorous inspection will continue but will return to normal when three consecutive consignments are free of problems.

• **Conditional National Treatment (CNT)**

The EU continues to have serious concerns about the proliferation of legislation in the US conditioning national treatment for foreign-controlled companies operating in US markets. There are now 11 bills pending before Congress which have incorporated CNT language, and which cover a broad range of predominantly technology oriented sectors. However, the trend is not limited to Congressional initiatives: President Clinton's

much publicised research initiative on a new generation of vehicles basically excludes participation of non-US automakers and auto part suppliers located in the US.

There have been consultations with the US Administration and Congress at various times, raising the issue in more detail. Although there is outspoken opposition within the Administration, as well as in major US industrial organisations, to the so-called Manton Amendment to the National Competitiveness Act which has already passed the House, it is apparent that the US Administration has not yet developed a coherent and comprehensive position on all questions of conditional national treatment of non-US controlled economic operators in the US. This lack of a consistent approach, however, contains the danger that the CNT "virus" with which certain Congressional proposals are infected will spread to sectors other than R&D and will have a detrimental effect not only on the investment climate in the US, but also on EU-US relations.

Concerns over CNT in the US have also been strongly voiced in the framework of a recent OECD examination of US measures concerning foreign direct investment in the context of the Code of Liberalisation of Capital Movements and the Instrument on National Treatment. The European Commission has therefore proposed to the US Administration to continue bilateral consultations on conditional national treatment with a view to working on the formulation of mutually acceptable criteria for the eligibility of companies' participation in domestic R&D programmes.

• **Shipbuilding**

The multilateral negotiations on shipbuilding, which have been going on now for four and a half years, resumed at the OECD in Paris in January and in March 1994. The aim is to reach an international agreement on the elimination of all obstacles to normal competitive conditions in the shipbuilding sector. Substantial progress was registered in regard to key areas in the negotiations, including indirect supports, injurious pricing and export credits. In addition, agreement exists on the suppression of direct supports. However, this progress must be regarded as provisional until agreement as a whole is reached on all the areas including, in particular, the "home-build" requirements set out in US legislation (The Jones Act), which restricts US coastal trade to US owned and built ships manned with US crews. The Commission considers that the Jones Act constitutes a form of indirect support for the US industry. The "home-build" provisions of the Act benefit US shipyards unfairly and will potentially distort the market. At the negotiations the US has proposed that a system be put into place to monitor the effects of the Jones Act so that it does not apply to certain types of vessels, such as tugs and dredgers. The EU is concer-

ned that at the last minute the United States tries to push through an expanded domestic credit scheme. So far, no real progress has been made in resolving concerns about the US Jones Act.

The Clinton Administration has announced its support for legislation pending in the United States Congress such as the Gibbons Bill (HR 1402) and the Breaux Bill (s 990), which cause concern to European shipbuilders and transporters and are perceived as an attempt to increase the pressure on the OECD negotiations. These Bills provide for sanctions - such as denial of access to US ports and imposition of fines - against vessels owned or controlled by citizens of countries which subsidise shipbuilding or repair industries.

The European Commission joined, with the Governments' of 15 countries, a demarche against the provisions of the Gibbons Bill, which was delivered to the US Department of State on 28 February 1994. Amendments introduced in November 1993 have not diminished concerns about the effects of the Bill on shipping interests, as expressed in a previous demarche in August 1993.

The Commission continues to monitor other recent proposals for US legislation such as the Maritime Security and Competitiveness Act (HR 2151) and the National Shipbuilding Initiative (NSI) - FY 1994 Defence Authorisation Bill (HR 2401/S 1298). HR 2151 would authorise the federal government to pay operating shipping companies support payments of US\$2.1 million to \$2.3 million per US-flag vessel annually for ten years. Foreign controlled companies' eligibility under the programme would be limited through a priority system in favour of US-controlled companies. The bill would also include shipbuilding provisions creating a programme of payments for series-built ship construction to subsidise the transition of US yards from the defence to the commercial market.

The Administration's proposed NSI plan, announced at the beginning of October 1993, consists of a 5-part programme aimed at rejuvenating the US civilian shipbuilding industry by increasing its world-wide competitive position. It provides for federal loan guarantees (US\$147 million in Title XI export loan guarantees) to US shipyards to subsidise exports and US\$50 million in defence conversion funds for ship design/production R&D. Participation in the NSI is limited to yards located in the US. In addition, the programme calls for a regulatory reform ~~review~~ programme and the increased use of existing export promotional programmes to help US shipyards secure foreign orders.

SOME POSITIVE DEVELOPMENTS



• G-7 Jobs Conference

The EU and the US cooperated closely on the preparation for the G-7 Jobs Conference which took place on 14/15 March in Detroit.

The "Jobs Conference" did not try and find a single solution or one idea or course of action to resolve the structural labour market problems that various countries have, instead it provided a forum for the exchange of views, the formulation of questions and the discussion of possible responses. Structured into four sessions focusing on "The World Employment Problem", "Creating Employment Opportunities in the Global Economy", "Technology, Innovation and the Private Sector", and "Labour Markets, Investment in Human Capital, and the Social Safety Net", the Conference also facilitated some productive informal talks among the participants.

The EU explained its approach to tackling labour market problems as set out in the Commission's White Paper on Growth, Competitiveness and Employment, emphasising - among other things - the link between technology and a more open trading system, as well as the need for more cooperation between the private and public sectors. There was agreement among the participants that international trade plays an important role in creating economic growth. Opening markets will increase the demand for goods and services, which will in turn create job opportunities. By contrast, closing markets will damage efforts to create jobs.

The discussions on practical and operational labour market issues illustrate that there is much common thinking between the US and the EU's views as expressed in the Commission's White Paper. Not only was there agreement that there is need for greater investment in people in the form of lifetime education, retraining and acquiring new skills, but also that labour mobility and structural reforms of social programmes should be supported by sound macroeconomic policies.

The "Jobs Conference" in Detroit was generally seen as a success, contributing to the agenda of the forthcoming G-7 Summit in Naples. In addition, the EU and the US were in agreement about asking the OECD to examine the relationship between productivity, job creation and technology, especially information technology, and to expand its analysis of data on job creation and job analysis. As US Secretary of the Treasury, Lloyd Bentsen, put it in his concluding remarks, the Conference has "made an important contribution to the global dialogue on how to lead change and manage it".

• Regulatory Cooperation

Regulatory cooperation targets problems which traders or investors on either side of the Atlantic may face due to differences between the regulatory systems in the EU and in the US. Its objective is not to achieve identical sets of regulations but to minimise the costs to businesses which may result from disparities between the regulatory systems.

At the EU-US Sub-Cabinet meeting in July 1993, the concept of regulatory cooperation was endorsed by both sides and it was agreed to identify pilot projects which would be suitable for implementing this concept. The EU has now drawn up its list which was discussed briefly at the February 1994 Sub-Cabinet meeting. This meeting also agreed to look into some horizontal aspects of regulatory cooperation, such as access to information in the respective rule-making processes and the link between international standards and internal legislation.

The EU regards regulatory cooperation as a dynamic process which, if pursued consistently, will contribute to a build-up of goodwill and understanding of mutual concerns and, which, if successful in one sector, will encourage progress in others.

• National Information Infrastructure (NII)

In September 1993 the US Administration launched the National Information Infrastructure (NII) Plan for promoting industrial activity in the field of information networks and advanced communications. Many of the issues covered by the NII are related to those being addressed by the EU in its telecommunications policy and in the December 1993 White Paper on Growth, Competitiveness and Employment. In recognition of certain common interests in the field of information technologies, the EU and US agreed to set up a framework for dialogue on the NII and the European Information Society (in the February 1994 EU-US Sub-Cabinet meeting). No decision has yet been taken on the structure of the dialogue. During his visit to Washington on 1-3 March 1994 EU Commissioner Martin Bangemann focused his attention on this topic.

From the Commission's point of view a first step could be a review of the scope and goals of the NII in the United States, to explain to the US side the information society initiatives and the ongoing process of telecommunications liberalisation in Europe and, in particular, to exchange experience on the pilot experiments undertaken both in the EU and the US. Finally, there appears to be much scope for regulatory cooperation between the EU and the US in areas such as information security and frequency spectrum management.

• EU/US Spirits Agreement

In February 1994 the Council of Ministers approved the spirits agreement, which provides for the recognition in the US of six EU appellations (Scotch and Irish whiskeys, Cognac, Armagnac, Calvados and Brandy de Jerez) in return for the recognition within the EU of two US appellations (Bourbon and Tennessee whiskeys). There is also a provision that discussions with the US on the extension of recognition to other appellations such as Ouzo, Grappa, Korn, Kornbrand and Pacharán will begin as soon as possible after the agreement has been signed and implemented.

• Procurement/Telecoms

Following the understanding between Sir Leon Brittan and USTR Kantor on how to proceed with the government procurement negotiations and the review of 15 February 1994 between the Commission and the US Administration of the initial draft final report of the jointly financed study on procurement opportunities, the EU and US recommenced their bilateral negotiations with a view to expanding coverage of the GATT Government Procurement Agreement (GPA) on category B (sub-central entities) and category C (utilities) and to reach a bilateral self-standing agreement on telecommunications equipment procurement. In the EU's view, the study shows that the US procurement markets are less open than its own. This result strengthens the EU's negotiating position to urge the US to remove "Buy America" and other restrictions imposed at state and city level and to achieve a balanced deal on telecommunications. The US is willing to have an overall package only if it includes the self-contained agreement on telecommunications and permanent coverage of electrical utilities under the GATT GPA disciplines.

Both sides have agreed to try to complete this negotiating process in order to have the final package on GATT government procurement included in the Marrakech Uruguay Round signing ceremonies on 15 April 1994.

• Air cargo

In the absence of a negotiating mandate for the Commission, exploratory discussions on the conclusion of an air cargo agreement took place in Washington on 14/15 February 1994. This was the second time the subject was discussed between the two parties, but now with expert commissions on both sides of the Atlantic having recommended air cargo as a good subject for the development of a multilateral regime, the chances of arriving at an agreement appear much better. Hence the Washington meeting led to a constructi-

ve exchange of views both on the scope and on the contents of a future accord. While agreement seems possible on a whole range of questions such as pricing, taxes and duties, customs clearance and dispute resolution, it has also become evident that on three major issues the positions of the Commission and of the US Administration differ fundamentally. The Commission's initial position is that the conclusion of an air cargo agreement is only of interest if cabotage is included, if third parties can join it and if the current US ownership limitations are opened up.

• Customs Cooperation Agreement

With a view to further facilitating trade between the EU and the US, the transatlantic partners have entered into exploratory discussions on the conclusion of a Customs Cooperation Agreement. According to a draft text presented by the Commission, such cooperation should be of the widest possible scope, covering, among other things, simplification and harmonisation of customs procedures, as well as their computerisation. A Protocol on Mutual Assistance between Administrative Authorities provides further details. A Joint Customs Committee is to be established to monitor the proper functioning of the Agreement. As regards cooperation on issues covered by the third pillar of the Maastricht Treaty and hence not within the Community's exclusive competence, such as drug trafficking, the Commission has indicated its willingness to enter into a dialogue with the Member States and to envisage conclusion of a mixed agreement. Nevertheless, given the sometimes lengthy ratification procedures and the content of the negotiating guidelines received, the Commission would give preference to prior conclusion of an agreement within Community competence to start operations as quickly as possible.

Formal negotiations are however not to start before July 1994, by which date US Customs hope to have received the necessary negotiating authority.

• Energy Charter

The European Energy Charter, concluded at The Hague in December 1991, was designed to act as a framework for the reconstruction of the energy sector in the Central and Eastern European countries, and in Russia in particular. Six undertakings are central to the Charter: to provide a stable and transparent legal framework for energy activities by the private sector; to facilitate access to energy resources; to develop trade and free movement of energy products, materials, equipment and services; to develop transport infrastructures and improve accessibility of existing ones, to promote the efficient management and use of energy

resources; to modernise, renew and restructure the energy supply industry; and, lastly, to generally cooperate in the energy field ie on the development of safety principles, the exchange of technology information and on vocational education and training.

The Charter requires the 50 participating states to negotiate a treaty (Basic Agreement) to implement the Charter's principles and give them the force of law. With the US and the EU as major potential suppliers of badly needed capital for investments in the Energy Sector in the East playing leading roles, negotiations commenced in early 1992, but encountered numerous difficulties.

An EU initiative to solve crucial questions on investment, tabled in October 1993, found the support of the US delegation in January 1994, thus substantially improving chances for bringing the negotiations to an end.

The EU proposal on investment issues came in response to Russia's request for a three year "grace period" after the signature of the treaty in order to implement new legislation on access to its investment opportunities (ie natural resources). It is now foreseen to conclude the Treaty on all central issues - trade, transit, dispute settlement and national treatment for (existing) investments - and leave the implementation of the principle of national treatment for access to investment opportunities to a second phase of negotiations, to be concluded within three years. This approach ensures that the valuable results achieved in the negotiations so far are not endangered by insurmountable difficulties over one outstanding issue.

With a common EU-US position on investment questions now in place, a rapid conclusion of the Treaty has become more likely. The major problems now concern trade issues with Russia, while it should be noted that one important element of the treaty, an exception clause allowing Regional Economic Integration Organisations to withhold benefits resulting from such integration from other Contracting Parties of the treaty, is strongly favoured by the EU and equally strongly rejected by the US.

• Aluminium

Following meetings in Moscow (October 1993), Washington (December 1993) and Brussels (January 1994), a further multilateral conference on aluminium was held in Ottawa on 1 March 1994. Representatives from the EU and the US, together with Australia, Canada, Norway and the Russian Federation, met to review developments in the global aluminium market.

The Ottawa meeting finalised the Memorandum of

Understanding agreed following the Brussels meeting. The problems in the aluminium market are primarily due to a collapse of internal consumption in Russia and the surge in exports from this country on to the world market. At present the excess global supply of aluminium is estimated by industry as 1.5 to 2 million metric tonnes/year, taking into account excess inventories. Participants agreed that the situation would best be improved if all companies took market oriented commercial decisions on an individual basis. They considered that the reduction of production in Russia of 500,000 tonnes/year (in two stages of 300,000 tonnes/year in three months from 1 February 1994 and 200,000 tonnes/year in the three months following)

taken with likely reductions of production in other producer countries (both participants to the conference and third states) would bring a total reduction compatible with the estimated world-wide excess supply.

The Ottawa conference also noted the cut in global aluminium production since 1 November 1993 by over one million tonnes/year. It was however considered that further adjustments would be necessary before normal market conditions were restored.

The participants established a working party to improve transparency and exchange data efficiently and agreed to meet again in Brussels on 21 April 1994 to review the latest developments.

AN EU VIEW ON US TRADE RELATIONS WITH THIRD COUNTRIES

US/JAPAN TRADE RELATIONS

When meeting in Washington on 11 February 1994, President Clinton and Prime Minister Hokusawa did not reach agreement in their trade talks under the July 1993 Framework Agreement concerning structural and sectoral issues, in particular autos and auto parts, insurance, procurement in telecommunications and medical equipment. One of the major bones of contention remained US insistence on objective criteria of a qualitative and quantitative nature to monitor the implementation of the future sectoral trade agreements. Formally, the US seeks increased access and sales of competitive foreign goods and services to the Japanese market. Japan is opposed to US proposals for quantitative targets as it considers that they lead to specific expectations of increased future sales and thus to risks of unilateral US sanctions in case commitments, including those taken at company level, are not achieved.

Although the EU shares the US view that there is a major problem with the Japanese balance of trade and that the Japanese current account surplus of 3.1 per cent of GDP is not sustainable in a global interdependent economy, the EU approach to solving the problem is different and based on the Trade Assessment Mechanism (TAM), which aims to identify market opening and import promoting measures which can reduce trade imbalances. The EU further seeks a deregulation of the Japanese economy in order to facilitate market penetration. Finally the EU favours macroeconomic measures stimulating the Japanese economy and thus generating import possibilities. However, the EU opposes managed trade, such as the fixing of numerical targets by sectors as demanded by the US, as it contains an obvious risk of discrimination.

The development of US-Japanese trade talks is of interest to the EU: on one side the Commission monitors discussions with a view to identifying any discriminatory elements prejudicial to the EU's trading or industrial

interests. On the other side it studies opportunities of establishing cooperation with both sides on market access issues. Following a period in which the US did not provide any first hand information to the European Commission a teleconference was organised to allow the EU to clarify a number of issues in the US approach.

CHINA

The US approach to opening up the Chinese market takes place in a legal framework consolidated by bilateral agreements, such as the January 1992 MOU (Moratorium of Understanding) on intellectual property rights and the October 1992 MOU on market access. It is inspired by the principle of comparable market access between the US and Chinese markets. It is also influenced by human rights considerations: the renewal of MFN status to China, to be decided in June 1994, is conditional on the achievement of overall and significant progress on human rights, following President Clinton's decision of May 1993. On trade, China has committed itself to increasing the transparency of its trade regime and to opening its market to US industrial goods. In particular, it has eliminated import restrictions in sectors of US interest. A key objective in recent EU trade relations with China has been to ensure that concessions to the US are also granted to the EU. Sectors covered by these discussions have included intellectual property, maritime transport, automobiles and tariff reductions. The stricter regime imposed on Chinese textile exports by the new US-China textiles accord will also be raised in the context of discussions on a new EU-China textiles agreement. The EU and the US have also been closely involved, albeit from different standpoints, in the negotiations on China's application to become a contracting party of GATT.

ANNEXES

Table 1: US Trade

(\$bn)	US Trade with the World				US Trade with the EU			
	1989	1990	1991	1992	1989	1990	1991	1992
Exports	363.8	393.6	421.7	448.2	86.4	98.1	103.1	102.8
Imports	473.2	495.3	487.1	532.5	85.3	91.9	86.2	94.0
Balance	-109.4	-101.7	-65.4	-84.3	+ 1.1	+ 6.3	+ 17.0	+ 8.8

Table 1a: US export/imports to the EU as a percentage of total US exports/imports

%	1989	1990	1991	1992
Exports	23.7	24.9	24.4	22.9
Imports	18.0	18.5	17.7	17.6

Source: US Department of Commerce

Table 2: EU Trade

(\$bn)	EU Trade with the World (Extra EUR 12)				EU Trade with the US (Extra EUR 12)			
	1989	1990	1991	1992	1989	1990	1991	1992
Exports	455.0	534.6	524.8	565.5	86.0	97.5	88.2	95.9
Imports	492.2	589.2	612.1	633.1	92.2	108.5	113.9	112.6
Balance	-37.2	-55.6	-88.3	-67.1	-6.2	-11.0	-25.7	-16.7

Table 2a: EU exports/imports to the US as a percentage of total EU exports/imports

%	1989	1990	1991	1992
Exports	18.9	18.2	16.8	16.9
Imports	18.7	18.4	18.6	17.7

Source: EUROSTAT

Table 3: EU-US foreign direct investment links

**Foreign Direct Investment in the US
(Stock, valued at historical-cost basis)**

	Total (\$bn)	By the EU (\$bn)	EU as% of total*
1987	263.4	165.4	61
1988	314.8	193.9	59
1989	368.9	216.1	58
1990	394.9	220.9	56
1991	414.4	223.6	54
1992	419.5	219.1	52

US Direct Investment Abroad

	Total (\$bn)	EU (\$bn)	EU as% of total*
1987	314.3	124.0	40
1988	335.9	131.1	39
1989	372.4	149.5	40
1990	427.0	179.1	42
1991	461.0	197.7	43
1992	486.7	200.5	41

Source: Survey of Current business, July 1993, US Department of Commerce

* The EU is the largest single investor in the US and the US is the largest single investor in the EU