

Symposium on Market Access —

Brussels 12 November 1996

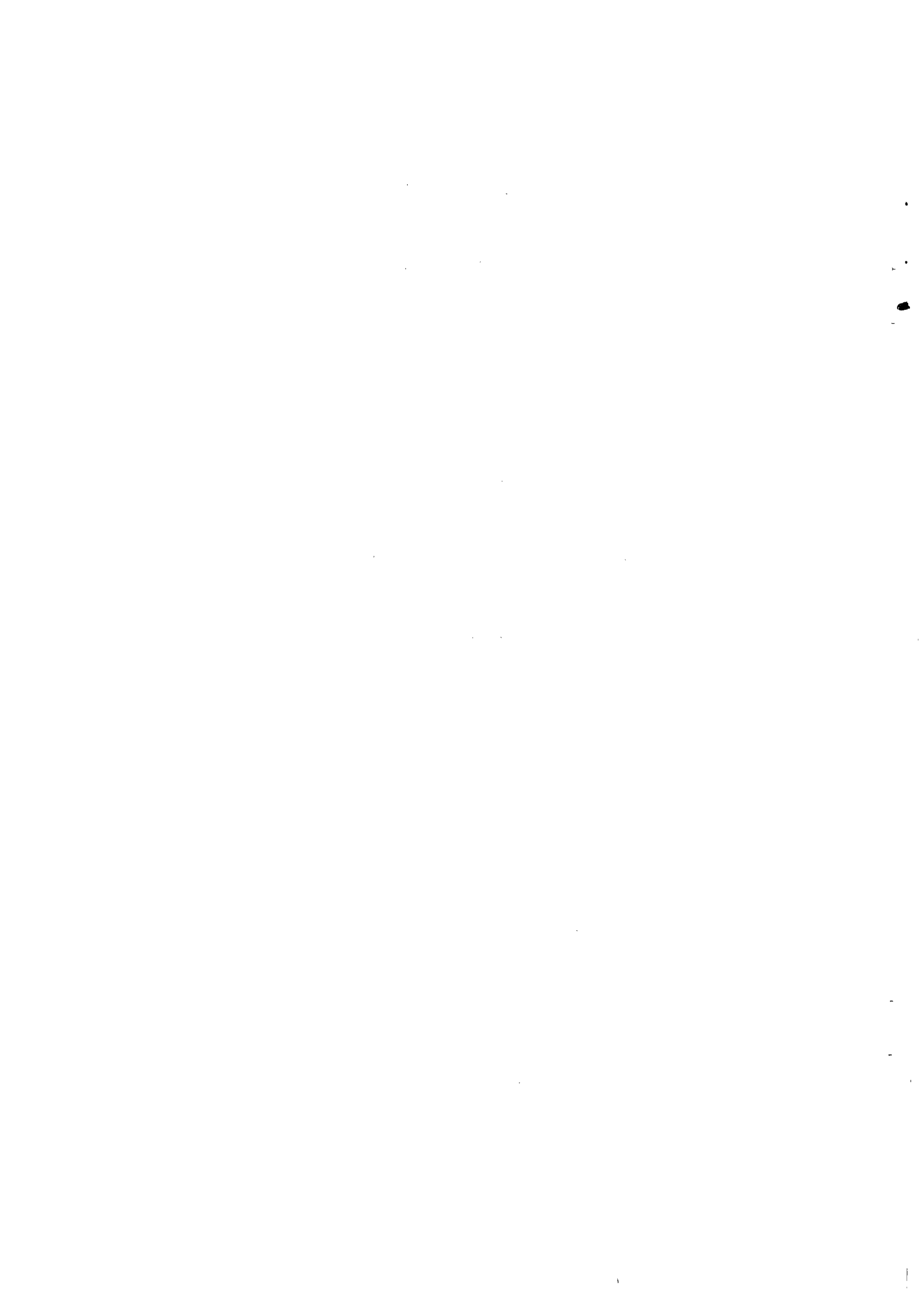
SUMMARY OF PROCEEDINGS



**MARKET ACCESS SYMPOSIUM
12 NOVEMBER 1996**

SUMMARY OF PROCEEDINGS

1.	OPENING SPEECH: Sir Leon Brittan	1-4
2.	Questions and Answers: Sir Leon Brittan	5-7
3.	Mr. Zygmunt Tyszkiewicz, Secretary General of UNICE	8-9
4.	Mr. Willy De Clercq, Chairman of the REX Committee	10-12
5.	Questions and Answers: Mr. Tyszkiewicz and Mr. De Clercq	13-16
6.	Mr. Dorian Prince, Head of Unit, DGI/D.4	17-18
7.	Questions and Answers: Mr. Prince and Mr. Vandeyar	19-20
8.	Mr. H.-F. Beseler, Director General DGI	21-23
 SUMMARY OF WORKSHOPS:		
9.	Services	24
10.	Barriers	25-26
11.	WTO	27
12.	Intellectual Property	28-29
 CLOSING REMARKS:		
13.	Mr. Jacques Leflon, Pechiney Balzac	30
14.	Mr. Tony Joyce, Chairman 113 Committee	31
15.	Mr. Mogens Peter Carl, Counsellor, DGI/D	32
	Annex - WTO Dispute Settlement Procedures	33



OPENING ADDRESS by Sir Leon BRITTAN

Ladies and Gentlemen may I for my part welcome you to this symposium to launch the Market Access initiative. I hope you have an interesting and informative day.

This initiative reflects a new focus in our common commercial policy which I am convinced will bring clear, tangible benefits to European business. A trade policy which will be proactive and not reactive; not free-standing, but co-ordinated with other external policies.

Open markets, key for growth and competitiveness

When the Commission examined the conditions for growth, competitiveness and employment in Europe in its 1993 White Paper, it stressed - and the European Council agreed with us - that Europe needs open markets to be competitive. Being the world's largest trading block and foreign direct investor, much of the Community's prosperity depends on foreign trade and investment. From your experience, you know that many jobs - about 10 % -depend directly, and even more jobs indirectly, on exports.

Open markets are a benefit in themselves. Apart from benefits to consumers, open markets:

- allow companies to obtain intermediate output at the best price and quality available in world markets, thus improving their competitiveness
- increase competition, foster innovation and lead to greater cost efficiency as well as creating jobs, as companies find wider opportunities abroad.

So open markets are fundamental for European growth: the recent economic growth cycle which started in 1994 was led by an increase in foreign demand. Net job creation in this period has been mostly due to the increase in exports. We need to exploit strenuously the higher growth potential in other parts of the world. We need to increase our presence in those sectors and geographical markets that are key to the future, mainly in the Asian region. Markets are becoming integrated thanks to a powerful liberalisation drive, to technological progress and to the great mobility of capital and information. Business competitiveness cannot be gained or even measured exclusively, or even mainly, in domestic terms: it needs to be set against the best performers world-wide.

We have already seen great progress in the liberalisation of world trade. In the Uruguay Round, developing countries became involved for the first time. New disciplines were created for services and intellectual property rights protection. And of course we now have the new much more rigorous dispute settlement mechanism which allows us to monitor effectively the way in which our partners implement the market opening measures to which they are committed.

This is a huge step forward in a process that will gather more and more momentum with additional rounds of trade liberalisation under the WTO. **Barriers to trade world-wide, including external trade protection at our own borders, are set to be reduced further and so expose national markets to increasing competition.** In this changing global environment, access to third country markets is a critical component for success. We have to be confident enough to compete effectively abroad and at home. This is the only way forward for Europe.

Our challenge is to make sure that even as our markets are open, European companies can compete on an equal footing abroad. That is why we have developed the Market Access strategy.

This will entail a major initiative involving a shift **towards a "pro-active" approach to trade policy.** We are going to focus more on improving access to third country markets than on the management of the remaining and fading import restrictions that we have. The message to our trading partners is clear: **we have one of the most open markets in the world, so we want you to open your markets similarly. This implies, conversely, that we should be open to requests from the third countries to us to liberalise if that is matched by liberalisation in their markets.**

Information followed by action...

Since announcing the new Market Access strategy in February, the Commission has taken **two major steps**.

First of all, we have set up a **vast electronic database**, which you will be seeing later this morning. It will provide free of charge via the Internet basic information on export markets, and will describe individual tariff and non-tariff barriers in individual sectors and in our main trading partners. But it will be interactive: companies consulting it can leave their comments on-line and point out additional barriers. This is crucial as you can, in this way, draw to our attention problems that your company is facing. And of course this information will be treated confidentially as we examine how we can deal with your problem.

Secondly, we have set up **mechanisms to deal more efficiently with trade barriers**. Within the Commission, a Market Access Action Group, with members from relevant Commission departments, has been set up. The group is currently analysing each of the several hundred trade barriers identified in the database. In each case, appropriate measures which the EU could take are recommended and a report is periodically produced for the 113 Committee in the Council of Ministers.

Throughout this process, European business interests involved in each case will be kept informed of the follow-up of their complaints. We hope therefore to have a three-way exchange of information between the Commission, Member States and business, whereby barriers in third countries are identified, analysed and their elimination followed up systematically. We are willing to work, and are already working, closely with any association or organisation interested in getting help from us to facilitate trade.

Our role will be to use all the existing market-opening instruments available at national, European and world level in the most effective and co-ordinated way.

Firstly, we must ensure that our trading partners **respect their international commitments**, whether multilateral or bilateral. When violations are discovered, they will be relentlessly pursued under the relevant provisions of the WTO or of existing bilateral agreements.

Secondly, we will develop a **priority list of improvements in market access** which we want from third countries, so that we can use every new negotiating opportunity to the full. For instance, we need to work out now the kind of tariff reductions we want and the action we would like on non-tariff barriers with a view to future WTO multilateral negotiations, which are certain to take place and in my view will take place towards the end of this century.

We will use the levers provided by bilateral agreements with preferential trading partners, and by bilateral contacts with non-WTO countries.

Finally, in cases where there are no existing international rules or commitments, and where business wants to go further, we will consider carefully whether to seek now international negotiations to fill the gap or seek to negotiate on a bilateral case basis, in either case using to the full our economic, diplomatic and political weight to improve the situation.

We want this strategy to be results-oriented and business-driven. This is at the heart of the Market Access strategy: to help European exporters enter difficult markets and take advantage of all the opportunities available.

And it is not just for large companies. We want to deal equally with problems faced by **SMEs** and to contribute to their internationalisation. The task of conducting **trade promotion** activities belongs normally to national agencies and governments, and we have always played a complementary but very modest role, not in competition but in support of national export promotion. The contribution of the Commission is being closely scrutinised in this area to ensure that it results in clear value added without increasing its resources.

And by results...

Only a few months after the initiative was proposed, the shift in our policy has already become apparent. Since February this year we have initiated or joined WTO dispute settlement procedures in 13 cases. We have won a landmark case on **discriminatory spirits and liquor tax in Japan**. This will create real benefits for business: in 1994, we exported 535 MECU of spirits and liquors to Japan - a mere 2% of our total exports to

Japan and less than 8% of total spirit consumption. The potential for European exporters is enormous. But that is not all because I am convinced that this case must lead to the elimination of discriminatory taxes to our exports of Whisky, Cognac and other spirits in many other countries, such as Chile and Korea.

That is just the beginning of an unflagging process from which you should get concrete benefits. We have already identified some 40 cases which are ripe for action - some of which are due to conspicuous failures to meet internationally agreed obligations. I am not going to provide a rundown of all the cases we have identified, I would be here all day doing that. You will, after all, be seeing the database later this morning. But just to give you a flavour of the benefits to business this initiative can provide, I would like to mention a couple of cases.

India has been maintaining restrictions on the import of a substantial part of its trade since 1960 under the GATT Balance of Payments exception. Substantial European interests are at stake and we believe that these restrictions have been maintained for too long and cannot be justified by WTO provisions. It is estimated that completely abolishing the restrictions on consumer goods under the BOP exception would free an additional 40% of India's trade. It is estimated that Europe's potential export gains could therefore amount to 3 billion ECU. These restrictions are due to be reviewed in January of next year and we intend to take a firm position. We are ready to move to dispute settlement if a timetable for liberalisation cannot be agreed with the Indians. It really is time to move on this issue.

We are tackling barriers put in place against European business by the **South Korean** government's procurement legislation and practice. In the telecoms sector, European suppliers are effectively kept out of the Korean market which accounts for US \$8 billion annually. We have requested GATT consultations and they got us nowhere. We are pursuing further action in order to eliminate this discrimination against foreign companies, and a request for a WTO panel will be made if the problem is not solved in the coming few weeks.

But we are not only looking at barriers to markets in the Far East. We have been pursuing bilateral negotiations with the Americans over their recently modified rules of origin on silk, cotton, and synthetic fabrics. These new rules mean that some European products are no longer considered of European origin. They will therefore be subject to import quotas in the US, not to mention a drop in consumer acceptance due to the loss of designer labels. The costs for European exporters may be high - up to 300 million USD. We cannot admit the continuation of those practices.

Now, obviously the best solution of these and many other problems is through discussion and negotiation. But, if these cases, the ones I have mentioned are not solved satisfactorily before the end of the year, we will strongly recommend to Member States that we start dispute settlement procedures in WTO or under bilateral agreements with the countries concerned.

A more favourable regulatory environment

You may rightly think that opening new opportunities in foreign markets is fine, but that to compete effectively abroad you also need a favourable business environment at home and you are right. You - and especially the SMEs - need a well trained and mobile labour force and flexible labour markets, competitive product and services markets, and efficient network and infrastructures where operators compete to offer better services. You need fewer and better regulations, as well as considerably lower tax and administrative burdens.

That is why the impact of proposals for new regulations on the international competitiveness of business should always be closely examined. If we want to be consistent with keeping job creation at the top of the political agenda, **we should not accept any new regulation which would put our firms at a competitive disadvantage with our main trading partners** and therefore jeopardise jobs. This must be a top priority for both European and national authorities and I hope you as the representatives of business will not hesitate to speak up and intervene if you think or suspect that anybody at European or at national level is seeking to impose new regulations which would be uncompetitive and which would damage your prospects in the world market.

Adapting the common commercial policies to the new realities of world trade

Time and again, I believe we have proved how effective the Community can be when it negotiates international trade matters. In the past, the EC Treaty has provided a good basis for trade negotiations which have been concerned almost exclusively with trade in goods. A satisfactory conclusion from our point of view of the Uruguay Round would have been inconceivable if the European Community had not acted together.

But trade today is not just about goods. It is also about services, investment, and the adequate protection of ideas and inventions. Our common trade policy must enable the Community to deal effectively with all those areas as well.

The defence and promotion of the interests of industry is not compatible with legalistic internal disputes within the Community regarding competence issues on who can speak on which matter. To be effective and to reap the benefits of being the world's leading trading and investing entity, the Community's common commercial policy needs a clear framework which ensures that it is comprehensive and that the Community speaks with a single voice.

At present, unanimous decisions on external trade are needed even in those areas - such as services - where the Community can decide on internal matters by qualified majority voting. This anomaly needs to be corrected: **the Community should be able to negotiate and conclude trade agreements with third countries in all those areas where it has an internal competence. It should be able to decide on the basis of qualified majority in the fields where qualified majority is the rule for internal action.** I welcome the unequivocal position of European business in this matter. I hope that the business community, having decided its position on this, will make its voice heard at national level because it is the individual Member States that will determine this matter so that the issue is properly solved in the IGC.

Conclusion

We are living in a fast moving world. Foreign trade and the opening of new market opportunities are indispensable for the development and even survival of business. Trade now covers a vast range of international activities which go beyond the traditional concept of goods.

We want to be of practical assistance to you in your efforts to internationalise your operations. Your views and your complaints on market access will provide essential guidance to us in shaping our trade policy: a trade policy that will be forward looking, liberalising and expansive, not anchored in the protection of contracting markets. A trade policy where the Community can speak with a louder, single voice. And a proactive trade policy that shows that Europe can contribute to the wellbeing of its citizens and to shape the world trade agenda.

QUESTIONS AND ANSWERS - Sir Leon BRITTAN

Question 1: Good morning. My name is Liam Roche and I come from Cadbury in Ireland and I am here on behalf of CAOBISCO the European Confectionery and Biscuit and Cake Association. I would like to thank Sir Leon for his remarks all of which we would totally agree with, as we have often done in the past and just to say something which I am sure he is very well aware of: every day of every week from DG VI we get the sort of legislation which he referred to, in terms of complications and difficulties which we have to cope with before we ever try and export our products abroad from the food industry. As I say, I am sure you are only too well aware of this already but I wonder how do we address such a myriad number of regulations. I could give you a list of things which complicate our job every day in trying to encourage our exports abroad. Thank you.

Sir Leon: Well I am sure that we have a common goal and that is to stimulate the exports and remove obstacles to them. In looking at these regulations though, we have to be fair to our colleagues in DG VI in this sense: that it is no use allowing things to be exported if the product does not meet the requirements of international legislation and won't be accepted in other countries. So I think that one of the purposes of legislation is that and there, although it may be burdensome for industry, it is less burdensome than not getting the product accepted into third markets.

If what you are talking about is internal regulation, not necessitated by the requirements for exporters, that is a different question altogether. There I am again sympathetic to the concept of minimum regulation but you have to contend with those who need to be satisfied, internally within the EU, that the product is safe for consumption and so on. The balance has to be drawn there as we know. If you think that the balance is being drawn, whether in terms of internal regulation or external regulation, in a way that is excessive, disproportionate or whatever, you must say so, and you must make representations to the appropriate parts of the Commission not only DG VI - in the case of exports outside the Community, DG I certainly but it may be that in terms of the internal single market there may also be parts of the Commission that have an interest in preventing excessive burdens being imposed. Of course you also have to take it up at national level. I realise that this is a tedious process and a complicated process. I don't think I can offer you an instant short cut but I would not encourage you to lose heart, I would encourage you to take up the challenge and take up the cudgels because I have no doubt at all that the tendencies of bureaucracies and of all bureaucracies in every country is to do too much and the only way to stop that is for there to be a strong counter-offensive from industry to redress the balance. More power to your elbow.

Question 2: Good morning. My name is Mark McGann. I am responsible for what we fondly refer to as European Affairs for the Alcatel Alstom Group. Sir Leon, if I may I would like to come back on two remarks which you made in your address. I think industry can only support and welcome the points that you made and the objectives of the Commission's trade policy. However on one hand you say that we cannot accept any regulation which puts our companies at a competitive disadvantage on the world's market and at the same time you request the capacity or the power, for the European Commission on behalf of the Community to be able to negotiate trade agreements with third countries in those domains where the Commission has the responsibility for policy internally.

Now, if I may take the example of telecommunications and two recent initiatives by the Commission to negotiate procurement agreements with the state of Israel and with the Republic of Korea, we unfortunately have some major disagreements with the Commission's methods in negotiating these agreements. Both agreements concern countries where of course quite frankly European industry does have a certain share, especially in Israel, and perhaps neither country poses a major threat to European industry at least today. It may not be the case tomorrow. However, with the grave imbalance in the definitions of procurement in Europe, what we have is on one hand access to, and let's take the example of Israel, access to the Israeli market and the Israeli operator, which basically is a state owned company, and for Israeli manufacturers they have access to all European operators whether public or private, as is the case notably for British Telecom. I don't

want to go into this issue in detail but we would have great difficulty supporting such initiatives in the future if they are going to be at the expense of our home industry.

So what industry really needs and what we ask for with regard to the new approach to trade policy is that there is increased consultation upstream with European industry both large enterprises and small. Unless we can have this internal consensus beforehand, we are going to be continually picking up the pieces as is the case with Korea and with Israel, picking up the pieces on initiatives upon which we have not been consulted. So I really must stress, please please involve us in your preparations to negotiate bilateral or multilateral agreements so that we may give our views so that we may make constructive contributions and so that at the end of the day the real winners are the European enterprises. Thank you.

Sir Leon: Thank you very much. A number of points arise from that. I don't propose to go into the particular cases, I don't think you would expect me do that on this occasion but the points have been registered. I want to concentrate more on the principles. Firstly, the general concept of consultation is one that I would certainly welcome but I think there is a difference between consultation and consensus, because there may very well be different views put forward by different parts of European industry, and there is such a thing as the consumer as well and it is not always possible to accommodate everyone. If you talk about consensus in the literal sense of the word you may find yourself not doing something which is, on balance, advantageous for Europe because somebody doesn't like it or somebody is uncomfortable with it. On the other hand I think the concept of talking to people and finding out what their interests and concerns are, as a general proposition, is one that I would welcome.

The only other comment that I would make is that one cannot take and shouldn't take, what I call a mechanistic or even mercantilist view of this situation. I have never been an enthusiast for what you might call mirror image reciprocity and I think that in many cases you have to look at the quality of what you are going to get as well as its quantity. You have to look also at the reality of the situation as opposed to the theory. If for example some small country opens its market in a modest way and we are open in a full way, you have to ask yourself whether the reality is that are we really going to be flooded with their goods and services and if not it may be advantageous to open up their market less fully than our own market is open.

So I think one has to take a balanced and comprehensive view certainly on the basis of a proper appreciation of the views of European industry and I hope that in that way we can proceed to maximise the benefit for the European economy as a whole of our efforts to open up overseas markets.

Question 3: Thank you Mr. President My name is Annamarie Desmet and I am representing here the European Malting Industry. I would like to thank Sir Leon Brittan for his excellent speech. You referred in your speech often to WTO legislation, but how do you proceed with countries which are not yet member or a full member of the WTO. Thank you.

Sir Leon: That is a very timely question as I am going to China on Wednesday. I mean the short answer is in some cases even though they are not members of the WTO, we have bilateral agreements with them and where we don't have bilateral agreements we may also have a bilateral rendezvous with them and that certainly is the case as far as China is concerned so that I will be proceeding to China on Wednesday. As it happens, I will be taking with me a distinguished delegation from important sectors of European industry who will be able to make their case direct to Chinese authorities but I will too and I will be able to deal with the Chinese both on the basis of where we actually have an agreement with them which we think is not being adequately implemented, and also making strong representations to them in those areas where there is no agreement, where we think we have a legitimate cause for complaint. That is a very typical example of how we deal with the Chinese, which is perhaps the largest exception to participate in the WTO.

Beyond that of course there is the question of Chinese membership of the WTO and we

have always been keen to have China as a member of the WTO because it will encourage the process of liberalisation in China to get them in, and when they are in they will be subject to the disciplines of international trade. Of course we know that they are still developing and it may be difficult for them to accept all the rules immediately. We have an answer to that, let us negotiate an arrangement whereby they accept the most important rules and make the most fundamental commitments at the beginning and we have a negotiated, agreed timetable for them to accept the remaining obligations over a period of time. That is a concept which I think they are basically sympathetic too, but they have been nervous there has been some sort of political veto from the United States. One of the things that I want to do is to establish that this remains the Chinese position and that they are prepared to negotiate effectively on the basis of the framework I have just described. If that is so I will take the matter up immediately with the United States, urging them to confirm that they are prepared to follow this lead that Europe has given and this European position, and to seek in that way to bring the negotiations to a conclusion. In that way we will achieve Chinese membership on terms which enable us to pursue in the WTO what hitherto we have pursued, but not so effectively, outside the WTO.

Question 4: My name is Reinhard Quick, Chairman of the Chemical Industry Association. You refer to the WTO, Sir Leon and I wanted to ask you what one could do in order to achieve that Community legislation is compatible with the WTO and I have three examples in mind. One is the implementation of the Basle Convention into Community law where we think we have considerable difficulties in believing that this implementation is compatible with the WTO, in particular as far as recycling is concerned and secondly the Leghold Traps trade regulation and thirdly the regulation on hormones. Thank You.

Sir Leon: Well the short answer is that it is my job and the job of DG I to ensure that the legislation that is passed is compatible with the WTO and if anybody thinks that there is legislation that is being planned which will not be please let us know. Because I don't think it is useful for Europe to pass legislation which then is found to be unlawful. I think that is bad for Europe and I would certainly urge my colleagues strongly not to approve any legislation that is contrary to the WTO.

I think the full consciousness of this need is only now seeping through. I think we must be honest about it. The truth of the matter is that under the GATT system although we try to observe the rules of the GATT and I am not speaking for anyone in particular, there was a sort of underlying feeling that if by any chance we slipped up accidentally, well there would be plenty of time to consider it, the dispute settlement mechanism was not a very hasty one and somehow rather we would sort it out. The world has changed now we have a legislation internationally, the WTO system, which has teeth and which bites and which bites quickly. I have absolutely no doubt that that is overwhelmingly in our interests that that should be so and I think that some of the things I said in my speech might support that proposition. But that also means that we have to be much more careful that we are observing the obligations.

Now of course in the case of past legislation it is more difficult to turn and say well we passed something which now when we look at it doesn't look as if it is necessarily compatible with the WTO. There the tendency will still be to say that we had better keep it on the statute book and see what happens although I have warned everybody that if we are found against we have to change it. As far as the future is concerned there I hope we can really be rigorous and say we must oppose the passage of future legislation which will be incompatible with the WTO and if anybody here or outside believes that anything that we are contemplating or planning is inconsistent with our international obligations, please tell us. We may not agree, but we will certainly want to know and look at it very carefully indeed.

Thank you.

Speech of Mr. Zygmunt TYSZKIEWICZ

Chairman, ladies and gentlemen, the fact that this room is so full must mean that the subject that we are discussing is very important. This is the hard bitten Brussels crowd; they don't easily come to meetings, they get a surfeit of them and when they come it means the subject is important and it is.

Trade means growth and jobs even and especially trade with the less developed countries which in fact is responsible for a large share of our trade surplus and for many of the jobs that we have created in Europe. Business, which I have been asked to speak for today, reaffirms its full support for multilateralism. We do not have a super 301 in Europe and we are not asking for one. We are asking for clear, enforceable rules. We want the European Union to show great respect for those rules. We also want the European Union to be very firm, and very willing to use all the trade instruments available when necessary to ensure others respect them as well.

On their own, each of our Member States has really very little leverage in world markets. When we work together we can prise markets open. The European Union is still not as good as it should be at acting in a united, coherent and timely fashion. When it does succeed in doing this, it can do almost anything. That's the added value of belonging to the European Union.

Everyone knows that Article 113 of the Treaty, written back in 1957, is no longer able to meet all Europe's requirements. It excludes the new subjects which came up in the Uruguay Round and which are now part of the World Trade Organisation Agreements. Subjects such as services, intellectual property, investment and so on, do not yet fall within the scope of that article, and the current intergovernmental conference must put that right. UNICE has recently written to the president of the European Council, Mr. John Bruton, asking him to press the IGC to take into consideration the request of the Commission to have Article 113 enlarged.

The subject of this Symposium is market access. UNICE has very warmly welcomed the Commission's initiative. Market Access is the main objective of all trade negotiations. Our growth and jobs depend on it. The European own market has become a model of openness. The single market has greatly eased entry for outsiders, who want to do business on this continent. So I think we are absolutely right to demand similar treatment from others.

The Commission's new strategy, based on Internet, in my view is potentially an absolutely brilliant idea, but it will only produce all its fruits, all its results on three conditions. Firstly, that companies actually use it. Secondly, that they systematically feed back through the system to the Commission the information that they gather in the market places of the world. In the brochure that you received at the entrance, the Commission states that "we know the trade rules, while you know the markets". Putting these two pieces of knowledge together will make the instrument really effective. Last, and by no means least, the Commission must act rapidly on the information provided, using the full armoury of market opening instruments to remove the barriers that will have been identified. In other words, unless there is continuous interaction between the companies operating in the market, the Commission and the authorities in third countries who are responsible for removing unjustified trade barriers, this brilliant idea will not produce full results.

Therefore I believe that trade associations, and especially the sectoral associations many of which are represented here, have a very heavy responsibility in making the system known and encouraging their members to use it in the way I have described. I have no doubt at all that training will be required for this.

But this is not simply an instrument for registering complaints against third country trade barriers. It is also a tool designed to help companies explore new markets, discover new opportunities, expand their operations and all this without leaving their desks. It is of special interest and importance for small and medium enterprises which have less capacity and less opportunity to travel across the world looking for new outlets. But I emphasise again, the system's success depends on interaction with business. That is the main message from the Commission to all the businesses represented here.

The main messages business may wish to address to the Commission could be as follows. Keep the system simple, and user-friendly. I don't know how many languages the system will speak in, but perhaps we should consider making it multilingual. Keep the information really up to date. Respect the confidentiality of the information sent in by companies. Ensure that the information shown is indeed correct, and most importantly, act promptly on that information, to remove barriers that have been identified. Be prepared to make full use

of World Trade Organisation instruments whenever required. Here I would introduce a little note of warning to the Commission. Business would be very concerned if there were any weakening of our determination to use all the available instruments in defence of our trading interests, and use them to the full. All the WTO rules and nothing but the WTO rules. We are not asking to go outside that framework. We have had some recent indications that there might be a softening of the Commission's attitude to interpretation, for instance of anti-dumping rules in the context of eastern and central Europe, and that, if it is true, would be quite a worry for us. However business welcomes the Commission's call for closer co-operation in the context of market access and would ask that this closer co-operation and dialogue be extended also to the use of trade policy instruments and defence mechanisms.

But let me end on a positive note. UNICE on behalf of all the companies operating in Europe, large, medium and small, salutes the Commission's initiative on market access. It will use its network of federations across the continent to publicise this initiative, to make it known and to encourage its use by all companies interested in trade with third countries. It will remain in touch with the Commission, to feed back the views, the criticisms, the suggestions, of its members to those who operate the system. It hopes that all European business organisations, many represented here today, will do likewise. The end result, I hope, will give Europe a market access instrument at least as effective as any "Super 301", but with the added advantage that it is clearly compatible with the rules of world trade. Thank you for your attention.

Speech of Mr. Willy De CLERCQ

Thank you Chairman. Ladies and Gentlemen I think many things have been said already in this introductory part of what is going to be, I'm sure, a very successful Symposium. But I am going to try, if possible, to add some things and give the view point, as we see it, in the European Parliament and more specifically in the Committee I have the honour to chair.

Of course you know it all. **Trade is the life blood of the European economy.** The EU is **the world's largest trade grouping**, accounting on its own for just one fifth in total global trade in goods; this is more than either of its main competitors. The latest figures are very simple. In 1994 the EU **exported 20%** of the world's exports compared to 16% for the US and 12% for Japan (**the EU is thus the largest exporter in the world!**). It **imported 20%** of the world's imports; the same figure as for the US, 20% and only 8% for Japan.

Between **10 and 20 million** jobs in the Union depend directly on exports. And these exports provide **9% of the Union's wealth** as represented by its gross domestic product.

The EU has a long standing commitment to promoting free trade. It has one of the most open markets in the world. Taking into account the different preference tariffs that the EU has agreed upon with its trading partners today, **the average level of duties on products and services entering the EU is only about 1%!**

Why does the EU promote free trade?

Europe has always been and **will continue to be** a driving force behind free trade. Why?

Behind the EU's promotion of free trade lies the belief that producers and consumers alike can benefit.

Producers enjoy the advantages of cheaper imports they may need for their own finished products, which in turn may be sold more easily on a wider range of markets if tariffs and other obstacles are reduced.

For consumers, there is the benefit of cheaper imports from around the world, stretching from clothing to food. This is a good choice and good for personal finances.

Indeed free trade promotes or stimulates productivity, lower prices of goods and stimulates creative thinking and innovation.

According to the persons who propagate euro-protectionism, European enterprises today should close down their factories because their products cannot compete any more with those coming from low-wage countries. The opening of our barriers would therefore be the main cause of the huge unemployment problem (20 million people in the EU are today unemployed - 11% of the workforce!)

However it is my firm belief that unemployment in the EU is in general not caused by imports of cheap goods of low-wage countries but by a general lack of competitiveness of our European industries. In several Member States, labour costs need to be reduced, labour markets need to be more flexible, co-operation between companies have to be strengthened, innovation has to be stimulated and schooling has to be improved. **It is a fallacy** to believe that those fundamental problems can be dealt with by refusing free trade! Instead, the EU must concentrate on creating a business environment to further prosperity, entrepreneurship, risk taking and innovation.

Furthermore, as already said, the EU is more dependent on exports than any other trading group in the world. Therefore, do those, who propagate protectionism, really believe that the EU can raise its import tariffs and that those with whom we trade will happily agree to continue to accept our exports? It is inconceivable that that would happen.

The propagators of protectionism are totally unrealistic: they forget firstly the **real cause** of the huge unemployment problem the EU is facing today, which is the general lack of competitiveness of our European industries. Secondly they forget the fact that the EU is for its wealth **too dependent on exports.**

The EU simply has no other choice than to promote free trade. But having said this it is, and I am repeating that it is, our firm belief that trade **and** fair competition has been and will continue to be the two powerful

motors behind the creation of wealth. We have also to stress the fair competition. Thirdly trade requires **reciprocity from third countries**. The EU may not accept unfair competition from third countries and you all know that many European companies face **far too much** unfair competition from third countries.

One simple example, South Korea. South Korea increased its market share in the "open European auto market", while non-tariff barriers in Korea (such as advertising restrictions, burdensome testing procedures, "buy Korean" campaign and others) make it difficult for the EU to enter the Korean market. South Korean auto sales in Europe tripled from 36,496 units in 1991 to 118,000 in 1994. On the other hand, in the same year 1994 the EU exported not even 2,000 cars to South Korea. The message has thus to be very clear: **free trade has to be stimulated; however, the EU's promotion of free trade cannot lead to passivity and even less to naivety; the EU must beat unfair competition from third countries and insist that they respect free trade as well!**

On February 14, 1996 the EC established a Report: "The global challenge of International Trade: a market access strategy for the European Union".

In this document are explained the **policy instruments available to the EU** in order to pursue market opening for our European companies and to beat unfair competition from third countries. I will not comment this document since Sir Leon Brittan and Mr. Zygmunt Tyzskiewicz have already told you about it.

I would instead like to turn over to a topic which is - my opinion - of extreme importance for business in Europe: namely the creation of a database and the way it creates a concrete co-operation between European business and the EU.

The creation of a database can be seen as a **flanking policy to the EU's market opening strategy**. It will be a **very useful tool to beat unfair competition!**

There is much talk about the need to bring Europe **closer to the citizen** and to ensure that Europe only acts in areas when it provides "**added value**". This initiative demonstrates **both aspects in a very practical way**.

The database is a reliable instrument, updated daily.

The information provided by the database is double: general information on a third country and a list of its specific trade barriers faced by European companies.

First the general information on a third country: **the general trading conditions**, how big is the third market for my products, how open is it to imports, is the trade policy stable or is it changing with each new government.

Full information on tariffs.

This is the first time that information on customs tariffs for so many countries is made available to European companies in a user friendly form and free of charge! This information is extremely valuable for business decisions and especially for small and medium enterprises which do not have too much money to spend to collect this type of information;

Information on protection of intellectual property and on protection of investment. Indeed, international trade is no longer a simple sale of goods over the border. It implies setting up production or distribution subsidiaries in a targeted market, it implies sharing know-how with a local partner in a joint venture. Therefore, the level of protection is an **important factor** before making a decision to attack a foreign market.

Secondly besides the general information I spoke about a list of specific trade barriers faced by European companies.

The main part of the database is devoted to **the actual problems** faced by European exporters and investors. Do I need an import license to sell fish in Japan? Why are my exports of oranges blocked in Korea? Why have only 600 European cars been imported into Romania last year, while Daewoo was able to sell 20,000 cars? Why cannot I set up a construction company in Taiwan? Why cannot I sell my fertiliser in Indonesia?

The database contains for the moment the information gathered by **the European Commission, its delegations abroad and by some Members States** (Austria being for instance the first one).

But the main providers of information should be the European companies themselves. Indeed they know the markets, they have the information, they know exactly what the problems are and how they effect their business.

The database will allow companies to put their knowledge together.

How? The consultation is **an interactive process**: by simply clicking on a button, the reader can send a message to the EC to indicate a concrete problem, or correct wrong information. This information will be treated as confidential. **And it will be treated**: once put into the database, a trade barrier is a flag requesting action by the EU's institutions. If a barrier is listed, anybody can see it on the screen, and anybody can ask "what are you doing about it? What are you going to do about my problem? What have you done so far?"

The database brings full transparency on European action or inaction. This increases the **accountability** of the EU's institutions. From a democratic point of view this is important!

It is encouraging to see that **this corresponds to what business wants**: Eurochambers, the association of European Chambers of Commerce and Industry, has just published a report on non-tariff barriers in third countries. This Report will be integrated into the Market Access Database.

Listing problems on a database is beautiful but not enough: removing them, that is what we all want.

The removal of trade barriers in overseas markets is also an area where the EU provides **clear added value**. Indeed in dealing with **the WTO the OECD or with our trading partners bilaterally**, the EU being, as I already said, the largest trading power in the world carries far more weight than any member state acting alone.

We have already shown that when we act together in trade policy, much can be achieved. The result of the Uruguay Round is a good example. But more recently the reaction to the American Helms-Burton Act and D'Amato Act illustrates that **together** we can better defend the rights of our citizens and our companies when international rules are violated.

I would like to conclude with the following: the Market Access Strategy in general of which Sir Leon Brittan and Mr. Zygmunt Tyzskiewicz have talked about and the creation of the database more specifically, are an excellent opportunity to create **a real partnership** between business, Member States and EU authorities towards a common goal. The database is there for the benefit of our European companies, it puts responsibilities on the EU, but it will work only if you, entrepreneurs, use it.

I think that after the coffee break we will see how the database concretely functions.

Meanwhile I thank you for your attention.

QUESTIONS AND ANSWERS - Mr. De Clercq / Mr. Tyszkiewicz

Question 1: Ghislain. Groupement de la sidérurgie. Ce n'est pas nécessairement une question à M. De Clercq ou à M. Tyszkiewicz mais plutôt une suggestion parce que l'exposé de ce matin de Sir Leon nous a donné l'impression que la Commission attendait peut-être trop exclusivement des entreprises et de leurs associations des informations sur les obstacles non tarifaires dans les pays tiers. C'est important que les entreprises fournissent ces informations mais ça ne peut suffire et le Ministre De Clercq l'a abordé il y a quelques minutes; il faut une mobilisation plus générale des moyens et notamment utiliser tous les moyens dont la Commission dispose dans les pays tiers, les représentations officielles, les ambassades des états membres, les sections commerciales de ces ambassades, il faut une mobilisation d'ensemble pour pouvoir faire un véritable relevé de ces obstacles et pour pouvoir y mettre fin. D'ailleurs, même si on attendait trop des entreprises, la Commission devrait et elle le fait, vérifier les renseignements qu'elle reçoit et donc elle doit, je dirais, nécessairement prendre des informations à l'extérieur mais la politique que Sir Leon et que tous ensemble nous visons, ne sera effective que s'il y a une mobilisation des moyens d'information des entreprises, de leurs associations et des milieux politiques et diplomatiques. Merci Monsieur le Président.

Mr.De Clercq: La réponse sera très brève. Je suis tout à fait d'accord. On ne sait pas, bien sûr, mettre les responsabilités d'un côté, je crois l'avoir dit d'ailleurs dans mon exposé, je reprends ici le passage de mon exposé à ce sujet, je dis que "The database contains for the moment informations gathered by the European Commission its delegations abroad by some Member States", j'ai cité comme bon exemple l'Autriche "but the main provider, etc.". Ce serait vous-même bien sûr puisque malgré tout c'est vous qui sur le terrain connaissez peut-être mieux que des fonctionnaires voire même des experts, la réalité des choses. Mais je crois que tous, nous devons travailler, ce serait trop facile de se réfugier derrière ce que j'estime personnellement être une responsabilité du monde industriel lui-même, de se réfugier derrière cela pour ne rien faire soi-même. Donc d'accord avec votre intervention.

M.Tyszkiewicz: Moi, je pense que vous avez mis le doigt sur un des problèmes non résolus de l'Europe. Allez dans n'importe quel marché tiers et vous trouvez 15 ambassades des pays états membres, une toute petite délégation de la Commission qui n'a pas les moyens d'agir, vous trouvez 15 chambres de commerce bilatérales qui dans beaucoup de cas ne se parlent pas parce qu'ils se font la concurrence donc où est l'Europe dans tout ça. Si nous voulons utiliser la force qu'est l'Europe, il faut s'unir et si on ne peut pas s'unir d'une façon statutaire, alors il faut s'unir d'une autre façon et à Tokyo comme vous savez il y a le EBC (European Business Council) qui lui, agit comme le porte-parole des intérêts des entreprises européennes, à New York et j'étais ce matin avec M. Walbroel et M. Oehme qui sont ici dans cette salle, qui coordonnent la voix des chambres de commerce aux Etats-Unis, ce qui est très important pour nous, qu'elle soit unie mais est-ce que c'est le cas dans d'autres pays je n'en sais rien, est-ce qu'en Corée il y a la même chose, est-ce que en Inde, au Brésil nous avons la même coopération, je suis entièrement d'accord avec l'orateur qui a dit que nous n'utilisons pas toutes nos forces, et il faudrait arriver à faire que peut-être un jour, si j'ose le dire, il y aura une très forte ambassade de l'Union européenne avec tous les moyens à sa disposition et de toutes petites ambassades des états membres, j'en sais rien, mais ça, c'est un avenir qui sera connu par mes petits-enfants, je crois.

Question 2: Emmanuel Librecht, Association du café soluble des Communautés Européennes. J'ai une petite question qui a été soulevée par Sir Leon à propos des pays en voie de développement. Trop longtemps et il l'a dit, l'Inde s'est réfugiée derrière les problèmes de balance de paiements, le Brésil n'a fait que ça, le Chili et l'Argentine n'ont fait que ça, alors je pense, que dans le cadre de Singapour, il serait absolument utile d'un peu clarifier quels sont les pays qui peuvent revendiquer le statut de pays en voie de développement. Ceci est très important pour eux, le relevé des barrières tarifaires, car lorsque vous entrez dans les négociations des barrières non tarifaires, immédiatement ils arguent qu'ils sont pays en voie de développement et qu'ils ont donc le droit d'utiliser toutes les facilités que ce soit les "enabling" clauses, que ce soit l'annexe 5 de l'accord de l'agriculture qui leur permet d'échapper à toutes les contraintes que nous voulons vous faire dans le domaine

non tarifaire. Un pays par exemple, Israël; Israël après Marrakech a utilisé la close 5 qui se trouve en annexe de l'accord agricole et qui lui permet de véritablement arguer de toute exception alors partant, je suis convaincu qu'Israël dans certains secteurs n'est plus un pays en développement mais en revanche il l'est peut-être dans d'autres. Nous avons la même difficulté avec le Brésil. Le Brésil dans certains secteurs est loin d'être un pays en voie de développement, dans d'autres il l'est. Alors, il s'agit je dirais, un peu de clarifier, pas toujours les droits qu'ont les pays en voie de développement mais leurs devoirs et comme tel, ça nous aiderait beaucoup. Merci.

Mr. De Clercq Je crois que ce que vous dites, c'est le bon sens. Ca se fait, ça se fait trop timidement; par exemple, la Corée, nous avons parlé de la Corée un peu ce matin, d'ailleurs vous connaissez ce problème bien sûr encore mieux que moi. Mais la Corée a perdu largement si pas totalement son statut de pays en voie de développement. Avec beaucoup de difficultés, les coréens se sont opposés "unguis et rostribus" à cette modification mais nous leur avons fait comprendre à l'OCDE que l'on ne sait pas manger à tous les ravers en même temps et que l'on ne sait pas revendiquer les avantages d'un pays industrialisé et les avantages d'un pays en voie de développement. C'est chose faite maintenant et il y a bien sûr encore d'autres pays peut-être qui pourraient tomber sous la même catégorie, en tout cas où on pourrait clarifier davantage ce que vous dites à juste titre non seulement les droits mais aussi les obligations. Je crois que en tout cas, c'est un processus qui ne passe pas inaperçu, sans doute aussi stimulé par les difficultés économiques que les pays industrialisés, en particulier l'Union Européenne et ses membres, connaissent actuellement, ont connu récemment, et connaissent encore aujourd'hui. C'est un problème qui attire plus l'attention aujourd'hui que ce ne fut le cas il y a 5 ou sûrement 10 ans mais ça va peut-être un peu trop lentement; aussi, il faut voir, tout le monde ne se situe pas dans le cas coréen par exemple; la Corée est un pays dont le succès du développement économique et industriel est aussi fort si pas plus important et spectaculaire que celui du Japon donc là c'était assez facile et encore ça a été très difficile. Mais enfin c'est encore relativement facile si j'ose dire d'obtenir des résultats et il y a naturellement d'autres pays en voie de développement qui ne sont pas dans la même situation. On ne peut pas comparer l'Inde et le développement de l'Inde et la situation actuelle en Inde à celle de la Corée du Sud. Ce n'est pas possible, ce ne serait pas correct de faire cela et donc il faut traiter l'Inde encore autrement que la Corée. Mais il faut sûrement traiter la Corée aujourd'hui autrement que l'on ne l'a traitée il y a à peine quelques années.

M.Tyskiewicz Chairman I would just like to say that I can fully understand the problem sector by sector but seen overall the reason why Europe has a very healthy balance of trade surplus is because of its trade with the developing countries, so taken overall we are the winners although I fully understand that there are within that some losers and I guess it's those losers who are giving the less developed countries the income with which they can buy from the winners and so I can understand the pain.

Mr. Carl: Il n'y a plus de "blanket exceptions" pour les pays en voie de développement et entre autres les règles de l'OMC en matière de balance de paiements ont été changées d'une façon assez radicale. Il s'agit plutôt de procéder de la façon suivante: d'identifier ce que l'on veut et essayer de changer et je reviens à ce qui a été dit je pense, par Sir Leon tout à l'heure en ce qui concerne l'Inde. Maintenant, nous avons les moyens de le faire. Il s'agit plutôt d'une question de volonté politique. Est-ce qu'on veut le faire ou non. Si on veut on peut. Comme j'espère que nous allons le prouver lorsque cette question sera évoquée à l'OMC au mois de janvier.

Question 3: Werner Walbroel, Chambre de commerce européenne aux Etats-Unis. Nous sommes très contents avec la database qui a été faite. C'est une grande aide pour des petites entreprises pour rentrer aux Etats-Unis. Le marché des Etats-Unis semble de l'extérieur, de temps en temps, très facile à pénétrer, mais de temps en temps, comme nous le savons, c'est le contraire. Nous avons cette base de la Chambre Européenne aux Etats-Unis et comme ça l'expérience de 6000 entreprises qui ont quand même pénétré le marché. Elle nous offre la coopération de ses entreprises pour voir le chemin pour faciliter surtout le chemin, pour pénétrer les Etats-Unis pour des petites et moyennes entreprises. Merci.

- Mr. Tyszkiewicz: In UNICE we welcome that offer. I think that the transatlantic business dialogue has been going on now for a year and a bit and there are more and more initiatives starting up and I think we need the antennae that you provide in the United States. I think it is a very useful bridge and we can certainly use that offer of service that you have given.
- Question 4. My name is Kornann, I come from the German Steel Federation. I think it is very important to identify trade barriers in third countries and that is why we welcome of course the new possibilities of informing the Commission but another question is and I put it to who it may concern of the three of you; how or why is the Commission in a better position now than before to abolish these trade barriers? I mean we have been collecting information about trade barriers for decades now. I think for instance about Japan. We could cover the walls of this hall with the lists we put together and my opinion is that nothing much happened and it would be very disappointing for the companies if they collect data, if they inform the Commission and identify trade barriers and nothing would happen.
- Mr. Carl: There is one very important thing that has changed and I touched upon that in my brief impromptu remark of a moment ago which is that we now have the Uruguay Round behind us. We have the very detailed new disciplines which were worked out in that context. I can assure you that over the last several months, as we have been working through this extremely long list of trade barriers of which you will see a demonstration shortly, we have been struck by the fact that so many of these barriers can now be attacked in the WTO and can be attacked much more efficiently not only because we have the new disciplines but also because we have a new and reinforced dispute settlement system. As a matter of fact we have more of an "embaras du choix" in the sense that there are of course limits, physical limits, managerial limits to what can actually be conducted at any given point of time in terms of WTO dispute settlement so that is one first level of response to Mr. Korman's question. The second thing that I would like to add is that yes we do have an enormous amount of information already available which will be demonstrated to you. We have started this exercise on the basis of the principle that charity starts at home. We have not wanted to repeat the mistakes of earlier attempts to do the same where we were actually asking Industry before we started off ourselves to provide us with all the detailed information. So what we are trying to do now to put it colloquially is to prime the pump and to demonstrate to you that we can get things going and we hope that you will respond by informing us of your problems.
- Mr. Tyszkiewicz: If I could just add a little bit to that. The question really was why was the Commission going to be any better now than it was before and here I think we should ask ourselves a question. I remember my first trip as UNICE's Secretary General to the USA; I was armed with a book produced every year by DG I which are all the complaints Europe has against the Americans, how they behave and I was very triumphant. I went to New York and to Washington and I waved my book at the Americans. They took out another one with all their complaints against us. I think this is one of the handicaps the Commission is up against. Are we as clean as the driven snow in all these matters? Probably not and so the more we open our market the more we can demand other people open theirs. The other thing that makes the Commission stronger today I think than it was ten years ago is the Single Market. Others want to get in to this market. It is a very important new situation and if we threaten them with difficulties because of the way they are behaving then maybe they will think again and behave better. And the third element is the one that our Chairman mentioned which is that we now have a set of WTO rules which are actually enforceable and the one thing one hears from Geneva on WTO is everybody including the Americans praising the new system of enforcement and they say that really does work. I hope it works in the case of Helms-Burton as well but anyway it is apparently working and I think that is very good.
- Mr. De Clercq: Oui, je dirais que M. Tyszkiewicz a souligné une de nos faiblesses mais la grande faiblesse chez nous naturellement c'est que malgré qu'en matière de politique commerciale extérieure, nous sommes tellement mieux lotis, qu'en matière de politique étrangère soit disant commune et de sécurité soit disant commune, nous ne sommes toujours pas un gouvernement, nous ne sommes pas un Etat. Nous restons une Communauté européenne.

Et quand on voit par exemple l'évidence même pour faire face à ces lois incroyables qui sont les lois "Helms-Burton" et "D'amato", qui sont la manifestation du dédain le plus complet du congrès américain vis-à-vis de ses alliés, l'illustration d'une tactique qui consiste à attaquer ses ennemis en troublant ses alliés quand le bon sens même dit qu'il n'y a qu'une action collective qui est possible, il y a un gouvernement qui trouve une technologie de pointe juridique pour essayer d'entraver l'action, ça c'est l'Europe, c'est encore toujours l'Europe, malgré tout. Et quand on sait maintenant que plusieurs gouvernements essayent de diminuer le pouvoir d'action de la Commission, en diminuant les compétences en matière extérieure commerciale, en déplaçant des matières qui sont ou d'autres qui devraient appartenir au premier pilier vers le second pilier. Le second pilier, nous savons ce que ça veut dire ce pilier. C'est l'intergouvernementalisme, c'est le triomphe de l'égoïsme et du plus fort. A l'intérieur de l'Union européenne, nous avons des raisons d'être très attentifs et vous, industriels, heureusement je sais que vous le faites, mais il ne suffit pas que les organisations prêchent, il faut que les membres soient tous convaincus qu'en matière de commerce extérieur, il n'y a qu'une politique possible, celle de l'Europe toute entière, représentée par sa Commission qui parle au nom de toute l'Europe bien entendu sur base de mandats donnés par les Etats membres mais une fois que ces mandats sont donnés, il faut laisser la Commission la responsabilité de négocier au meilleur, en ne la contraignant pas par des limitations de tous genres, à faire une bonne oeuvre.

Speech of Mr. Dorian F. PRINCE

Good morning ladies and gentleman. Well after the very brilliant presentations that were made before the coffee break I feel rather nervous coming up here but we now have to go into the nuts and bolts of the market access strategy. I would like to talk to you very briefly about the setting up of the electronic market access database itself. This has been a Herculean task and I must admit I myself have been surprised at just how much information was lying around in the Commission and in our delegations. I am also impressed by just how much information is coming in almost on a daily basis. I wonder how we are going to keep up with it but fortunately the new market access unit which I have the honour to head has been conveniently situated next to the Commission's medical service.

In setting up the electronic database we were anxious not to fall into 2 obvious traps and indeed various speakers this morning have referred to those obvious traps.

The first obvious trap would have been to simply produce a list of existing problems which would then be put on the Internet as some kind of Word for Windows document. Other trading partners have indeed followed a similar approach but as was pointed out very ably by one of the speakers from the floor this morning, what would that add to the exercise? It would simply be a bureaucratic exercise which companies might consult once on the Internet and then forget about.

The second obvious trap which has also been referred to by Mr. De Clercq this morning was of becoming involved in simply an academic exercise that is of Commission departments talking to Commission departments and producing long lists which have no link back either to the exporting companies themselves or to the decision makers who are actually carrying out EU trade policy. So we have tried to avoid both of these pitfalls by setting up a real electronic database which probably will have something like 40,000 pages if you were trying to print it out and which will have three very clearly defined aims.

The first to provide **useful information** to exporters. For example, reference has already been made to the fact that we will provide basic applied tariff information for key markets with a convenient search facility. We will also provide other information such as WTO countries' commitments on maximum tariff rates and on the services and in a later stage we would like to provide basic market information and texts of relevant legislation where appropriate.

The second feature of the database will be to **identify clearly each of the main problems** encountered. This information has been built up industrial sector or service sector or agricultural sector by sector. Already we have identified several hundred barriers and we are now in the process of analysing each of these barriers.

The third feature of the database is to facilitate a continuous flow of information between the Commission, Member States and business. For this reason, the database will be interactive and encourages each user, public or private to leave comments or request further information direct on-screen. You will see this feature in a few minutes time when we show you the database on-screen. We undertake to reply to each of your queries: of course you might not always like the reply you get but at least you will get one!

As of today, the database covers the following four types of information:

1. Sectoral and trade barriers information
2. Applied tariffs in key export markets
3. WTO bound maximum tariff rates resulting from the Uruguay Round
4. The services schedules of the Uruguay Round.

Obviously not all sectoral reports exist yet for each country covered by the database. It will take some time to cover all sectors in all major markets and the database by its very nature will never be complete. The coverage per sector and country so far is given in the documentation on the database which has been distributed to you and everything I will now say and everything that will be said during the on-screen presentation is also contained in that documentation so you will not need to take notes when the lights are dimmed in a few minutes time.

We also thought it would be useful to have WTO Services schedules in an electronic form. So far these have not been published in a database format.

For the tariff information, the Applied tariffs information covers as of today twelve countries: Canada, USA, Mexico, Brazil, Chile, Japan, Taiwan, Korea (South), Thailand, Malaysia, China and India. As you will see we have concentrated on the largest markets and also those such as India and China which pose the most difficulties.

Early in 1997 a further thirteen countries will be added, and in 1998 a further batch of seven countries will be added. This I think will give us already a fairly comprehensive coverage. You will find the full lists and details in the documentation provided.

We will also provide the WTO tariff bindings as a result of the Uruguay Round. Obviously this information is not as convenient to handle as the applied tariffs because unfortunately each country was allowed to notify in its own format. However I think this information is useful and to the best of my knowledge has never been made available in electronic format in the past but really no amount of written material or oral explanations can really give you a feel for the real potential of the database. You have to see it working and you have to try it for yourselves.

So I'm now going to hand over the floor to Mr. Mark Vandeyar of our computer department, who has developed this programme from scratch in a matter of a few months and he is going to run you through the main features of the database on screen.

QUESTIONS AND ANSWERS Mr. D. Prince / Mr. M. Vandeyar

- Question 1:** Je suis M. Mariani, du Ministère du Commerce Extérieur Italien. Je voudrais savoir s'il vous plaît s'il y aura une possibilité d'une traduction de l'interface en différentes langues, en italien par exemple, ou si un arrangement sur ce sujet est-il possible entre les délégations nationales et la Commission.
- Mr. Prince** With regard to translations obviously it would not be feasible I think for a database which is going to have to be updated literally daily for the Commission to provide all the information in the eleven languages. However what we are planning to do is to provide the help functions which Mr. Vandeyar pointed out earlier in several languages and we are in the process of preparing those now. But I think one thing we have to be very clear about and we have to strike a balance here. We want to provide as much information as we possibly can in as many languages as possible but I think the absolute priority must be to make sure that what is in the database is absolutely up to date.
- Mr. Vandeyar** Regarding the tariff database, you will be able in the future to search it in at least three or four different languages. You will not be obliged to use English in order to search it. However the Report that you will receive back will be in English.
- Question 2:** Can input be given in other languages?
- Mr. Vandeyar** Certainly, any responses that you submit in the comment boxes can be in whatever language.
- Question 3:** M. Walvael, Conseil national du patronat français. Je voudrais poser deux questions qui ne sont pas liées mais qui sont toutes les deux relatives à la transparence. Dans un cas, je souhaiterais beaucoup de transparence, dans un autre cas, moins. Je m'explique. Première question, est-ce que, au nom de la transparence qui a été invoquée par des orateurs précédents, on saura pour tel ou tel obstacle existant à l'importation par exemple dans tel ou tel pays, s'il y a des négociations en cours entre l'Union européenne et le pays en question, éventuellement l'état de ces négociations, ça c'est ma première question.
- Deuxièmement, là où je souhaiterais moins de transparence, c'est lorsqu'il s'agit d'informations données par les entreprises par exemple à la banque de données de la Commission. Comme vous le savez, quand on est la société Kodak et qu'on a le gouvernement américain derrière, on peut effectivement dire des horreurs aux Japonais. Quand on est une entreprise moyenne française, modeste par excellence, on hésite peut-être parfois à donner des communications qui risquent de se retrouver sur la place publique. Merci
- Mr. Prince** Je vous remercie pour ces deux questions qui sont particulièrement pertinentes. En ce qui concerne le suivi par la Commission, de ces différentes barrières, il va sans dire que nous allons inclure des références dans la base publique aux différentes négociations en cours. Mais évidemment sans aller trop dans le détail parce que cette base risque d'être lue par les pays tiers concernés. Donc, nous devons être assez prudents. Par contre, nous allons pour chaque barrière qui est reprise dans la banque de données, établir une analyse très détaillée, que bien entendu nous sommes prêts à fournir aux entreprises communautaires qui sont intéressées, mais qui ne sera pas publiée dans la base de données elle-même, pour des raisons qui sont évidentes pour n'importe qui qui a négocié avec des pays tiers. En ce qui concerne votre deuxième question, à savoir la confidentialité des commentaires fournis par les entreprises, nous avons pris des dispositions draconiennes pour nous assurer que tout commentaire qui est laissé sera traité dans la confidentialité la plus stricte. Vous n'êtes pas obligé bien entendu de laisser vos commentaires par courrier électronique. Si vous avez des doutes quant à ce moyen de communication, vous pouvez également envoyer des messages à la Commission par fax ou par courrier. Mais même si vous laissez vos commentaires par courrier électronique, la confidentialité est assurée et je peux aussi vous assurer que la Commission n'inclura jamais dans la base de données, des informations qui peuvent être gênantes pour l'une ou l'autre entreprise. Il va sans dire aussi que nous n'allons jamais citer le nom d'une entreprise plaignante.

- Question 4.** Sartoris, deutsche Bekleidungsindustrie. Ich habe zwei Fragen: Erstens, ich vermute, daß die international innerhalb des Welttextilabkommens und natürlich auch die bilateral verhandelten Quoten alle in der Datenbank drinnen sein werden. Das wäre sehr nützlich, daß jede Firma sofort abrufen kann, für welches Land, welche, welche Quoten für das laufende Jahr festgelegt sind?
- Zweite Frage: Noch viel nützlicher wäre, wenn es möglich wäre, die aktuelle Quotenausnutzung abzurufen, sodaß man also zum Beispiel für strategische Überlegungen sagen könnte, nehmen wir einmal an, zum Beispiel, Kategorie Jacken Vietnam: 96% sind per 1. 10. 1997 bereits vergeben. Das ist für die Unternehmen durchaus von Wichtigkeit, um dann daran anknüpfend strategische Überlegungen anzustellen. Vielen Dank.
- Mr. Prince:** Vielen Dank für diese Frage. Ich glaube wir müssen darüber im Klaren sein, es handelt sich hier um eine Datenbank über die Handelshemmnisse in Drittstaaten und nicht eine Datenbank über die Maßnahmen, die wir ergriffen haben. Natürlich ist das eine sehr heikle Frage und man könnte auch sagen, OK es wäre interessant eine Reihe von Informationen zu geben über die aktuelle Gesetzgebung in der Gemeinschaft. Die Datenbank ist schon enorm und ich glaube, ganz ehrlich gesagt, es wäre nicht in unserem Interesse, in dieser Datenbank die internen Regelungen der Gemeinschaft zu beschreiben. Über diese konkrete Frage über die Quotenausnutzung für Textil und Bekleidung in der Gemeinschaft darf nicht außer acht bleiben, daß wir schon ein anderes Computersprogramm haben (SIGL) das sich damit beschäftigt. Vielen Dank für Ihre Frage.
- Mr. Carl:** Thank you Dorian. I cannot resist using this occasion to draw the attention to anybody who is interested in importing textiles and clothing through the European Community that there has been a very recent publication in the Official Journal regarding the fact that quotas for China are in many respects close to being exhausted and those who import know what this implies in practical terms.
- Question 5.** Rünner von der Bundsarchitektenkammer in Deutschland. Ich würde gerne wissen, wann beabsichtigt wird, die erste Datenbank "Sectoral and Trade Barriers Data Base" auszubauen auf technische Dienstleistungen, wie sich von Architekten und Ingenieuren erbracht werden.
- Mr. Prince:** In such a short presentation it is difficult to cover all of the aspects of the database.
- Question 6.** Thank you Mr. Chairman. My name is Roger Craus and I represent the European Ceramics Industry and I would like to ask whether the Commission is planning to consult the trade associations on what it has put in the database in the sense that the associations are able to give more detail on it or do the associations just have to consult the bank and to see whether they have to add something on it. I think it would be useful that the Commission takes a step to ask the trade associations whether the information contained in the databank is all right.
- Mr. Prince:** As Mr. Carl said this morning we were very reluctant to contact trade associations with a general questionnaire saying "please will you fill in for 45 foreign markets the barriers which you currently have and please list them in this format". What we wanted to do was actually to prime the pump as Mr. Carl said this morning and to put in a public format all the information which we have. Now as I said earlier this information has been built up sector by sector and I'm sure you saw on the screen a moment ago the sector, "ceramics and glass". I think you will find with very few exceptions that the information which is there originally came from your association or from member companies of your association. By nature it won't be complete. Therefore I would like to invite sectoral associations to look through in detail the Reports and to criticise, comment and of course complete as much as they possibly can.

Speech of Mr. H.-F. BESELER

Ladies and Gentlemen as you have seen from the detailed presentation just given by Mr. Vandeyar, the new Market Access Database provides us for the first time with a comprehensive overview of all the barriers affecting European exporters in key markets all around the world. I hope that now we can rely on you, representatives of the European industry and of trade, to make the best use of it and to feed in the information which we need in order to keep this precious tool up to date. I can make a confession to you. When I first heard about my services' plans to draw up this database I was extremely sceptical. I tried to hide it from my services but I knew how difficult and what a terrible task it was to get all the information together and to establish such a database. When I saw the results I was absolutely amazed as probably most of you have been amazed and I can tell you that now for me that is also one reason to be on Internet. Perhaps we should get a participation from Internet because certain of you will also probably now have the reason to join Internet. But you must keep it up to date. We have done the first step. Now it is for you to keep the instrument up to date and useful, together with us and together with the Member States.

The establishment of the database was the first step but having identified the barriers, the next question is : **how do we go about removing the barriers?** So the second step is to improve the co-ordination both within the Commission and between the Commission and the Member States and of course the industry. The third will be to ensure a systematic follow-up of every trade barrier identified in the database and highlighted by you or by the Member States or by the Commission services themselves.

Within the Commission's services, we have for this purpose set up a Market Access Action Group, comprising all the different departments of the Commissions' services which are concerned by this task: trade policy representatives, the country desk officers, who are very important because they also know what happens in the United States, in South America and in Asian countries and then also representatives of the sectoral desks. Nearly all different desks of the Commissions' services are represented in this Action Group.

This Group has now begun the process of analysing the several hundred trade barriers identified so far. The Group will then review action taken so far by the EU and will recommend in each case the further courses of action to be taken. The final decision is then of course taken by the Commission itself and the Commission as you have heard this morning from Sir Leon Brittan, does all of this of course in close contact with the Member States.

The Group will consequently as soon as something concrete is identified submit to the Member States via the 113 Committee to the Council a regular progress report summarising the barriers recently processed, drawing the Council's attention to new cases, reviewing the action taken in cases already being dealt with and where appropriate recommending further action at Community level.

The details of the Commission's analysis and the action recommended of course you will understand will not be published on Internet. But we will stay in very close contact of course with the European associations and also with the Member States.

We hope that through these practical measures, we will set up a clear process whereby problems in third countries are brought to the attention of decision-makers in good time, are then checked and analysed efficiently and appropriate action at Community level is taken.

So what kind of action can the EU take in order to remove the barriers which you find in the database?

First and foremost we must ensure that all our trading partners abide by their international obligations, in particular with their obligations described in the context of the different GATT rounds, in the last place the Uruguay Round. How many times have we negotiated agreements only to in order to find afterwards that one or other provisos of these agreements are not respected and this is exactly what we want to avoid by this database and by the regular follow up of all the trade barriers identified in the process.

Now how is this done? Of course the most evident action is dispute settlement in the WTO. You know that one of the essential results of the Uruguay Round negotiations was the improvement of the dispute settlement mechanism in the WTO. We have now an automatic dispute settlement mechanism where nobody can oppose the establishment of a panel and where the results of a panel are automatically accepted where there is no resistance possible. Also we have in the framework of the WTO this mechanism which doesn't exist anywhere else in international trade law and that is the possibility of cross-retaliation which is extremely

important. This possibility to retaliate against a third country which has broken international law not only in the sector where you have the breach of international law but also in other sectors is very frequently absolutely essential in order to get an efficient result.

You may be interested to know that since the beginning of this year, before the establishment of the database or in parallel to the process of the establishment of the database we have already launched 10 WTO dispute settlement cases in Geneva which are now actively processed in the WTO framework.

Similarly, we can of course and we will of course use the consultation and arbitration provisions of many bilateral agreements which the EU has concluded wherever our partners fail to observe their bilateral obligations. We will not hesitate to use this instrument of bilateral consultations or arbitration.

Also I should like to remind business that there is the Trade Barriers Regulation and that this regulation offers the possibility for an association or even a single firm, a single producer to file a complaint against the violation of international law by a third country. The advantage of this procedure is that it imposes on the European institutions an obligation to act, an obligation to open an investigation procedure and to proceed within a timetable which is strictly prescribed in the regulation, a procedure very similar to the procedures which you have in the United States and where the administration is also obliged to follow strict deadlines and to render their decisions before the expiration of these deadlines.

Of course I want to be honest with you, quite often, many trade barriers do not constitute straightforward violations of international law. In many cases, the third country concerned has not entered into any binding obligation and consequently you cannot argue that there is a clear-cut violation of international law.

You know that in the Uruguay Round and other trade negotiations in the WTO we have tried to consolidate or bind as many third countries tariffs as possible but you know that for many developing countries the binding of their tariff rates has been done at a much higher level than they are actually applying. I draw your attention in this context to the provisions of intellectual property where we had to give a five year transition period to developing countries. Then there is also the case of those third countries who are not members of the WTO, for example, Russia, China, Saudi Arabia and Taiwan. We are actually negotiating their accession to the WTO, a long and very laborious process but up to now we are not yet at the end of the tunnel and up to now we cannot argue that the rules of the WTO are binding for these countries.

So what can we do in these cases where there is no clear cut violation of international law? Well we can and we are firmly determined to exert persistent diplomatic pressure or we will enter into new negotiations with the countries concerned. The ongoing market access discussions with Japan are a good example of the dogged use of the Community pressure in a constructive bilateral dialogue.

As regards future negotiating opportunities, it must not be forgotten that the WTO process is far from complete. Next year, there will be major negotiations on telecommunications. We have negotiations going on all the time in telecommunications. We very much hope to conclude them on the 15th of February. We will do everything to respect that date. There are other negotiations going on in the framework of the WTO. Those negotiations are on an information technology agreement. Mr. Carl is very active personally in that. Then there are negotiations foreseen on services, on intellectual property. There will no doubt be preparations for future market access negotiations for industrial goods. So all this is done because the Community is firmly determined to push for further liberalisation in all these important areas as well as for an extension of the coverage of the agreements which have already been signed in the framework of the WTO. I just refer to the important area of Government Procurement where there has to be an extension of the sectoral coverage and of the country coverage, we are actively working on this.

Bilateral agreements, such as the negotiation of a free trade agreement with South Africa or the completion of free trade agreements with Mediterranean countries are also very important in this context and will also give us an opportunity to use the results of these negotiations in order to put pressure on these countries to abide with their international obligations and to open their markets to Community exports.

Of course, none of these instruments provides any miraculous solution. Opening markets requires political will, considerable resources and a lot of patience. The Commission does not have a magic wand to wave away all industry's problems in a relatively short period of time. But we can promise to address systematically your

complaints in a clearly defined process. And that is the purpose of the establishment of the database and of the mechanisms which we have just discussed.

SERVICES WORKSHOP

The panel was chaired by Jacques Dugimont, director of DG I.M, responsible for international negotiations on services and investment in the European Commission. The Commission was further represented by Tania Friederichs and Bernard Kuiten, both involved in General Agreement on Trade in Services (GATS) negotiations and activities. After a general introduction on the importance of services in the Market Access Strategy of the European Commission by the Chairman, panelists from the private sector gave their point of view on the state of play of the negotiations in the services sectors they represent. Discussion concentrated on the ways in which very different sectors, like maritime transport, telecommunications, professional services and financial services can stand to benefit from new negotiations in GATS designed to improve market access possibilities.

Herman de Meester from the European Community Shipowners Association raised the question of whether GATS was indeed the appropriate forum for shipping liberalization. He stressed the fact that shipping was already a relatively liberalized sector, with a very close link to trade in goods. Remaining problems are in North-South trade, especially with West-Africa. Negotiations on specific commitments in maritime transport are suspended until the next Round of negotiations on services in 2000. Mr. de Meester expressed the view that commitments on standstill and early roll back would have to be strong in order for maritime transport to be appropriately covered by GATS.

Olof Nordling from Telia (Sweden) and chairman of the European Telecom Network Operators provided some of the private sector considerations concerning the ongoing basic telecommunications negotiations. Mr. Nordling saw the appropriate regulatory structure for telecommunications as one with more operators per country. The WTO negotiations, of which the deadline has slipped from April 1996 to February 1997, are an opportunity to achieve much needed world-wide liberalization in this sector. In the beginning of next year the decision will have to be made whether the offers currently made by our WTO partners are good enough in terms of deepness of commitments (particularly ownership possibilities) and coverage of sectors (satellite services included). This could lead to new disagreement between the EU and the US, if, as can be expected, the EU can accept the offers on the table and the US can not.

Alain Sagne, representing the Architects Council of Europe, addressed the other ongoing negotiations in GATS, on professional services. He also elaborated on the role of the private sector organizations ETSN and ACCESS, both actively following the services negotiations in Europe. He announced the organization of an international conference on trade in services that will be organized by the (American) coalition of trade in services industries. Touching upon the interests of architects in the negotiations, he stressed the importance of a review of government procurement provisions in GATS.

Nikolaus Bömcke highlighted the European Banking Federation view on the financial services negotiations that will resume in early 1997 and will hopefully lead to a more permanent coverage of this sector. The Federation strongly supports the GATS negotiations on financial services and intends to contribute to this process by drawing up a list with obstacles in third countries in co-operation with the American private sector. They will also make an effort to convince their American colleagues to participate more positively to the negotiations starting in 1997.

A short discussion took place on the question raised by Mr. de Meester on the appropriateness of GATS provisions for the shipping sector. The Chairman raised questions on the need for preparation of the new Round of negotiations in the year 2000. Questions were asked to the Commission about the availability of reliable statistics on services for these negotiations. The answer is that services trade remains seriously underestimated, most importantly because of the omission of trade through an overseas establishment from the statistics. The Commission, including its statistical office in Luxembourg, has been interested in improving this situation for some time, but depends on the availability of statistics from the Member States. The Chairman concluded by stressing the need for further information on trade in services, in terms of statistics and trade barriers, in order for the Commission to successfully conclude the sectoral negotiations and to subsequently launch a next comprehensive round of negotiations comprising all services sectors. The role of private services operators for the future success of the Market Access Strategy in services sectors is, because of the limited information available to negotiators, even more important than in other sectors.

“HOW TO IDENTIFY TRADE BARRIERS: TYPES AND EXAMPLES”

The audience consisted mainly of industry representatives from all industrial sectors. Members of the permanent representations of Member States to the EC and Commission officials were also present.

The main purpose of this workshop was the exchange of experience and of point of views between Industry and the Commission officials. DG III invited industrialists to explain the difficulties they encounter when they want to export on third markets and to share with all the participants the results of their practical experience. Within this framework the Commission wanted to explain how its services can work with industry to spot, analyse and tackle trade barriers.

The following sectors were chosen for the discussion and presented jointly by industrialists and Commission representatives.

Processed agricultural food products.

As in most sectors these products face both tariff and non-tariff barriers in third country markets. For the most important Members of the WTO the conclusions of the Uruguay Round have led to an increase of tariffs because of the “tariffication” on agriculture. The final reduced duties only enter into force at the end of the implementation period (year 2000/2001) and even then the level of the duties will be significant.

Non-tariff barriers are numerous and diverse and include, amongst others, mandatory certification, sanitary obligations, labelling, import licences the delivery of which is very often under government control, various discriminatory taxes and customs procedures. In a majority of countries these obligations are imposed and implemented in a way which is far from transparent.

The representative of the Confédération des Industries Alimentaires de l’Union européenne insisted on the support of the Commission including the assistance of the Community delegations abroad, in order to identify, remove and if necessary take appropriate measures against non-tariff barriers.

Negotiations should be pursued at all levels both bilaterally e.g. (Europe Agreements) and multilaterally (WTO, Codex alimentarius).

Mechanical engineering sector.

The discussion involved a case study on fork-lift trucks (FLT) on the Japanese market which was a good example to demonstrate that actions are always possible, even for small economic sectors, when backed up with facts.

This case was slightly unusual, in that the problem was brought to the attention of industry by the Commission. Usually, the reverse would be the case, since it is industry which has direct experience of market conditions in third countries. It appeared that the EU FLT industry was globally competitive but underperforming in Japan. A first joint (EU/industry) analysis was performed, mainly a collection of objective facts like trade data.

On this basis preliminary conclusions were drawn and specific problem areas were identified. The underperformance of the EU industry was likely due to Japanese regulations and standards, and some competition issues regarding pricing practices and distribution.

Exchange of information and discussions took place with the Japanese. This was facilitated by the existence of the TAM (trade assessment mechanism) an informal forum, set up some years ago between the Commission and the Japanese authorities.

As a result of the discussions, the Japanese have now been formally requested to change their regulations (as part of the EU’s Deregulation Request List) and competition issues are still under examination.

This case shows that barriers are often complex and that their identification is only the first stage of a long process. However, it also shows that, without necessarily expecting short term results, the Commission and the industry can achieve their objectives better by working closely together.

The automobile industry - dynamics of a successful strategy

In the last couple of years, considerable progress has been made in removing market access barriers in the regulatory field in a number of key markets for the European automobile industry. Underpinning this effort has been a very close industry-Commission partnership which has identified the countries and barriers to be addressed, established priorities, and provided the technical backing and information necessary for the Commission services to enter into a serious dialogue with key trading partners with a view to finding a solution to the most important problems of concern to European industry.

The major objectives of this market opening initiative in the regulatory area can be summarised as follows:

- reduce regulatory costs of doing business in foreign countries
- promote the use of European standards (EC Directives and UN-ECE Regulations) which are harmonised and encourage trading partners to join in this international harmonisation process
- secure agreements that allow testing and certification to be conducted, to the greatest extent possible, in Europe, at manufacturers' premises
- to remove superfluous and repetitive testing which does not serve environmental or safety purposes
- achieve simplified approval procedures for small volume exporters.

In all these areas, progress has been made, notably with regard to Japan and Korea, through agreements concluded in 1994 and 1995. On the basis of this experience, the following have been identified as key elements of a successful strategy for progress:

- exploiting strategic opportunities: advantage has to be taken of official meetings, visits by high Commission officials; public Fora to press the Community's case.
- industry-government co-ordination: industry and public authorities must consistently speak with one voice; Nothing is more damaging and can be more easily exploited by trading partners than divergences in view between the Commission and industry or within industry itself.
- coalition-building: we need to identify and exchange information with third parties that stand to gain from improved market access. Such beneficiaries could include other foreign investors/exporters (e.g. US) or the domestic industry which in principle also benefits from deregulation.
- solid technical expertise: technical dossiers must be well-prepared and stand up to scrutiny. This is essential for the Commission's credibility in technical negotiations.
- time-table for follow-up: we need to set realistic time-tables for progress and follow-up. A good example is the June 1995 Agreement on standards with Japan which established a timetable for action for all unresolved issues. This approach is currently being extended to other countries identified as priority markets, such as China and India.

The workshop lasted for one hour and half. Some specific questions were raised at the end which were given, according to the audience, satisfactory answers.

In summary the discussion showed that industry and the Commission working together can identify market access problems that can be addressed both bilaterally and multilaterally by the Commission. It is necessary to reinforce this co-operation with aim of reducing global market access barriers facing European industry.

WTO WORKSHOP

Bernhard Jansen from the Legal Service of the Commission gave a detailed overview of the new WTO Dispute Settlement procedures. These procedures are much more effective than in the past. They set tight time frames so that the whole procedure can be terminated within 18 to 20 months.

There are three main stages in the procedure : the consultation, the composition and the mandate of the panel, and the actual panel work (see Annex for a complete description). In addition, questions of law can be appealed to the 7-member Appellate Body.

The consultation stage is compulsory before a panel can be requested. It has also a double practical value : the problem can be resolved immediately through the consultations, and valuable information can be obtained on the contested measure. The establishment of the panel, which can only be requested by a WTO member, is essentially automatic in effect. Rules are provided in case parties do not agree on the members of the panel or the terms of reference. It is also noteworthy that, in the course of the panel procedure, an interim report is issued to the parties: this can indeed lead to a settlement "out-of-court".

Adoption of the panel report is automatic in effect, contrary to what happened under the previous GATT system. If a panel report is not implemented (the situation has not occurred yet), the WTO rules now contain provisions on compensation or retaliation (including cross-retaliation) commensurate to the trade loss suffered.

Bert Van Barlingen of the Commission WTO Unit then gave a statistical overview of dispute settlement. He underlined that the new disciplines had led to a dramatic increase in the number of cases: 60 consultations have been requested since 1995, and 16 panels have been established. A significant number of cases were solved at the consultation stage or by an "out-of-court" settlement during the panel procedure. The EC was active in the most serious problems, when European companies had persuaded the Commission to act.

Another way for triggering Community action in trade disputes is the Trade Barriers Regulation (TBR). Mauro Petriccione of the TBR Unit of the Commission defined the TBR as a way for the European industry to ensure that states outside the EU comply with international trade rules.

The TBR procedure has many advantages. It obliges the Commission to investigate formally a complaint lodged by an industry or even an individual company to discover whether there is any evidence for taking it further: the complainant needs not find all the evidence itself. It also gives the complainant rights enforceable before the Court of Justice, for example to assist the Commission in its investigation and to obtain formal positions of the Commission and the Council under strict deadlines. The TBR procedure gives publicity to a trade dispute that may usefully increase the pressure on the "offending state". Finally, it also guarantees that action will be taken against a trade barrier even for cases that are not necessarily within the Commission' priorities.

Questions from the audience showed the interest of the participants for this TBR procedure.

Finally, Tim Jackson gave the views of the European spirits industry (CEPS) on the use of the WTO dispute settlement. He stressed that the European spirits industry was facing trade barriers in 70% of the cases, quoting for example in Korea and Chile. He then recalled his experience in the long battle against the Japanese discriminatory taxation of spirits, which had ended in a clear condemnation of the Japanese system by the WTO Appellate Body, therefore setting a precedent for similar discrimination world-wide. Tim Jackson underlined that the key to success was to react at an early stage, and to build a real partnership between the industry, the Member States and the European Commission.

INTELLECTUAL PROPERTY RIGHTS WORKSHOP

1. Opening statement by P. Vandoren, Head of Unit, DG I-D-3.

Mr Vandoren expressed satisfaction with the large number of participants attending the workshop, which he said underlines the importance put on IPR in the market access perspective by European industry.

As an introductory remark, Mr Vandoren pointed out two important factors to facilitate the opening up of the markets abroad for European industry which relies on intellectual property. First of all, legislative measures have to be in place and secondly the enforcement of the rights are of crucial importance.

As regards legislation, the European Commission has over the years made significant efforts to obtain improvement of the legislative situation outside the European Union. The conclusion of bilateral agreements with third countries, whereby the country undertakes to secure a level of protection in accordance with the highest international standards, including accession to international agreements, has already resulted in valuable benefits for the European industry. In addition, when specific problems arise, the Commission is able to raise the issue during bilateral contacts with third countries. The conclusion of the TRIPs Agreement within the framework of the Uruguay Round negotiations is no doubt an important factor in obtaining an adequate level of IPR legislation world-wide. Mr Vandoren pointed out that in this context, the Community is of the opinion and pursues the policy continuously, along with several industrialised countries, that countries applying for membership of the WTO should be urged to implement the TRIPs Agreement from day one.

The second important factor mentioned in relation to market access for European investors is enforcement. In this respect, the TRIPs Agreement provides for important provisions on domestic procedures and remedies so that right holders can effectively enforce their rights. Finally, Mr Vandoren pointed out that an additional factor which makes the TRIPs Agreement so important is the reference to the GATT Dispute Settlement Understanding. These provisions reflect the culmination of GATT's evolution from a system aimed primarily at conciliation and calling for negotiated settlements towards a more judicially-oriented system. The enforcement offered via the dispute settlement system is a tool for securing real market access.

2. Intervention by the four panellists.

The four panellists each gave a brief introduction on the market access aspect of the group of rights for which they were responsible, i.e. copyright and related rights, patents, trademarks and geographical indications respectively.

a. Nick Garnett, Director General, IFPI.

Mr Garnett shared with the participants of the workshop the experience IFPI has gained over the years in the trying to open up markets in third countries in order to improve conditions for the European phonographic industry.

Mr Garnett pointed out that the problem of market access goes well beyond piracy in CDs into other trade barrier problems such as hidden quotas, administrative processes etc. In this connection, Mr Garnett stressed some important points which should be borne in mind when trying to tackle trade barriers. First of all, it is important to look at all barriers to trade together and secondly, the Commission or the USTR, depending on who is taking the action, will have to be confident and well prepared for their task and for this they are dependent on industry.

He also mentioned a number of important tools available in order to tackle trade barriers, namely the various bilateral agreements concluded with third countries, the bilateral WTO negotiations, the WTO dispute settlement procedure, the TPRM and finally the TABD.

b. Brian Yorke, Chairman of the European Federation of Pharmaceutical Industries Associations (EFPIA) and the European Chemical Industry Council (CEFIC) IPR Working Groups.

Mr Yorke pointed out that it was not until the Uruguay Round negotiations that lack of patent protection was regarded as a barrier to trade. But, following the discussions taking place in that forum, it became clear that

an innovator is discriminated against if his technology is not properly protected in a third country. In respect of patent protection, Europe offers both advantages and disadvantages.

As a disadvantage Mr Yorke mentioned the high costs for manpower, the high requirements for health, safety and environment, often resulting in cumbersome regulations and procedures to be followed. On the positive side, one could however mention a rich source of research expertise and highly trained people. As far as the TRIPs Agreement is concerned, only minimum standards are guaranteed while protection in areas such as plants and animals is still optional. Mr Yorke stressed the need for rigorous implementation of the TRIPs Agreement and the elimination of any transitional periods. He also pointed out some specific issues which he considered of importance: a 20-year product protection for chemicals which should be adhered to universally, registration authorities should not allow data submitted for registration purposes to be used unfairly by others, no "holes" in the protection of plants and animals and adequate enforcement. Finally, Mr Yorke made remarks on the various shortcomings inside the Community in the area of patent protection.

c. Matthieu van Kaam, Head of Trademark Section, Philips International b.v.

Mr van Kaam started out by mentioning that already under the Paris Convention and the TRIPs Agreement, minimum protection of trademarks is secured. He, however, felt that various factors of trademark protection should be reconfirmed, since non-respect of these could constitute trade barriers.

The important factors were, among others, the unlimited scope of the protection of trademarks, including for example three dimensional trademarks and more untraditional trademarks, the fact that the nature of the goods or services to which a trademark is to be applied shall not form an obstacle to registration of a trademark, the elimination of cumbersome registration procedures, the charging of reasonable fees, the control of the provision to use the trademark as well as the control of the provisions on licensing, the exclusion of rules on compulsory licensing which could result in expropriation and last, but not least, effective enforcement provisions.

e. Frederique Helin, Chef du service juridique et étranger, INAO

Madame Helin first of all pointed out that the protection of geographical indications is different from those of trademarks due to the goods being linked to the agricultural sector and their existence not being linked to the owner. The TRIPs Agreement gives definitions and obligations for the protection of geographical indications. Any misuse thereof constitutes a barrier to trade. The producer who wishes to use a geographical indication in his country of origin has to fulfil certain requirements and consequently should not be put at a competitive disadvantage by any other producer who misuses the geographical indication without fulfilling the requirements thereto.

Madame Helin stated that the future objectives in the field of geographical indications should contain the simplification of the global protection through a multilateral register and the elimination of past misuse through negotiations, bilaterally or in the WTO.

3. Question and answer session

The question and answer session included various interventions directed to the panellists and the Commission, including the disincentives and frustration which European industry faces when it knows that its export to third countries will result in infringement of its rights and the question as to what extent the procedures and mechanisms in the WTO are helpful to the situation. A business representative who had just returned from the TABD meeting in Chicago reported on the conclusions from that meeting.

4. Conclusion by P. Vandoren

Mr Vandoren concluded that it is clear from the various interventions and questions that IPR is becoming more and more important for European industry when entering third country markets. The fact that such a large number of participants were actively taking part in the Market Access Symposium and the workshop also supported this statement.

CLOSING SESSION

Speech of Mr. Jacques LEFLON

En tant que client potentiel, je considère que la nouvelle banque de données constitue un pas en avant. Toutefois, il faudra que la Commission y consacre des ressources importantes puisque la mise à jour de toutes ces informations sera indispensable, faute de quoi la banque perdrait très vite de son utilité et de son intérêt. Les services de la Commission risquent également d'être submergés par le nombre de nouveaux cas que l'industrie européenne ne manquera pas de lui soumettre.

L'établissement d'un point de contact central qui permet aux entreprises de porter directement à l'attention des autorités européennes les difficultés qu'elles rencontrent dans les marchés d'exportation est très important.

De nombreuses sociétés se perdent dans les méandres des procédures et des comités de l'Union européenne et sont vite découragées. J'espère que les représentants de l'industrie et du commerce ci-présents emploieront au maximum cette nouvelle possibilité. Dans ce contexte, je voudrais néanmoins insister auprès de la Commission et des états membres pour qu'ils prennent les dispositions nécessaires pour sauvegarder la confidentialité des informations commerciales fournies par les entreprises. Ceci est une condition sine qua non d'une coopération réelle entre les autorités européennes et les sociétés.

Les indications fournies par les trois institutions principales de la Communauté, Commission, Conseil et Parlement, sur la volonté politique derrière cette nouvelle stratégie en matière d'ouverture des marchés ainsi que sur les modalités pratiques d'une coordination renforcées sont encourageantes. Il faut effectivement que l'Union européenne puisse exercer sur la scène internationale, dans la légitime défense de ses intérêts commerciaux, une influence comparable à son poids économique réel. Pour ce faire, il est indispensable de cibler certaines barrières flagrantes et de rassembler toutes nos forces pour les éliminer. Quelques actions pointues suivies de quelques résultats tangibles de barrières éliminées renforceraient rapidement la crédibilité de la nouvelle stratégie tant à l'intérieur qu'à l'extérieur de la Communauté.

Cette crédibilité sera entretenue par un usage déterminé et efficace des instruments de politique commerciale, notamment des procédures antidumping. A cet égard je rappellerai les réserves exprimées par M. Tyszkiewicz sur certains projets de la Commission qui pourraient affaiblir ces procédures.

J'ose espérer que cette volonté des autorités européennes de dialogue avec l'industrie s'étendra vers d'autres domaines où l'industrie européenne rencontre des problèmes aigus (par exemple la lenteur des statistiques européennes du commerce extérieur).

Quoi qu'il en soit, je suis sûr que les milieux d'affaires ont apprécié l'ouverture d'esprit qui caractérise ce nouveau service pour les exportateurs européens et entendent profiter pleinement de l'opportunité faite par les autorités européennes aujourd'hui d'écouter nos problèmes et de nous fournir des réponses claires.

Speech of Mr. Tony JOYCE

The 113 Committee has reviewed in detail the Commission's market access communication and warmly supports its main policy recommendations.

Of course the 113 Committee is no stranger to market access issues - a glance through the agenda of each Friday's meeting will suffice but we need to give even greater priority to obtaining real market opening, to develop a consistent approach and to sharpen our trade policy.

But more than broad policy statements, we need **practical steps** to improve the **information flow** and the **co-ordination** between the many Commission departments, the Member States ministries, overseas commercial representations and of course you, the exporting companies. Only in this way, can we hope to develop a systematic approach to the removal of barriers to our exports and the creation of new opportunities.

The new Market Access Database will give us for the first time a clear overview of problem areas and a means for exchanging information instantly. The Committee and individual member states are already working actively with the Commission in analyzing and completing the information available.

In parallel, we have instituted with the Commission a procedure for reviewing all the barriers identified in the database and for proposing appropriate action at European level in each case. Of course it will take some time for the Commission and the 113 Committee to deal with the several hundred barriers already covered not to mention the hundreds of new cases which I am sure European business will be raising via this initiative. So you will need to bear with us at first. The Committee has already received the first progress report on the first batch of cases processed which we are busy digesting in capitals. We look forward to receiving further reports every 6-8 weeks.

It is important that we look upon market access as an ongoing process: barriers which we cannot remove under today's legal or political conditions should be put on the agenda for future negotiations. The market access strategy should not be just a series of ad hoc initiatives on individual cases - although this will of course be important - but should provide the Community with a built-in trade agenda vis-à-vis all trading partners.

The market access strategy is a good example of an area in which the EU can provide **real added value** hopefully allowing us to achieve results which could not be achieved by any of us individually.

Speech of Mr. M. P. CARL

I hope that the European institutions have convinced you that there is a real political will to pursue a more pro-active approach to market opening. You will have noticed that all the relevant Commission departments, the Member States, the Council, and the Parliament have taken part in today's event; thus underlining our common commitment. The Market Access Database will, I am sure, be a useful service to businesses and public authorities alike.

It is difficult to sum up today's proceedings, such is the complexity and diversity of the issues raised. I would just like to stress some of the points made by previous speakers. First, as stated so eloquently by Mr. De Clercq and Mr. Tyszkiewicz, the Community must act in a united, coherent and timely fashion. Far from weakening our common effort in trade policy we must reinforce our effectiveness by extending the application of Article 113 of the Treaty.

Secondly, as pointed out by Mr. Tyszkiewicz, and Mr. Leflon we must ensure total confidentiality for the information provided by businesses.

Thirdly the Community must ensure a coherent approach to all of its trade instruments. This also means ensuring that our own house is in order vis-à-vis international commitments.

Fourthly the database will only be as good as the information which is put in. The purpose of this symposium is to invite you, European business representatives, to make the fullest use of the database because it is not the Commission's database: it is your database.

Last but not least, as Mr. Tyszkiewicz, said earlier the Commission and Member States must act quickly on the complaints received.

On behalf of the Commission, I should like to thank all today's speakers for their contribution to this lively debate but, above all, I should like to thank all the participants who have shown such enthusiasm and have stayed for the whole proceedings.

WTO DISPUTE SETTLEMENT PROCEDURES

1. **REQUEST FOR CONSULTATIONS**
CONSULTATION PERIOD: MIN. OF 60 DAYS - ART. 4.7

2. **COMPOSITION AND MANDATE OF PANEL:**

(if agreement within 20 days after establishment of the panel;
otherwise 10 more days for decision by Director General on
composition / standard terms of reference - Art. 8.7)

3. **NORMAL TIMETABLE FOR PANEL WORK:**
 - (a) **Receipt of first written submissions of the parties:**
 - (1) **complaining Party:** 3-6 weeks
 - (2) **Party complained against:** 2-3 weeks

 - (b) **Date, time and place of first substantive meeting with the parties:**
third party session: 1-2 weeks

 - (c) **Receipt of written rebuttals of the parties** 2-3 weeks

 - (d) **Date, time and place of second substantive meeting with the parties:** 1-2 weeks

 - (e) **Issuance of descriptive part of the report to the parties:** 2-4 weeks

 - (f) **Receipt of comments by the parties on the descriptive part of the report:** 2 weeks

 - (g) **Issuance of the interim report; including the findings and conclusions, to the parties:** 2-4 weeks

 - (h) **Deadline for party to request review of part(s) of report:** 1 week

 - (i) **Period of review by panel, including possible additional meeting with parties:** 2 weeks

 - (j) **Issuance of final report to parties to dispute:** 2 weeks

 - (k) **Circulation of the final report to the Members:** 3 weeks

4. **Min. 20 and max. 60 days to decide whether to lodge an appeal.**

5. **Report of the Appellate Body within 60-90 days after introduction of the appeal.**