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# PROGRESS REPORT

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## INTRODUCTION

The present document aims to provide, in a nutshell, useful general information on EC-US relations. It tries to help the reader to get a clear picture of the architecture of the transatlantic relationship. In addition, the document updates major recent developments in EC-US relations. Later versions of this overview will also report about developments in external political affairs.

The information given is complementary to other publications of the Commission. The annual General

Report on the Activities of the Communities includes a chapter on EC-US relations. Furthermore, the Commission services annually publish a Report on US Barriers to Trade and Investment. This report aims at a comprehensive description and discussion of trade and investment obstacles in the US.

## THE FOUNDATIONS OF THE TRANSATLANTIC RELATIONSHIP

The US and the EC have the most important political and economic relationship in the world. Both sides have major, concrete, overlapping interests in each other. Both share fundamental political principles and both have an interest in promoting these principles in the rest of the world. Their common cultural heritage, the similarity of their security interests and their close economic and trade relations are the cornerstones of EC-US relations.

### THE TRANSATLANTIC DECLARATION

The overall objectives of EC-US relations are defined in the "Transatlantic Declaration" of November 1990. This forms the basis for the development of a working partnership between the two sides, delineates their common goals and principles and establishes procedures for consultation and regular interaction (see part III).

### ECONOMIC INTERDEPENDENCE AND TRADE

The EC and the USA are consistently each other's largest single trading partner. Their two-way trade in goods and services amounts to about \$280bn. At the same time, the Community is by far the largest foreign investor in the US economy and the major destination of US direct investment abroad. Cumulative direct investment (valued at historical cost) by EC firms in the US stood at \$232bn in 1991, representing 57% of total foreign direct investment stock in the US (Japan: 21.3%) and the US investment stock in the Community was valued at \$190bn.

Table 1: EC-US trade

US Trade with the World				
(\$bn)	1989	1990	1991	1992
Exports	363.8	393.6	421.7	448.2
Imports	473.2	495.3	487.1	532.5
Balance	-109.4	-101.7	-65.4	-84.3

US Trade with the EC					
(\$bn)	1989	1990	1991	1992	%
Exports	86.4	98.1	103.1	102.8	23
Imports	85.3	91.9	86.2	94.0	18
Balance	+1.1	+6.3	+17.0	+8.8	

Source: US Department of Commerce

EC Trade with the World (Extra EUR 12)				
(\$bn)	1989	1990	1991	1992
Exports	455.0	534.6	524.8	565.5
Imports	492.2	589.2	612.1	633.1
Balance	-37.2	-55.6	-88.3	-67.1

EC Trade with the US (Extra EUR 12)					
(\$bn)	1989	1990	1991	1992	%
Exports	86.0	97.5	88.2	95.9	17
Imports	92.2	108.5	113.9	112.6	18
Balance	-6.2	-11.0	-25.7	-16.7	

Source: Eurostat

Table 2: EC-US foreign direct investment links

Foreign Direct Investment in the US (Stock, valued at historical-cost basis)			
	Total (\$bn)	EC (\$bn)	EC as % of Total
1987	263.4	165.4	61
1988	314.8	193.9	59
1989	368.9	216.1	58
1990	396.7	224.4	57
1991	407.6	232.0	57
US Direct Investment Abroad			
1987	314.3	124.0	40
1988	335.9	131.1	39
1989	372.4	149.5	40
1990	424.1	177.6	42
1991	450.2	188.7	42

Source: Survey of Current Business, June 1992, US Department of Commerce.

Foreign trade and foreign direct investment are primary causes of economic interdependence. One should not forget, however, the importance of pure financial flows, even for short term purposes, and more generally, the globalization of economic activity made possible by advances in (tele-) communications technology.

Economic interdependence complicates the task of national governments. It undermines the effectiveness of traditional economic policies by introducing uncertainty as to the consequences of their decisions, due to new factors in domestic policy making (foreign governments, subsidiaries of foreign firms). Moreover, in the context of increasing globalization, some of the basic instruments of economic policies get blurred or difficult to use.

National interest itself has become harder to identify as the interests of consumers and of firms that depend on imported inputs are set against the interests of domestic producers. More generally, what, in the context of worldwide competition, is good for a sector or a company is no longer necessarily beneficial to the home country.

Finally, the relevance of interdependence goes beyond the context of major economic policy issues. In fact, many international trade conflicts are only the side-effect of measures adopted without any protectionist intention but which, in practice, constitute a barrier to otherwise legitimate trans-border business. On the other hand, domestic market regulations can inflict a competitive disadvantage on national firms, once they are exposed to international competition.

Economic policy-making must thus turn outwards to recuperate - through international cooperation - a part

of the control that was lost because of interdependence and globalization, by acknowledging:

- **the need for macroeconomic coordination:**

economic policies focused narrowly on domestic short-term objectives are bound to provoke international tensions and risk being neutralised by developments elsewhere;

- **the need for more multilateralism:**

at the same time that economic activities become global, so do some of the issues and concerns related to them. There will be increasing pressure for minimum international standards and rules in the fields of competition policy, taxation, environment and social protection, corporate structures and market regulation;

- **the need for regulatory cooperation:**

as tariff and quantitative barriers lose their relevance, an international dialogue centred on domestic regulations is increasingly necessary to prevent trade conflicts, especially in relation to emerging global markets which represent high growth potential.

The trend towards increased transnational activities is linked with economic growth and technological progress. It is thus bound to continue, in one way or another. It is up to the world's leading economies to work together for an institutional framework that keeps pace with these developments.

## COMMON INTERESTS AND OBJECTIVES

Interdependence is only one of the factors that militate for closer cooperation in the economic field. Indeed, the Community and the US are more or less at the same stage of economic and social development and face some common structural constraints and temporary problems.

For instance, both of them are, increasingly, service economies, experiencing a relative decline of their manufacturing sector. Their labour costs being relatively high, they both face the same competitive pressures from low-wage countries. At the same time, their populations have come to expect high and, where possible, rising living standards, including a protected environment.

As to the more acute temporary problems they are confronted with, similarities are common here too.

Unemployment and fiscal deficits spring to mind but we should not forget more micro-economic problems such as overcapacity in a series of industries - cars and steel for instance - and the need for a smooth conversion of the defence sector.

These facts explain why, at this particular juncture, the same terminology is in use both here and there: growth initiatives and industrial policy - that is the jobs of today and those of tomorrow and the acceptable means to obtain them, training, investment in infrastructure, civilian R&D.

The economy is not static; if the Community and the US, together with Japan, manage to coordinate their efforts, one might expect a better result than otherwise. Coordination and consultation will also be needed to bring about a favourable business climate, in particular by successfully concluding the Uruguay Round negotiations and by promoting monetary stability.

## THE ARCHITECTURE OF THE TRANSATLANTIC RELATIONSHIP

During the post-war period, it has mainly been the US which has defined the structure of transatlantic relations. Now the EC is gearing itself up to contribute significantly to the reshaping of transatlantic relations in the context of a balanced partnership. Therefore, it is incumbent upon the EC to explain to the US political class and public the rationale for its policy approach in areas of common interest and concern.

The present architecture of EC-US relations is built upon the "Transatlantic Declaration" the implementation of which can be assessed as follows:

- **Institutional framework:**

among the high-level consultations provided for under the Declaration, those at Presidential level and those of a European Political Cooperation (EPC)/US type have taken place with the intended regularity since November 1990.

- **Political dialogue:**

over the last two years this dialogue has helped towards the adoption of compatible, and often identical, policy positions by the EC and the US on many major international policy issues. Given the magnitude and range of geopolitical problems, this dialogue needs, however, to be further intensified and joint action on topics of common interest should be taken wherever possible.

- **Economic and trade cooperation:**

in spite of very active multilateral negotiations, wide gaps remain in the respective positions in several multilateral fora. This is in particular the case in the Uruguay Round negotiations, but equally holds true in the UNCED, OECD and the European Energy Charter. At the bilateral level, a difficult breakthrough was achieved on agriculture at Blair House in November 1992, although other trade disputes continue to affect EC-US relations. At present, joint efforts are being undertaken in the area of market access for goods and services.

Nevertheless, a very active bilateral dialogue on issues of common interest is already developing:

- there are regular formal meetings (covered by various Agreements and Administrative Arrangements) and informal contacts at working-level between Commission and US officials in almost all relevant fields;

- new agreements were signed in 1991 (Competition Policy, Securities Markets) and others are planned or are in preparation (Financial Services and Macroeconomic / Monetary Issues, Customs, Standards and Certification); a trend clearly exists towards giving the ongoing sectoral dialogues a formal basis.

The possibilities which the "Transatlantic Declaration" provides for broadening and intensifying EC-US relations have not yet been exhausted.

In 1993 the EC is giving priority to establishing an effective working relationship at all levels with those responsible on the US side. This means getting to know and starting to work with the new Administration, expanding the fragmentary dialogue with Congress, and ensuring that Community ideas and interests are well understood throughout the new policy-making community in Washington and elsewhere.

The EC therefore needs to gear up to really promoting and explaining its policies to the wider public through the professional use of modern media and public relations techniques.

As far as the structure of the EC-US relationship is concerned, it appears premature at this stage to launch in concrete terms the idea of further institutionalizing EC-US relations. First, Europe needs to meet the challenge put forward by US Secretary of State Warren Christopher, who has said that the US welcomes "a strong and integrated Europe" and that it wants "Europe to be a real partner". As soon as the Maastricht treaty is ratified by all Member States, the Community will be on the road to forming its Foreign and Security Policy. It will have to develop its capacity to speak with one voice and act with authority. Together with the US, it should fully use the platform provided by the Transatlantic Declaration.

## THE COMMISSION'S RECENT THINKING ON THE RELATIONSHIP

The Commission recently approved a paper on EC-US relations which was discussed at an informal meeting of the General Affairs Council (Gymnich formula) on 24-25 April 1993. The paper, which was well received by the Ministers, will serve as guidance on the Community's future policy on transatlantic relations.

The paper examines the current state of EC-US relations, focusing on new opportunities for Transatlantic cooperation. Having analysed the changes which have taken place in Europe and in the US and having addressed the key factors shaping present EC-US relations, it examines the "architecture" of EC-US relations. The latter is built on the Transatlantic Declaration which provides for an institutional framework and on the basis of which an intensive political dialogue takes place. Also, the importance of bilateral cooperation in the economic and trade areas has been highlighted.

The paper establishes that EC-US relations are characterised by an increasing level of interdependence: the EC and the US are each other's largest single trading partner. They are at the forefront of international crisis management and thus need to pool their resources and find common responses to current political crises, as well as rising to the challenge of revitalizing the world economy. In this respect, the conclusion of the Uruguay Round by the end of 1993 and the adoption of adequate growth packages are indispensable.

The Commission and the Member States are of the opinion that the Transatlantic Declaration of November 1990 remains a sufficient and adequate basis for consultation and cooperation with the US. However, the Community and the US are examining possibilities for a more efficient application of this Declaration.

Subsequently, the document identifies the immediate political priorities in the following areas:

- foreign and security policy (e.g. Russia, former Yugoslavia, Middle East Peace process, non-proliferation);
- economic and trade policy;
- environmental and social policy;
- transnational issues (e.g. population growth, human rights).

## RECENT DEVELOPMENTS

### HIGH LEVEL MEETINGS

On 18 March 1993 President Delors had a first opportunity to meet with the US President, key members of his Cabinet and a number of important members of the US Congress in Washington. This meeting enabled both Presidents to get acquainted with each other and to establish a constructive working relationship.

At the Washington Presidential Summit Meeting on 7 May 1993 discussions centred around the situation in former Yugoslavia and Russia. President Clinton also emphasized that the US continues to support the process of European integration and that there is room for improved economic cooperation between the US and the Community. In this respect, the EC and the US committed themselves to conclude the Uruguay Round by the end of 1993. Both sides acknowledged the urgent need to adopt adequate growth packages. It was decided to work intensively together on the preparation of the Economic Summit Meeting (G-7) to be held in Tokyo from 7 to 9 July 1993. President Clinton underlined the readiness of the US to strengthen the dialogue on specific issues such as environment, education, training and research, within the scope of the Transatlantic Declaration.

On 9 June 1993 bi-annual political consultations took place between the European Community Foreign Ministers, the Commission and the US Secretary of State in Luxembourg. In addition to EC-US relations, the following subjects appeared on the agenda: former Yugoslavia, Russia/CIS, Central and Eastern Europe and the Middle East Peace Process.

During the first half of 1993 several meetings took place between Sir Leon Brittan, Vice-President of the Commission with responsibility for External Economic Relations, with US Trade Representative (USTR) Mickey Kantor on a number of bilateral trade issues and the Uruguay Round. Mr. Van den Broek, the Commissioner with responsibility for External Political Relations met with Secretary of State Warren Christopher and the Troika of EC Foreign Ministers on 6 May 1993 in Brussels in connection with the situation in former Yugoslavia. In addition, several other Members of the Commission have initiated contacts with their US counterparts.

### THE URUGUAY ROUND

#### ■ State of play

All Quad members (EC, US, Japan, Canada) now share the view that the G-7 Summit should this time play a major role in concluding the Uruguay Round.

A success in Tokyo depends on two conditions:

- the adoption of the **fast-track** law by Congress (see below).
- a package on **market access** for goods and services

The EC is actively cooperating with the US in exploring the means to obtain a larger package on market access. Clearly, a satisfactory solution of the market access issue is a prerequisite to reaching agreement on those matters that are currently left out of the negotiations. Since industrial tariffs and services are the two areas which are lagging behind, there is an urgent need to get an idea of the shape of the eventual outcome in these areas. However, matters here are different from agriculture, as they cannot be settled through an agreement between the two major trading powers only. Major moves by the EC as well as the US are only meaningful if other participants take their fair share. Multilateralization is, therefore, a key Community objective.

On **tariffs**, the prime objective of the EC remains the abolition of tariff peaks, notably in the US. Targeted products include inter alia textile articles, ceramics, glassware, tableware and footwear. The US, on the other hand, demands reduction of EC tariffs on i.a. electronics, non-ferrous metals, wood, beer, and agricultural equipment.

On **services**, the result would be unconvincing without meaningful liberalization commitments on inter alia maritime transportation, financial services and movement of personnel.

#### ■ Fast-track

The Clinton Administration submitted on 27 April 1993 a draft bill (HR 1876) concerning the renewal of the fast-track legislation. The fast-track procedure limits Congress' involvement either to globally adopting or rejecting the bills implementing the agreements negotiated by the President. HR 1876, a "clean" bill, not attaching any conditions to the renewal, was adopted by the House on 22 June 1993 and by the

Senate - without amendments and with a clear majority - on 30 June 1993 .

As enacted, the fast-track procedure is granted under two conditions:

- the President must notify Congress of his intention to conclude the Uruguay Round agreements no later than 15 December 1993. Congress and the administration will have 120 days to consult and prepare the implementing bills;
- the President must submit the implementing bills and the texts of the agreements to Congress no later than 15 April 1994.

On the same day as fast track was passed by the Senate, however, Senator Monahan, Chairman of the Finance Committee, introduced a draft resolution (S. Res. 126) stating that "the sense of the Senate" is to make Super 301 permanent "not later than December 15, 1993". To the Community's concern, this bill already appears to enjoy some support in the Finance Committee. While the Community is pleased with the adoption of a "clean" fast track, it is very concerned about this initiative. A renewal of Super 301 would oblige the Administration to take retaliatory action if it considers that US trade interests are damaged by what it perceives to be unfair trade practices of other nations. This would be the wrong message, at a time when the EC and the US are working together to conclude the Uruguay Round and to strengthen the multilateral trading system.

## ■ Blair House Agreements

The bilateral agreements reached between the EC and the US on 20 November 1992, paved the way for progress on the Uruguay Round by agreeing to seek the following changes in the Final Draft Agreement:

- exemption of income payments to farmers, envisaged under CAP reform, from reduction commitment
- reduction of 21% in quantitative export commitments;
- peace clause stating that agricultural policy instruments are not challengeable under GATT Articles XVI and XXIII if Uruguay Round disciplines are fully respected;
- bilateral consultations if surge in EC cereal substitute imports undermines reform of cereals market.

In addition to the Uruguay Round aspects of the Blair House Agreements, a number of bilateral issues were also addressed:

On **oilseeds**, the EC set-aside level is to be decided annually on a base acreage of 5,128,000 ha with a minimum of 10% set-aside. There is no supplementary ceiling on total production tonnage but the EC agreed to a concession of importing 500,000 t of maize. Finally, the production of oilseeds for non-food purposes on set-aside land is possible up to a level of 1,000,000 t of oilseed equivalents.

On **malt sprout** pellets, the reclassification of this product was agreed with an annual tariff quota of 120,000 t to allow traditional trade to flow unhindered.

On **corn gluten feed**, the EC accepted the presence of certain percentages of corn screenings and steep water. The quantitative use of microscopic analysis by EC customs was temporarily suspended pending a joint study with the US and a system of certification is under discussion with the US authorities.

Both the agreements on oilseeds and malt sprout pellets have now been adopted by the Council. The agreement on corn gluten feed has not yet been adopted but the current regime has been extended until the end of June 1993 and looks likely to be extended further.

## EC-US BILATERAL ISSUES

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### ■ Trade Barriers Report

In April 1993 the Commission services published their ninth Report on US Barriers to Trade and Investment. The report identifies problems facing EC business seeking access to US markets, and serves as a tool to help remove US trade barriers through bilateral negotiations currently under way between the EC and the US, as well as multilaterally through the Uruguay Round.

The report identifies eleven major areas where European access to US markets is potentially threatened, seriously hampered and sometimes totally excluded. These are:

- US unilateralism in trade legislation;
- extraterritorial application of national trade provisions;
- extensive use of national security considerations;
- public procurement and the 'Buy American' legislation;
- high tariffs, fees, import quotas and invoice requirements;

- US subsidies, aiming to support and enhance US farm products;
- US tax legislation (vehicles, transfer pricing, state unitary income taxation);
- multiplicity of standards at federal, state and municipal level;
- US service market;
- intellectual property rights;
- investment sector.

As a rule, barriers to trade and investment should be eliminated through negotiations in multilateral fora, such as the GATT and the OECD. The multilateral method favoured by the Community ensures the participation of a large number of partners, thus increasing transparency and stability on the markets. Many of the obstacles enumerated in the 1993 report are the same as those in previous years. This is partly due to the Uruguay round still not having been concluded.

The unresolved bilateral trade disputes produce damaging overall effects. The European Community seeks to eliminate these obstacles to enhanced free and fair trade between the two partners. However, any real success depends largely on the understanding and the acceptance by the US of the necessity to refrain from unilateral action in the trade field, to adhere to multilaterally agreed dispute settlement procedures, and to cooperate with the Community and others to strengthen those procedures.

### ■ The current big worries

#### Government Procurement / telecommunications

On 21 April 1993 the EC and the US reached a partial agreement on public procurement. The agreement, which entered into force on 25 May, brings about a balanced liberalisation of the two procurement markets. It will provide a positive impetus to the multilateral negotiations on a new GATT government procurement agreement and it partially resolves a dispute between the EC and the US in this area. It has a duration of 2 years.

The agreement will apply to:

- goods, works and certain services of central government agencies;
- goods and works in the electrical sector (including

coverage of entities annexed to the "Utilities" Directive and 6 federally-owned power stations).

A jointly funded study is to be launched in order to assess government procurement opportunities in the EC and US markets respectively.

Recognising that a final and comprehensive GATT Government Procurement Agreement should include procurement by sub-central entities, USTR Kantor pledged to set in train a process that would lead to the elimination of "Buy American" provisions at the State, main municipality and certain other sub-federal levels.

Agreement was not reached on the procurement of telecommunications equipment - though such a settlement would be envisaged within a more global settlement.

On 28 May 1993 the US government decided to impose limited sanctions against the European Community because of the unresolved telecommunications issue. In reaction, the Community adopted on 8 June 1993 some restrictive measures concerning access to public contracts for tenderers from the United States.

#### Steel anti-dumping and countervailing cases

Immediately after the expiry of the Voluntary Restraint Agreements and the simultaneous breakdown of the Multilateral Steel Agreement (MSA) negotiations in March 1992, the US industry started to file a series of anti-dumping and countervailing duty petitions relating to imports of steel products originating in 20 countries including 7 Member States of the Community. The impact of these petitions is substantial; they affect roughly 50% of the EC's steel trade with the US, representing a volume of 2 million tonnes valued at approximately US \$1 billion.

With regard to the most important product group involved, flat rolled steel products, the Department of Commerce (DOC) announced on 22 June 1993 its final determinations of anti-dumping and countervailing duties. The definitive imposition of these duties is still subject to a final ruling by the US International Trade Commission (ITC) that imports have materially injured the US steel industry. This ruling is expected by 4 August 1993. The combined effect of these decisions amounts to duties ranging from 9% to more than 150% depending on Member State and product category concerned.

As to lead & bismuth steel products, the International Trade Commission (ITC) made its final injury determination in March 1993. The definitive combined anti-dumping and countervailing duties imposed by the



DOC amount to 38-148%, thus effectively closing the US market for the products concerned.

Given that Community exporters had scrupulously respected the export restrictions imposed on them for a period of 10 years, the Commission considers these decisions unjustified and disproportionate.

As far as the countervailing cases are concerned, the Community strongly contests the correctness of the DOC determinations with respect to a large number of issues (e.g. the US administration's method of calculating the amortization period for non-recurring subsidies, its treatment of companies that have been privatized after receipt of certain subsidies, and its methodology for determining the creditworthiness or equityworthiness of a company). The Community considers that these determinations constitute violations of provisions of the GATT Subsidies Code. Given that consultation and conciliation procedures with the US did not lead to a solution, the GATT has now, at the request of the Community, decided to establish a Panel.

With regard to anti-dumping, the Community has so far held two consultation meetings with the US which did not lead to a narrowing of the differences of opinion.

Injury aspects have also been discussed with the US but the Community has explicitly reserved its rights for further GATT action.

Following the DOC final determinations in the flat-rolled products case, Commission Vice-President Sir Leon Brittan, has expressed the view that it is now time for the US to start talking seriously about a balanced multilateral solution to the problems facing the world steel industry. He emphasized the Community's willingness to explore, together with the US, all serious proposals to resolve this issue and to move closer to an MSA which would form an important part of a Uruguay Round settlement.

Negotiations for an MSA are scheduled to be continued in July after having reached a deadlock, when the US withdrew from an earlier compromise on "greenlighting" certain categories of subsidies and demanded a total prohibition of all subsidies.

## ■ Will GATT bring solutions?

### Tuna-dolphin

The US Marine Mammal Protection Act of 1972 (MMPA) was amended by the International Dolphin Convention Act of 1992. This legislation aims at protecting various species of marine mammals, in

particular dolphins. The MMPA provides for trade sanctions on countries failing to observe comparable standards for protection of dolphins. So-called "primary" embargoes are imposed on imports from Mexico, Venezuela, Colombia and Panama. "Secondary" embargoes are imposed on imports into the US from so-called "intermediary nations" including some Member States of the Community, i.e. countries that both import yellowfin tuna products from countries subject to a primary embargo and export yellowfin tuna product to the US.

Since the embargo on France and the U.K. was lifted at the end of 1992, Italy and Spain are the only EC Member States that remain subject to a secondary embargo. The value of the tuna exports concerned was about 5 million Ecus in 1991.

A GATT Panel that was requested by Mexico in 1991, concluded that both embargoes, direct and indirect, are GATT illegal. As Mexico, for political reasons (NAFTA negotiations) did not request the adoption of the Panel, the Community launched its own GATT procedure against the US. The Panel proceedings are currently underway and the Panel's report should be available at the end of the summer.

The Community does not contest the validity of the objective of this environment protection law; on the contrary, the Community shares the environmental goals. However, the Community considers that measures for the conservation of living resources, including dolphins, should be achieved through international cooperation rather than through unilateral actions.

### US car taxes

At the request of the Community, the GATT Council on 12 May 1993 has established a panel on the compatibility of certain US levies on cars with the provisions of Article III GATT concerning national treatment on internal taxation and regulation. It is the Community's position that the levies in question have a disproportionate impact on the sale of imported European cars. Such discrimination appears irreconcilable with the pertinent GATT obligations on national treatment.

The following three taxes and charges on the sales of cars in the US are in question:

- The CAFE Payment (Corporate Average Fuel Efficiency Payment) is a civil penalty payment levied on a car manufacturer if the sales' weighted average of all model type fuel economies of cars produced by that manufacturer falls below a certain level (currently 27.5 miles per gallon). Since CAFE is calculated over the

whole car production of a manufacturer, it favours large integrated car makers producing small cars and works to the disadvantage of limited car line producers which concentrate on the top of the market, such as the European car makers which export to the US. Thus, 100% of CAFE payments amounting to \$246.1 million have to be paid by European importers with a US market share of only 4%.

- The so-called Gas Guzzler Tax is an excise tax of up to \$7,700 per car levied on the sale or use by the manufacturer or the importer of automobiles of a model type that does not meet fuel economy standards set by the US Environmental Protection Agency (EPA) (at present 22.5 miles per gallon). This fuel economy cut-off point is not founded on any reasonable or objective criterion and leads to discrimination against imported cars. Out of the total amount of \$89.3 million gas guzzler tax revenue, Community car makers had to bear 80%.

- The Luxury Tax is an excise tax imposed on cars of a value of over \$30,000. This threshold, which at present is not yet indexed, was first applied in 1990. As 80% of the tax revenue of \$221.9 million stem from sales of European cars, there is thus a much higher impact on imported cars than on US produced cars.

### ■ Also on our mind ...

#### Airbus

In July 1992, after lengthy negotiations, the EC and the US concluded a bilateral agreement on trade in large civil aircraft limiting government support for the commercial aircraft industry, thereby settling a long-standing and potentially damaging trade dispute between the US and the Community. This agreement constitutes a good example of how conflicts can be solved through constructive dialogue.

The agreement sets up a common discipline to regulate both direct and indirect government support to the commercial aircraft industry for any future large civil aircraft programmes and to ensure a high degree of transparency through regular and systematic consultations and exchange of public information relating to the matters covered by the agreement. Furthermore, the parties committed themselves to have the key provisions of the bilateral agreement included in the re-negotiation of the GATT Agreement on Trade in Civil Aircraft of 1979.

On 31 March and 1 April 1993, the first consultations took place in Brussels in accordance with Art. 11.1 of the agreement which calls for regular consultations at least twice a year to ensure correct functioning of the

agreement. Held in a constructive spirit, they proved useful and allowed both parties to reaffirm their full commitment to the agreement and its future implementation. Neither party had any complaints regarding compliance with the agreement by the other. However, both sides disagreed on the interpretation of some provisions of the agreement and the EC was disappointed that the US did not submit the information required on indirect support.

In September 1992, following the bilateral EC-US agreement, and in accordance with its Article 12, both parties proposed multilateral negotiations with a view to incorporating disciplines along the lines of the bilateral EC-US Agreement into a new GATT Aircraft Agreement. The EC is concerned about the slow progress of these GATT negotiations and about the recent US approach to them. The recent US proposals submitted in Geneva cover only large civil aircraft and are not in line with the commitments of the bilateral agreement.

#### Shipbuilding

Negotiations on shipbuilding in the OECD Working Party Six (whose members include the European Community, Japan, Korea, Finland, Norway and the United States) have recommenced informally in June 1993 following their suspension since 19 April 1992. The negotiations aim to reach an international agreement on the elimination of all obstacles to normal competition in the shipbuilding sector. These include direct subsidies, indirect support such as the Home Credit Schemes, the home build requirements set out in the Jones Act and dumping practices, namely injurious pricing.

The Community has demonstrated its readiness to participate constructively and positively in these talks with a view to eventual elimination of all these types of aid for shipbuilding, provided other parties eliminate their own obstacles to competition. In recent years, the Community's policy has led to a reduction in the aid ceiling from 28% to 9% for 1993.

On the bilateral level, the EC is in particular concerned about recent legislative developments (HR 1402, the so-called "Gibbons Bill") which would have the effect, inter alia, of imposing unilateral trade sanctions against foreign-built ships, registered in, or controlled by nationals of countries allegedly subsidizing their shipyards, when such vessels call at US ports.

Unitary tax

In the absence of a federal policy with regard to unitary taxation and in violation of bilateral US taxation treaties, California and at least 11 other US states introduced a system of unitary taxation for multinational companies operating in the state. The basic objective of the states' legislation was to overcome transfer-pricing problems and to raise additional tax revenue.

Under unitary taxation no attempt is made to adjust transfer prices between affiliated companies. Instead, the overall income of the group of companies is assessed and a proportion determined as arising within the state according to certain factors (e.g. the level of turnover in the state compared with worldwide turnover).

The constitutional validity of this method was challenged by an American subsidiary of a European company and a test case is now coming to a climax in the US Supreme Court. The EC Member States and the Commission have made a demarche urging the US Government to back the petitioner's claim and to continue its amicus curiae support. In view of the emerging trends in the US Congress to target foreign or foreign-owned companies doing business in the US, Commissioner Scrivener has also recently expressed the Commission's concern about the effect of an adverse decision in the Supreme Court on Community based businesses operating in the US.

Conditional national treatment provisions in US legislation

In the past, US provisions laid down conditions for the granting of national treatment to foreigners and non-US companies either by reciprocity clauses or the fulfilment of other requirements. However, at present there is a tendency in Congress to proliferate conditional national treatment provisions. Either sectors will be covered which until now had been spared, or new more comprehensive conditions are introduced. Examples of this are the National Cooperative Production Amendments Act of 1993 which has been signed by President Clinton at the beginning of June, the National Competitiveness Act, and the Aerotech Bill. The Community's concerns are that the respective conditional national treatment provisions are not in conformity with the rules of the GATT, the National Treatment Instrument of the OECD, or other international agreements, such as those of the World Intellectual Property Organization (WIPO), but that they also would trigger escalating retaliation measures by third countries leading to increasing disruption of international trade and cooperation.

Standardization and conformity assessment

The dialogue on standards with US initiated through the Bangemann/Mosbacher Declaration of May 1989 has borne considerable fruit. US fears about "Fortress Europe" in the field of industrial standardization/certification have been alleviated thanks to the regular contacts established between the Commission's services and their US counterparts. In parallel to those, consultations on the private sector level have developed, between the American National Standards Institute (ANSI) and the European standards institutes CEN (Comité Européen de Normalisation), CENELEC (Comité Européen de Normalisation Electro-technique) and, later on, the European Telecommunications Standards Institute (ETSI).

The most recent developments in this field concern the initiation of negotiations to conclude mutual recognition agreements (MRAs) and the controversy that developed over ETSI's policy:

- exploratory discussions between the EC and the US in order to open the way for MRA negotiations in the field of mandatory conformity assessment were held in October 1992 and June 1993. Technical level negotiations on particular sectors should begin in autumn 1993;
- in June 1993 the first negotiations between the Community and the US concerning the mutual recognition of monitoring authorities of Good Laboratory Practices (GLP) also took place. If successful, they should lead to the mutual acceptance of data in relation to the pre-market testing of chemical products;
- the problems with the policy of ETSI stem from the fact that standards concerning telecommunications and information technology are generally subject to intellectual property rights (IPR), such as patents or copyrights. Striking a compromise between these rights, the need to have up-to-date standards, which unavoidably incorporate technology protected by IPRs and the need to ensure fair and non-discriminatory access to the standards, has proven very difficult. As the situation stands now, major US IPR holders (Motorola, IBM, AT&T but, also, Philips and NEC) have announced that they will withdraw from ETSI in protest against what they call a "compulsory license" scheme.

Commission for Sustainable Development

A recent conflict between the EC and the US about the Community's "full participation" in the UN Commission for Sustainable Development (CSD), a permanent body under ECOSOC, created in the wake of the Rio Conference, is on the brink of being resolved.

In the light of the Community's competences in the environmental field, the Community is seeking "full participant" status, a request interpreted by the US and various other states to mean an enhanced observer status, with the enhancement consisting in the EC being invited to "participate fully in the deliberations of the CSD and within EC competences". This was not considered sufficient by the EC and after intense negotiations the EC and the US are now close to an agreement that seems satisfactory to both parties. Under its terms, the EC would, inter alia, be accorded the right to participate, speak, and negotiate within the areas of its competence in both formal and informal meetings of the CSD and subsidiary organs. The only point still under discussion relates to the US insistence on a declaration of EC competences, an issue strongly rejected by the Community.

## Higher education and vocational training

EC-US cooperation in higher education and vocational training was recently boosted following Commissioner Ruberti's visit to the United States on 20 May 1993. It was decided to launch a joint initiative that will add a European dimension to cooperation and exchange between universities in the United States and the European Community. This initiative, which is limited to the 1993/94 academic year, will cover the design of collaborative teaching programmes, course credit transfer measures and visiting fellowships for teaching staff.

## WHERE DO WE GO FROM HERE?

*"It often seems to be the case that there is a great deal of focus, understandably, on some of the trade disputes that divide us rather than the bonds which unite us. It's useful to recall that our common ground is far, far wider than the areas of disagreement",* President Clinton commented on EC-US relations after the EC-US Summit in May 1993.

On the basis of the positive development of EC-US relations during the last couple of years, the future prospects for them look rather good. However, the further development of this relationship is highly dependant on other developments in the United States, in Europe and in the world in general.

The bilateral agricultural disputes which have overshadowed relations for some time, seem now to have been put on the right rails towards a solution. The negotiations to conclude the Uruguay Round have gained new momentum and their outcome will have an essential impact on bilateral relations between the EC and the US. When the Uruguay Round is successfully concluded, it will create a new and wider basis to further enhance the dialogue and to extend it into new areas. It will also have an important effect on the world economy, giving positive impetus to the strenuous efforts on both sides of the Atlantic to revitalize the economy and to get out of the present recession.

The conclusion of the Uruguay Round will strengthen the common belief in the benefits of the multilateral trading system and its implementation would further increase the interrelationship between the EC and the US.

The change of administration in the US has resulted in changes of US domestic policy as well as international policy. Some of these changes will affect the relationship between the EC and the US. It seems that the Clinton administration will focus its attention especially on stimulating the economy and promoting competitiveness.

Given the interrelationship between domestic economy and international economic policies and the importance of the multilateral system as the foundation of world economic prosperity, the cooperation on economic matters between the EC and US will become even more important.

It is still not quite clear what kind of general trade policy the Clinton administration and Congress will pursue, e.g. will they reinforce the unilateral and extrajurisdictional elements of policy or will they strengthen the traditional US commitment to the multilateral system?

The experiences with the political dialogue during the last years have generally been positive and the policy positions by the EC and the US on most major policy issues in the international arena have largely coincided. It is to be hoped that this tendency will continue.

Despite the constructive dialogue in many fields, economic relations between the transatlantic partners are still affected by divergences of views and conflicts of varying importance. However, both sides are committed to find mutually satisfactory solutions to all outstanding issues and to give each other early warning

to limit the occurrence of further disputes. It is also important to get those responsible for regulations affecting business on both sides of the Atlantic to establish a regular dialogue in which information is exchanged and efforts are made in order to avoid needless trade barriers.

In Europe as well, significant changes are taking place which have a bearing on its relations with the US. The implementation of the Maastricht Treaty will extend Community competence to new areas. And the development of the Community towards a Political Union with an effective common foreign and security policy will strengthen the position of the Community within the dialogue on political issues and bring about a situation in which the EC and the US exercise a partnership on a more equal basis.

At the end of his first Summit Meeting with President Delors, President Clinton also said

*"I want our partnership to be effective in finding solutions to the problems that we face together and to those few problems which continue to divide us",*

Thus, it seems that the EC has found a partner on the other side of the Atlantic with whom a relationship can be built beyond the management of conflicts to include cooperation on the global political, economic, trade, and environmental challenges.