

A Letter From EUROPE

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A monthly update on the European Community
from its Delegation in Washington

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IS THE EUROPEAN COMMUNITY BREAKING THE WORLD TRADING RULES?

"In the good old days we played,
Like decent chaps, the game of trade,
So, what the umpire said was what,
According to the rules of the GATT,
Was taken, in the name of sport,
As ruling sanctions out of court,
And no ungentlemanly shout
Disputed when the ball was out."

Now all is changed. Cries of rage are resounding round the town. Why is the European Community violating the GATT by not accepting the recommendation of a GATT panel that a reduction should be made in its duties on citrus in order to avoid damaging American exports? Does not a refusal to accept the findings of an impartial panel make a mockery of dispute settlement in the GATT? If this cannot work, what is the use of the GATT to American business, why not junk the GATT?

Let me try and set down a few facts. First, there is no obligation on any Contracting Party in the GATT to accept the report of a panel. Panels are set up to advise. It is for the Council of the GATT to decide; the Council does not automatically accept panel reports.

While dispute settlement procedures have been repeatedly improved and updated, the truth is that the GATT cannot be compared to a court. It has no sheriff and no jail. It is a contract between ninety separate countries which still retain their national sovereignty.

A country cannot just be instructed to change its laws or procedures. Recent years have seen a number of cases where the United States either refused to accept a panel's report or did so only after considerable delay. For example:

- The US contested the conclusions of a panel on imports of soybean oil into Spain, saying it "could not share the panel's opinions on the interpretation of important provisions of the GATT" (1979-1981);
- The US has steadfastly refused to move on a GATT panel recommendation that it accelerate tariff concessions agreed to in the Tokyo Round on vitamin B12 - a recommendation strikingly similar to that of the panel on citrus - (1981-82);

- The US has refused to accept a GATT panel recommendation that it align its imports of Nicaraguan sugar with the GATT (1983-84);
- The US accepted a GATT panel's finding that a US law banning imports of books by American authors printed overseas was in conflict with GATT, but has taken no action to change its law (1982-84);
- Only five years after a GATT panel had found against it did the US replace the Domestic International Sales Corporation (DISC) - a device to delay (and effectively remit) taxes on US exports - with alternative legislation (complaint 1973; report adopted December 1981);

I cite these cases not to attack the US trading record - without US support the GATT could not have flourished as it has - but to demonstrate that no country can automatically accept the report of a panel, particularly when the more ambitious panels attempt to rewrite the GATT rules. These can only be revised by negotiation and consent among the Contracting Parties.

What use then is the dispute settlement procedure? Here are some cases where panels have led to satisfactory settlements:

- Chilean complaint about EC restrictions on the import of apples (1979-80). The EC implemented the panel report.
- Canadian complaint about an EC import quota for high-quality beef (1980-81). The Community implemented the panel's findings.
- Complaint by Hong Kong about certain restrictions applied inside the Community (1982-84). Most of the restrictions in question have now been abolished.
- Complaint by Canada on an EC quota on newsprint. Following recommendation of panel, dispute settled (1984-85).
- Last but not least, a truce has been declared in the US-EC dispute on citrus and pasta pending further discussions.

So the dispute settlement procedure can work. But it can work only if panel reports are taken as a basis for consultation and further negotiation - not as decrees from some imaginary world court. For we are not at the stage as yet of world government.

The fact that every dispute cannot be settled easily in the GATT is no reason for junking it. This would be about as sensible as a customer burning down the only hotel in town because he found the soup served to him inadequately seasoned.

Roy Jensen

WINDOW ON THE EUROPEAN COMMUNITY

EC LEADERS MEET FOR SUMMIT IN MILAN

EC leaders, meeting in Milan on June 28 and 29 for this year's second Community summit meeting, gave their support to the French EUREKA project for creating a technological Europe. The program, which is designed to coordinate research and product application in the high-tech field, will be discussed in an ad hoc committee of European Research Ministers on July 17. The European Council, as the summit is known, also endorsed a Commission report on the strengthening of technological cooperation in Europe.

Broad agreement was also reached at the Milan summit on the need to reform the Community's institutions and remove remaining barriers to internal trade. A number of different approaches to institutional reform were reviewed, and here were detailed discussions of plans for a future conference on developing European union. Such a conference, it was agreed, should work toward creating a common foreign and security policy, amending the Community's decision-making procedures, developing the powers of the Commission and the European Parliament, and strengthening political cooperation among the member states.

Progress on the internal market, Community leaders believe, is essential for the realization of the EC's full economic and technological potential. A Commission white paper detailing some 300 proposals - including the removal of technical and physical barriers to trade, the creation of a free market in the financial services and transport sectors, and the liberalization of capital movement - was closely reviewed at the summit, and will serve as the basis for a forthcoming program of action.

Trade with Japan was a further topic of concern, and the Council suggested

strongly that Japan increase "significantly and continuously" its imports of manufactured goods and processed agricultural products. In other areas, it noted with satisfaction that an EC food aid plan for Africa launched last year had reached its objectives, with 1.2 million tons of cereals mobilized to meet the urgent demand for food in areas of drought and famine. The Council also discussed the future of the European Monetary System and the problems of investment and employment in Europe, and gave its approval to the final report of the Ad Hoc Committee on A People's Europe.

EUROPEAN PARLIAMENTARIANS, US CONGRESSMEN CONFER

Members of the European Parliament and the US Congress met in West Point, New York over the weekend of June 21 for three days of wide-ranging talks on security, trade and economic issues. The meeting, the 25th between the two bodies since the series began in 1972, focused in particular on international terrorism and the situation in Central America.

In a joint statement following the conference, the two delegations condemned terrorism as "one of the most serious threats to the fabric of civilization," and called for multilateral action, including coordinated security measures and a joint conference on the problem, to combat the growing threat.

Members of the European delegation, which was headed by former EP President Piet Dankert, also met in Washington with members of the Senate Foreign Relations Committee, Secretary of Commerce Malcolm Baldrige, then-acting US Trade Representative Michael Smith, Agriculture Secretary John Block, Defense Secretary Caspar Weinberger, and other Administration officials.

CITRUS: SOURING TRADE?

EC and US trade negotiators, in an attempt to resolve a trade dispute over citrus that broke out in late June, have suspended for one week American import restrictions on pasta and EC counter-restrictions on nuts and lemons that resulted from the dispute.

The citrus disagreement centers around preferential trade arrangements that the Community has had for some time with several developing countries in the southern Mediterranean region. The arrangements, which do not benefit the EC and are similar in their economic and political purpose to the US Caribbean Basin Initiative, were found by the Reagan Administration to be "discriminatory" to American citrus exporters, and on June 20 Washington decided to substantially increase import duties on EC pasta products under Section 301 of the Trade Act of 1974.

Defending its policy of helping developing nations through trade, and pointing out that the American action lacked a legal base and was contrary to GATT trading rules, the Community countered on June 27 with increased duties on imports of US walnuts and lemons. High-level talks aimed at ending the dispute are continuing, and negotiators say they are looking for an "amicable and equitable" solution.

EAST-WEST TRADE - NEW RELATIONS LIKELY?

Relations between the EC and the member states of COMECON, the East European economic bloc, may be on the verge of a period of renewed development. Preliminary negotiations toward an EC-COMECON accord were begun in 1977, but broke off in 1980 over COMECON's insistence on including commercial clauses in the agreement and on creating a mixed commission to supervise all bilateral relations with COMECON member states. As COMECON has neither a common commercial policy nor any instrument of such policy, however, the Community could not accept such a position, and the talks stalemated for several years.

Since last year, however, there have been growing indications that COMECON is interested in renewing the dialogue. Soviet leader Mikhail Gorbachev expressed last May an interest in seeking new economic relations and in finding a "common language" with the Community in international affairs, and the EC too would like to see the relationship grow. As EC Commissioner for external affairs Willy De Clercq remarked in a recent speech, "We will continue to see to the normalization and development of our bilateral relations with the member countries of COMECON. We remain open to the possibility of a renewed dialogue with the COMECON itself."

LAST MONTH IN THE EUROPEAN COMMUNITY

Luxembourg takes over the presidency of the Community on July 1 for the last six months of 1985; Jacques Santer is Luxembourg's Prime Minister, and Jacques Poos is its Foreign Minister...The annual EC inflation rate dropped slightly to 6% in May, with a rise in the consumer price index of 0.4% reported for May...Athens was proclaimed the "cultural capital of Europe" on June 21, a title it will hold for the next year...A preliminary draft budget for 1986 was adopted by the Commission on June 14; it differs from previous drafts in that 1986 is the first year with a Community of 12, the first since the increase in own resources to 1.4% of VAT, the first that the financial guideline for the Common Agricultural Policy is established, and the first that the draft has been written by the Commission...Vice President George Bush met with EC Commission President Jacques Delors and Commissioner for External Affairs Willy De Clercq on June 27 in Brussels for a wide-ranging exchange of views on technology transfer, agriculture and trade issues...The EC will give 10 million ECU (\$7.2 million) in aid to improve a railway linking the main ports of famine-stricken Sudan with the worst-hit regions of the country...At the June 27 Environment Council, agreement was reached among nine member states on new European emission standards for motor vehicles; member states also undertook to encourage the introduction of lead-free gasoline before the end of the year, and approved further restrictions on PCB's and PCT's.