

Koopmann, Georg; Scharrer, Hans-Eckart

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Georg Koopmann and Hans-Eckart Scharrer\*

## EC Trade Policy Beyond 1992

*The initiative to set up the single European market has aroused fears abroad, and indeed even within Europe itself, that the intention is to turn the Community into a "Fortress Europe". Attempts to allay these fears by the Council of Ministers, the EC Commission or individuals representing them have achieved little success, and on occasion have actually tended to be counter-productive. Is "Fortress Europe" an illusion or a real danger?*

The EC represents the largest trading power and also the largest foreign investor in the world. Approximately one-fifth of world exports come from the Community – without counting trade *within* the EC – while the USA and Japan account for about one-eighth each. Although it is true that exports to third countries are no longer as significant as intra-Community trade (Table 1 demonstrates this for industrial goods) they are nevertheless anything but negligible. In 1986, no less than one-seventh of gross industrial production in the EC was exported to third countries (cf. Table 2). The Community would also appear to be relatively open to imports. Industrial goods from third countries attain a market share of over 10%. This makes the level of import penetration lower than in the USA (it has also not increased in the same way as it has there), but considerably higher than in Japan (cf. Table 2).

The intensive trade carried on between the EC and third countries matches their high and growing interdependence in terms of capital investment. Direct investment abroad from EC member countries has increased rapidly during the 1980s from the levels of the previous decade. As a rough figure, its share of all "outward investments" in the OECD rose from 40% to 50%, and its share of total gross domestic product has risen from 0.8% to 1.1% (cf. Table 3).<sup>1</sup> As a host region, on the other hand, the EC has lost a lot of its former importance. During the period 1980-87, it only accounted for 40% of "inward investments" made in OECD countries, a proportion which had been almost 60% during the 1970s. Inward investment has also fallen when measured against GDP, from 0.7% to 0.6%

(cf. Table 3). Just recently, though, there has been a turnaround in this trend in which a considerable part has been played by extensive Japanese investment in the EC, particularly in the United Kingdom, with an eye upon the single market.

Given the extent to which EC industrial production depends on exports and also the increasingly multinational activities of European companies, the Community has a strong interest in open world markets, and this necessarily means opening or keeping open its own markets. Creation of the internal market should further that interest, providing the promise of substantial gains in efficiency which would then translate into improved international competitiveness for domestic industries and/or improved terms of trade. However, the trade policy trends currently in evidence give grounds for scepticism as to whether the Community really will be a more open market after 1992 than it has been in the past.

The plan for the single European market means that the EC is compelled to adopt a uniform trade policy towards third countries. From a liberal point of view, though, this may yet prove to be a mixed blessing. At present, the EC's trade policy is still a hybrid between Community and national measures. There are still a

<sup>1</sup> These percentages also include direct investment within the Community, which could not be eliminated owing to insufficient detail in the data. However, information made available by individual member countries on the regional structure of direct investments does indicate that the level of intra-Community interdependence is considerably lower in this area than in trade. During the first half of the 1980s, for example, less than one-third of West German foreign investment went to other EC countries whereas two-fifths went to the USA. The situation in France is similar, and the disproportionate share of outward investment going to the USA is substantially higher in the United Kingdom. Cf. Eurostat: Balance of Payments – Geographical Breakdown, various annual issues.

\* The Hamburg Institute for Economic Research (HWWA), Hamburg, West Germany.

large number of quantitative import restrictions maintained by individual members of the EC. Most of these are residual restrictions which were allowed to be retained – for a limited period – under special permission granted under the GATT in 1955, that is to say before the EC was founded, with what is referred to as the “hard core waiver”. These quotas are clearly in breach of Article XI of the GATT which demands the general removal of quantitative restrictions. Moreover, they run counter to the GATT’s most-favoured-nation principle which prohibits discrimination, for the majority of them are aimed at individual exporting countries.<sup>2</sup> The Community has offered to remove the majority of the quotas in order to meet its “rollback” obligations as agreed during the Uruguay Round.

Apart from the above unilateral import restrictions, numerous bilateral arrangements exist which limit exports from particular third countries to particular EC countries. About one-quarter of all export restraint arrangements registered by the GATT secretariat, ranging from voluntary self-restraints via orderly marketing arrangements to market-sharing accords between industry associations, involve individual EC members as the importing countries seeking protection. The protective measures concern a wealth of different products from electronic consumer goods right through to (processed) agricultural produce, and most of them are aimed at Japan and South Korea. The chief initiating countries are the United Kingdom, France and Italy (see Table 4 for details).

<sup>2</sup> The main countries affected are Japan, Taiwan, South Korea and Hong Kong. On the EC’s own side, the restrictions are concentrated mainly in Italy, France, Greece and the Irish Republic. Cf. Georg Koopmann: National Protectionism and Common Trade Policy, in: INTERECONOMICS, May/June 1984, p. 105.

In cases where import restrictions are imposed at the Community level, an effective renationalization of such Community protection can frequently be observed. A particular example of this is the fact that Community quotas negotiated under the Multi-fibre Arrangement are regularly subdivided into a series of national quotas. Because the market is segmented in this way, the overall Community quotas cannot be fully used up, thus increasing the effective protection of the textile and clothing industries. The tariff quotas granted by the EC as a concession to the developing countries under the General System of Preferences are also allotted to member countries in countless instances. However, in this latter case the European Court of Justice placed clear limits on such allocation practices in a judgement given on 27th July, 1988, and this has already led to a first set of corrective measures.<sup>3</sup>

**Article 115 to Become Obsolete**

If border customs checks are completely removed within the Community as is planned, this will pull the rug from any solo national arrangements or special treatments as far as trade policy is concerned. The reason is that it will then no longer be possible to prevent national import restrictions being circumvented by importing goods indirectly via other EC countries.

In anticipation of the single European market, the EC Commission has issued a number of decisions making recourse to Article 115 more difficult, the most recent of which was the decision 87/433/EEC dated 1987. The decision expressly refers to the “Community’s

<sup>3</sup> Cf. Uta Möbius: EG-Binnenmarkt und Handelspolitik gegenüber Entwicklungsländern: in: DIW-Wochenbericht No. 22/1989, p. 249.

**Table 1**  
**Trade in Industrial Goods with Third Countries by the EC and its Member Countries**

	Exports to Third Countries						Imports from Third Countries					
	in \$ million			as % of total exports			in \$ million			as % of total imports		
	1972	1980	1987	1972	1980	1987	1972	1980	1987	1972	1980	1987
West Germany	22,268	91,643	133,709	50.1	50.2	47.3	11,335	59,370	86,493	37.1	44.0	45.5
France	9,686	46,808	54,245	41.8	45.8	41.6	6,423	33,849	46,603	30.4	35.7	34.2
United Kingdom	15,192	57,247	60,424	66.8	59.2	52.6	12,457	47,440	60,018	60.2	51.3	44.1
Italy	8,075	36,668	50,198	45.8	48.9	44.3	4,739	24,849	35,361	35.1	37.5	35.5
Belgium/Luxembourg	3,403	15,241	19,092	23.0	26.1	25.5	2,621	15,019	16,656	21.1	26.9	23.6
Netherlands	4,369	19,006	21,555	29.4	30.7	26.7	3,494	19,521	22,918	25.8	34.0	30.2
Denmark	2,225	7,318	11,569	57.0	50.6	54.5	2,102	7,265	9,932	47.3	45.8	44.7
Ireland	232	1,613	3,793	20.3	21.8	26.0	351	2,188	4,066	20.7	23.0	34.0
Greece	222	2,099	1,753	40.3	50.6	34.0	797	3,474	3,052	38.2	45.1	29.1
Spain	1,804	9,395	11,566	55.9	50.3	38.1	2,070	7,284	12,498	42.8	42.2	33.2
Portugal	625	1,851	2,605	52.3	41.7	28.8	660	1,831	2,932	37.7	31.5	25.9
EC total	68,099	288,889	370,508	46.1	46.1	42.2	47,049	222,089	300,528	37.2	39.8	37.5

Source: HWWA World Trade Matrix.

programme of action for the realization of the single European market", explaining that it was also advisable, "in view of the objectives laid down in the Single European Act", to only permit the application of measures under Article 115 "... for a limited period of time ... and only in the event that this is demanded by the seriousness of the situation".<sup>4</sup> There is indeed an apparent trend for use of Article 115 to decrease (cf. Table 5). Nevertheless, there has also been an increase in the average duration of protective measures, and the range of products subjected to protection has broadened.<sup>5</sup>

The removal of customs posts within the Community, then, may give considerable impetus to the process of liberalization vis-à-vis non-member countries. On the other hand, one cannot expect all national import restrictions to be eliminated without compensation. While such a solution would be in the spirit of the single market initiative, it is not in keeping with political

<sup>4</sup> Cf. EC Official Journal, No. L 238, 21st August, 1987, p. 27 (German version).

<sup>5</sup> Cf. Dean Spinanger: Building a Fortress Europe in 1992? Some implications of the Common Internal Market for Hong Kong and other PACRIM countries, P.R.I.C.E.S. Papers, No. 1, Hong Kong and Kiel 1989, p. 13.

<sup>6</sup> Cf. Horst G. Krenzler: Zwischen Protektionismus und Liberalismus. Europäischer Binnenmarkt und Drittlandsbeziehungen, in: Europa-Archiv, No. 9/1988, p. 245.

<sup>7</sup> Cf. Kevin Done, William Dawkins: Giving the green light to Japan, in: Financial Times, 3rd July, 1989.

**Table 2**  
**Export Ratio and Import Penetration**

	Export ratio <sup>1</sup>			Import Penetration <sup>2</sup>		
	1972	1980	1986	1972	1980	1986
West Germany	12.2	14.5	17.6	6.7	10.2	12.2
France	7.6	10.9	10.9	5.2	8.0	8.4
United Kingdom	11.9	14.3	13.1	9.9	12.0	12.3
Italy	12.2	14.6	15.0	7.7	10.3	9.6
Belg./Lux.	11.3	17.0	21.3	9.4	17.3	19.3
Netherlands	13.2	17.3	14.4	11.0	18.6	15.8
Denmark	22.3	23.2	27.4	20.4	22.1	23.0
Ireland	6.3	10.2	13.3	8.2	12.1	14.5
Greece	4.0	8.3	7.2	11.2	12.0	9.2
Spain	5.7	6.3	6.9	6.3	5.0	6.5
Portugal	13.9	10.3	10.1	13.0	9.5	8.7
Total EC	11.0	13.4	14.3	7.8	10.7	11.3
For comparison:						
USA	5.2	9.0	7.2	6.1	8.8	13.8
Japan	10.5	13.3	15.2	4.2	5.6	4.6

<sup>1</sup> Exports to third countries as % of gross manufacturing production.

<sup>2</sup> Imports from third countries as % of domestic market (gross production plus imports minus exports) in manufacturing.

Sources: HWWA World Trade Matrix; UNIDO Industrial Statistics Data Base.

realities. Member countries with a relatively high level of protection have been demanding Community-level substitute solutions to replace their own national protective measures in "sensitive" areas. EC Commission representatives speak of a "... hard core of a small number of products ... in respect of which particular economic difficulties in a number of member countries necessitate regulation (for a limited period and on a declining scale) by the Community".<sup>6</sup>

A particularly sensitive area is the automobile industry, which is protected against Japanese competition by national trade barriers in France, the United Kingdom, Italy, Portugal and Spain. According to the Commission's plans, these protective walls are to be dismantled in stages by 1992. The Commission also intends to ensure that strict discipline is maintained in granting financial assistance at the national level: any grants or subsidies to the automobile industry in excess of ECU 12 million are subject to prior notification to Brussels. The Japanese government has been called upon to "monitor" (in other words, to limit) its automobile exports to the EC as from 1993, but only "... for a clearly limited and fixed period", after which access to the market will supposedly no longer be restricted.<sup>7</sup> However, fierce resistance to this relatively liberal concept is not confined to the automobile industry itself

**Table 3**  
**Direct Investments Abroad by Certain EC Countries and Foreign Investments in the EC<sup>1</sup>**

	in \$million		% of OECD <sup>2</sup>		% of GDP	
	1970-79	1980-87	1970-79	1980-87	1970-79	1980-87
West Germany	2,207	5,200	8.3	8.7	0.53	0.69
	1,436	898	9.0	2.0	0.35	0.12
France	1,071	3,876	4.0	6.5	0.34	0.63
	1,433	2,797	9.0	6.4	0.45	0.45
United Kingdom	4,580	12,422	17.1	20.7	2.03	2.43
	3,260	5,929	20.5	13.5	1.44	1.16
Italy	296	1,764	1.1	2.9	0.16	0.36
	571	1,228	3.6	2.8	0.31	0.25
Belg./Lux.	425	706	1.6	1.2	1.34	1.27
	864	1,278	5.4	2.9	2.73	2.29
Netherlands	2,243	4,763	8.4	8.0	2.65	3.12
	907	1,805	5.7	4.1	1.07	1.18
Spain	96	370	0.4	0.6	0.10	0.20
	577	2,293	3.6	5.2	0.60	1.26
Total	10,918	29,101	40.9	48.6	0.80	1.05
	9,048	16,228	56.8	37.1	0.66	0.59
For comparison:						
USA	12,279	14,977	45.9	25.0	0.76	0.42
	4,081	23,541	25.6	53.5	0.25	0.66
Japan	1,585	7,693	5.9	12.8	0.30	0.60
	126	421	0.8	1.0	0.02	0.03

<sup>1</sup> Average annual capital inflows and outflows for direct investment. The first line for each country shows capital outflows, the second shows inflows.

<sup>2</sup> OECD in this case does not include Denmark, Greece, Ireland, Iceland, Portugal or Switzerland due to incomplete data for these countries.

Sources: IMF Balance of Payments Statistics; IMF International Financial Statistics.

– which has demanded that Japanese car imports be “frozen” until such time as European manufacturers have achieved a share of the Japanese market equivalent to half that of Japan in the EC – but is also manifested in the Council of Ministers, where the French Minister of Industry is advocating an “unlimited transition period” to help the auto industry.<sup>8</sup> How this trial of strength will ultimately be decided is still not clear.

### Instruments of EC Trade Policy

It is not only individual member countries which have erected trade barriers in the past, but also the Community in its own right. It has a number of instruments at its disposal to do this.

<sup>8</sup> For details of the contrary position to the Commission strategy advocated in the Council of Ministers by France and Italy, with support from the United Kingdom and Spain, cf. Europe, 1st July, 1989, p. 6.

<sup>9</sup> Cf. EC Official Journal, No. L 35, 9th February, 1982, pp. 1 ff. The previously issued common regulations on imports (1979 and 1974) can be found in Official Journal No. L 131, 29th May, 1979, pp. 15 ff. (German version) and No. L 159, 15th June, 1974, pp. 1 ff.

<sup>10</sup> During the ten-year period 1978-87, the Community resorted to the GATT safeguard clause via the common regulation of imports a total of 12 times. The product categories affected were: preserved mushrooms, yarn of synthetic fibres, cultivated mushrooms, other cultivated mushrooms, frozen cod filets, dried grapes, certain tableware, certain electronic quartz watches, morello cherries, preserved raspberries, sweet potatoes, certain steel products. Cf. Margaret Kelly et al. : Issues and Developments in International Trade Policy, IMF Occasional Paper No. 63, Washington, D.C., December 1988, p. 137.

The common regulation on imports – last renewed in 1982<sup>9</sup> – is designed to protect relatively uncompetitive domestic industries from their more effective counterparts abroad. This means that Article XIX of the GATT, which permits such protective measures under certain conditions, is incorporated into Community law. This regulation, though, is only used relatively rarely by the Community, and then only with regard to relatively insignificant product areas.<sup>10</sup> The EC prefers the approach of restricting imports in “sensitive” industries by means of bilateral agreements – sometimes more, sometimes less informal – after failing in its attempts to win acceptance for the selective use of the safeguard clause during GATT’s Tokyo Round. So it is that, according to GATT records, the Community has concluded just as many export restraint arrangements with third countries as its member countries have. If these are broken down according to the exporting countries affected, protective arrangements concluded by the Community are more broadly distributed than those of individual countries, developing countries are more frequently affected than industrial countries, and a large proportion of them affect the state trading countries. There is also a difference in sectoral emphasis. The member countries primarily keep a watch over electronics, automobile and shoe imports,

**Table 4**  
**Non-tariff Provisions Restricting Exports to the EC and Particular Member Countries from Industrial, Developing and Eastern Countries, February 1989**

	Industrial countries	Developing countries	Eastern trading area	Japan	South Korea	Total
Steel	6 (1)	3	5	1	1	14 (1)
Machine tools	1 (2)	∕	∕	1 (2)	∕	1 (2)
Automobiles <sup>1</sup>	2 (13)	∕	∕	2 (13)	∕	2 (13)
Electronic equip. <sup>2</sup>	2 (13)	3 (10)	∕	2 (13)	3 (3)	5 (23)
Footwear	∕ (2)	1 (8)	∕ (3)	∕ (2)	1 (4)	1 (13)
Textiles/clothing <sup>3</sup>	∕ (2)	16 (3)	8	∕ (2)	∕	24 (5)
Agric. produce	16 (3)	12 (3)	11	∕ (2)	∕ (1)	39 (6)
Other products	6 (20)	3 (6)	1 (1)	∕ (19)	∕ (5)	10 (27)
<b>Total</b>	<b>33 (56)</b>	<b>38 (30)</b>	<b>25 (4)</b>	<b>6 (53)</b>	<b>5 (13)</b>	<b>96 (90)</b>
EC	33	38	25	6	5	96
West Germany	2	1	∕	2	∕	3
France	9	8	∕	9	3	17
United Kingdom	9	14	3	8	5	26
Italy	14	3	∕	14	2	17
Benelux	4	1	∕	4	1	5
Denmark	1	∕	1	∕	∕	2
Ireland	1	2	∕	∕	1	3
Greece	1	∕	∕	1	∕	1
Spain	8	∕	∕	8	∕	8
Portugal	7	1	∕	7	1	8

Note: Figures in parentheses refer to national (as opposed to Community) restrictive provisions.

<sup>1</sup> Includes motor cycles, fork-lift trucks and auto components; <sup>2</sup> mainly electronic consumer goods; <sup>3</sup> does not include bilateral arrangements under the Multi-fibre Arrangement.

Source: GATT.

whereas the Community concentrates on agricultural, textile and steel products (cf. Table 4).

These activities are not in keeping with the fundamental principles of the multilateral order of world trade; they contravene the GATT rule of non-discrimination. Why they are actually accepted by the other countries affected can be partly explained by the fact that their exporters are able to reap a rent attributable to the quotas. The main sufferers are final consumers and user industries in the Community whose interests are not defended vigorously enough in the political arena.

Before such grey-area measures can be reduced, there will have to be mutual agreement on safeguards within the GATT. Not surprisingly, in the Uruguay Round the Community sticks to a narrowly defined concept of selectivity.<sup>11</sup> Especially with the position of developing countries in mind, fears are being expressed that the EC could use the still greater market power it will attain on

<sup>11</sup> Cf. Phedon Nicolaidis: Safeguards and grey area measures: A challenge to GATT, in: EIU European Trends, Nr. 2, 1989.

<sup>12</sup> Cf. Uta Möbius, op. cit., p. 247.

<sup>13</sup> The corresponding regulation, (EEC) No. 2641/84 issued by the Council on 17th September, 1984 (published in EC Official Journal, No. L 252, 20th September, 1984, pp. 1 ff.) simply states: "For the purposes of this regulation, the term 'unlawful trading practices' shall apply to all practices by third countries which, in respect of international trade, fail to comply with international law or with generally recognized rules" (translated from p. 2 of the German version). This broad definition is designed to make it possible for the Community "... to take effective proceedings against any conceivable 'unlawful' trade practices. In the light of this objective the Community has refrained from enumerating any possible cases in which [this instrument] might be applied." Cf. Meinhard Hilf, Reinhard Rolf: Das "Neue Instrument" der EG, in: Recht der Internationalen Wirtschaft, April 1985, pp. 297 ff.

<sup>14</sup> Only three investigations have so far been conducted under the provisions of the NTPI. None of these cases has led to retaliatory action. Quite a large amount of attention was attracted by the dispute between the chemical companies Akzo (Netherlands) and Du Pont (USA) involving the patent rights to certain synthetic fibres. In the aftermath of this quarrel – settled by a compromise – the EC managed to get a GATT panel to prove that the USA discriminated between foreign and domestic companies in its treatment of patent disputes. However, the New Instrument would not really have been necessary to achieve that.

<sup>15</sup> Cf. regulation No. (EEC) 2176/84 of the Council, dated 23rd July, 1984, published in EC Official Journal, No. L 201, 30th July, 1984, pp. 1 ff.

completion of the single European market to coerce individual countries to exercise export restraint.<sup>12</sup>

In addition to defensive measures against superior – but fair – foreign competition, a great deal more significance has now been attained by moves to combat what are felt to be unfair trading practices. In the guise of the "New Trade Policy Instrument" (NTPI), the EC has available a means of dealing with "unlawful trading practices", though it should be noted that these are not defined any more closely.<sup>13</sup> This provision grants private-sector businesses the right to appeal directly to the Commission for counter-measures under the following categories:

- the suspension or cancellation of concessions agreed during trade policy negotiations;
- an increase in existing tariff rates;
- the introduction of quantitative restrictions.

Up to now, the new weapon has hardly been used.<sup>14</sup> Despite this, however, it represents an unnecessary expansion in the trade policy arsenal and presents a serious risk of protectionism. A Community which has been strengthened by the single European market might feel tempted to make more intensive use of this instrument.

#### Prominence of Anti-Dumping Measures

The Community makes relatively infrequent use, compared with the USA, of countervailing duties as a response to foreign subsidies. On the other hand, the EC Commission resorts all the more zealously to its Anti-Dumping Directive.<sup>15</sup>

Use of the latter was substantially expanded in 1987 by what has become known as the screwdriver ruling. This now means that anti-dumping tariffs can also be imposed upon products *assembled* in the Community if *imports* of those products are already subject to such an

**Table 5**  
**Applications under Article 115 of the Treaty of Rome, 1976-1988**

	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
Total applications	110	121	317	347	356	255	241	253	215	211	184	182	153
of which textiles	72	75	258	269	273	184	156	176	155	143	131	122	84
Applications granted	74	79	197	260	222	166	174	188	165	176	141	157	128
of which: textiles	–	–	–	–	164	120	116	131	120	119	102	105	76
agric.	–	–	–	–	5	3	6	8	8	12	3	3	7
Approval rate (%)													
overall	67	65	62	75	62	65	72	74	77	83	77	86	84
textiles	–	–	–	–	60	65	74	74	77	83	78	86	90

Sources: EC Commission data; Margaret Kelly et al.: Issues and developments in international trade policy, IMF Occasional Paper No. 63, Washington, D.C., December 1988, p. 94.

anti-dumping tariff and the proportion of parts supplied by the country concerned is at least 60% of the total component value.<sup>16</sup>

Not only has the scope for intervention expanded, but the structure of products subject to anti-dumping measures has also changed. Whereas such proceedings traditionally affected homogeneous products, especially chemical substances, the most prominent items in the more recent past have been products such as computer printers, copiers, electronic weighing machines, typewriters, video recorders, CD players, etc. The large proportion of electronic consumer goods is immediately apparent, as is the concentration of such measures on particular trading partners. In addition to Japan, the main targets are NICs such as Brazil, Mexico, South Korea, Taiwan and Hong Kong.

The protective effect of the anti-dumping policy is quite considerable. An analysis of EC anti-dumping tariffs during the period 1980-85 shows an average duty burden of 23% and a quantitative reduction in imports of 40%.<sup>17</sup> Given that the EC's antidumping procedures – again in contrast to the USA's – lack transparency and that the Commission's methods of calculating dumping margins are controversial,<sup>18</sup> one cannot avoid concluding that anti-dumping measures are not only used as a legitimate defence against business practices which distort competition, but also as a means of protecting uncompetitive companies, especially in "strategic" industries such as electronics, from their superior foreign rivals and of "nursing them back to health".

#### Trade Policy as a Tool of Industrial Policy

This raises another aspect of EC trade policy, namely its links with research and technology policies or – more broadly conceived – of the Community's industrial policy. The declared aim of the single market, to no small degree, is to strengthen the efficiency of European companies in international technological competition. One can hardly object to that. What is questionable, though, is the fact that the Community is evidently tending to place its faith in state aid flowing via a multitude of different Community and national schemes and in cooperation or concentration within the corporate sector rather than in competition as such. It is quite in keeping with this philosophy that efficient competition from abroad should be held in check using high tariffs,

anti-dumping measures, "voluntary" self-restraint agreements and minimum price obligations, whereas exports, when necessary, are heavily subsidized.

This diagnosis is confirmed by the following examples:

□ Tariffs on CD players and video recorders were raised substantially in 1984. In addition to this, the Community also agreed a number of self-restraint arrangements, culminating in "voluntary" export restraint by South Korean video recorder manufacturers which, significantly, enabled the Koreans to fend off the imposition of final anti-dumping duties.

In July, 1989, the EC Commission announced anti-dumping levies of up to 33.9% on most imported Japanese and South Korean CD players.

□ European manufacturers of microchips are protected by a 14% tariff and also receive government aid varying from country to country. Even so, only about 10% of world production originates in Europe (against 47% from Japan and 41% from the USA), and German microchip users depend on imports for two-thirds of their supplies. In 1987, four European chip manufacturers applied for anti-dumping proceedings to be taken out against eight Japanese semi-conductor manufacturers, and one of their main justifications for this was that cheap supplies of components from Japan were impeding the establishment of manufacturing capacity in Europe. Although there has been a pronounced increase in the world market price of microchips since that time, thus eliminating the original grounds for the complaint, the EC Commission has still opened proceedings and concluded a minimum price agreement. That means that it is following the American example which it so severely criticized just a short time ago. One of the particularly ironic aspects of these proceedings is that the Commission's main argument is one of ensuring continuity of supply – an argument we have so far mainly grown familiar with in the coal-mining and agricultural spheres – whereas the supposed beneficiaries, i. e. microchip users in general and the computer industry in particular, are up in arms against the policy because they believe it will jeopardize their own international competitiveness.<sup>19</sup>

<sup>16</sup> Various investigations have shown that the Commission's "technique" actually "produces" dumping margins which are not economically proven and/or are excessively high. Cf. Christopher Norall: New trends in anti-dumping practice in Brussels, in: *The World Economy*, Vol. 9, 1986, No. 1, pp. 97 ff.; Brian Hindley: Dumping and the Far East trade of the European Community, in: *The World Economy*, Vol. 11, 1988, No. 4, pp. 445 ff.; ditto: The design of Fortress Europe, in: *Financial Times*, 6th January, 1989.

<sup>16</sup> For details of these conditions, cf. Sixth Annual Report of the Commission on Antidumping and Antisubsidy Measures, Com(89), 6 final, Brussels 21st March, 1989, p. 12 (German version).

<sup>17</sup> Cf. Patrick A. Messerlin: The EC antidumping regulation: A first economic appraisal, 1980-85 (to be published in *Wirtschaftliches Archiv*, 1989).

<sup>19</sup> Cf. Peter Montagnon: Chip pricing plan angers computer makers, in: *Financial Times*, 27th July, 1989.

□ "Still in the name of competitiveness, but also with a view to defending our own cultural identity, on no account does the Community wish to leave the monopoly in audio-visual technology to the Japanese and in programming technology to the Americans."<sup>20</sup> This was the justification given by Jacques Delors, President of the EC Commission, for the Community's intention to develop and enforce a separate European norm for high-definition television (HDTV), now that it is clear that a Japanese system is already fit for production. Here again European industry's lack of dynamism in developing a competitive system is ultimately to be rewarded by the protection of its markets. Incidentally, the decision to "fade out" Japan (and the USA) was made at the same Council of Ministers' meeting on the island of Rhodes where the assembled heads of government expressed their determination to avoid a "Fortress Europe" being established.<sup>21</sup>

□ Germany alone has paid or approved subsidies for the development of the Airbus to the tune of DM 10.7 billion. To this must be added the similar government assistance given by the other countries participating in this European high-technology project. Exports of the aircraft are additionally subsidized by the West German government in that it makes up the difference between the price charged, based on a notional exchange rate of DM 2.00 to the dollar, and the receipts which would result from prices based on the true market dollar exchange rate. While other companies are forced to adapt to fluctuating exchange rates by themselves, the manufacturers of the Airbus are spared that effort, and hence also the compulsion to act according to the rules of economics. The EC Commission, which otherwise is rightly critical of the provision of state aid to commercial companies, closes its eyes to all this in the name of European "high-tech".

After the sometimes miserable failure of the national champions to stand up to international competition, even when heavily doped (which includes the boosting effect of public procurement), we are now seeing European champions being specially groomed, but these again have to be protected from the raw winds of the outside world. In truth, European manufacturers have often been too slow to spot vital international market developments, or else have reacted inadequately to them. Lack of financial muscle, at any rate, cannot be the reason why they have little, if any, presence in the markets for home and personal computers, printers, video cameras, telefax equipment, to name just a few obvious examples. The accusation of "laser beaming" directed against Japanese companies

and readily used to back up demands for a defensive trade policy also serves the vital function of distracting attention from these companies' own omissions.

"Even if it is true that there are particular fields in which Europe is technologically lagging behind the United States and Japan . . . subsidies and protective isolation are not the right answer. These are a form of danegeld for the beneficiaries which will only make them lethargic . . . Import restrictions unhitch us from the train of technical progress."<sup>22</sup> One cannot but agree strongly with this view stated by the President of the German Federal Cartel Office, Mr. Wolfgang Kartte.

### Benefits to Foreign Suppliers

This creeping protectionism in the EC stands in contrast to the general mood that a new beginning is being made and to the growth stimuli being generated or promised by the single market programme. According to estimates issued by the Cecchini Group, the completion of the single European market should lead to an increase in incomes of approximately 4.5 percentage points above the status quo level, a margin which would increase to 7% if the measures were accompanied by expansionary economic policies.<sup>23</sup> The increased demand thus created will also attract in more imports from the rest of the world.

Apart from this growth effect, companies from third countries also draw direct benefits from the single market initiative. In future, exporters will be able to pick out the EC country which offers the most favourable technical regulations, licensing requirements, examination and certification procedures, and deliver from there to all the remaining countries without any need to repeat those formalities. In those cases where uniform Euro-norms are created they will, in principle, enjoy the same downward effect on their costs that European producers enjoy. Substantial cost reductions will also be possible due to the removal of customs controls within the Community. This too will be of benefit to third-country suppliers, for they will now be in a position to centralize distribution, say, at a single locality

<sup>20</sup> Cf. Jacques Delors' speech before the European Parliament on 17th January, 1989, reprinted in: EC News, Reports and Information – Documentation, No. 3, 7th February, 1989.

<sup>21</sup> Cf. the conclusions reached by the European Council of Ministers in Rhodes, 2nd-3rd December, 1988, reprinted in: EC News, Reports and Information – Documentation, No. 19, 5th December 1988.

<sup>22</sup> Cf. Wolfgang Kartte: Doping für die Giganten, in: Frankfurter Allgemeine Zeitung, 22nd April, 1989.

<sup>23</sup> Cf. Paolo Cecchini: Europa '92. Der Vorteil des Binnenmarktes, Baden-Baden 1988, pp. 133 f.



in the Community and deliver to regional markets at low freight rates – made possible by transport liberalization! – from that point without any further hindrance.

There are other areas dealt with by the single market programme where third countries will not enjoy immediate benefits from liberalization within the Community. The prime examples of this are public procurement and services. In these areas the level of third-country participation is essentially determined by bilateral or multilateral international negotiations.

There are important fields of public procurement which are not covered by the GATT's Government Procurement Code: these include telecommunications, transport, and public utilities. Even within the EC, these are still segmented in accordance with national borders. The intention for the future is that not only domestic suppliers "by royal appointment" but also their rivals from other member countries will be given equal access to these contracts. The same applies to private services. Attention here is focused chiefly upon transport, banking and insurance. These too are all areas not yet subject to GATT regulations, which means that intra-Community liberalization does not necessarily have to be granted to third countries in accordance with the most-favoured-nation principle.

It remains to be seen just how far the EC will be prepared to go in "eroding" Community preference. That there are limits soon becomes apparent when one considers that the worldwide opening of markets is repeatedly mentioned in the same breath as the need to preserve the identity of the internal market.<sup>24</sup> As far as public procurement is concerned, there is particularly good reason to be sceptical since this affects high-tech industries to a high degree, with telecommunications at the top of the list, which is granted "a privileged position in any case" by the Community.

### The Call for Reciprocity

What also remains to be seen is what kind of *quid pro quo* concessions the Community will demand from other negotiating parties and what distinctions it will make between individual third countries or third country groups. The demand for reciprocity has already been made in the Commission's White Paper on the completion of the single market.<sup>25</sup> This is a concept which, like the head of Janus, points both ways. It can be used as a pretext for a protectionist isolation of the domestic market, thus inhibiting international economic integration. On the other hand, it can be used as a lever to open up foreign markets and give added impetus to the integration of the world economy. The overall effect

depends to no small degree on how the term reciprocity is defined.

There is substantial semantic confusion on this latter point. Reciprocity has not been unequivocally defined even within the GATT.<sup>26</sup> The underlying principle on which the GATT operates is one of global balance between its members' rights and duties. On the other hand, the multilateral negotiating rounds under the treaty do not aim to achieve absolute equality of access to markets, but equivalence of concessions beyond the limits of particular industries or countries. A trend has now been apparent for some time to narrow the concept of reciprocity to apply only to individual industries or trading partners, even to the extent of demanding equality in the bilateral effects rather than simply equal rules for both. This means that exports to the trading partner may not exceed the level of imports from that country.

EC representatives never tire of giving assurances that negotiations with third countries are conducted according to the principle of global reciprocity. During the orientational debate on the external economic dimensions of the single market on 19th October, 1988, the Commission denied that "... the Community is striving for sectoral reciprocity in which a true balance of trade is established between the Community and its partners in each sphere."<sup>27</sup> Nor, so it is said, does the EC have any intention of demanding that its partners should issue legal stipulations equivalent to those applying in the Community, along something like the following lines: if, in accordance with the European system of "universal" banks, the market not only for "classical" banking business but also for trading in stocks and shares is opened up to American and Japanese financial institutions, it must also be permissible for European financial institutions to carry out such business in the USA and Japan, regardless of the fact that – for their own domestic reasons – those countries opted for a split banking system and that their own institutions are only allowed to operate in one field within that system.

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<sup>24</sup> Cf., e.g., the Conclusions of the European Council in Hanover on 27th/28th June, 1988, reprinted in: Europa Archiv, No. 16/1988, p. D 444.

<sup>25</sup> Cf. EC Commission: The Completion of the Internal Market, Document COM(85) 310 final, 14th June, 1985. This states, on page 7: "The trade policy identity of the Community [must] be retained in order to avoid other trading partners being offered the advantages of the larger Community market without making any concessions of their own." (translated from German version).

<sup>26</sup> On this, cf. Jagdish Bhagwati: Protectionism, Cambridge, Mass./London 1988, pp. 35 f.

<sup>27</sup> Cf. Europe as a partner: The external economic dimension of the single market, in: EC Bulletin, No. 10/1988, p. 17 (German version).

The Community has now dropped the demand for equal treatment made in its original proposal for the second banking directive, following vigorous protests from the Americans in particular. Under the version now adopted institutions from third countries should only be refused a banking licence (valid for the whole of the EC) if EC-based banks are not treated on the same terms as domestic banks within the third country concerned.<sup>28</sup> In other words, the Community has decided to settle for national treatment, a basic principle which is also embodied in the GATT and the OECD.

### Local Content Rules for Foreign Investors

Nevertheless, the dispute over the banking directive does make it clear that not only trade restrictions but also special requirements for foreign investors are on the agenda within the EC. The chief worry is that access to the Community's market might be made conditional, on a case-by-case basis, upon reaching a certain proportion of local content.

The minimum local content debate was set off by the Nissan Bluebirds which, though manufactured in the United Kingdom, are also sold in Continental Europe. The British view is that these are European cars since more than 60% of the total input value originates in the EC (in this case almost entirely in Britain). France and Italy, on the other hand, which have both limited direct imports of automobiles from Japan by quota, have demanded a European input contribution of at least 80% in value terms. In reality the positions of France and Italy on one side and the United Kingdom on the other are not as far apart as it may appear, for the British government agreed with the Japanese vehicle manufacturers (the most recent case being Toyota) that local content should be raised step-by-step from 60% to 80%.

The idea ultimately lying behind these demands is that of cost parity: investors from third countries should have to produce at European cost levels. This position is fundamentally opposed to the idea of the international division of labour and comparative cost advantage which stresses precisely the *disparities* in costs from one country to another, from which the "gains from trade" are derived. Local-content requirements therefore find no support within the GATT, and damping down such measures is an important topic during the current Uruguay Round. This may be one reason why the Community has so far fought shy of making a strict

legal definition of "local content" in an appropriate directive, preferring to go for voluntary agreements from the foreign investors concerned, following the example set by the United Kingdom in the case of the automobile industry.

In future, similar arrangements could be made at the Community level in key areas of the single market programme. For example, it is intended that European subsidiaries of third-country companies should only be granted an equal right of access to public contracts in the EC if at least 50% of the input value comes from within the Community.<sup>29</sup> Even today it is rumoured that the EC Commission only approves regional aid to companies from third countries – in contrast to European companies – if local content is above 80%. In view of the high attraction emanating from the single market for foreign investors, with its trade-creating and its trade-diverting effects, there is a great temptation to compel these companies to integrate into the Community by setting rigorous conditions, regardless of the negative allocative effects as far as the world economy is concerned.

### Creeping Protectionism Harmful to EC

Taking an overall view, it is surely unjustified to accuse the Commission and the Council of Ministers of working deliberately and methodically towards the erection of a "Fortress Europe". The creation of the single European market will also open up new opportunities for the Community's trading partners. Nevertheless, there are quite conspicuous tendencies towards restricting market access to efficient competitors, particularly from Japan and Far Eastern NICs. Such developments are ultimately not only harmful to consumers and suppliers, but also to the protected European producers themselves: the prospect that their markets will be protected weakens their readiness to adapt, making them lethargic and causing them to lag behind still further in international competition, both in terms of price and of efficiency. Even today, the demands made by European producers of technology-intensive goods are frequently oriented not to opening up foreign markets but to protecting domestic ones; this is a clear symptom of competitive weakness. The objective of improving the Community's technological competitiveness would be stood upon its head if the Commission were to adopt the position of these laggards as its own. An open Community is not a concession to others: it is a manifestation of that Community's own interests. The programme of the single European market, conceived as a programme of competition, must not be allowed to stop short once it reaches the portals of the Community itself.

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<sup>28</sup> Cf. William Dawkins: EC finance ministers approve plan for banking liberalisation, in: *Financial Times*, 20th June, 1989.

<sup>29</sup> Cf. Robert Macdonald: Lowering the drawbridge on Fortress Europe, in: *EIU European Trends*, No. 1, 1989, p. 60.