EU-US ECONOMIC RELATIONS IN THE POST COLD WAR ERA

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CERTIFICATE

Certified that the Dissertation entitled "EU-US Economic Relations in the Post Cold War Era", submitted by Dillip Kumar Mohanty, in partial fulfilment of the requirements for the award of the degree of Master of Philosophy of this University. This dissertation has not been submitted for any other degree of this University, or any other University.

We recommend that this dissertation be placed before the examiner for evaluation.

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PREFACE

Transatlantic relationship has come a long way since after the Second World War. One of the striking aspects of the relationship is the steady economic growth of the Western Europe. It started off in the form of "Marshall Plan", a war recovery aid programme in 1947, following which the relationship has experienced its ups and downs. The transatlantic relationship has been a journey from inequality to equality, hegemonic to balanced and asymmetric to symmetric interdependent partnership between the European Union (EU) and the United States (US) over the past five decades. Today, the transatlantic relationship is the most significant part of global affairs. As the EU enhances its global role, no relationship is more significant and important to it than the transatlantic one. The US is a key partner of the EU in world affairs. Particularly since the post World War period transatlantic cooperation is typically consisted of security, political, and economic relations.

The economic relationship between the two partners is the largest in the world as two-way annual trade and investment is estimated around $2 trillion. Together the EU and the US economy accounts for about half of the world economy, with trade flow of about a $1 billion a day. Transatlantic economic relations are underpinned by the most important trade and investment links in the world. Taking goods and services together, the EU and the US are each other's largest single trading partner. Similarly, the two sides remain each other's most important source and destination of foreign direct investment. The US is the EU's single largest trading partner, like wise the EU is the main US partner for imports and the second largest market for US exports after Canada.

Studying the transatlantic relations in a broader platform is a herculean task. This particular study solely focuses on the economic aspect of the wide-ranging transatlantic partnership keeping apart the security, political, and social ones. Given the few studies which exist on this subject, this study is yet another necessary one.

The basic theme of the study revolves around the changing nature of the transatlantic interdependence and the urgent need to adapt the management of their bilateral relations to it. The study offers a detailed and empirical analysis of the complex economic interdependence and examines the sensitive areas where both the partners have differences of opinion. It considers the origin, nature and development of trade disputes between the EU and the US during the last half century and pays a focused attention towards the high profile trade disputes like those related to banana, genetically modified organisms, steel and export subsidy in the recent time. It explains how the bilateral trade and economic relations have undergone a sea change since 1945 and looks forward to how the partnership may develop in the post Cold-War period.

Conflicts over economic interests and trade disputes are not new to transatlantic relations. These disputes are one of the characterizations of the transatlantic partnership since its inception in the early 1950s. Over the years both the partners have fought tooth and nail over the disputes originating from domestic economic and trade interest. Compared to other areas of mutual interest like security and politics, trade relations has been less cordial and cohesive and more conflictual between the EU and the US. But the significance of the disputes has significantly changed in the post-Cold War era because the factors, which led the Americans to invest heavily and engage themselves in the European affairs, have come to an end after the disintegration of the former Soviet Russia. The transatlantic relationship came under intense strain after the Soviet disintegration, collapse of communism in Eastern Europe and the end of the Cold War. The end of the Cold War has changed the American role in the European matters and most significantly the independent voice of the EU in foreign, economic and trade affairs is clearly heard after the successful completion of "Single Market" and the "Maastricht Treaty". So the implications of such differences today are much different than during the Cold War years. And such differences have to be read along with the political ones and rising strategic divergence between the EU and the US. Nevertheless, relations between both the partners are gaining new momentum. Whether there will be an evolution towards a stronger transatlantic partnership or towards a series of conflict will depend upon the answer to this question in this post-Cold War Period. The ultimate objective of the study is to examine how the partnership can go beyond mere consultations towards a more action-oriented relationship based on real accomplishment.

In an attempt to study the above this work is divided into five chapters:

The first chapter provides a bird's eye view on the history of the transatlantic economic relationships form the early 1950s to late 1980s. The growth of the EU as an equal partner in the economic field is briefly discussed.

The EU and the US trade and economic relations came under severe strain after the end of the Cold War. The sources of change, and the transition of economic relations from Cold War to post Cold War period between the partners is discussed comprehensively in the second chapter.

The third chapter throws light on some particular high profile issues of contention which have dominated and affected the transatlantic trade relations in the post Cold War era. The causes, consequences and implications of these disputes are analysed in this chapter.

The fourth chapter assess the convergence and divergence of the EU and the US approaches to the discussions in the World Trade Organisation on international trade affairs. The EU as an actor and its negotiation capabilities in this multilateral forum is briefly examined.

The fifth chapter concludes the work and examines what needs to be done to adapt the management of their bilateral relationship. It also advocates that cooperation can be drawn by a shared interest in international economic stability and growth as well as cooperative response to economic crisis.

I could not have completed this work single-handed. Therefore I would like to thank to all those who have directly or indirectly helped me during the course of my work.

I earnestly thank my supervisor, **Prof. R. K. Jain**, who is instrumental in the shaping and planning of the work. I remain grateful to him for his sincere help, scholarly advice, guidance and encouragement, without which this work would never have been realised.

I wish to express my gratitude to the staff of the Jawaharlal Nehru University Library, Nehru Memorial Museum and Library, Institute of Defense Studies and Analysis Library, British Council Library, and the Library of the European Commission Delegation all in New Delhi for having helped me collecting the materials required to complete the work.

I am grateful to my **Grandfather**, my **Parents** and my **Sister** whose moral support has been a constant motivating factor for me. I treasure their love and support above everything. My sincere thanks to **Janaki** who stood beside me always in the hard times throughout my work with love, support and tolerance. I thank **Mr. Ramakanta Patra**, who helped me by sending some valuable documents and materials from the US, which I found very essential for this work. I thank **Sudhir** and **Jabin** for their constructive suggestion as well as sincere help in typing this work. I am grateful to the God for having such good and helpful friends. I acknowledge the constant enquiry about the progress of my work, the moral support, and timely help of my friends **Sukanya**, **Dharish**, **Shruti**, **Bhanu** and **Krishna** who provided all possible help in their capacity. Finally I thank God for giving me constant motivation and the strength to work on my dissertation.

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CHAPTER - I

EU - US ECONOMIC RELATIONS: AN OVERVIEW

INTRODUCTION

The EU- US economic relationship started long before the Second World War. The hallmark of transatlantic economic links for the past two and a half centuries followed the European settlement of North America. Most commercial intercourse took place in the form of trade in goods and assets and the westward migration of people and enterprise. While the First World War helped to promote closer social affinities between transatlantic allies, the inter-war years saw a reduction of Euro-American trade and investment, as, on both sides of the Atlantic the attention of the governments and markets was given over to internal economic problems.[1] There was neither a legal nor political framework for such relations. Indeed a breakdown of the international economic order occurred in the 1930s with the demise of the League of Nations. Trade protectionism, competitive depreciation and other form of economic nationalism created havoc upon the world trading system.[2]

In the years following the Second World War, the US shared its growing hegemony with an economically ravaged Western Europe, mainly through government sponsored schemes such as the Marshall Plan and through direct investment by US multinational enterprise (MNEs). The post-war transatlantic economic relationship became a "partnership" because it took place on a legal and political framework, which brought on political, security and ideological commitments.[3]

Post-war transatlantic economic relations were carried out through legal and political frameworks like Organization for Economic Cooperation and Development

[1] John H. Dunning, "Re-energizing the Transatlantic Connection" in Gavin Boyd (ed.) The Struggle for World Markets (London: Edward Elgar, 1998), p. 3.
[2] Kevin Featherstone and Roy H. Ginsberg, The United States and the EU in the 1990s (London: McMillan Press Ltd., 1996), p.117.
[3] *Ibid.*

(OECD) and General Agreement on Tariffs and Trade (GATT). These international legal bodies gave a legal and political framework to the transatlantic trade in a systematic manner. The underlying factor of the concrete and systematic trade, political and security relations between Europe and the America was based on common objectives to contain Soviet influence by strengthening the economic and thus political foundations of post-war Western Europe. Anti-communism, liberalism, multilateralism and collective self-defense were the driving force behind the exclusive bilateral links, diplomatic relations, and policy consultations and co-relation between the two partners. One of the most striking aspects of EC- US relations was based on the broader set of political and security links. The eastward expansion of the former Soviet Russia and the security concern drew Europe closer to the US. On the other hand, the ideological rivalry between the USSR and the US made the US an ally of Europe. Transatlantic relations also refer to the spirit of shared beliefs and understanding among those states based on a common civilizations and similar political, economic and social systems.[4]

The coincidence of favourable political conditions, the concentration of power and shared interests and leadership of the US provided the political capacity equal to the task of managing the international economy. It enabled the Europeans to recover from the devastation of the war and to establish a stable monetary system and a more open trade and financial system that led to a period of unparalleled economic growth. The European governments and US developed rules, institutions and procedures to regulate key aspect of international economic system. The foundation of that agreement was shared belief in capitalism and liberalism.[5]

Historical Evolution of EC-US Relations

Post-war transatlantic economic relations may be broadly classified into three phases: hegemonic, hegemonic decline and post-hegemony. Examination of these periods points to the root of present day differences between the two parties and illuminates some

[4] Roy H. Ginsberg, "US –EC Relations" in Juliet Lodge (ed.), The European Community and the Challenges of the Future (London: Pinter Publishers, 1989), p.263.
[5] Featherstone and Ginsberg, n.2, p.119.

of the reasons behind the EC's quest for independent policy actions. In this chapter, the relationship is briefly examined over the last four decades. Historical examination enables us to explore themes, trends and patterns as we search for root explanation of the problems in bilateral relations today.

The basis for close transatlantic alliance during the hegemonic period was established when the eastward expansion of Soviet Union and the following Cold War forced the Europeans to accept American leadership and protection. The decisions taken in the early 1950s to create transatlantic and European institutions to strengthen the overall position of the western world laid the foundation of US-EC economic relations for the following decades.[6] In 1947 US Secretary of State George Marshall offered massive aid to revive war-torn economies of European countries. The great European integration movement would probably never have begun without the bold initiative of the Marshall Plan. George Marshall went to Harvard on June 5, 1947 to preside over the commencement ceremonies. The speech he delivered was remarkable in every way because it proposed massive financial aid from the US just not to finance reconstruction work- the conventional solution- but to get the wheels of the economy rolling again. The idea of the Marshall Plan was to enable Europe to restore a trade-based economy, if need be by means of import, so that the machinery of the European economy could once again function normally, after which Europe could cope with the job of reconstruction itself.[7]

In money terms the amount of aid involved was huge, and quite considerable for the time. The plan was for a $17 billion programme over four years. The plan succeeded brilliantly. Since the beginning of the war the average standard of living of the Europeans had fallen by 8 per cent, that of Germany by 15 per cent and of the Italians by 26 per cent. By the end of 1951, after three and half years of Marshall Plan aid, the European standard of living had grown by 33.5 per cent. More important the programme laid the foundation of the exceptional economic growth rate of 4.8 per cent.[8]

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[6] *Ibid.*,p.129.
[7] "From the Marshall Plan to the EU 1947-1997", speech by Valery Giscard d Estaing, Chairman of the Foreign Affairs Committee of the French National Assembly, April 18, 1997, The Foreign Policy Association, New York, http://www.eurunion.org/news/speeches.htm
[8] *Ibid.*

By establishing the Organization of European Economic Cooperation (OEEC) to monitor the Marshall aid program in 1954, the US encouraged European governments to work together for economic reconstruction. The US also let moral and diplomatic support for the creation of the organizations that eventually became the European Union. Leaving out the traditional East European market, the EC members were thrust into an intense trade relationship with the US, although the US markets were perhaps more costly and artificial than markets to the East.[9] The US envisaged a unified EC partner, not a competitor, in its plan for a post-war, Atlantic-centred world trade and political order. The US sought to rebuild Europe as a major market outlet and to incorporate it into a new bilateral, non-discriminatory world trade order. Sensitive to the economic nationalism and trade protectionism of the inter-war years, the US sponsored the creation of GATT in 1947 to codify rules providing for fair and equal trade among members. Support for a revitalized Europe as a bulwark against the spread of communism and as an indispensable participant in the emerged liberal world trade order became the cornerstone of post war US foreign Policy.[10]

The seeds of future misunderstanding were sown with the EC's founding. The very notion of a common external tariff (CET) inevitably discriminates to some extent against non-members. It was thus no surprise that EC would do some work against the US vision of the post-war world liberal economic order.[11] In return for a rebuilt and prosperous European partner the US tolerated, perhaps underestimated, the cost to it's foreign trade of the high EC tariff barriers, export subsidies, EC tariff reductions for privileged non members and competition with EC members in third markets. What brought the two sides together in the 1950s were a mutual fear of Stalinist Russia, Soviet rejection of US reconstruction aid and the GATT, but in later years the need for one another's market became less significant in the 1960s as both sides began to find other lucrative markets and as the Soviet threat lessened and détente took root.[12]

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[9] Roy H Ginsberg, Foreign Policy Actions of the European Community the Politics of Scale (Boulder: Lynne Rienner Publishers, 1989), p.137.
[10] Ginsberg, n.4, p.264.
[11] *Ibid.*, p.265.
[12] Ginsberg, n.9, p.138.

By 1962, the US had begun to loose its earlier influence over EC. Realizing the EC could become a strong economic power in its own right and carry out an independent foreign policy, President Kennedy announced his "Grand Design" in July 1962. This was the first symptom towards the era of hegemonic decline. The US proposed that the two sides of the Atlantic share more equitably in the management of mutual interest. The US attempt to share the economic burden with the EC regarding it as a partner rather than a dependent. But the EC was not ready to shoulder the kind of burdens the US was attempting to place on it. US high hopes for the "Grand Design" quickly faded as the two sides entered the confused and agitated period of the following decade.[13]

By the late 1960s the relationship declined as the US had begun to feel threatened by the EC as it grew in strength and function. EC integration reached a higher level when the Common External Tariff (CET), Common Agricultural Policy (CAP), Customs Union, Common Competition Policy and free labour movement were achieved. The new structural base served as a platform for assertion in the outside world. This made the EC member states to project both their policies for attaining competitive equality with US industry and to regain their former world roles. Prior to this period the EC was too pre-occupied with internal developments to challenge the primacy of US foreign policy leadership.[14] The more self-centred economic policies of the EC made the Americans to think that EC is riding over them for its own economic upliftment.

The US also withdrew the focused attention from the EC as the US faced balance of payment (BOP) deficit in the late 1950s. The US began to focus on its own economic problems and less on Europe's. All these days, the US calculated that any damage from EC integration to its producers would be compensated by the political advantage of an EC ally. But US support became unsteady in the 1960s, when the EC was perceived to threaten US trade interest without much of political advantage.

Some of the factors that led to the gulf between the EC and the US in the 1960s are discussed below:

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[13] Ginsberg, n.4, p.265.
[14] Ginsberg, n.9, p.138.

In the early 1960s, the EC began to extend tariff- cutting accords to former colonies and close trade partners in Africa and the Mediterranean. The US saw this as discriminatory to its exports and in opposition to its vision of a liberal world trade order envisaged in GATT.

The notorious "Chicken War" broke out between the US and the EC in 1963-1964. The new Common Market organization for poultry or the new CAP poultry policy in 1963 enabled EC to set high import levies to protect domestic industries from outside competition. This had a devastating effect on US shares of the EC poultry market. Compelled by the pressure of domestic industries, the US retaliated by imposing high tariffs for several EC exports to the US in 1964. Poultry were less of an issue in the so called Chicken war than was CAP itself. By 1967 the CAP covered most farm commodities and US exports of CAP items dropped just as intra-EC farm trade and EC farm productions went up.[15]

The Kennedy Round of GATT showed the EC ability to be tough and united in negotiations with the US. In the late 1960s détente caused further diversions in transatlantic relations. Some EC members saw the benefit of the détente partly in terms of new market of opportunities in Eastern Europe.

During 1963 to 1970 the US and the EC were caught up with hostile competition as they tried to adjust to their changing relative position in the world. By the 1970s other centres of economic powers had emerged. The US was in a weaker position to dominate world trade. The strictly bipolar world configuration of 1960 simplified and necessitated EC-US cooperation. The multipolar, interdependent world configuration of the 1970s and 1980s complicated and added new pressures to the relationship. The US found that outside NATO its European allies had increasingly become economic competitors and in some cases adversaries. Memories of war and post-war collaboration faded as a new

[15] Ginsberg, n.4, p.267.

generation of Europeans came and relations began to crack. The US and the EC entered into what might be considered normal competition between states in peacetime.[16]

The mistrust between the EC-US relations grew in the 1970s. The mistrust comes from several diverse but mutually reinforcing sources. The cumulative corrosive powers of American involvement in Vietnam followed by the revelations of Watergate have greatly reduced European confidence in the US as the leading western democracy. US action in unilaterally imposing a 10 percent import surcharge in 1971 and unilaterally embargoing exports of soybeans in 1973 reduced European trust in the US. Europeans became skeptical of new American initiatives and proposals and were no longer willing to examine them at face value.[17]

In the early 1970s, transatlantic economic relations have also witnessed intense frictions and bitterly fought trade wars over allegations of trade protection, subsidies and retaliatory measures. Both the EC and the US have engaged in intense competition in a variety of areas. The agricultural sector was the bone of contention between the two and it was in this sector that the major differences between the two sides arose. The US claimed the Community's common agricultural policy and subsidy policies were trade distorting and held it primarily responsible for denying access to US goods. This was articulated by the Williams Commission Report submitted to President Nixon in 1971.[18] Though there were mutual understandings to combat protectionism and to preserve free trade, but in practice one subsidy was matched by another. The US had no compulsion about safeguarding its agricultural interest as the Trade Expansion Act of 1974, particularly section 301, became a powerful weapon in the hands of the US President to safeguard American interests in trade disputes. Similarly, the omnibus Trade and Competitive Act of 1988 allowed retaliatory measures to be imposed on countries, which were deemed to have violated the principles of free trade.

The Nixon Administration ended traditional US support for EC bodies, preferring

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[16] Ginsberg, n.9, p.138.

[17] Richard N. Cooper, "Trade and Monetary Relations between the US and Western Europe" in (ed.) David S. Landes, Western Europe the Traits of Partnership, Vol.8 (Lexington: Lexington Books, 1977), p-325.

[18] Nimmi Kurien, "Changing Dynamics of Transatlantic Relations", *International Studies*, Vol.38 (3), 2001, p.281.

instead bilateral ties with member governments, even on affairs that were clearly under the EC legal purview. It avoided dealing directly with the EC. Coolness and indifference marked and affected the relationship after the 1967 Kennedy Round until the early 1970s.[19]

In the 1970s the EC considered itself to be more of an independent foreign policy actor. In the 1960s the US ran an increasingly large balance of payment deficit due to massive economic and military aid to allies and European accumulation of dollars and a gold drain caused by their conversion into gold. The US balance of payment crisis moved the Nixon Administration to take unprecedented unilateral measures between 1971 and 1973 to strengthen the dollar and combat the domestic recession without prior consultation with the EC partners. President Nixon suspended gold payments for dollars abandoned fixed exchange rates between the major currencies, leaving them to float freely in response to market forces, imposed temporary import levies on products not already subject to quotas. This action of the Nixon Administration shocked the Europeans because they abruptly ended the 1944 Bretton Woods Agreement of fixed exchange rate and the post-war multilateral cooperative approach to international monetary and trade relations. Suspension of dollar convertibility caused upward revaluation of the European currencies against the dollar. For the first time since 1945 the US administration treated the EC as it would a hostile state.[20]

When unilateral actions were taken by the US without taking into account their possible implications for the EC, relations between them got severely strained. One such instance was the US export controls imposed on soybeans in 1973. In order to check a shortfall in domestic supplies of soybeans, the US imposed an embargo on the export of soybeans and cut existing contracts in soybeans by 50 percent and in soybean cakes by 40 percent. To the Europeans, especially the French where cattle industry was heavily dependent on these imports, it "looked like a declaration of war."[21] This issue prompted the European counterparts to increase domestic oilseed production to prevent a

[19] Ginsberg, n.9, p.139.
[20] Ginsberg, n.4, p.267.
[21] Cooper, n.17, p.281.

recurrence of the situation. This adversely affected the zero duty concession on oilseeds, which the US had been enjoying.[22]

In late 1973, a number of countries, notably the US and Germany, adopted policies of economic contraction in order to reduce inflation. By doing so, they raised anxieties in close trading partners with already difficult economic problems would be worsened by a strong contraction of their export markets. As countries individually pursued their anti-inflation policies without taking into account the consequences for other countries, the world was driven into recession by late 1974, the worst since the second World War. Unemployment in 1975 reached a million persons each in Britain, France, Italy and it exceeded 8 million persons in the US.[23]

The unilateral decision taken by the US on some crucial trade issues motivated the Europeans toward greater trade, monetary and political independence from the US. This period represented an important turning point in EC-US relations because it was at this juncture that the EC began to consider seriously the need to develop policies more independently of the US and began to take foreign trade policy actions rooted in the global interdependence. Although Britain's accession to the EC in 1973 was an event long encouraged by the US, British membership signaled increasing EC's role in international economy and more importantly US isolation and inability to act in regard to the EC foreign policy activity.

In 1973, there was a surprising and brief turnabout in US attitudes towards EC. The Nixon Administration attempted to reverse years of neglect of EC allies by announcing a new initiative called "The Year of Europe". Articulated by Secretary of State Henry Kissinger, the US called for a new "Atlantic Charter" to revive US-European relations. The US sought to redirect the developments of EC foreign policy activity back to its former base in Atlantic interest. Anticipating European Political Cooperation's (EPC) potential to challenge the U.S. leadership of the Western alliance, Kissinger insisted that the US should be consulted on EC's foreign policy actions or declarations

[22] *Ibid.*
[23] Ginsberg, n.9, p. 327.

before they were taken or made. This compromise known as 'Gymnich Formula' came in June 1974 whereby the EC agreed to inform friendly governments.[24]

The "Year of Europe" proposed by Kissinger when the EC was beginning to stress its own foreign policy identity through EPC. But the statement issued by Kissinger that the European interests were largely regional compared to US interests who were largely global, was offensive to Europeans. The Europeans viewed the "Year of Europe" with suspicion. Instead of a new Atlantic Charter called for by the US, the EC responded belatedly with statement of principles that fell short of US hopes. But in the focus of the controversy was quickly overtaken by the Middle East crisis.

The EC members failed miserably to act with unity on a trade issue during the Arab-Israel conflict. There were divergent views on OPEC price actions. US commitment to Israel conflicted with the EC's attempt at a more evenhanded or some may say pro-Arab policy. EC's dependence on oil imports from Arab countries had always made it more vulnerable then the US to embargoes and price increase. The EC took special care not to offend Arab League members. The oil embargo of the Netherlands made the other EC member states to conclude bilateral trade accords with Arab oil producers, which not only antagonized US but also was the cause of the failure of the Washington Energy Conference in 1974.[25] Establishment of the Euro-Arab dialogue in 1974 to forge economic, financial, technical and cultural links between the EC and Arab League members met harsh American criticism.

Some sort of hope was restored in 1975 for the rest of the decade by the conclusion of the Helsinki Accord, which sought to enhance cooperation in areas of mutual concern and on an equal basis. Another event, which may be regarded as a silver lining over the dark cloud of transatlantic trade relations, was the Lome Convention of 1975, wherein the EC eliminated reverse preferences, which pleased the US. In earlier trade accords with African, Caribbean and Pacific (ACP) associates, the EC not only offered tariff reductions for the signatories but also itself received preferences. Bitterly

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[24] Featherstone and Ginsberg, n.2, p.14.

[25] Rene Schwok, US-EC Relations in the Post Cold War Era (Boulder: Westview Press, 1991), p.32.

attacked by the US as discriminatory against its trade, the Lome Convention included only tariff reductions for the ACP states.[26]

In spite of the political differences over the Middle East crisis and other issues, the Carter Administration took several actions to improve bilateral trade relations. In addition to concluding the tough going Tokyo Round President Carter lent support to the EC by directing the official foreign agricultural bureaucracy in Washington to accept the Common Agricultural Policy (CAP) as a *fait accompli* and to work with it. [27]

A new phase of transatlantic trade relations began in the 1980s. The Reagan Administration was willing to use trade when necessary as a tool of foreign policy in confronting its adversaries. But EC generally did not share the US view. More sensitive to export trade for a variety of historical and contemporary economic reasons the EC was less inclined to consider using trade as a lever. The goodwill the Carter Administration tried to generate toward the EC was replaced by old economic antagonism as the Reagan Administration took office. Though President Reagan supported the view of United Europe but vociferously attacked the discriminatory effects of EC internal and external trade policies. The Reagan administration revived a catalogue of complaints against the CAP. He hoped to change EC farm policy thorough direct pressure or official complaints at the GATT. The trade conflicts in the 1980s were based on the following contentious issues.[28]

a) *Export subsidies*: The US claimed that the EC dumped surplus products on the world market using subsidies that caused gluts, depressed prices and put US exporters at a relative disadvantage. The EC refuted US allegations, resisted efforts by the US at the GATT to reach international agreement on the matter and accused the US of subsidizing its own grain sales abroad as a part of its foreign assistance effort.

[26] Ginsberg, n.4, p.269.
[27] *Ibid.*
[28] *Ibid.*, p.270

b) *Export Credits*: Subsidised EC export credits to keep interest rates on export financing were kept low to promote foreign sales. The US had joined the EC in using export credits to grab larger shares of foreign markets, with an export credits war that cost each side hundreds of million dollars.

c) *High variable import levies*: These levies shield the EC market from world market forces and effectively raise the cost of US food products for European consumers and produce high support prices that encourage European surpluses of many farm products.

In 1980 the long-standing dispute over the EC's export subsidies continued to affect the relationship between the two partners and the agricultural trade was intensified under the Reagan Administration. The issue surfaced when the US sold wheat flour to Egypt in 1983, which traditionally had been a strong market for the EC. The US supplied Egypt with one million tonnes of wheat flour at a rate much below the market rate. The US was fighting subsidies with subsidies. In the same year, it signed a contract with Egypt for the sale of 18,00 tonnes of cheese at a subsidised price. Egypt was offered special term of payment namely, interest-free loans, special sales loans and repayment in Egyptian currency. The US action almost closed the Egyptian market for the EC with regard to these two products. On the contrary the EC imposed import restrictions on soybean and corn gluten products, which were exclusively supplied by the US, and a consumption tax of nearly 8 percent on vegetable oils and fat from the US. These two retaliating measures by the EC substantially damaged US trade interests. Together, these measured affected $5 billion worth of US exports, which constituted 60 percent of its agricultural exports to the EC.[29]

The hormones issue was one of the major causes for the EC-US trade conflicts in the 1980s. EC prohibited the use of hormones on health grounds in 1985. In objection the US criticized the EC's third country Meat Directive that laid down specific guidelines for the management of health standards in slaughterhouses, meat processing and packaging establishments. The US announced counter measures, which included a 100

[29] Cooper, n.17, p.282.

percent tariff on certain EC exports. However, the realization that trade liberalization was in the interest of both parties and the setting up of a task force averted an escalation of the trade war.[30]

The second Reagan administration (1985-89) was the most confrontational since the 1963 chicken war. Several trade disputes were settled only after the US and the EC imposed or threatened to impose punitive duties and quota against each other. Disputes centred on continued US complain against the CAP, access of EC steel to the US market and members' subsidies to Airbus industries.

The accession of Spain and Portugal in 1986 triggered another round of EC-US trade disputes. Under the term of accession, Spain and Portugal imposed measures that the US claimed would restrict its trade. First, the EC required Portugal to purchase about15 percent of its grain from other EC members. Second, with Spain's transition from its own lower tariff scheme to the EC's much higher CET, Spanish imports of corn rose from 20 to 100 percent. US officials estimated that the higher Spanish duties would cost the US $400 million in corn export to Spain only.[31] When the EC insisted that its action would not harm US trade and it appeared that the EC would not offer adequate compensation to the US for the expected trade loss, the US imposed quotas on EC exports of white wine, chocolates, candy, apple and beer in retaliation .The US drew up a list of EC products whose access to the US markets would be restricted if adequate compensation were not given. The EC countered with its own list of US products whose access to the EC markets would be restricted if the US took punitive actions against it. Negotiations broke down in late 1986 and the US announced its intention of imposing 200 percent duties on imports of several EC farm products, amounting to about $400 million in annual sales in the US. The EC indicated it was prepared to retaliate on imports of US farm products. However, the posturing ended in early 1987when the EC granted the US adequate compensation by ensuring that Spain imports 2 million tonnes of corn

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[30] *Ibid.*
[31] United States International Trade Commission, http://www.usitc.gov

from non EC suppliers over each of the next four years. The EC provided for the compensation in the form of lower tariffs on over twenty industrial and farm products.[32]

The chief cause of trade friction was the external effects of domestic politics and policies. Most of the disputed trade is rooted not in aggressive nationalist behaviour or hostility by one partner towards the other but in different approaches to economic, industrial, agricultural, social and trade policies that are as old as the EC-US relationship itself. International economic and political problems were grossly reflected in trade policies.[33] The soaring US trade deficit fuelled Congressional pressure to enact protectionist legislation to assist such depressed industries as agriculture, textiles and steel. For its part, the EC went on the defensive as the US protested against its growing share of world food markets and the method used to support this expansion. In late 1985, the EC began an annual practice of presenting the US trade representative with a list of US trade practices claimed to have hampered exports to the US including the export enhancement programme.[34]

There were differences on interpreting the GATT laws by the two partners, which made the bilateral trade issues more confrontational. According to the rule of GATT, farm export subsidies are permissible if they do not take more than an "equitable share" of the market and do not undercut world market prices. The EC invoked GATT rules to legitimise its export subsidies just as the US invoked the same rules to challenge the EC practices. The number of EC-US trade disputes have risen as the EC has grown from a food deficit region to one of the world's largest exporters of cereals, dairy products, meat and sugar.[35]

The EC and the US have been publishing annual reports since the mid 1980s detailing obstacles to trade, in each other's market. These reports were politically charged because of the negotiations in the Uruguay Round anticipating which trade practices or

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[32] *Ibid.*
[33] Featherstone and Ginsberg, n.2, p.170.
[34] Ginsberg, n.4, p.273.
[35] *Ibid.*

which side is more restrictive. It clearly exhibited the official thinking of Washington and Brussels towards one

US-EC Trade, 1985-1990

Year	**US Exports**		**US Imports**		**Balance**
	$ bns	**% Change**	**$ bns**	**% Change**	**$ bns**
1985	49.0	-3	67.8	13	-18.8
1986	53.2	9	75.7	12	-22.6
1987	60.6	14	81.2	7	-20.6
1988	75.9	25	84.9	5	-9.0
1989	86.6	14	85.1	0	1.5
1990	98.0	13.5	92.0	8	6.0

Source: United States International Trade Commission, http://www.usitc.gov

another. In its 1989 report, the United States Trade Representative (USTR) listed, among others, the following EC barriers to US trade:[36]

- Variable levies on farm products that are set sufficiently high to raise imported product prices above EC price levels;

- Violation of public procurement policy code defined by GATT;

- Export subsidies on farm products that are based on the difference between internal EC price and the world price or at levels below world prices;

- The ban on use of all hormones in livestock production and meat products imposed by the EC; and

[36] *Ibid.*

- French, German, British and Spanish government financial support for the Airbus aircraft production.

In a retaliatory attempt to show that US itself is not free of restrictive trade and investment practices, EC published its annual Reports on United States Trade and unfair Practices: *Problems of Doing Business With the US.* In its report EC documents the US barriers as:[37]

- Subsidized farm exports through the export enhancement program under the 1985 farm bill;

- Section 301 of Trade Act 1974 as amended in the 1988 Trade and Competitiveness Act which enables the US government to take unilateral action outside the GATT to redress allegedly unfair foreign trade practices;

- Restrictive government procurement practices at the state and federal levels;

- The Buy American Act of 1988 the US placed second restrictions on the purchase of foreign produced goods by federal agencies.[38]

- Restrictions on foreign ownership of certain manufacturing plants considered by the US president to adversely affect US national security.

Of all the disputes discussed above, CAP is the most contentious issue between the US and the EC. The CAP formed the bedrock of the EC since it was a part of the original package of compromise between French agricultural and German industrial interests. The EC has been attempting lower the price support since the mid-1980s to discourage over-production of butter, milk, beef and cereals. The US views that the CAP distorts European and world agricultural markets because excessively high price supports that encourage over-production. The US claims that during the thirty-year history of the CAP,

[37] *Ibid*
[38] Featherstone and Ginsberg, n.2, p.202.

the EC has gained self-sufficiency in many farm products through a highly protected internal market with artificially high internal support prices.

To enhance farm income and to retain rural employment the EC maintain high internal price support. As a result of the price support the EC is left with huge unwanted surplus which are too costly to be competitive on world markets. So export subsidies are given to make farm products more competitive abroad. Unlike the US, the EC does not have adequate storage facility the alternative way to support farm income without over-production and depressing world prices.

The US-EC subsidy war has been fought to outspend one another in enhancing sale in third country markets. The US has been pressing EC to take other steps to support farm income other than export subsidies. The US maintains:

- US exporters are put in a comparative disadvantage position in a third country markets where EC export subsidies have been used; and
- The EC export subsidies violate GATT rules. GATT rules permits the use of export subsidies on certain primary products so long as the measures are not used to obtain more then an "equitable share" and so long as the subsidized exports are not priced substantially below those of other suppliers to the same market.

But till date the EC and the US have been unable to agree upon the issue, what precisely constitutes an equitable market share. As result, the subsidy issue is not settled yet and both the parties are engaged to outspend one another in the quest to maintain or expand third country market shares through subsidization.

In 1970s the US protested against the EC export subsidy policy and sought bilateral and multilateral negotiation. But it was all in vein. That time the US did not take any punitive measures to counter the EC export subsidy policy because US policy of support for EC integration was the cornerstone of US foreign policy. But in 1980s, a time of transition from hegemonic decline to post-hegemony the US retaliated the EC export subsidy policy by the congress passing legislation and enabling the US government to act against it. The EC forced the hand of the US to act in its own defense. The result has been a war of money to determine ownership of foreign agricultural market shares. In the post-hegemonic period US had maintained less restraint towards EC where as EC had begun to challenge the supremacy of US foreign commercial policies.

The EC economies are now less dependent than they were on the US because of intensification of intra-EC trade. Furthermore as a strong trading partner, the EC could serve as a cushion when things go wrong in another part of the global trading system. It has already proven that the EC market can act as a shock absorber for the world economy.[39]

US Foreign Direct Investment in the EC

Though there were business establishment in Europe in the early part of 20th century the US investment in the Europe soared after the Treaty of Rome was signed by the six European nations. In the 1960s some European felt dominated by infusion and invasion of the US capital in European market. In regard to the US-EC investment relationship Jean Jacques Servan-Schreiber, who founded *L'Express* wrote:

> One by one American firms were setting up headquarters to coordinate their activities through Western Europe. This is true federalism - the only kind that exist in Europe on an industrial level...Most striking of all the strategic character of American industrial penetration. One by one, US corporations capture those sectors of economy most technologically advanced, most adaptable to change, and with the highest growth rates. This flexibility of the Americans...is their major weapon. While common market officials are still looking for a law, which will permit the creation of European wide business, American firms with their own headquarters already from form the frame work of a real

[39] Schwok, n.25, p.58.

"Europeanization"...Their investment do not so much involve a transfer of capital, as an actual seizure of power within the European economy.[40]

By the mid 1960s considerable American investment had penetrated in western Europe that some scholars predicted that western Europe would soon become a technological satellite of US. Foreign direct investment in Europe continued throughout the 1970s and leveled off in the first half of the 1980s. Considering the entire period between 1972 and 1985 and excluding the UK, the US investment in EC grew 200 percent. From 1970 to 1988 US direct investment in Europe jumped from 15 per cent to 40 percent of overall US direct investment abroad.[41] Us investment totalled $72 billion in 1984 where as it had risen up to $173 billion by 1990.[42] Interestingly given the sensitive relationship between the French and the American government, France during the 1980s emerged as in increasingly important recipients of US foreign direct investment in the manufacturing sector.

EC Investment in the US

European direct investment began to be noticeable in the period after 1972. The period 1972-1982 saw so much investment that the ratio of the US direct investment stake in the EC to the EC investment stake in the US fell from 2.80 to 0.97. Investment by European firms in the US continued at a rapid pace. More new investment came in between 1985 and 1988 than had existed in the middle of 1982. By the end of 1989, roughly two-thirds of all foreign direct investment flowing in to US was European. During the 1980s the foreign direct investment in the US increased so significantly that the share US of manufacturing assets controlled by foreign investor roughly doubled well exceeding ten percent.[43]

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[40] Alberta Sbragia "The Transatlantic Relationship: A Case of Deepening and Broadening" in The European Union in the World Community (ed.) Carolyn Rhodes (Boulder: Lynne Rienner Publishers, 1998), p.150.
[41] Schwok, n.25, p.58.
[42] United States International Trade Commission, http://www.usitc.gov

[43] Sbragia, n.40, p.153.

The investment relationship between the US and the Europe has remained the most important in the world with nearly half of total US foreign direct investment targeted in Western Europe and half of all foreign direct investment in the US originating from Europe. For example, roughly the same number of German workers are employed by US owned firms as US workers employed by German owned firms in the US.

In general the investment relationship is an absolutely critical. Investment interdependence between the US and the EC more tightly enmeshes their economies than does bilateral trade. There is no larger investment partnership in the world between two separate economic entities other than the EC and the US

Conclusion

The growing independence of EC from the US and the emergence of complex interdependence in transatlantic trade since the 1970s signify that US is a military superpower but an equal partner in trade with EC. However, in the global political economy the US capacity to dominate EC is on the decline. Indeed EC is another economic super power with which the US must coexist. The EC-US relationship of the 1990s will be vastly different from any period since the 1950s. The EC is no longer as dependent on the US as it once was. It has a sense of self-worth and mission in the world. Its views do not always get with America's, whether it is political or economic.

As the EC and US enter the 1990s, the relationship is based more on equality and interdependence and less on inequality and dependence. Since both the EC and the US have much at stake in one another, an increased symmetric interdependence can trigger difference. Transatlantic relations can be expected to remain on a rocky, or more to even rockier courses in the future.

At the end of Cold War as we are, and hope to remain in a global peacetime the sense of urgency to cement bilateral ties has lessened. On the contrary it has given way to competition and rivalry as both the friends and foes attempt to function in a complex, multi-actor, fast changing world. The vibrant economic success of the EC will build European political self-confidence and thus encourage further assertion in world affair. This will lead to more confrontation in relation with the US. The US and the EC must be quick to learn to how best to manage the new reality without loosing what they have already gained. A more economically confident EC is likely to be a move formidable actor in transatlantic and international affairs. The US must quickly adjust and learn how to work with the EC in more effective ways. Trade brinkmanship is dangerous and may set the international trade order back to the pre war days. Likewise, the EC must learn to deal with the US more effectively by forming a more cohesive unit and more closely considering the effects of internal policies on its old patron before taking action that is likely to trigger a heated response.

A new era of symmetry in EC-US economic relations has arrived, given the EC's economic renaissance and movement towards a completed single market and the possibility of Economic and Monetary Union (EMU). The EC- US economic relations have been a trek from inequality to equality of partnership ever the past four decades.

CHAPTER-II

TRANSITION IN THE EU-US RELATIONS

IN THE POST COLD WAR PERIOD

Introduction

A decade later after the end of Cold War, the transatlantic relationship has become the object of intense scrutiny. By the 1990s the US and the EU had arrived at a new juncture in their partnership. Bilaterally the EU and the US are profoundly interdependent. In the 1990s bilaterally the two sides have huge stakes in world trade accounting for nearly half of all world imports and exports and the lion's share of total world investment. Trade and investment related employment account for approximately 6 million jobs in the US and the EU. Multilaterally, the two have favoured a liberal world trade order by concluding WTO rounds of multilateral trade negotiations. These rounds have reduced international tariffs from about 50 percent to 90 percent since the GATT was created more than 50 years ago. Two way trade between the US and the EU rose from $190 billion in 1990 to $351 billion in 1994, when the EU received 23 percent of US exports and the US received 18 percent of EU exports. In 1996 about 50 percent of the US foreign direct investment position was in the EU and almost 60 percent of EU foreign direct investment was in the US. Bilateral trade and investment, and the sales generated by investment, top $1 trillion annually.[1]

But, in the post Cold War period the transatlantic relationship has reached a new plateau. No longer is the US a hegmon with the EC orbiting in its sphere. Best described as a post hegemonic and complex interdependent relationship, the US and the EC have entered the 1990s on a much more equal basis with important implications for the future of their international relations.

[1] Kevin Featherstone and Roy H. Ginsberg, The United States and the European Union in the 1990s: Partners in Transition (London: Macmillan Press Ltd., 1996), p.3.

The end of the Cold War seemed to indicate a new era and the unraveling of an alliance that had been created in response to a Soviet threat that now no longer exist. The European states, relieved of this threat, might well cease their Cold War bandwagoning behaviour and instead begin to balance against one another or even against American power. Moreover, this distancing could occur not only in security policy, but also across a range of economic issues, since the end of the Cold War seemed to remove the imperative to contain international, commercial or financial conflicts for the sake of preserving the anti communist alliance. Without the Cold War concerns that held it within the Atlantic orbit, France has become the most vocal critic of American Power advocating it's own autonomy and to steer the EU toward a more independent course. Near the end of his life President Francois Mitterrand declared, "France does not know it, but we are at war with America. Yes, a permanent war, a vital war, an economic war, a war without death. Yes, the Americans, they are voracious, they want undivided power over the world".[2] And President Jacques Chirac has called for a more balanced distribution of power in the world.[3]

Economic and trade frictions as well as European resentment of American domination is increasingly evident and calls for European autonomy and gradual American disengagement from European affairs can be heard from both the sides of the Atlantic. The economic differences between the transatlantic partners are not post-Cold War developments. But implications of such differences today are much different than during the Cold War years. And such differences have to be read along with the political ones and rising strategic divergences between the United States and EU members. Scholars have started arguing that the United States and the EU "are on the brink of a major trade and economic conflict... global impact of a commercial disputes between these two titans (the US and the EU) could be severe including systematic damage to the World Trade Organization (WTO), especially it's crucial but fragile dispute settlement mechanism."[4]

[2] Robert J.Liber, "No Transatlantic Divorce in the Offing", *Orbis*, Vol.44 (4), Fall 2000, p.573.
[3] *Ibid.*
[4] C. Fred Bergsten, "America's Two-Front Economic Conflict", *Foreign Affairs*, Vol.80 (2), March-April, 2001, p.573.

The recent strains in transatlantic trade relation are examined in this chapter. It is argued that the strains are not temporary in nature due to some foreign or economic policy shift rather than structural and enduring. The transatlantic relations are becoming more permanently loosened by such fictions at the end of the Cold War. The relative shift in priority from security to economic, other domestic affairs and changing trade patterns in the US and the growing relative importance of other regions to both the US and the EU are the causes, which are described below.

The Sources of Change

The end of the Cold War:

The most fundamental reason why the cohesion of the Atlantic alliance is weakening is that it is no longer held together by a common threat. Though many supporters of close transatlantic relationship argue and the alliance was not only about the Cold War and of course of shared values and economic links are still important but it was the Cold War-more than the Second World War or anything else that inspired the US to become a European Power, to invest so much commitment and money in Europe and to remain engaged in Europe through good times and bad.[5] The logic of the 'Cold War as glue' argument is that with the US and the Western Europe involved in a global struggle against a clear enemy, both Americans and Europeans needed allies. Whether one interprets the Cold War as a genuinely ideological as an excuse the conclusion for Europe and the US was the same: maintaining a close political, military and economic alliance between the US and Europe was vital. Thus few of the many serious frictions between the two allies really risked leading to the dissolution of the Alliance itself. The common purpose held them together even though there were temporary divergences in their interest. It may be politically correct to say that the demise of communism will not result in a loss of common interests and commitment but it is too difficult to defend the proposition analytically.

[5] Philip H. Gordon, "Recasting the Atlantic Alliance", *Survival*, Vol.38 (1), Spring 1996, p.33.

Domestic priorities in the US:

As far as the US is concerned one of the major consequences of the end of the Cold War is the resulting relative focus on domestic economic affairs. Decisions that might in the past have been influenced by the need to preserve or strengthen the transatlantic partnership, even at economic cost will now be based more on economic or purely domestic interests. US economic policy under President Clinton has been consistent with the exception that he would strengthen the US economy.[6] In the Clinton era the priority is always given to domestic problems at the expense of international ones. This is an on going debate about the extent to which US economic policies were subordinated to security priorities during the Cold War period. But recent US foreign and economic policy has significantly changed. According to Jeffrey Garten (until October 1995 US under Secretary of Commerce) "the days when we will subordinate our economic interests to political and security alliances unless we are directly threatened military are over." For Garten, a leading administration spokesman on foreign commercial relations, "we are entering an era when foreign policy and national security will increasingly revolve around our commercial interests, and when economic diplomacy will be essential to resolve the great issue of our age. The US message was clear to its allies both in words and actions. In consistent with that in May 1993, US Under-Secretary of State Peter Tranoff put forth his doctrine better known as Tranoff Doctrine, which says, "It is necessary to make the point that our economic interests are paramount.... With limited resources, the US must define the extent of its commitment and make a commitment commensurate with those realities. This may on occasion fall short of what some Americans would like and others would hope for".[7]

The domestic priorities are not isolated views of some particular administration but strongly reflect the opinion of a majority of Americans who feel the their domestic interests were subordinated to foreign policy goals for too long. Nearly all polling data available suggest that the American public believe that economic interests should be the top priority for the US as a nation. Foreign Policy was not listed among the ten greatest problems

[6] *Ibid.*, p.34.
[7] *Ibid.*,p.35.

facing the country in a recent poll of the general public by the Chicago Council on Foreign Relations[8] in 1995 and the same poll found foreign-policy problems as a percentage of the country's total problems to be lower than at any point since 1978 which was a year of serious economic problems in the US.[9]

Trade and demographic changes in the US:

Generation, demographic and economic changes are all pushing the US away from its traditional European orientation. Even if the Soviet Union had not collapsed in 1991, the new generation of leaders would now be coming to power on both sides of the Atlantic. Within a few years all the Western leaders will be of a new generation. There were growing differences among the elites of the US and the EU as generation change occurred and as demographic changes affected US foreign and commercial policy. In the 1950s, 27 per cent of Americans lived in the northeastern states, which are noted for their focus on Europe, where as today less than 20 percent do. The rise of the American west and south has altered the focus of Americans foreign policy, as has the influence of non- European immigrants. On the other side of the Atlantic, a new generation of European elites has focused more on the building of the EU than on the maintenance of the Atlantic community, which was preoccupation of most of their elders.[10]

From 1820-1974, immigrants from Europe made up 76.8% of all immigrants into the US compared with just 4.6% of Asian and 9% for Latin Americans. After the 1960s due to the political and economic stabilization in Western Europe the US immigration changed dramatically. In the 1970s and 1980s the US took in more than 5 million legal immigrants for Latin America, nearly 4.5 million Asians and only about 1.5 million Europeans.

[8] "American Public Opinion and US Foreign Policy 1995", The Chicago Council on Foreign Relations, http://www.ccfr.org/publications/opinion/chap6.html
[9] Gordon, no.5, p.35.
[10] Joseph S. Nye, Jr., "The US and Europe: Continental drift?", *International Affairs*, Vol.76 (1), January 2000, p.8.

Origins of American Citizens, 1980-2050 *(Note: Figures for 2000 onwards are projected)*

Year	Europe	Africa	Asia	Hispanic
1980	80%	11%	2%	6%
2000	72%	12%	4%	11%
2020	64%	12%	7%	16%
2050	56%	14%	9%	22%

Source: Philip H. Gordon "Recasting the Atlantic Alliance" Survival, Vol.38 (1), Spring 1996,p.37

The US population is thus moving away from its European roots. The number of Americans of primarily European origin fell below 80% in 1990 and is projected to be less than 65% by 2020. In a Times Mirror Poll in 1993[11], Americans from the Eastern part of the country said Europe was more important than the Pacific Rim by a ratio of 53 to 31 percent. Americans from the west said the Pacific Rim was important by 41 to 38 percent. These regional differences further undermine the idea of a consistent national interest that determines the foreign economic policy.

The economic changes are also related to the demographic change, which reflects the growing importance of other markets outside Europe and particularly in Asia. In 1960, Japan and East Asia together represented just 4% of would GNP, while the EC represented nearly 25%. Today the East Asian and the EU shares of would GNP are nearly equal just under 25%. But with much higher economic growth rate in East Asia, the figures will continue to shift in Asia's favour.

[11] "The US-European Relationship", The Program on International Policy Attitudes (PIPA), http://www.pipa.org/OnlineReports/NewBalance/NB1.html

Projected Asian, European and North American GNP (In billion USD)

Year	Asia	Europe	North America
1972	1,871	3,591	3,350
1992	4,511	5,583	5,323
2002	8,079	7,503	7,154

Source: U.S. Census Bureau, Foreign Trade Division, Data Dissemination Branch, http://www.census.gov, Washington.

US trade with Asia has exceeded trade with the European Community ever since the late 1970s and the gap is expected to widen. US trade with Asia is worth about $350 billion today, compared to $220 billion with the EU and $232 billion with Latin America. Despite the huge US trade deficit with Asia, the region still takes in more US exports ($130 billion) than the European Union ($11 billion). In 1992 the share of US exports to Asia exceeded that to Europe by 33% to 26% and the share of imports from Asia was greater by a ratio of 45% to 21%. The formation of NAFTA with its 385 million consumers and potential for expansion elsewhere into Latin America will also divert some US trade from Europe.

It is thus not surprising that the great dynamism and potential size of the Asian economies have attracted the attention and excitement of the US business and political communities. Of the ten "Big Emerging Markets"[12] defined by the US Commerce Department as Priorities, only two Poland and Turkey are in Europe and none is Western Europe.[13]There is no reason why a country cannot have good relationship with several regions at the same time. Europe will remain close culturally to the US than Asia or even Latin America but in relative terms its importance to the US is declining.

[12] The countries are China (including Taiwan and Hong Kong), India, Indonesia, Brazil, Mexico, Turkey, South Korea, South Africa, Poland and Argentina.
[13] John Stremlan, " Clinton's Dollar Diplomacy", *Foreign Policy*, No.97, Winter, 1994-95, p.18.

US imports and Exports from Europe and Asia-Pacific ($US million)

	Import				Export			
Year	*Europe*	*% Of Total Imports*	*Asia Pacific*	*% Of Total Imports*	*Europe*	*% Of Total Exports*	*Asia Pacific*	*% Of Total Exports*
1950	1,449	16.4	1,846	20.0	3,306	32.2	1,690	20.1
1960	4,268	29.1	2,987	20.4	7,398	36.0	4,700	22.9
1970	11,395	28.5	10,492	26.3	14,817	34.3	11,216	26.0
1980	46,602	20.0	83,691	36.0	67,512	30.6	70,285	31.8
1992	115,282	20.0	248,768	45.1	109,831	26.1	140,130	33.3

Source: U.S. Census Bureau, Foreign Trade Division, Data Dissemination Branch, http://www.census.gov, Washington.

Europe's own reorientation:

The opening of Central and Eastern Europe will inevitably shift Europe's attention towards the east. Europe's interests in stabilizing Central and Eastern Europe is for greater than that of the US, just as US interests in Central and Latin America are greater. European resentment over Washington's $40 billion bailout of the Mexican government in January 1995 is a good example of the sort of conflict that may divide the Atlantic allies. And that may give the European counterparts a good excuse to extent their agricultural policy towards east when the enlargement takes place. If the trade barriers are lowered within the NAFTA bloc and within the expand EU but not between the two blocs, the level of trade friction will rise where as trade between EU and US will fall.

Europe is also being affected by the same Asian economic dynamism the EU's own trade with Asia has grown considerably since the 1960's. In recent times most of the EU leaders made a priority of expanding their role in Asia. With persistent double digit unemployment and their own domestic priorities, EU is now less likely to follow Washington's lead on global political problems if it means denying themselves commercial relationship with countries like Iran, Iraq and China.[14] The US and the EU are drifting apart in terms of international trade. Since the mid-1980s, Asia has exceeded Europe as a destination for American trade and American trade with Asia is now one and half time its trade with Europe. At the same time, just as Europe has been tightening it's trade relations through the growth of intra-European trade, the US has been increasing its economic integration in the western hemisphere with the development of NAFTA. The creation of the European Monetary Union (EMU) and the launching of Euro at the beginning of 1999 were greeted by a number of observers as a major challenge to the US and to the role of the dollar as the dominant reserve currency. The economist Martin Feldstein recently argued that the launch of the Euro could lead to major problems between Europe and the US.[15]

Transatlantic Trade in the 1990s

The context of transatlantic relations changed dramatically with the end of the Cold War. The US responded to the revolution in the Central and Eastern Europe with fundamental review of policy. Changing US policy toward the EC and a continuing surge in the EC's political importance in the late 1980s provided the background to the Transatlantic Declaration (TAD). The broader political and economic context was the new situation that confirmed the Atlantic alliance at the end of the Cold War. The 1990 Transatlantic Declaration sought to institutionalize an impressive range of bilateral

[14] Gordon, no.5, p.40.
[15] Nye, no.10, p.8.

meetings and consultative procedures from presidential to technical levels.[16] The US accepted the proposal by the Council President in early 1990 to formalize EC-US relations. The "Declaration on US-EC Relations" was signed in Washington in November 1990 by President Bush and the president of the Council and Commission. The declaration traced the bilateral principles and objectives of US-EC economic and other relations and the levels, frequency and content of bilateral consultation. Though some in the US administration had hoped for a treaty institutionalizing US-EC relations, the declaration was all that could reach by the negotiation. In the realm of economics, the declaration commits the US and the EC to:[17]

- promote market principles, rejects protectionism, and expand, strengthen, and further open the multilateral trading system;

- inform and consult each other on important matters of common economic interest with a view to bringing their position as close as possible and to cooperate in appropriate international bodies;

- expand their dialogue to include discussion of matters such as technical and non-tariff barriers to industrial and agricultural trade, services, competition policy, transportation policy, standards, telecommunications, high technology and other relevant areas; and

- strengthen mutual cooperation in exchanges and joint projects in science and technology, including research in medicine, environment protection, pollution prevention, energy, space, high-energy physics and the safety of nuclear and other installations.

[16] Charlotte Bretherton and John Vogler , The European Union as a Global Actor, (London and New York: Routledge, 1999) p.72.
[17] Featherstone and Ginsberg, no.1, p.131.

On April 23, 1990 the EC Commission President and the US Secretary of State led their respective delegations to the first of the new biannual ministerial meetings provided for the Transatlantic Declaration. The EC side was also represented by the EC commissioners responsible for external relations and trade, science, research and development, rural
development, environment, nuclear safety and civil protection, employment, industrial relations and social affairs. The US side was also represented by the Secretaries of Commerce and Agriculture and US Trade Representatives.

The 1990 US-EC Declaration provides a framework for bilateral relations, but it is neither a binding treaty nor an institutional agreement. As a result, the US and the EC must rely on multilateral institutions to provide a legal content for economic relations. The declaration was an important step in formatting the channel for this dialogue by six monthly ministerial consultation between the EU and the USA. However, a prime reason for this initiative was an attempt to deal with the growing discord within the relationship that had arisen over issues such as the protection of "sensitive" industries, market access, agricultural trade, public procurement and more strategic trade related issues.[18]

The "Declaration on US-EC Relations" seemed long on rhetoric and short on substance. Changes in the political atmosphere, however, had little effect on the long standing problems and the tensions in the economic relationships. No sooner had the EC signed the Transatlantic Declaration than the Uruguay Round collapsed in Brussels in December in 1990 over trade differences. The talks broke down with the US and the EC accusing each other of never having been serious about a successful conclusion. The EC specially objected to what seemed like excessive and high handed US demands for CAP reforms at a time when the Commission had not completed its own internal negotiations on this sensitive issue.[19] What was less evident in the strike surrounding in the final stages of the Uruguay round negotiations was the extent to which it illustrated the quality

[18] Christopher M.Dent, The European Economy-The Global Context (London and New York: Routledge, 1997) p.219.
[19] Desmond Dinan, Ever Closer Union-An Introduction to European Integration (London: McMillan Press Ltd., 1999), p.537.

of the economic relationship between the US and the EU: a continuing pattern of intractable disputes obscuring a far larger set of common interests vis-à-vis the rest of the world. Well publicized disputes between the US and the European negotiators over the issues such as trade in services, intellectual property and anti-dumping and subsidy rules suggested that the Uruguay round was a struggle between the titans with the rest of the world looking on.[20]

The emergence of a CAP reform package in May 1992 made possible the so called Blair House Agreements between the US and the EU which provided for a gradual reduction and limitation of agricultural subsidies. This in turn paved the way for the way for the belated conclusion of the Uruguay round and the birth of the World Trade Organization (WTO) in 1995.

The US administrations' abrupt shift of attention to the NAFTA and to the Pacific with growing emphasis on the Asia Pacific Economic Cooperation (APEC) dialogue rattled European leaders. The result of their anxiety was the sudden emergence in 1994 and 1995 of European calls for negotiation of the Transatlantic Free Trade Agreement (TAFTA). Under GATT rules, any free trade agreement must cover "substantially all trade". Thus negotiation of TAFTA would require opening of all the agricultural and other disputes that had paralyzed the Uruguay Round talks. The idea also raised worries among the WTO members that the EU and the US would retreat to their own cozy condominium, creating the world's largest trading bloc and making the WTO irrelevant.[21]

Thus the second grand bilateral initiative, the "New Transatlantic Agenda" (NTA) was born. On December 3, 1995 President Clinton, Spanish Prime Minister Felipe Gonzales and European Commission President Jacques Santer announced a new agenda on EU-US cooperation at the summit held in Madrid, Spain. The aim of the NTA is progressively to build deeper ties between the EU and the US in four key areas of policy so that they can take joint action rather than just consult each other. This action plan for

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[20] *Ibid.*
[21] Dinan, no.19, p.540.

expanding and deepening EU-US relations overall and Trade in particulars reflects a framework with four shared goals:

- promoting peace and stability, democracy and development around the world;
- responding to global challenges relating to issues such as the environment, terrorism and international crime;
- contributing to the expansion of World Trade and closer economic relations; and
- Building bridges across the Atlantic in the cultural and educational domain.

The most significant announcement in the field of economy in the agenda is to expand world trade and promote closer economic relations. Some of the selective points of the agenda regarding the expansion of trade are produced below.[22]

Both the parties

- Have a special responsibility to strengthen the multilateral trading system, to support the World Trade Organization and to lead the way in opening markets to trade and investment.
- Will contribute to the expansion of world trade by fully implementing our Uruguay Round commitments, work for the completion of the unfinished business by the agreed timetables and encourage a successful and substantive outcome for the Singapore WTO Ministerial Meeting in December 1996. In this context both the parties will explore the possibility of agreeing on a mutually satisfactory package of tariff reductions on industrial products, and will consider which, if any, Uruguay Round obligations on tariffs can be implemented on an accelerated

[22] "New Transatlantic Agenda", European Union in the United States, http://www.eurunion.org/partner/agenda.htm

basis. In view of the importance of the information society, both the parties are launching a specific exercise in order to attempt to conclude an information technology agreement.

- Will work together for the successful conclusion of a Multilateral Agreement on Investment at the OECD that espouses strong principles on international investment liberalization and protection. Meanwhile, both the parties will work to develop discussion of the issue with our partners at the WTO. Both the parties will address in appropriate fora problems where trade intersects with concerns for the environment, internationally recognized labour standards and competition policy. Both the parties will cooperate in creating additional trading opportunities, bilaterally and throughout the world, in conformity with our WTO commitments.

- Without detracting from transatlantic cooperation in multilateral fora, both the parties will create a New Transatlantic Marketplace by progressively reducing or eliminating barriers that hinder the flow of goods, services and capital between us. Both the parties will carry out a joint study on ways of facilitating trade in goods and services and further reducing or eliminating tariff and non-tariff barriers.

- Will strengthen regulatory cooperation, in particular by encouraging regulatory agencies to give a high priority to cooperation with their respective transatlantic counterparts, so as to address technical and non-tariff barriers to trade resulting from divergent regulatory processes. Both the parties aim to conclude an agreement on mutual recognition of conformity assessment (which includes certification and testing procedures) for certain sectors as soon as possible. Both the parties will continue the ongoing work in several sectors and identify others for further work.

- Will endeavor to conclude by the end of 1996 a customs cooperation and mutual assistance agreement between the European Community and the U.S.

- Will allow their people to take full advantage of newly developed information technology and services, and will work toward the realization of a Transatlantic Information Society.

- Given the overarching importance of job creation, both the parties pledge to cooperate in the follow-up to the Detroit Jobs Conference and to the G-7 Summit initiative. Both the parties look forward to further cooperation in the run up to the G-7 Jobs Conference in France, at the next G-7 Summit in the summer of 1996 and in other fora such as the OECD. We will establish a joint working group on employment and labour-related issues.

The New Transatlantic Agenda introduced a dialogue process between the EU and the US such as *Senior Level Group* (SLG), *Transatlantic Legislative Dialogue* (TLD), *Transatlantic Economic Partnership* (TEP), *Transatlantic Business Dialogue* (TABD), *Transatlantic Labour Dialogue* (TABD), *Transatlantic Consumer Dialogue* (TACD), and *Transatlantic Environment Dialogue* (TAED) etc.

The New Transatlantic Agenda included one real innovative dialogue process called Transatlantic Business Dialogue (TABD), which brought together senior corporate officials to set an agenda for government negotiators. The TABD- the first truly transatlantic lobby-quickly showed its value in focusing the attention of trade negotiations in the bread and butter issues most important to those actually doing the trading. It placed a heavy emphasis on unglamorous but important tariff problems and standards, testing, and certification issues. More precisely the goal of the TABD is to encourage the political leaders to analyze the competitive situation on both sides of the Atlantic to ensure that laws and regulations converge wherever possible to allow market forces to accelerate economic growth and job creation and improve international competitiveness.[23]

Originally the idea of the late U.S. Secretary of Commerce Ron Brown, the Transatlantic Business Dialogue (TABD) was conceived to promote closer trade ties between the U.S. and EU. Brown, together with his counterparts in the European Commission, Martin Bangemann and Sir Leon Brittan, sought to encourage public input into fostering a more closely integrated transatlantic commercial marketplace. Both

[23] John H. Duning, "Re-energizing the Transatlantic Connection" in Gavin Boyd (ed.) The Struggle for World Markets (London: Edward Elgar Publishing Inc., 1998), p.8.

governments saw their business communities as a resource to provide innovative ideas into further expanding economic interaction while also reducing costly inefficiencies resulting from out-dated regulatory and legislative practices. Bangemann, Brittan and Brown sent a joint survey to over 1800 firms asking for their advice, input and commitment to the new dialogue process.[24]

Based on the responses received, Xerox Corporation and Goldman Sachs International stepped up and began preparations for a wide-ranging CEO-level meeting in Seville, Spain in November 1995. The first TABD CEO Conference resulted in over 70 recommendations and submitted to the EU-U.S. Presidential Summit held in Madrid in December 1995. New Transatlantic Agenda also supported development of transatlantic business, consumer, labor and environmental dialogues. Since Seville, TABD CEO Conferences have been held in Chicago (1996), Rome (1997), Charlotte (1998), Berlin (1999) and Cincinnati (2000). The TABD CEO recommendations produced at these Conferences are officially submitted each year to the EU and U.S. government leaders at the EU-U.S. Summit.

The 1996 Chicago Conference resulted in a number of innovative ideas, most specifically the idea for a set of Mutual Recognition Agreements (MRA). The meeting also produced strong support for the Information Technology Agreement (ITA) and revised the negotiations on ITA in the WTO, resulting in successful conclusion the following year.

In 1997, the TABD added electronic commerce to the agenda. The TABD became one of the first forums for business and government to discuss new technologies and ways to adapt the regulations on-line. The Rome Conference featured remarks by Renato Ruggiero, the first Director General of the World Trade Organization (WTO).

Vice President Al Gore was the keynote speaker at the 1998 CEO Conference in Charlotte, North Carolina. The meeting itself focused on advancing interests on global trade in the WTO, dealing with the controversy over protection of personal data and dealing with the economic fluctuations resulting from the Asian financial crisis.

[24] "TABD History: 1995-2001", Transatlantic Business Dialogue, http://www.tabd.org/history.html

In Berlin in 1999, the TABD focused on promoting a cooperative EU-U.S. agenda for the Seattle WTO Ministerial. The business community worked directly with Mike Moore, Director General of the WTO, European Commissioners for Trade and Enterprise, and the U.S. Secretary of Commerce, in order to promote continued trade liberalization progress. The TABD also provided recommendations on how to rebuild southeastern Europe by creating the conditions for increased private sector investment.

In 2000, the TABD meeting in Cincinnati dealt with a number of specific topics, as well as the over-arching issue of globalization. The CEOs focused on promoting positive messages of the benefits of trade growth, while recognizing the importance of ensuring the benefits were shared globally. Meeting in the aftermath of the U.S. election turmoil, the CEOs in attendance worked to promote a positive trade agenda for action by the new U.S. Administration.

With the support of the new U.S. Administration and the European Commission in 2001, the TABD reformatted its structure, creating a parallel agenda of CEO priority and Expert-level issues. Focusing on the key issues of concern to business, the TABD was able to make significant progress on the launch of the New Round in Doha, finalizing the negotiations on the Guidelines on Regulatory Cooperation and ensuring the effective development of the Early Warning System. Faced with the tragic events of September 11th, the TABD did not go forward with the CEO Conference. Meeting by videoconference in October, the CEOs pressed senior government to implement the TABD's recommendations in order to rejuvenate economic growth.[25]

Neither the new Transatlantic Agenda nor the action plan contained any reference to a free trade area. Instead to fulfill Uruguay Round commitments and strengthen the international system, the New Transatlantic Agenda called for a new Transatlantic Marketplace to be achieved by progressive reduction or elimination of bilateral trade barriers, stronger regulatory cooperation and commitments to complete various negotiations then in progress. The prime objectives of the New Transatlantic Marketplace Agreement (NTMA) is to achieve:

[25] "TABD History: 1995-2001", Transatlantic Business Dialogue, http://www.tabd.org/history.html

- A widespread removal of technical barriers to trade in goods through an extensive process of mutual recognition and/or harmonization, promoting both consumer and business interests;

- A political commitment to eliminate by 2010 all industrial tariffs on a Most Favored Nation (MFN) basis, through multilateral negotiations, provided that a critical mass of other trading partners do the same;

- A free trade area in services, bearing in mind the criteria and requirements established by the Council;

- Liberalization beyond multilateral or plurilateral agreements in the areas of government procurement, intellectual property and investment.[26]

In attempts to intensify and extend multilateral and bilateral EU-US co-operation in trade and investment, the Transatlantic Economic Partnership (TEP) was created at the EU-US Summit in London in May 1998. The "Partnership" aims, on the one hand, to be instrumental in creating an open and more accessible world trading system, and on the other, to improve and develop the economic relationship between the EU and US.

In order to enhance the multilateral trading system, the EU and US have set shared objectives, which include:

- The full implementation of WTO commitments and respect for dispute settlement obligations;

- Ambitious objectives and offers for the liberalization of services in forthcoming WTO negotiations;

- The multilateral negotiations for the continuation of the reform process in agriculture in full conformity with Article 20 of the WTO Agreement on Agriculture;

[26] "The New Transatlantic Marketplace", Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee, Commission of the European Communities, Brussels, 11.03.1998.

- The intensification of forward-looking work in the WTO on trade facilitation;
- The development of common approaches in appropriate multilateral fora on investment, competition, public procurement and trade and the environment

Bilaterally the "partnership" lays the foundations to enable the EU and US to intensify their efforts to reduce or eliminate barriers to trade and investment between them. All action taken by the parties will be in full conformity with both their international and WTO obligations. Particular attention will be focused on, technical barriers to trade in goods, and services, government procurement, and intellectual property. In order to reduce barriers, the partners will have dialogue with specialised groups, employing a high degree of transparency and consultation with all interested parties.

After the creation of the TEP in November 1998, the European Commission and US Administration adopted a rolling work programme, entitled the TEP Action Plan. This document identifies areas for common actions both bilaterally and multilaterally. Some elements of the plan take the form of trade negotiations and others are achieved through co-operative actions. In developing EU-US trade and investment relations, the TEP has also an important political dimension, since strengthening economic relations between the US and the EU will reinforce their relationship overall.[27]

Two way trade between US and EU rose from $190 billion in 1990 to $351 billion in 1994, when the EU received 23 percent of US exports and the US received 18 percent of EU exports. Intra firm commerce, which to a large proportion of this trade is related to a high level of interdependence in foreign direct investment. In 1995, about 65 percent of the US foreign direct investment was in the EU, and almost 54 percent of EU foreign direct investment was in the USA. By the end of 1999 the US foreign direct investment in EU was 65 percent, same as of 1995 but the EU foreign direct investment in the US had gone up remarkably from 54 percent in 1995 to 66 percent at the end of 1999.

[27] "Transatlantic Economic Partnership", The European Union On-Line, http://www.europa.eu.int

Bilateral Foreign Direct Investment flows,(billion ECU/Euro)

	1995	1996	1997	1998	1999	Average 1994-1999
US FDI into the EU						
Value	24	20	21	61	75	40
As % of FDI into the EU	65%	63%	54%	57%	65%	61%
EU FDI into the US						
Value	25	17	48	133	197	84
As % of EU FDI abroad	54%	36%	44%	60%	66%	52%

Source: "The EU's relations with the United States of America", The European Union On-Line, http://europa.eu.int/comm/external_relations/us/intro/#4

Foreign Direct Investment (stocks, billion Euro, 1999)

	US in the EU	EU in the US
FDI Stocks	399	597

Source: "The EU's relations with the United States of America", The European Union On-Line, http://europa.eu.int/comm/external_relations/us/intro/#4

Bilateral EU-US trade in goods (billion ECU/Euro)

	1995	1996	1997	1998	1999	2000
EU exports to the US						
Value	103	114	141	161	183	232
% Change year on year	-0,4%	10,7%	23,5%	14%	13,6%	26,5%
EU imports from the US						
Value	104	113	138	152	161	196
% Change year on year	3,6%	8,9%	21,6%	10,3%	5,6%	22,1%
Trade balance						
Value	–1	1	3	9	22	36

Source: "The EU's relations with the United States of America", The European Union On-Line, http://europa.eu.int/comm/external_relations/us/intro/#4

Bilateral EU-US trade in services (billion ECU/Euro)

	1995	1996	1997	1998	1999
EU exports to the US					
Value	60	64	78	77	85
% Change year on year	-6,9%	7,2%	17,9%	-1,3%	9,4%

EU imports from the US					
Value	58	63	73	77	91
% Change year on year	-2,5%	8,4%	13,6%	5,2%	15,3%
Trade balance					
Value	2	1	5	0	-6

Source: "The EU's relations with the United States of America", The European Union On-Line, http://europa.eu.int/comm/external_relations/us/intro/#4

US Trade Balance with the European Community (Note: All figures are in millions of USD)

Year	Export	Import	Balance
1985	48,994.20	67,822.40	-18,828.20
1986	53,154.00	75,736.20	-22,582.20
1987	60,575.00	81,188.10	-20,613.10
1988	75,765.20	84,938.40	-9,173.20
1989	86,330.80	85,153.20	1,177.60
1990	98,128.90	91,876.80	6,252.10
1991	103,122.20	86,156.70	16,965.50
1992	102,958.10	93,993.20	8,964.90
1993	96,973.40	97,940.60	-967.20
1994	102,818.20	110,875.20	-8,057.00

1995	123,671.20	131,870.90	-8,199.70
1996	127,710.40	142,946.60	-15,236.20
1997	140,773.40	157,527.80	-16,754.40
1998	149,034.50	176,380.30	-27,345.80
1999	151,814.10	195,226.60	-43,412.50
2000	165,064.50	220,018.60	-54,954.10
2001	159,174.90	220,030.90	-60,856.00

Source: U.S. Census Bureau, Foreign Trade Division, Data Dissemination Branch, Washington, http://www.census.gov,

Conclusion

There are so many good reasons to believe that the transatlantic partnership rests on a solid foundation and the prospects for sustaining it are stronger than they may seem. While future cooperation should not be taken for granted, Europe's need for shared interests in international economic stability and for a hedge against emerging security risks and America's continuing primacy will bind Europe to the US. While the US and Europe will bicker periodically, it is much more likely that they will remain partners rather than divorce and go their separate ways.

CHAPTER-III

EU-US TRADE CONFLICTS IN THE POST COLD WAR ERA

A series of damaging dispute over trade has begun to disrupt transatlantic relations, putting at risk the interest of other countries and the world trade order. The highest profile dispute centres on trade in Banana, Genetically Modified Organisms (GMO), Steel and Export Subsidy. These high profile disputes are discussed in this chapter.

The Banana Issue: Background

The banana dispute is one of the most bitterly fought "trade wars" between the EU and the US. As part of the Single European Market (SEM) on 1 July 1993 the European Union adopted a unified banana policy. Before the unified banana policy, some EU countries gave preferred market access and high price to banana producers from selected developing countries in Africa, the Caribbean, and the Pacific (ACP), and from EU territorial suppliers. The preferential status was regarded as a form of aid to countries such as France, UK, Italy, Portugal, Greece and Spain. Other countries had virtually no preferences and operated either a free trade policy or imposed relatively small tariffs.[1] For many years the EU had maintained a banana import regime under the EU's Lome Convention that had sought to provide favourable terms of trade to former colonies of some of the EU countries. The former colonies - the ACP countries - had been given preferential access to the European banana market through tariff systems. The reason is that many of them, while being heavily reliant on banana exports, find it difficult to complete with cheaper banana being produced in some Latin American countries by companies such as Chiquita also known as United Brands. According to a European banana industry representative, the EU scheme was designed to enable producers, in the

[1] Rikke Thagesen, "The EU's Common Banana Regime: An initial Evaluation", *Journal of Common Market Studies*, Vol. (35), December 1997, p.615

Caribbean countries especially, to make a living from banana production despite the high costs arising from steep terrain, poor soils and climatic hazards.[2]

But these national policies had to be replaced by a unified market regime as part of the Single European Market programme. The objectives of the new regime were:[3]

- the EU wished to protect the interests of banana producers within the EU and to preserve the existing EU production of bananas. EU banana production is covered by the Common Agricultural Policy (CAP) and is eligible for support and protection as for other agricultural products;
- the EU was committed through the Lome IV convention to give preferences to bananas produced in ACP countries;
- the EU had to secure reasonable and fair prices for consumers.

EU Common Banana Trade Regime

In 1 July 1993 the EU adopted the common market organization for bananas. The banana trade regime was so controversial that by December 1996 there had been more than 140 additional Council and Commission regulations concerning the regime. The import regime consisted of:[4]

a) a tariff quota of 2 million tonnes (increased in 1994 to 2.1 million tonnes and 2.2 million tonnes in 1995, following the Banana Frame work Agreement. Also in 1995, following enlargement, the EC introduced an additional tariff quota of 35300 tonnes) for Latin American countries and non-traditional ACP bananas;
b) quantities allocated to traditional ACP banana suppliers totalling 857 700 tonnes; and

[2] "Trade Case Study: EU Banana Import Regime Disputes", Friends of the Earth International, January 24, 2001, http://www.foei.org.
[3] Thagesen, no.1, p.616.
[4] "Friends of the Earth International", no.2.

c) a within quota duty of 100% for Latin American Countries and zero duty for ACP countries and zero duty for ACP countries in line with the obligations under the Lome' Convention.

A first GATT panel, initiated by Colombia, Costa Rica, Guatemala, Nicaragua and Venezuela, concluded in May 1993 that the then existing national restrictive banana regime, mainly those of France and the UK, were illegal under Article I and XI of the GATT. By the time this panel conclusion was delivered, it had no value. However, it provided the starting point for a request for a second panel, initiated by the same five Latin American countries, once the common banana trade regime came into being.

The second GATT Panel concluded in January 1994 argued that the preferential tariff on bananas accorded by the EU to the ACP countries was inconsistent with Article-I, since the favourable treatment given to ACP bananas was not granted immediately or unconditionally to the like product originating in the territories of the complaining contracting parties. It also argued that the specific duties levied by the EU on imports were inconsistent with Article II, since the new specific tariffs led to the levying of a duty on imports of bananas whose equivalent was, either actually or potentially higher than the 20 percent duty bound under GATT.

Despite this favourable ruling, the Latin American countries except Guatemala reached an agreement with the EU, known as the Framework Agreement, in which the Latin American countries agreed not to pursue the adoption of the panel report, nor to bring any further complaints denying the lifetime of the regime. In return there were certain modifications to the import licensing system and the size of the third country tariff quota. The Framework Agreement changed the original EU unified banana trade regime to the current EU unified banana trade regime. It expanded the tariff quota to 2.2 million tonnes and decreased the tariff from 100% to 75%.

In October 1994, the US Trade Representative (USTR) opened an investigation into the EU banana regime in response to a petition from Chiquita Brand Int. and the Hawaii Banana Industry Association field under Section 301 of the US Trade Act.[5] The Petitioners claimed that not only is the EU banana trade regime discriminatory, but that the Framework Agreement compounds this discrimination. The US government along with Guatemala, Hondouras and Mexico called in late September 1995 for the establishment of a dispute settlement procedure in the World Trade Organization (WTO).[6]

The conformity of the Framework Agreement singed with four of the previous Latin American complaints was also challenged. The US wanted to force Costa Rica and Colombia to with draw from this arrangement. However, the US renounced attacking Costa Rica and Colombia in January 1996, after subscribing to a memorandum of understanding with these two countries. Ecuador, the world's largest banana exporter, joined the four complainants in February 1996 and they issued a joint request for consultations. The Commission was surprised and annoyed when Ecuador asked for consultation within the WTO, since these was a signed declaration between the two parties to have bilateral consultation on banana before requesting any consultation in the WTO. This declaration was made in an attempt to avoid consultation within the WTO after Ecuador joined the organization.[7] The new request for consultation reproduced the most part of the allegations already set out in the four countries' earlier request. A dispute settlement panel was established and its draft report published in March 1997 concludes that the EU regime is not consistent with the WTO rules.

[5] Section 301 allows the USTR to take action, including unilateral measures, against policies of foreign countries that harm US Commerce.
[6] Thagesen, no.1, p.622.
[7] *Ibid.*, p.623.

The WTO Rulings

In all cases the Panel ruled that the EU's Banana Regime violated the WTO's rules on most favoured nation status, national treatment and quantitative restrictions. In June 1997 the EU appealed but the subsequent Appellate Body report in September 1997 upheld the majority of the original Panel's rulings including the three main ones listed above. In its appeal the EU argued, amongst other things, that the USA had no business bringing the complaint in the first place. The EU stated that the, "United States has no actual or potential trade interest justifying its claim, since its banana production is minimal, it has never exported bananas, and this situation is unlikely to change due to climatic and economic conditions in the United States. In the view of the European Communities, the Panel fails to explain how the United States has a potential trade interest in bananas, and production alone does not suffice for a potential trade interest".[8]

This argument was rejected by the Appellate Body, saying that the WTO only requires a substantial interest to be shown for third parties joining a dispute and not the original complainant. It also maintained that "The United States is a producer of bananas, and a potential export interest by the United States cannot be excluded." It also agreed with the original Panel saying, "...with the increased interdependence of the global economy,...members have a greater stake in enforcing WTO rules than in the past". On the September 25, 1997 the WTO's Dispute Settlement Body adopted the Appellate Body report. The implementation of the ruling went to arbitration and the arbitrator found "...the reasonable period of time for implementation to be the period from September 1997 to January 1999".[9]

In late 1998, although the EU had amended its scheme, the USA and Latin American producer countries such as Honduras and Ecuador were not satisfied that the changes were adequate. In January 1999, Ecuador called for a WTO panel to establish whether the EU's new scheme had complied with the ruling. The USA on the other hand didn't want to wait for another ruling and was threatening over $500 million worth of unilateral trade

[8] "Briefing Note: The EU-US Dispute", Office of United States Trade Representative, http://www.ustr.gov
[9] "The Banana Case: Background and the History: The EU Import Regime and the WTO Findings", European Union On-Line, http://europa.eu.int/comm/external_relations/news/07_00/memo_00_40.htm

sanctions against a variety of EU products (under section 301 of the USA's own trade law) if the EU didn't comply with the original ruling by mid March 1999.[10] The EU was threatening a counter-complaint if the USA implemented unilateral trade sanctions under its own domestic law before the WTO ruled on the legality of the EU's new banana import regime. The USA decided not to fully implement its unilateral sanctions until the WTO ruling.

In April 1999 the WTO ruled that the EU's new regime was not compatible with the trade rules and that the USA would be justified in imposing trade sanctions worth some $190 million. The USA 'hit list' of products to be targeted was reduced accordingly, to the relief of some - such as the Scottish Cashmere sweater producers. However various sectors have been hit such as those producing, bath products, batteries and folding cartons. The EU has decided not to appeal this latest ruling and has said that it will comply with the WTO's recommendations.[11]

On 26 May 1999, the Commission presented a communication to the Council on bananas. The communication enumerates eight options, and identifies three as appearing capable of resolving the dispute and respecting the Community's key budget concerns and internal commitments to its own producers. These are:[12]

- Moving to a high flat tariff (only)
- Removing the limit on the ACP preferences, and maintaining the other two existing tariff-rate quotas
- Introduction of a new tariff-rate quota

Following this Communication, the Commission reported to the General Affairs Council on 13 September 1999 and to the Agricultural Council of 27 September 1999 on the basis of a report underlining the following:[13]

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[10] *Ibid.*
[11] Friends of the Earth International, no.2.
[12] "Briefing Note: The EU-US Dispute", no. 8.
[13] "Briefing Note: The EU-US Dispute", no. 8.

- The Commission services had held numerous contacts with complainants and other governments concerned, and also with many of the operators in the banana business;
- These contacts had confirmed that all the interested Latin American countries and operators were in favour of maintaining a tariff quota system, provided that they could protect their export earnings on the high-value EU banana market;
- The ACP countries had underlined the need to maintain the EU's obligations under the Lomé Convention and would have preferred the maintenance of the current regime.
- There continued to be a wide divergence amongst the different positions, notably as regards distribution of licenses;
- Under the present circumstances, if we were to propose a revised tariff quota system without the agreement of all the interested parties, and in particular the US and Ecuador, its WTO compatibility could again be strongly contested and there was the risk that US sanctions would not be promptly removed.
- For these reasons, the Commission, considered that if this situation were to continue and it was not possible within a short time to negotiate an acceptable tariff quota system in spite of the considerable efforts that continued to be made, there would be little option other than a tariff-only solution involving negotiations under GATT Article XXVIII. The Commission did not, however, preclude the option of a tariff quota system if it should prove feasible.

The Commission presented a proposal for a Council Regulation on 10 November 1999. It consists of a two-phase scheme based on a flat tariff after a transitional period during which a tariff quota system would apply with preferential tariff access for ACP countries. During phase 1 the current quotas of 2.553 million tonnes in total would be maintained. A third quota of 850 000 tonnes would be open to all suppliers at a tariff level which would have a maximum preference of 275 million tonnes for ACP bananas (i.e. zero duty for ACP as long as base tariff would not go beyond 275 million tones). In phase 2, a tariff-only system would automatically enter into force at the latest by the end of the transition period on 1 January 2006.[14] As regards distribution of licenses, the proposal mentions allocation based on historical performance and/or other methods (e.g. "first-come, first-served", simultaneous examination or auctioning). The Commission indicated that if no feasible administrative system which will resolve the dispute could be found, the Commission would not be able to maintain its proposal for a transitional regime and would propose immediate negotiations to move to a tariff only regime.[15]

Banana Regime: A Critical Analysis

Proponents of the EU's banana regime and the USA are really arguing about two different things. Proponents are arguing about the need to support small banana producers in the Caribbean while the USA is arguing about the conflict with international trade law on which the EU doesn't really have a leg to stand on. There are also important question concerning the impact of the EU rules on small banana farmers in Latin America and the impact of banana production on the environment. According to Europeans, some ACP countries rely on bananas and need support because bananas are the only year-round crop that can recover quickly enough after storm or flood damages to be a viable economic proposition. The reliance on bananas in these countries is a direct result of colonial history and the EU's Lome' convention which both helped build banana production in order to supply the European Market.

Whatever the reason for their reliance on bananas, Caribbean banana exports contribute a great deal to the Caribbean economy while making very little impact on the international or European banana trade. For example, although bananas account for up to 60% of these Caribbean countries' export earnings, trade from these countries account for only 3% of world trade in bananas. Moreover, the EU's banana import regime from

[14] Friends of the Earth International, no. 2.
[15] "The EU-US Banana Agreement: Frequently Asked Questions", United States Department of State, International Information Program, http://www.usinfo.state.gov

Caribbean countries account for just 9% of total EU banana imports, the other 91% coming largely from the big multinational producers in Latin America. In the windward islands, about 57,000 people, a third of the work force, are directly or indirectly involved in the banana industry and it accounts for 15% of national income. The EU therefore argues that its import regime has minimal impact on the exports of the banana multinational while providing much needed support for fragile economies.[16]

Chiquita Brands International Inc. is best known as the world's number one distributor of bananas, which account for more than half of its sales. For the past decade, Chiquita's sales have dropped dramatically and the company is now on the verge of bankruptcy. There are many factors that have contributed to the company's downward spiral, although all of these factors are linked to the trade barriers imposed by the European Union on banana imports. The EU is preparing to introduce a new import system dubbed "first-come first-served" which they believe will be a WTO compatible system. Chiquita filed a lawsuit in January 2001 against the European Union seeking reparations in the amount of $525 million for their losses that resulted from the old biased import system.[17] Chiquita is just one of many companies that were affected by this biased import regime, but some other companies still managed to work around the import restrictions.

Chiquita's rivals, Dole Food and Fresh Del Monte, although got hurt as well by the European restrictions and falling banana profits, are in much better shape. Chiquita, however, sought out and fought a political battle against the European Union with the United States government backing them. Chiquita was the hardest hit from this import regime. They dropped from a forty percent market share to less than a twenty percent market share.[18] Normally, this would not have totally destroyed a company, but in the case of Chiquita, it nearly did. Chiquita, more than any of its rivals, invested heavily in the 1980's to exploit the European market, where a long established system of trade

[16] Thagesen, no.1, p.617
[17] "Chiquita Blames Europe Stances on Banana Imports for its Financial Problems", January 18, 2001, http://www.bbc.co.uk/worldservice/bussiness
[18] "Chiquita Blames Europe Stances on Banana Imports for its Financial Problems", no.17.

protection allowed bananas to be sold at more than twice the price than in the U.S. More than half of the company's revenues came from European sales.

Just before the imposition of the trade barrier in 1993, Chiquita over-expanded and incurred too much debt as it bought more Central American plantations and built a refrigerated shipping fleet. Other companies were able to easily recover and adapt to the trade barrier. Both Dole and Del Monte recognized quickly that the restrictions would curb sales of Latin American bananas in Europe. They chose to diversify, expand into new markets and buy into African and Caribbean operations that gave them preferential access to the European market. Dole, specifically, took interests in Jamaica, Cameroon, and the Ivory Coast, while at the same time buying up European importers that held the licenses to import under the EU regime.[19] These companies success in Europe depended on their corporate adaptability. Chiquita put them at risk by investing so heavily into the foreign market, which they could not easily restructure and adapt to change. Dole and Del Monte realized that they are in business, not in politics, and thus made a sound business decision to adapt to the new policy.

Chiquita, on the other hand, pursued a legal and political course. In January of 2001, Chiquita filed a lawsuit claiming damages from the European Commission for not carrying out the EU's commitment to reform its banana import regime to comply with the 1997 WTO rulings.[20] The Commission's actions also breach fundamental rights and general principles of EU law, such as non-discrimination and the freedom to pursue a trade or business. The U.S. government also has tried to help Chiquita by asking the European Union to end the barriers against imports of Latin American bananas.

The Clinton Administration stepped up the pressure on the EU by imposing retaliatory sanctions on imports from Europe. The EU simply responded to this with threats to strike back with record sanctions on U.S. products. The Clinton administration backed off and did not proceed with the implementation of the newly enacted "carousel"

[19] "Dole Announces Support of new EU Banana Proposal", http://www.dole.com/company/press/about_pra.ghtml?51
[20] "Chiquita Blames Europe Stances on Banana Imports for its Financial Problems", no.17.

law that would have sanctioned European imports to the U.S. It was not until 1999 that the EU even attempted to mend the problem.[21]

In January 1999, in response to the EU's mandate of WTO compliance, the European Commission amended the banana regime. They just recently designed a new import system called "first-come first-served". Under this system, a banana exporter applies for entry into the European Union market only when its bananas are loaded on a ship, fully documented, and already on the water committed to the EU. However, a WTO panel ruled in April 1999 that these amendments actually perpetuated the WTO incompatibility of the original banana import regime. The discrimination of the current illegal system is eliminated because all applicants will be treated equally and each applicant gains market access in the same proportion as every other applicant based on the applicant's actual commitment of bananas to the European Union. The EU also promised that this is just their first move toward an open and competitive banana market. They passed a law committing to open its banana market no later than January of 2006.[22]

The U.S. government as well as Chiquita was opposed to this new system. Chiquita wanted, managed trade, a closed market with a guaranteed market share. Under this proposal, licenses would be awarded only to certain importers based on their historical market shares of five to ten years ago. This proposal was flawed, though since there is no fair or legal basis to achieve it. It also sets a bad precedent for other trade negotiations because it continued a managed market instead of an open, competitive system.

Chairman of Dole Foods, David Murdock charged "the continued effort by the US Trade Representative to force a different solution is just a naked political effort to achieve a one-company solution for Chiquita. Chiquita's ultimate aim is to gain a guaranteed market share that is disproportionately greater than every other participant."[23] This accusation is not entirely fair to the U.S. government. The government may be pursuing

[21] Friends of the Earth International, no.2.
[22] Martin Crutsinger, "US and Europe Fight to be top in Banana Trade" Seattle Post Intelligencer, March 4, 1999, http://www.seattlepi.nwsources.com
[23] "Dole Announces Support of new EU Banana Proposal", no.19.

the same goals as Chiquita, but they are not doing it only for Chiquita's benefit. Their trade negotiations will affect every banana producer and even banana consumers at home and abroad. However, Murdock's claim against Chiquita is well founded. It seems as though Chiquita is trying to unfairly regain its old market share. The company's goal should be movement toward fair trade, but they opposed such propositions. They propose a closed system based on market shares from five to ten years ago, a time when their market share was the greatest. Chiquita did have a valid claim in their lawsuit against the European Commission. The Commission did ignore the WTO and some of the bylaws of the EU, which resulted in further losses by Chiquita.

The European Union did recognize their fault in the past decade, and they are attempting to reform toward fair trade. The EU should pay the reparations that Chiquita is seeking, and pursue further trade negotiations with the US with a goal toward a fair, WTO compliant system.[24]

Some of the important thought provoking points arising from the case are (a) The WTO allows parties to make complaints irrespective of a major export/import interest. (b) The WTO does not allow the kind of favourable treatment and protection provided by the EU to the ACP countries however noble the intention and however small the impact on the trade system. (c) It appears that corporations are able to influence government trade positions. Within 24 hours of Chiquita making a $500,000 donation to the Democratic Party in the USA, the US Government lodged the complaint against the EU's banana regime.[25] (d) The major trading powers like the EU and USA continue to override the wider interests of the developing world in the trade system. The trade system favours the powerful; most obviously in this case in the way that the USA can impose sanctions to 'force' the EU to comply where as Ecuador is in no position to do so. If the USA were not involved in the dispute it is debatable whether the EU would unilaterally amend its regime to take account of Ecuadorian banana producers, even after a WTO ruling.

[24] "Friends of the Earth International", no.2.
[25] Donald L. Banlette and James B. Steele, " How to Become Top Banana", *Time*, Vol.115 (5), February 7, 1999.

This dispute is more about an ongoing tit-for-tat trade spat between the world's two most powerful traders, the EU and the USA, than about a challenge to a fundamentally unfair banana import system. Despite the fine language about free trade, Europe and America still behave like old-fashioned mercantilists, intent on prising open each other's markets and prepared to use naked power politics to do so.

According to the WTO rules, both the EU's original banana import regime and the amended version constitute an 'unfair' barrier to 'free' trade. However, in reality the proportion of EU banana imports in question (just 9%) is small and any analysis that takes account of historical, social, environmental and cultural factors - basically a more human view of what is 'fair' - will recognise the need to support Caribbean banana production in some way. There may also be a case for amending the rules to support other small farmers in Latin American countries such as Ecuador. The WTO's ruling and in this case the USA's opinion is based solely on the principle of trade liberalisation with little thought to the consequences. Such principle is obsolete in the complex world in present situation. One potential consequence is that unemployed Caribbean farmers may resort to producing coca or marijuana for export to the USA. The financial burden of policing such a trade will fall on the US taxpayer rather than on Chiquita, Del Monte or Dole.

The Banana Dispute Settled

On April 11, 2001, the United States and the EU reached an understanding in their long running dispute over bananas that called for the EU to adopt a new licensing system for bananas by July 1. The new regime will provide a transition to a tariff-only system by 2006. During the transition, bananas will be imported into the European Union through import licenses distributed on the basis of past trade. Welcoming the agreement, European Commissioner for Trade Pascal Lamy, European Commissioner for Agriculture Franz Fischler, U.S. Trade Representative Robert B. Zoellick, and U.S. Secretary of Commerce Don Evans stated: "Today's step marks a significant breakthrough. It demonstrates the commitment of the Bush Administration and the European Commission to work together closely and effectively on trade issues. The banana disputes of the past nine years have been disruptive for all the parties involved -- traders, Latin American, African, and Caribbean producers, and consumers. We are confident that today's agreement will end the past friction and move us toward a better basis for the banana trade."[26]

Both parties recognized that they had shared objectives to reach agreement on a WTO-compliant system, to ensure fair and satisfactory access to the European market for bananas from all origins and all operators, and to protect the vulnerable African Caribbean Pacific (ACP) producers. Most important, both parties agreed the time had come to end a dispute, which had led to prolonged conflict in the world trading system. The new system is scheduled to take effect on July 1, 2001. The European Union will institute a system of licensing, based on historic reference periods from July 1, 2001. The European Commission will also initiate the necessary procedures to propose to the Council of Ministers an adjustment of the quantities in the various quotas, in order to expand access for Latin American bananas and to secure a market share for a specific quantity of bananas of ACP origin. The United States has pledged to work actively to secure acceptance of the EU's request for the necessary WTO authorization.[27]

Genetically Modified Organisms (GMOs)

Powerful new technologies often provoke strong resistance. When nuclear fission was first mastered, much sentiment turned against its use- even for peaceful purposes. Thus today's backlash against the commercial use of recombinant DNA technology for food production should not be surprising. Consumers and environmental groups, mostly in Europe, depict genetically modified (GM) crops, produced mostly in the United States, as dangerous to human health and the environment. These critics want tight labeling from GM foods, limits on international trade in GM crops and perhaps even a moratorium on

[26] "US Trade Representative Announces The Lifting of Sanctions on European Products as EU Opens Market to US Banana Distributors", US Department of State, International Information Programs, July 1, 2001, http://usinfo.state.gov.
[27] "US Government and European Commission Reach Agreement to Resolve Long Standing Banana Dispute", US Department of State, International Information Programs, April 11, 2001, http://usinfo.state.gov.

any further commercial development of this new technology-all to prevent rises that are still hypothetical.[28]

The first GM crops that emerged were designed to solve important farm problems: Pest control, weed control, and soil protection. These crops reduced the need to employ more tonic and long-standing weed killers or soil damaging tillage. Several companies also developed GM varieties of cotton and coco engineered to contain a naturally occurring toxin Bacillus-thuringiensis, popularly known as Bt cotton, that minimizes insect damage to plant while dramatically reducing the need for chemical sprays. These new GM crops were finally released for large-scale commercial use by US farmers in 1996. This followed years of laboratory testing and controlled field trials to screen for rises to other crops and animals, to the large environment, and to human health. Once the Environmental Protection Agency, the Food and Drug Administration (FDA), and the US Department of Agriculture approved the new GM seeds, American farmers gave them a try and instantly liked the results. By 1999, roughly half of the US soyabean crop and one third of the corn crop were genetically modified. Surprisingly, however, the GM crop boom last only been effectively realized in three countries. In 1997, 72 percent of all land planted with transgenic worldwide was the US, while Argentina had 17 per cent and Canada 10 per cent. The nine other countries that were growing some transgenic crops- china, Australia, South Africa, Mexico, Spain, France, Portugal, Romania and Ukraine- split the remaining one percent.[29]

Beef Hormone

The European farmers have stayed away from transgenic crops largely because European consumers have become frightened to eat them. Consumers in Europe are now leading a backlash against GM crops, even though no safety risks linked to any GM crops on the market have ever been documented in Europe or elsewhere. For the past 15 years the US and the EU have been disputing the safety of growth promotants used in cattle. This trade dispute over the EU's beef policies dated back to the 1980's. In December

[28] Robert Paarlberg, "The Global Food Fight", *Foreign Affairs*, May/June 2000, p.24.
[29] *Ibid.*, p.26.

1985, the EU adopted a directive on livestock production restricting the use of natural hormones to therapeutics purpose, banning the use of synthetic hormones and prohibiting imports of animals, and meat from animals, to which hormones had been administered.[30] The EU adopted this policy even though the safety of consuming beef from cattle treated with certain hormones has been thoroughly researched since the 1950s. On all occasions of FDA testing, the six hormones[31] subject to this trade dispute have always been found to be safe. The clear international scientific consensus is that these approved and licensed products are safe when used in accordance with good veterinary practices. Even the EU's own scientists agreed with these findings. At present, US beef is shipped to 138 countries.[32]

The EU's 1985 directive was later declared invalid by the European Court of Justice on procedural ground and had to be re-adopted by the Council, unchanged, in 1988 known as the "Hormone Directive". On December 24, 1987, the US president Ronald Reagan announced an increase in duties on selected European products in response to the Hormone Directive and related measures, but immediately suspended this action to promote a negotiated solution of the issue. On January 1, 1989, the EU imposed a ban on imports of animals and meat from animal's growth. The US objected to this ban with respect to six specific hormones, which have been found to be safe for use for growth promotion purpose by all countries that have reviewed them. Furthermore, the independent experts of the Codex Alimentarious Commission have also reviewed five of these hormones and found them to be safe. The Sixth are is not widely used, this never been asked to be reviewed.[33]

In fact, the EU has commissioned a scientific study of the same five hormones, and those scientists have found them to be safe. After conducting its own 18 months study of this question, the UK-based Nuffield Council of Bioethics published the

[30] Tim Josling, "Who's Afraid of the GMOs? EU-US Trade Disputes Over Food Safety and Biotechnology", Seminar Paper Presented at the Center of California, University of Southern California, March 11, 1999, http://www.stanford.edu

[31] The hormones are *estradiol, melengestrol acetate, progesterone, testosterone, trenbolone acetate*, and *zeranol.*

[32] "The US-EU Hormone Dispute", February 24, 1999, United States Department of Agriculture: Foreign Agricultural Service, www.fra.usada.gov

[33] "The US-EU Hormone Dispute" Environmental Issues, http://www.environment.about.com

following conclusion in 1999, "We have not been able to find any evidence of harm. We are satisfied that all products currently on the market have been rigorously screened by the regulatory authorities, that they continue to be monitored and that no evidence of harm has been detected. We have concluded that all the GM food so far as the market in this country is safe for consumption".[34] Yet, such expert reassurances are discounted by European consumers, since the 1996, "mad cow disease" scare. This crisis undermined public trusts in expert opinion after U.K public health officials gave the consumers what proved to be false assurances, that there was no danger in consuming beef from diseased animals. Though mad cow disease had nothing to do with genetic modification of food, yet, it brought in new consumers anxieties regarding food safety. Many third parties, including NGO's began exploiting the consumer's anxieties and started taking advantage of it. Green peace and other European activists groups that had previously struggled against nuclear power and the use of various men made chemicals inflamed consumer phobias of the GM foods. Even Price Charles of Britain, joined the chorus. In France, a broad coalition of farmers, labour unions and environmentalists launched attacks against not only GM food, but also Mc Donald's, imported beef grown with non-GM hormones, Coca-Cola, and various other threats which they referred to as French" culinary sovereignty".[35]

These well publicised campaigns forced the European Union in April 1998 to stop approving GM crops for use or import into the EU. This meant a defacto ban on all corn imports from the US worth roughly $200 million annually. The EU also enacted a GM food labelling provision in 1998, requiring its 15 member states to begin marking all packaged foods that contain GMO. The UK even to the extent of asking restaurants, caterers and bakers to either list all GM ingredients on face fines up to $8400.[36]

The US challenged the EU import ban in WTO, basing on arguments that the ban breaches provisions of the WTO agreement on the application of Sanitary and Phyto-Sanitary measures ("SPS Agreements). This agreement clearly preserves the rights of

[34] Robert Paarlberg, no.28, p.27.
[35] *Ibid.*
[36] *Ibid.*, p.28.

government to apply food safety measures to protect human life and health, but at the same time it requires that, such measures must be for that purpose and not for protectionists whether import bans and other trade restrictive actions that governments may characterize as food safety measures, protect public health or provide a competitive advantage for domestic producers.[37] In particular, this agreement relies on science to distinguish protectionism.

It further provides dispute settlement panels for their review wherein measures must be based on scientific principles, whether there are any risks to human life or health, must not be more trade restrictive than required, and must be based on international standards and guidelines.[38] In making its finding in this dispute, the panel sought the advice of independent scientific experts, the first time a WTO panel has made use of this procedure. In this case, the EU's import ban ignores a vast body of scientific evidence, including those produced by the EU's own reviews- that it is safe to consume meat from animals to which these drugs have been administered in accordance with good animal husbandry practice. During the WTO legal proceedings, the EU claimed that its ban is based on health concerns. However, the EU acknowledged that the ban served the purpose of eliminating competition from imports of hormone-fade beef in EU markets. The US argued that US meat treated with these six growth promoting hormones is safe and that the EU's attempt to protect domestic production from more competitive imports is trade- protectionism, not protection of health and safety.

Facts About Beef Hormones

The hormone levels in beef produced using growth promotants are well within the range of natural levels. Beef from a bull (which is not castrated and to which hormones have not been administered) contains testosterone levels over ten times higher than the amount in beef from a steer (which is castrated) that has received hormones for growth promotion. Since the European beef market is predominantly bull-sourced, while

[37] "US to take Action against EU in Beef Hormone Case", May 14, 1999, The United Sates Mission to the European Union, Brussels, http://www.useu.be/
[38] Josling, no.30.

American meat is steer-sourced, American hormone-treated beef generally contains lower levels of hormones than most European beef.[39]

To put this issue into perspective, it is important to remember that many foods contain significant levels of hormones. The fact is consumers are exposed every day to foods with far higher hormone levels than those found in any beef from animals treated with hormones. For example:[40]

- Hormone levels (estradiol equivalent) in beef are far less than those found in eggs. A person would need to eat over 6 kilograms of beef from animals treated with these hormones in order to equal the amount of those hormones in one egg. For example, a hen's egg (about 50 grams) contains about 45 times as many estradiol equivalents as 250 grams of steer meat raised with this natural hormone.
- A one-pint glass of milk from an untreated cow contains about 9 times as much estradiol as a 250-gram portion of meat from a steer raised using hormones.
- Wheat germ and soybean oil contain phytoestrogens at several thousand times higher hormone equivalent concentrations than a serving of beef from a steer raised with growth promotants.

The amounts of estradiol, progesterone and testosterone in animals raised using hormones, as growth promotants are extremely low compared with their production in humans. Even a young boy would need to eat more than 7000 grams (about 16 pounds) of beef raised using estradiol daily in order to produce a one percent increase in his production of this hormone. A 500-gram portion of beef raised using estradiol contains approximately 15,000 times less of this hormone than the amount produced daily by the average man, and about nine million times less than the amount produced by a pregnant woman.[41]

[39] "The US-EU Hormone Dispute", no.32.
[40] *Ibid.*

[41] *Ibid.*

The US Argument on the Issue

Hence, as it is obvious from the above explanation, US arguments in favour of beef exports to the EU are based on scientific experimentation. The EU is mainly being pretentious, citing health and safety reasons as mere excuse to protect its domestic market. Based on this there is no doubt that the EU is making baseless statements and actually hiding from the truth.

The U.S.-EU dispute at the World Trade Organization (WTO) over hormones used for cattle growth promotion center around the use of six scientifically approved hormones: *estradiol, melengestrol acetate, progesterone, testosterone, trenbolone acetate, and zeranol.* The U.S. Food and Drug Administration (FDA) have been thoroughly researching the effects of growth hormones since the 1950s. FDA and other scientific experts have found that there is essentially no difference between beef from animals raised using hormones and those raised without their use. On all occasions of testing, the six hormones have always been found to pose no measurable or adverse health effects.[42]

There is a clear worldwide scientific consensus supporting the safety of these approved and licensed hormones when used according to good veterinary practice. This consensus is reflected in the 1984 and 1987 Lamming Committee reports-- the scientific expert group commissioned by the European Community; the 1987 Joint Expert Committee on Food Additives (JECFA) of the World Health Organization and the Food and Agriculture Organization (FAO) of the United Nations; the Codex Committee on Residues of Veterinary Drugs in Food the Codex Alimentarius Commission; the safety assessments of FDA and comparable institutions in many countries throughout the world; and most recently by the assembly of the world's foremost experts on the subject at the 1995 Scientific Conference convened by the European Commission.[43] The world's

[42] "The US-EU Hormone Dispute", no.33.
[43] *Ibid.*

scientific community has agreed that *estradiol, melengestrol acetate, progesterone testosterone, trenbolone acetate*, and *zeranol* are safe when used according to labe directions in food-producing animals.

The six hormones have been approved and can be used safely for growtl promotion. Their hormones provide several benefits in beef production. A hormone-treated animal gains weight more rapidly, producing a more flavor and tender product. By reaching market weight sooner, there is a reduction in the cost of beef production. Thus, consumers are provided with a higher quality of meat at lower prices.

The United States has an extensive regulatory control system to ensure the proper use of these hormones. The U.S. system includes comprehensive food safety standards that are based on sound, internationally recognized scientific criteria. The FDA and the U.S. Department of Agriculture (USDA) work together to provide consumers with a safe food product by ensuring the proper use of hormones in cattle.[44]

To ensure safety FDA regulations allow the use of hormones only in the form of implants, which have very specific instructions on proper usage. Each implant contains a specific, legally authorized dosage of the hormone. It is inserted into the ear, which is discarded at slaughter and does not enter the human food chain.[45] With this, the hormone is released into the bloodstream very slowly, so that the concentration of the hormone remains relatively constant and very low. USDA provides educational programs for producers and veterinarians that provide instruction in the proper use of hormones.

Furthermore, the prescribed dosage is the level, which produces the maximum economic response in the animal so that there is no economic incentive for a farmer to use additional implants. Thus, farmers have no incentive, economic or otherwise, to misuse the implants.

[44] "The US-EU Hormone Dispute", no.32.
[45] Josling, no.30.

EU's Position

EU believes that the lack of scientific clarity about the effects of GMO trade and beef hormones in meet products means that consumers are instinctively reluctant to accept that they are safe. Rightly or wrongly, they are unwillingly to accept a vote of confidence from the US Food and Drugs administration (FDA) or indeed numerous scientific committees in Europe. Americans on the other hand, insist that the present discontent lies in a lack of public confidence in government rather than an inherent mistrust in science. They blame public misgivings on the EU's opaque and secretive system for regulating food safety that, they argue, encourage decisions based on political opportunism rather than hand scientific evidences.[46]

The EU justified its position on the ground that tests carried out on 500 certified samples had found traces oh hormones in 12 per cent of the samples. The EU defended its position by saying that such precautionary steps were essential since the health risks could not be determined conclusively. It also pointed out that total amount of US beef sales in EU was only worth $20 million. The EU-US agricultural is estimated at $16 billion to $18 billion annually.[47]

Even EU officials agree that system in Brussels is far from perfect. Requests for product approvals move at a leisurely pace through various committees of national experts as well as the European Commission and the EU council of Ministers. Delays are inevitable. The temptation for politicians to play to a gallery of activists consumer groups is often irresistible. In practice, the burden of responsibility lies with the commission, which has to decide product approvals if the member state cannot agree. Yet the commission faces a difficult dilemma: if it vetoes product without clean scientific guidance, it risks violating WTO rules. If it approves them, it risks the wrath of member states and a popular backlash. Thus the commission has been powerless to stop Austria, France and Luxembourg from blocking the sale of GMO crops approved by Brussels.

[46] Lionel Barber, "Consumer's Food Safety Concerns Threaten to Snarl Transatlantic Relation", *Europe*, September, 1999, pp.8-10.
[47] Nimmi Kurien, "Changing Dynamics of Transatlantic Relations", *International Studies*, Vol.38 (3), 2001, p.284.

Although the commission is preparing legal action against France, officials worry that if it steps up the pressure too fast, the 15 EU member states could go their own way, causing the disintegration of the single market.[48]

WTO Findings on this Issue

The World Trade Organization (WTO) released to the public the final dispute settlement panel report on the first dispute involving the SPS agreement which was the European Union's import ban on meat produced using growth-promoting hormones on June 30, 1997. The WTO report finds that Europe's ban on the use of six hormones to promote the growth of cattle is inconsistent with the EU's obligations under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement). In particular, the panel's report affirms that the EC's ban is not based on science. It was not based on a risk assessment or on the relevant international standards, and the EC has arbitrarily or unjustifiably distinguished between its policy for the hormones and other substances, resulting in discrimination or a disguised restriction on trade.[49]

This report confirms the value of the new WTO Agreement on the application of Sanitary and Phytosanitary Measures in distinguishing legitimate food safety requirements from unscientific and unjustified barriers to U.S. exports. U.S. Trade Representative Charlene Barshefsky said. "I am pleased that the WTO agreed that the EU has no scientific basis for blocking the sale of American beef in Europe. This is a sign that the WTO dispute settlement system can handle complex and difficult disputes where a WTO member attempts to justify trade barriers by thinly disguising them as health measures. I am pleased that the panel affirmed the need for food safety measures to be based on science, as they are in the United States."[50]

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[48] Lionel Barber, n.46, p.8-10.
[49] Wendy Lubetkin, "WTO Authorizes Trade Retaliation Against EU in Beef Case", July 26, 1999, The United Sates Mission to the European Union, Brussels, http://www.useu.be/issues/hormone0728.html
[50] *Ibid.*

The final report issued by the WTO is welcome news for the U.S. beef industry, Agriculture Secretary Dan Glickman further added that "The WTO dispute settlement panel has affirmed what we have known for over nine years: that European consumers are being denied a high quality and safe product due to an import regulation that cannot stand up to the test of good science. The panel drew on advice from eminent scientists from around the world to help it determine that the EU ban on U.S. beef was unjustified. I hope that the EU will now take steps to bring this import regulation into conformity with its WTO obligations and lift the ban on beef from the U.S., Canada and other affected countries. We are prepared to work with EU officials to accomplish this as soon as possible."[51]

The United States expects the WTO report to lead to a new EU policy that is fully consistent with the EU's international trade obligations. The hormones dispute is the fourth case brought successfully by the United States through the WTO panel process.

The EU must understand that as a result of its failure to comply with its WTO obligations, the United States will act firmly and swiftly under its WTO rights to sharply raise tariffs on imports from the EU in an amount equivalent to the trade damage. Despite taking this action, the United States remained willing to negotiate a resolution of the issue with the EU. Pursuant to the arbitrators' decision, the United States threatened to exercise its WTO rights by imposing 100 percent tariffs on a list of EU products with an annual trade value of 116.8 million.

The EU's ban on imports of hormone treated beef was challenged by the US, since under the WTO panel ruling, it was a clear violation of the WTO Agreement on Sanitary and Phytosanitary (SPS) measures as already maintained. However, the WTO granted the EU, time, until May 13,1999 to comply with the ruling. When the deadline expired, the US sought its authorization to impose retaliatory tariff and suspend trade

[51] "The US-EU Hormone Dispute", no.32.

concession in the amount of $202 million. Previously, the WTO arbitrator determined that trade damage to US beef from EU's hormone ban was $116.8 million annually.[52]

The World Trade Organization (WTO) then formally authorized the United States to impose punitive duties on a selection of European Union (EU) imports in reaction to the EU's failure to comply with WTO rules in the transatlantic trade dispute over growth hormone-treated beef in it's 26 July 1999 meeting of dispute settlement body. The list of products subject to 100-percent and duties were made public by the Office of the U.S. Trade Representative (USTR) July 19, 1999. It included a wide range of pork products, cheese, prepared mustard and truffles.[53]

Ambassador Rita D. Hayes, deputy U.S. trade representative and U.S. permanent representative to the WTO, emphasized, however, that the U.S. would prefer not to have to impose sanctions because "it does nothing to help our exports and is not to the benefit of our importers. The United States would prefer to settle this dispute, and we will continue to try to work with the EU to find an acceptable solution. The United States was willing to consider compensation from the EU if the EU also offered some assurances that it would lift its barriers to U.S. beef. But, quite frankly, the EC's offer involving increased U.S. beef access was not adequate. The EC could not even provide assurances that this offer would in fact allow any U.S. beef into the EC. Under the WTO agreement, compensation is considered only a temporary measure for dealing with a situation like this."[54]

To solve the issue, one option is to create a new Pan-European independent food regulator with powers similar to the FDA, as it has already done for pharmaceuticals.[55] However, whether such a new body would command more respect than the commission is an open question. The second option is mandatory labelling of GMO foods in stores. The US has long opposed to such schemes on the ground that they are expensive and risk being discriminatory against US exports. But the US has hinted that it might be open to

[52] "Chronology: U.S. Disputes with EU over Bananas, Beef Hormones", The United Sates Mission to the European Union, July 5, 2000, Brussels, http://www.useu.be/issues/chron0705.html.
[53] *Ibid.*
[54] Wendy Lubetkin, no.49.
[55] Lionel Barber, no.46, pp.8-10.

such an idea to resolve beef hormone problem. The third option is to wait for public confidence to return. That could in turn depend on the attitude of European farmers who could argue that a failure to follow the US advances in GMOs risks consigning Europe to a technological backwater. At the very least, there is a serious risk that food safety could become a defining issue in transatlantic trade relations in the next few years.

The Dispute Over Steel

In the formative years of the GATT, the US was the rule maker that promoted free trade. Yet, what is observed now is a complete reversal in its role, wherein it has become the violator and Europe is exploiting the opportunity to become the rule maker instead. About fifty years ago, in matters of international trade issues, the US would always give priority to the welfare of the world economy, but, today its getting more and more pulled in by internal turmoil. Hence, it is ironic that the US along with the EU after persuading the rest of the world to launch new rounds of trade liberalisation negotiations at the WTO, when US imposed an additional tariffs between 8 and 30 percent on all steel imports on March 5, 2002. With this, the Europeans feared that their manufacturers and workers would loose the most as about 28 percent by value of steel imported by the US in 2001 came from the EU.[56]

Leading a worldwide chorus of protests, Brussels insisted that there were no legal or economic grounds for Mr. Bush's imposition of the tariffs, rather, his move was prompted by the desire to appease a powerful domestic steel lobby whose support he needs for re-election in 2004. In fact Bush's measures could be seen as new taxes on American consumers approaching $1 billion annually merely on the purchase of cars and trucks. Therefore these measures could even be interpreted as $8 billion contribution coerced from manufacturers and consumers of steel products for the benefit of about six

[56] Pat Regnier, "Steeling for a Fight", Vol. 159 (11), March 18, 2002, http://www.time.com

Republican Congressional candidates in steel producing districts and also to cater to his electoral needs.[57]

The European Union Trade Commissioner, Pascal Lamy, did not hide his displeasure when he commented that, "The world steel market is not the Wild West where everyone can do as he pleases. There are rules."[58] He further added that, "We will do everything, we possibly can to protect our own industry and our own jobs. But unlike the Americans, we will remain within the multilateral institutions.[59] Besides Europe, Asian and South American exporters also voiced a chorus of complaints that Bush's move violated International trading rules. Only Canada and Mexico, US partners in the North Atlantic Free Trade Agreement (NAFTA) and a number of developing countries were excluded from the sanctions. In fact, under the NAFTA rules, US would have been subject to penalties had Canada and Mexico been included. Yet among them all, the EU was the foremost victim of the US decision, since Washington has chosen to focus on the higher end of the steel market where European companies are particularly strong. The new duties took effect from 20 March 2002 and included countries like Brazil, South Korea, Japan, Taiwan, Russia, Germany, Turkey, France, China, Australia, and the Netherlands.[60]

French President Jacques Chirac and Gerhard Schroeder, the German Chancellor described the US action as unacceptable. Japan, where Bush urged for economic reform in February 2002, said that the decision is regrettable. China, where the US president lectured on the virtues of free trade, expressed strong dissatisfaction. Besides, South Korea pledged to US all possible means to fight the tariffs and Brazil described itself as an indiscriminate victim.[61]

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[57] "Bush Plays Politics With Trade", March 7, 2002, *International Herald Tribune*
[58] Pat Regnier, no.56.
[59] Eric Pfanner and Thomas Fuller, "Foremost Victim Assails US Tariffs", March 7, 2002, http://www.iht.com
[60] "EU to Take Steel Issues to the WTO", March 8, 2002, http://www.taipeitimes.com
[61] Martin Fletcher, "EU Condemns Bush's 'Wild West' Steel Tariffs", March 7, 2002, http://www.thetimes.co.uk

However, the US action was not without justification. The president of the United Steelworkers of America, Leo Gerard, countered by accusing the EU of becoming the world's trade bully. He flatly rejected the charges that the US steel industry was to blame for its woes. The fact is that over thirty steel companies in the US had reported to become bankrupt since 1997. Besides, the government also had to take care of legacy cost, that is the cost of retiree's pension and health care. There are about 600,000 retirees and dependents, which is about four times more than the number of active steelworkers in America. Besides, American steelworkers were still reeling from the 1998 Asian economic crisis, which sent a flood of cheap steel to the US shores boosting imports by a three fold. The steel industry used just 76 percent of its productive capacity in 2001, compared to 84 percent in 2000, when imports were higher. With the economic boom, most of the American steelworkers were left without jobs.[62] But most Europeans question whether Bush's solution fits the problem. The Europeans could sell their products in the US for a higher price than in their own country. But the problem with big steel is that it is one of the world's highest cost producers. Before imposition of tariffs, it cost 18 percent more to make cold rolled coil in the US than in Europe and with the tariffs imposed; Koreans would almost match American costs.[63]

The solution for the problem faced by the US steel companies lies in the restructuring, by cutting costs and merging inefficient operators not downsizing plants. Europe handled a similar problem years ago and hence fails to understand why the US cannot come up with a similar plan of restructuring. Americans can address their problem without getting European steel producers to pay the price. Yet, Bush argues that the three-year tariff regime would give the ailing domestic industry time to restructure and save the jobs of 100,000 steelworkers.

Protest and retaliation are really a matter for the economic giant that is the EU, the only economic player that has enough muscle in the global market place to make the US sit up and notice. The EU, which supplies one-fifth of its steel imports, stands to be the

[62] Pat Regnier, no.56.
[63] *Ibid*

biggest looser with the imposition of US restriction. Yet, it warned that such measures would trigger a challenge in the WTO and could result in Europe imposing its own restriction on its steel imports to protect its producers.

As a result, the EU trade commissioner laid down three steps he would undertake.

Firstly to lodge a complaint with the WTO in coordination with other affected countries. Secondly, because, the WTO would take time to adjudicate, the EU in the meantime would take steps to prevent European producers from being crippled by an estimated 16 million tonnes of steel flooding on to the world market after being priced out of the US. Hence, to counter a sudden surge of imports, the EU decided to impose its own tariffs and quotas, permitted as a safeguard under WTO rules. Thirdly, the EU decided to demand compensation in the form of tariff concessions for non-steel imports.[64]

To improve situation in the US Lamy proposed a 2 percent tax on all steel sold in America with the proceeds to go to solve the legacy cost problems of the US steel companies. According to him, removal of those costs would permit the US steel industry to become competitive, thus removing the need to impose tariff on foreign steel. That is with this, EU suggested a globalization of legacy cost.[65]

With the US paying no heed, the EU lodged two official complaints to the WTO on 7 March 2002. But both current and future Director Generals of the WTO Mike Moore and Supachai Panitchpakdi, urged countries involved in the dispute to resolve it among themselves. Supachai pointed out that it is a time consuming process and in the intervening years, nobody would gain anything.[66]

On June 10, 2002 reacting to the imposition of tariffs by the US on steel imports, Foreign Ministers from the EU have approved plans to impose trade sanctions on the US. The proposed sanctions are modest-a tariff of euro 378 million on products including

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[64] Martin Fletcher, no.61.
[65] Stephen Richter, "Lamy, Steel and the World", *The Globalist,* April 2, 2002, http:www.globalist.com
[66] "EU Lodges Formal Complaints With the WTO", March 8, 2002, *International Herald Tribune*

steel, textiles and fruit juice from August 2002.[67] The EU's move was described as "necessary posturing" for a better long-term outcome. The EU Trade commissioner, Pascal Lamy, said that the EU was not seeking to escalate the dispute but "we are showing firmness" through a show of solidarity. Meanwhile, according to European Commission observers, the US may not offer compensation but may have already begun exempting certain categories of European steel from the new tariffs. A final decision on proposed EU sanctions would be taken at a ministerial meeting on July 22.[68]

European officials here agree that any trade conflict may trigger a backlash, which may diminish American support for trade expansion and doom the WTO negotiations on liberalising trade and investment flows. A trade war even at a modest level could have a damaging effect on transatlantic relations, as there are already serious differences between them over issues related to global warming, climate control and West Asia. Hence, it is argued that a compromise with US is inevitable. It is felt that a compromise on steel would go a long way as many Europeans feel that the Bush administration may be willing to cut a deal on steel.

Export Subsidy

The history of export subsidy controversy goes back to 1971 and successive US export promotion schemes. The recent conflict over Foreign Sales Corporations (FSC) scheme's predecessor, the Domestic International Sales Corporation (DISC) scheme was declared an illegal export subsidy provision by a GATT panel in 1976. The panel ruling was adopted by the GATT in 1981. The replaced the DISC with the FSC in 1984. The EU questioned the legality of the FSC when it was adopted but did not pursue any legal battle due to the opening of the Uruguay Round trade negotiations.[69] The FSC programme partly exempts tax from the profit that overseas branches of American

[67] *The Hindu*, New Delhi, June 12, 2002.
[68] *Ibid.*
[69] "EU Welcomes WTO Definitive Confirmation that US Export Subsidies (Foreign Sales Corporations) are Illegal, and Calls to Comply with WTO findings", Europe Union On-Line, Press Release, Brussels, 14 January, 2000, http://www.europa.eu.int

companies earn of sales of certain goods. Some of the biggest corporations in the US, including Microsoft, Ford Motor and Exxon Mobil take advantage of it.[70] Following complaints by EU companies and in view of the increasing amount of FSC subsidies being granted by the US, the EU resumed bilateral contacts with the US in 1997, but no progress was made. Therefore, the EU took up the matter under the WTO Dispute Settlement Understanding (DSU). Consultation followed in December 1997, February 1998 and April 1998 but without any resolution.

The EU then requested the WTO panel to declare firmly on the dispute, which reported on 8 October 1999. On 20 March 2000, the WTO adopted rulings by dispute settlement panel and the WTO Appellate Body, which found the FSC provisions of the US tax law to be a WTO inconsistent export subsidy. The US was given until 1 October 2000 to withdraw the FSC scheme as required by the Subsidies Agreement of WTO. Following the futile discussions between the parties regarding the legality of the US proposals to replace the FSC scheme, the EU decided to act reasonably. It concluded an agreement on procedures with the US providing for a compliance panel to examine the WTO compatibility of new US legislation on FSC Replacement Act. President Clinton signed the FSC Replacement and Extraterritorial Income Exclusion act of 2000 (EIA Act) on 15 November 2000.[71] However, under the revise law, all US tax payers including foreign and domestic companies are eligible for tax breaks that allowed them to protect much of their income earned outside the country from the US tax, as long as they have paid tax overseas on their earnings.[72]

On 17 November 2002, the EU presented the request for counter measures as required by the WTO, for an amount of $4 billion, alleging that EIA Act failed to eliminate the problems that the WTO had found with the FSC provisions. On the same day, the EU also requested authority from the WTO to impose trade sanctions on $4 billion worth of US exports as the same amount being the EU's estimate has to the

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[70] "International Business; US loses Trade Dispute with Europe", 23 June, 2001, http://www.nyt.com

[71] "US Continues to Challenge to EU's FSC Trade Sanction Claim by Offering Alternative Amount" Office of the Untied States Trade Representative, February 14, 2002, http://www.ustr.gov

[72] "US Braces for WTO Ruling Against Exporter Tax Breaks", January 14, 2002, http://www.iht.com

amount of the export subsidy.[73] On 27 November 2000, the US initiated a WTO arbitration proceeding, alleging that the amount of the sanctions requested by the EU was excessive under WTO standards. The arbitration was suspended pending the outcome of the EU's challenge to the WTO consistency of the EIA Act.

On 14 January 2002 the WTO adopted ruling by a dispute settlement panel and the Appellate Body, which found the EIA Act to be WTO inconsistent. The WTO already has ruled three times against the US measures that give tax exemption to so called "foreign sales corporations", the decision of the WTO was welcomed by the EU trade commissioner, Pascal Lamy saying that the WTO has conformed what we have always believed, now it is up to the US to comply with the WTO findings to settle this matter once and for all.[74] As the result of this action the arbitration alleging that the amount of the sanctions requested by the EU was excessive under WTO standard, resumed automatically. The arbitrator decision is yet to come.

In another submission filed on 14 February 2002 with the WTO the US continued its strong challenge to the amount of the trade sanctions claimed by the EU in FSC dispute. Disputing the EU's claimed amount of $4 billion, the US asserted that the proper amount of sanctions was not more than $956 million.[75] According to USTR Robert B. Zoellick, "our figure is supported by the facts of the case, WTO rules and commonsense." And he questions the technical accuracy of calculations. In this additional submission the US led out greater details of its views regarding the method of calculations such as:

- The amount of sanctions to which the EU is entitled must be based on the proper impact of the FSC on EU trade interests.

[73] *Ibid.*
[74] Mark Tran, "WTO Rules Against US Corporate Tax Breaks" January 14, 2002, http://www.guardian.co.uk
[75] "US Continues to Challenge to EU's FSC Trade Sanction Claim by Offering Alternative Amount", no.71.

- Applying this method and after making appropriate adjustment to the total amount of the FSC subsidy estimated by the EU, the appropriate amount of sanction is not more than $956 million.

Conclusion

Thus the US and the EU have been locking horns on several issues like import of beef, GM foods and now recently steel. With US violating the WTO rules EU is seizing the opportunity to become the rule maker. By playing the good global citizen it aims to become the world's pacesetter. It wants the US to understand that it can't flout international trade rules according to its whims and fancies and that transatlantic trade disputes could derail the sweeping trade initiatives outlined in the WTO conference held at Doha.

CHAPTER- IV

THE EU, THE US AND GATT/WTO

GATT/WTO: An Introduction

Protectionist trade environment was regarded as one of the major factors for aggravating the political tension that ultimately led to World War II. Emerging as part of the Bretton Woods community of post-war international organisations the General Agreement on Tariffs and Trade (GATT) was charged with the prime objective of building a stable multilateral framework for international trade. The GATT was established in 1947 as an attempt to avoid protectionism that had characterized inter-war international trade relations. The objective of GATT was to be achieved by establishing common rules and codes on which international trade was to be conducted by the member countries and series of rounds in which negotiated reduction in tariff rates and other obstacles to free trade were to be eradicated. This system was actually a substitute for the original plans for a Permanent International Trade Organisation (ITO) to govern such matters, which the US Congress rejected on the grounds that it would curtail the sovereignty of American trade policy.[1]

The GATT was signed in 1947. There were 24 contracting parties (CPs) including seven European countries excluding Germany and Italy. The US and a number of European countries were among the founder members of GATT. The EU-US trade relations cannot therefore be considered separately from the context of GATT/WTO. The first GATT Round was held at Geneva in 1947. There were only 23 members or contracting parties with the volume of trade under negotiation then valued at $10 billion. By the time of the eight and last completed GATT Round (Uruguay Round), 117 CPs were participating in talks concerning trade volumes estimated in excess of $1 trillion. All the Pre-Kennedy Rounds (1962-1967) were to enable the USA to grant tariff concessions to Western Europe to assist the post war recovery process. This policy

[1] Christopher M.Dent, The European Economy-The Global Context, (New York: Routledge, 1997), p. 189.

altered once the European producers had developed their competitive advantage in number of vital sectors.[2]

The Kennedy and Tokyo Rounds began to extend the scope of GATT beyond tariffs into areas such as dumping, technical standards, import licenses and customs regulations.

Round	Year	Number of Contracting Parties	Value of Trade (In billion $)
Geneva	1947	23	10.0
Annecy	1949	33	n/a
Torquay	1950	34	n/a
Geneva	1956	22	2.5
Dillon	1961-1962	45	4.9
Kennedy	1962-1967	48	40.0
Tokyo	1973-1979	99	155.0
Uruguay	1986-1993	117	1000.0

Source: Christopher M. Dent, The European Economy-The Global Content (New York: Routledge, 1997), p. 189.

The progression of the GATT Rounds as shown in the above table gives indication of its own main achievements. First, it has gradually managed to encompass the vast majority of the world's nations into a multilateral forum for trade negotiations. The Volume and value of trade negotiated has increased largely in proportion to this expansion of members, but also from an enlarging the GATT agenda.[3]

[2] *Ibid.*
[3] "New Politics and Global Trade", address given by Dr. Franz Fischer, Member of European Commission before the "World Meat Congress" in Denver, Colorado, 2 June 1995.

This has no doubt been contributive to securing the relatively stable post war economic and political international relations that have existed. The other main area of success is on the unprecedented reductions in tariff rates between nations, which in turn have played their part in stimulating the most rapid international trade growth rates ever recorded. Over the eight Rounds of GATT talks the average tariff rate for industrial goods had fallen from 40 per cent in 1947 to just 4 percent in 1993. In the same period the volume of trade had increased sixteen-fold.[4]

GATT involved itself pressurizing countries to revalue their currency, widen domestic market access to imports and graduation to full GATT status. Non-compliance with such requests, normally leads to denied or limited access to the deficit country's home market. The USA in particular has taken frequent resources to such actions on a unilateral basis. This is because of both to its continued slide from being a major trade surplus to a trade deficit country and its ability effectively to assert its interests due to the size and stature of the economy. Despite the tactical and strategic orientation of trade policy that has persisted throughout the post war era, the GATT framework has remained intact and more importantly managed consecutively weightier agenda.[5]

World Trade Organisation

The World Trade Organisation's (WTO) creation was agreed to at the end of the 1986-1993 Uruguay Round of international trade negotiations. The agreement was formalised in the final act of the Round, which was singed by trade ministers in Marrkesh, Morocco, in April 1994. Launched on January 1, 1995 it replaced the GATT, which had acted as an interim world trade watchdog since 1947. It is officially defined as "the legal and institutional foundation of the multilateral trading system". Unlike GATT, the WTO is a permanent organisation created by international treaty ratified by the governments and legislature of member states. As the prime international body concerned with solving trade problems between countries and providing a forum for multilateral

[4] *Ibid.*
[5] Rene Schowok, US-EC Relations in the Post-Cold War Era: Conflict or Partnership? (Boulder: Westview Press, 1991) p.122.

trade negotiations, it has global status similar to that of the International Monetary Foundation (IMF) and the World Bank.[6]

But unlike then it is not a United Nations agency although it has a cooperative relationship with the United Nations. Its underlying documents are the General Agreement, a 38-article code aimed at ensuring open and fair trade in goods, services, agricultural product and textiles and 500 pages of specific accords reached in the Uruguay Round.

Some of the basic principles of the WTO are:

Non-discriminatory trade: This is often referred to as the cornerstone principle of GATT/WTO framework, which is known as the "Most-Favoured Nation" (MFN). The MFN – Article 1 of the General Agreement – which binds all members to give equal treatment to the products and services of all the WTO members. Its based on a reciprocity rule, which implies that tariff concessions granted by once CP to another must be returned in kind. It also states that any advantage, favour, privilege or immunity affecting tariffs or other trade regulation instruments, which are granted to one of the GATT/WTO members, must immediately be granted to all other members as well.[7]

Multilateral negotiation and free trade: The ultimate objective of GATT/WTO is to establish free trade between all participating CPs. This can only be achieved through the multilateral negotiations of tariff reductions, trading disputes and other trade related issues between members. Thus in principle, GATT/WTO attempts to deter settlement by unilateral, bilateral and multilateral means but in reality derogation of this nature have been conceded as part of a compromise solution. The most significant achievements of GATT Round have been in the multilateral reductions of tariff rates and more recently

[6] "World Trade Organisation: What it is, what it Does", *The Economic Times*, New Delhi, December 4, 1996.
[7] Dent, no.1, p. 192.

the inclusion of an expanding number of trade-related issues concerning barriers to free trade.[8]

The prohibition of quantitative restrictions: Article XI of GATT/WTO states, provisions that seek to eliminate the use of Quantitative Restrictions (QR) by contracting parties. The relatively less transparent nature of QRs with respect to tariffs has made them both prime target of more recent GATT Rounds. In the Tokyo and Uruguay Rounds efforts were thus made at the tariffication of QRs and other Non Tariff Barriers (NTBs) whenever possible to converse these trade barriers into tariff equivalents. However, there are a number of exceptions to Article XI were written into the GATT's' constitution. QRs are being permitted on agricultural imports, those countries experiencing serious balance of payment difficulties and developing countries wishing to protect infant industries. Article XIX contains a safeguard clause that allows a CP to deploy QRs on a sudden surge of imports that can be proved to cause material injury to domestic producers.[9]

GATT/WTO Rounds and the Role of the EU and the USA

From its creation, the EC/EU has conducted many trade negotiations with the US, its main trading and investment partner. Over the years, the EC and the US have successfully reached trade agreements on non-conflictual issues when their bargaining position easily converged, such as the successive reductions of industrial tariffs since 1960s. Until now, the most recent and easily most comprehensive set of talks has been the Uruguay Round. Many issues like agriculture, audiovisual services, and aeronautics have been conflictual.[10] After seven years, it was concluded in 1994 with agreements disciplining trade distorting government behavior in sectors ranging from agriculture to banking. The idea behind the talks had been to promote cross-border trade by reducing or eliminating artificial barriers imposed by governments to protect domestic industries, such import tariffs, which act as a tax on consumer goods. Import tariffs, in fact, have

[8] *Ibid*
[9] *Ibid.* p.193.
[10] Sophie Meunier, "What Single Voice? European Institutions and EU-US trade Negotiations", *International Organisation*, Vol.54 (1), Winter 2000, p. 121.

been cut by roughly 90 percent in multilateral trade talks held since the GATT was created more than fifty years ago.

Spats between its two most powerful members - the US and the EU, have dominated the WTO's agenda. Agricultural trade disputes between the US and the EU has intensified in the early 1980s with each side retaliating by imposing costly protectionist measures. The initial impetus for the Uruguay Round came from the US, which wanted to bring trade in services within the multilateral system, strengthen GATT rules and disciplines, and once and for all tackle agricultural liberalization.

The EC initially rejected the concept of a new round including agricultural talks because of its potentially highly divisive nature within the community on the issue. The member countries of the EU had extremely divergent interests with respect to agriculture. The UK and the Netherlands, both net financial contributors to the Common Agricultural Policy (CAP), hoped that the multilateral negotiations would provide an external push enabling the EC to slow down the increasing cost of the CAP. Other member states, above all France, and to some extent Belgium, Ireland, Italy, and Germany, wanted to keep a high degree of agricultural protection in Europe. As Europe's first and the world's second agricultural exporter, France was particularly adamant about maintaining the current systems of export subsidies and protected market access for agricultural products, especially given the importance of the rural vote in French domestic politics.[11] The breakthrough enabling the EC finally to accept the launching of a new round of multilateral trade negotiations occurred when France, a major service provider, agreed in March 1985 to discuss agriculture in exchange for the inclusion in GATT talks of its most important concerns such as liberalization of investment and services, the issue of exchange rate fluctuations.[12]

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[11] Sophie Meunier, "Divided but United: European Trade Policy Integration and EU-USA Agricultural Negotiation in the Uruguay Round" in Carolyn Rhodes (ed) European Union in the World Community (Boulder: Lynne Rienner Publisher, 1998) p. 198.
[12] *Ibid.*

The Uruguay Round

The US was first to officially put its negotiating proposals before the GATT group dealing with agriculture in July 1987. It called for complete elimination of all domestic subsidies in agriculture by the year 2000. It also demanded a phase – out over ten years of quantities exported with the aid of export subsidies and a phase out of all import barriers over ten years. The EC was taken aback by the extreme nature of the US negotiating proposals and did not submit its own proposal until late October, reiterating its initial plea for short-term measures, non-negotiability of the CAP, and reduction of all forms of support. A divided community was ready to make some concession on the issue of domestic support, but was unable to after anything on either market access or export subsidies.[13]

The wide gap separating the US and the EC positions and the inability of the EC to offer concessions going beyond its lowest common denominator led to a series of negotiating stalemates. The Commission however was resolved to cut agricultural support, which was costing up to 60 percent of the total EC budget. The Agricultural Council rejected the Commission's agriculture proposal in September 1990 for going too far. Most member states vigorously defended their farmers interests in Brussels, especially Germany, which was in the midst of reunification. In November, the Council adopted a much-diluted text, which proposed a 30 percent cut in domestic support over five years, to be calculated from 1986.[14]

The EC representative's lack of negotiating autonomy prevented a successful conclusion of the Brussels ministerial meeting of December 1990, originally intended to close the Uruguay Round. Negotiations made no progress until December 1991, when Arthur Dunkel, the Director General of GATT, drafted a proposal providing specific

[13] "Expanding World Trade: Challenges for the WTO" speech by the Rt. Hon. Sir Leon Brittan, Vice-President of the European Commission at the World Trade Congress, Singapore, April 24,1996.
[14] Stephen Blank and Anne Taillandier, "Atlantic Interdependencies and Free Trade" in Gavin Boyd, (ed.), The Struggle for World Markets: Competition and Cooperation between the NAFTA and the European Union (Cheltenham: Edward Elgar Publishing Inc., 1999) p. 24.

terms for reduction in export subsidies, domestic support, and import restrictions. Most countries accepted the Dunkel Draft as a basis for the final agreement on agriculture, but the EC Council rejected the text.[15]

The US-EC agricultural negotiations were put on hold while the EC, facing increasingly isolation internationally and rising budget pressure from within. On 21 May, 1992, after a year of intense debate, the EC Council of Ministers adopted a revolutionary reform of the CAP designed by Agricultural Commissioner Ray MacSharry, which limited production, required a substantial reduction in support price and a reduction in land set aside from production. Unlike the negotiations in GATT, however, the reform did not address the crucial issues of market access and export subsidies.[16] The Commission wanted a reform in order to avoid a budgetary crisis and diffuse internal criticism of the EC's wasteful and protectionist policies. The Commission also hoped to derive a more flexible negotiating mandate from the reform in order to successfully reach a deal with the US. Countries reluctant to reform because the combination of budget constraints, Commission agenda setting, and outside pressures made such a reform inevitable.

A series of intense bilateral negotiations on agriculture started in Brussels in October 1992. However, negotiations failed to produce results as France pressured the Community to make new demands and threatened its veto power, suggesting that the Commission negotiations were going beyond their mandate as defined by the CAP reform. The US responded to the failure of negotiations by linking the oilseeds dispute to the ongoing discussions and by threatening the EC with a full-blown trade war.[17] In the 1961-62 Dillon Round, the EC granted zero-duty access to the little-used oilseeds and cereal substitutes. The EC then started to subsidize its production in order to limit imports. The dispute erupted when the US Challenged the EC oilseeds subsidy

[15] Meunier (2000), no.10, p. 122.
[16] Meunier (1998), no.11, p.198.
[17] Jagdish K Patnaik, "The International Trade Regime: The EU's Role in the Uruguay Round", *International Studies*, Vol.38 (2), 2001, p.179.

programme in GATT. Successive GATT panel found against the EC, which refused to comply with the findings. Carta Hills the US Trade Representative (USTR) announced a retaliatory 200 percent punitive tariff on $300 million of European food imports effective from December 5 if the EC did not reduce its oilseeds production from 13 to 8 million tons. By targeting not only French, but also German and Italian products for retaliation, the US tried to capitalize on internal divisions in the EC and hoped to increase member states' pressure on France.[18]

Negotiations resumed in Chicago on November 2 and 3 in this tense bilateral context, although the US administration was particularly eager to conclude a deal that would come before the presidential election. The bilateral talks did not produce any progress but resulted in a major internal crisis in the community. A conflict erupted between Agriculture Commissioner Ray MacSharry and Commission President Jacques Delors on the latter accusing the former of exceeding the Commission's negotiating mandate. The conflict resulted in MacSharry's resignation. He denounced Delors interference and infringement on the negotiation's autonomy. This internal EC crisis influenced the course of subsequent EC-US negotiations; even though Delors and MacSharry settled their differences a couple of days later with MacSharry returning to his post as Agriculture Commissioner. The crisis further revealed the extent of internal divisions in the EC, not only among member states but also among and within various EC institutions.[19]

Consequently, the US administration reinforced its pressure on the EC through vigorous threats of retaliatory sanctions, in hopes of exploiting the EC's obvious lack of cohesiveness. By forcing those member states favourable to its views simply to disregard the EC and join together to reach a bilateral agreement. The US attempted to obtain a favourable agreement by playing the "divide and rule" strategy.[20]

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[18] Meunier (2000), no.10, p. 122.
[19] Blank and Taillandier, n.14, p.25.
[20] Meunier (2000), no.10, p. 123.

Internal EC divisions appeared even more clearly in the following Council meeting. On November 9, the EC foreign ministers denied French demands for European retaliation against US trade sanctions. At the Agriculture Council of November 16, expected to adopt a common position for the GATT negotiations to resume that week, an isolated France tried to convince the other member states that the proposed agreement with the US went far beyond the CAP reform.[21] MacSharry did not address France's concern about compatibility between the proposed agreement and the reform and proceeded with a new round of bilateral talks.

On 18 and 19 November 1992, MacSharry and External Affairs Commissioner Frans Andrissen met USTR Hills in the Blair House residence in Washington. After a series of proposals and counter proposals, MacSharry enabled a breakthrough in the negotiations by offering a reduction of 21 percent in the volume of subsidized exports. The talks later broke down when the US team needed to consult internally and the Community delegation went back to Brussels. However, the agreement was concluded by phone the next day.[22]

The Blair House compromise provided for a 20 percent reduction in internal price support over six years, with the years 1986-1988 as reference, but with an exemption from these cuts for US deficiency payment and EC compensation payments. On the controversial issue of export competition, the compromise provided for a reduction of export subsidies in agriculture by 21 percent in volume and 36 percent in budget over six years, using 1986-1990 as the base period. Finally, European and American negotiators agreed to a "peace clause" that would exempt from trade actions those internal support measures and export subsidies that don't violate the terms of the agreement. A separate deal in oil seeds was also concluded, thus ending several years of EC-US dispute and GATT litigation and canceling the promised US trade sanctions against the EC.[23]

[21] *Ibid.*
[22] Dent, no.1, p. 190.
[23] Meunier (1998), no.11, p. 198.

The Blair House agreement was interpreted at the time as a relative negotiating success for the EC. The agreement was able to occur in spite of strong opposition from France, the most reluctant country, because the Commission representatives exercised a particular high degree of autonomy during the Blair House negotiations. The combination of weakened unanimity and greater Commission autonomy actually freed the hands of EC negotiators, thereby breaking the negotiation paralysis. The agreement reflected US bargaining strength but served the interest of the majority of the member states.[24]

The French government opposed the Blair House agreement as soon as it was signed on the grounds that it was not compatible with the CAP reform. Belgium, Italy and Spain were also skeptical at first of the agreement. Fueled by violent domestic protests from angry farmers and by crucial national election ahead, the French government embarked on a crusade to denounce the content of the agreement and contest the conditions under which it had been reached. Above all, French policy makers blamed the European-level negotiations that, they claimed had exceeded their mandate.[25] In private, French officials criticized the personalities of Andriessen and MacSharry, but they also denounced the EU institutions for drifting away from inter governmentalism and allowing the fundamental objections of a member state to be over ruled. The French goal thus became to reopen the agricultural negotiations and at the same time curb the erosion of negotiating by consensus and the growing autonomy of the EC negotiations.

The official stance of the newly elected French government on Blair House was finally unveiled on May 12 in a memorandum accepting the oilseeds deal but vowing to forget the other parts of the agreement. French European Affairs minister issued a memorandum stating that EU decision-making was not working properly and the Commission's methods were unsatisfactory, resulting in a certain confusion of responsibilities.[26] Citing the Blair House agreement, he complained about the unclear

[24] Patnaik, no.17, p.179.
[25] "The EU Approach to the WTO Millennium Round", Communication from the Commission to the Council and the European Parliament, Commission of the European Communities, Brussels, 08.07.1999, (COM) final.
[26] Meunier (1998), no.11, p. 204.

definition of competencies in the Union and asked governments to ensure that the Commission stick to its negotiating mandate and that national Parliaments be associated with the aims of that mandate.

In June, Belgium backed French demands for new trade instruments to fight unfair trade practices by third countries and for strengthening EU trade defense mechanism. Ireland, Portugal and Spain also supported the French view, but Germany disagreed. From then on, limiting Commission autonomy, reinstating the veto right, and providing the EU with offensive trade instruments become intertwined with French demands for renegotiating the Blair House agreement.[27]

The US administration made clear that it had no intention of reopening Blair House agreement and treated the renegotiations issue as an internal EU matter. The Commission and all member states, with exception of France and Ireland, also opposed the renegotiations of a deal that had been legitimately agreed to by the EC representatives.[28]

France spent the next five months trying to find allies to reopen the Blair House deal. In June, Belgium offered France some welcome support. Belgium hoped to improve confidence and communication between the Commission and the member states, in order to avoid a repeat of the crisis that followed the secrecy of the Blair House agreement negotiations. Germany, which initially expressed firm opposition to any reopening of the Blair House deal, played a crucial role in mediating the negotiation crisis.

In late August, Chancellor Kohl surprised everyone, above all his own government, when he announced that Germany shared some French concerns about the Blair House compromise. France sent a second memorandum which called for changes in EU internal procedures to ensure national governments closer control over the

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[27] "The EU Approach to the WTO Millennium Round", no.25.
[28] Blank and Taillandier, n.14, p.25.

Commission during multilateral negotiations an avoid the scarcely transparent condition under which previous agreements, such as Blair House, were negotiated.[29]

On September 13, the Spanish government, concerned about its own fruit, rice, sugar and wine production, backed France in a memorandum arguing that several provisions of the Blair House agreement had to be revised and called for transparency in future negotiations. In October, at France's demand, the member states agreed to ask the Commission for a written report on the trade talks every two weeks until the December deadline.

The threat of a major crisis if the EC demands for clarification of the Blair House agreement eventually contributed to a reversal of the US position. The US administration ultimately agreed to renegotiate specific elements of the agreement, rather than confront a possible breakdown of the talks before the crucial ultimatum enforced by the expiration of the US Congressional Fast Track Authority on 15 December 1993.[30]

The EU-US agricultural agreement finally concluded on December 6 changed several important elements of the original Blair House agreement. The "Peace clause" was extended from six to nine years and the bulk of the cuts in subsidized farm exports were postponed to the later years of the implementation period. Market access for imports was fixed according to the category of product, instead of the more restrictive product-by-product curbs. Direct assistance to farmers provided under the 1992 CAP reform was not challenged. Finally, and most importantly, 1991-1992 was taken as the reference period instead of 1986-1988. The EC could thus export eight million tons of grain over and above the quantity that the original Blair House agreement would have allowed.[31]

In exchange for accepting the agricultural agreement, France demanded tougher EU handling of unfair trading procedures and changes in the EU voting system on anti-dumping. Germany dropped its longstanding opposition for giving the Commission

[29] "The EU Approach to the WTO Millennium Round", no. 25.
[30] *Ibid.*
[31] Meunier (1998), no.11, p.205..

greater power to impose anti-dumping duties on unfairly priced imports. The EU gained more than mere clarification in the final agreement on agriculture, and the US was forced to retreat during the last weeks of negotiations. When the Uruguay Round was concluded on 15 December 1993, the veto right had been reinstated and the Commission's autonomy was curtailed.[32]

The EU's external bargaining capabilities are directly related to its institutional structure. This case study demonstrates that a breakthrough became possible because of the internal agreement to entrust the Commission with a bargaining mandate. The resulting Blair House agreement was renegotiated because the Commission's authority was contested. Furthermore, the renegotiation debate triggered questions about the legitimacy of the Commission's representation both inside and outside the union. A major debate also arose as to EU representation and reparation of responsibilities in the WTO. Several member states insisted on being granted their own competencies with respect to the new issues such as services and intellectual property.

Hoping to maintain union cohesion, the Commission asked the European Court of Justice for an opinion on the issue of competence. In November 1994 the Court ruled that although the union had sole competence to conclude international agreements on trade of goods, the member states and the union shared joint competence to deal with trade that did not involve goods.[33] The courts encouragement of a return inter governmentalism in the field of external trade is undoubtedly setting the stage for future disputes over competencies and may affect the future character of the EU as an actor in international trade negotiation.

Estimates have been made regarding the expected welfare gains generated by the trade liberlising effects of the Round. A geographical breakdown of the gains revealed that the EU would become the main beneficiary of the Uruguay Round largely through reforms made on trade in agriculture and textiles and improved competitive effects upon

[32] Patnaik, no.17, p.179.
[33] Meunier (1998), no.11, p. 209.

EU industry from a more open global competitive environment. The USA was also found to be a major beneficiary for similar reasons. Developing countries would primarily benefit from improved market access to OECD market and subsequent developmental effects this generates.[34]

Estimated future welfare gains from the Uruguay Round
($billion per annum, 1995-2004)

USA	122.4
EU	163.5
Japan	26.7
Canada	12.4
EFTA (7)	33.5
Australia	5.8
China	18.7
Taiwan	10.2
Rest of the World	116.8
Total	**510.0**

Source: http://www.reuters.com, 10 November 1994

The Seattle Round

The WTO talks held in Seattle from 30 November to 3 December 1999 ultimately resulted in the worst failure in its 51-year of history to make any progress on the contents of the next round of global trade negotiations. One of the main causes of dissent amongst the participants was the issue of including labour standards in international trade agreements. The WTO ministerial conference brought together delegates from 135 countries in Seattle on 30 November to 3 December 1999 in order to debate ways in

[34] Adam S. Posen, "World Trade and Transatlantic Relations", Institute for International Economics, http://www.iie.com

which world trade could be further liberalised, within the framework of a planned "millennium round" of talks.[35]

The Seattle meeting ended in failure when a number of small economies refused to be manipulated, marginalised and left out of the decision-making processes and accept in decisions cooked up in secretive so-called green room processes. Some of the other major developing countries refused to pay a price to enable the Caims Group of agricultural exporters and the US to gain concessions from the EC on the agricultural front. And moreover, developing nations refused to be cowed - by some of the street protests and by the US administration - and said no to labour and environmental standards being linked to trade rights and obligations and open to sanctions.[36]

The issue of including core labour standards - for example, bans on child and forced labour and guarantees of trade union rights such as the rights to bargain collectively and associate freely - in international trade agreements was a key topic of discussion and ultimately one upon which the participants could not agree. Two of the main economic powers at the conference, the EU and the USA, both put forward proposals for the future development of the labour standards issue.[37] The EU proposal advocates setting up a joint WTO and International Labour Organisation (ILO) forum with a remit to establish a dialogue involving all interested parties on the issue of the relationship between trade and labour standards. The US proposal focuses on setting up a more specific dedicated WTO working group on trade and labour, with the aim of producing a report for WTO member countries to examine at the next ministerial conference in 2001.[38]

Officially, according to the closing remarks of the Conference Chair, Charlene Barshefsky, the Seattle Ministerial Conference was suspended and proposals on the table

[35] "World Trade Organisation Ministerial Conference in Seattle: Appraisal and Prospects" speech by Pascal lamy (European Union Trade Commissioner) in European Parliamentary Plenary Session, Strasbourg, December 13, 1999.
[36] Chakravati Raghavan "Seattle WTO Ministerial ends in Failure", Third World Network, http://www.twnside.org.sg
[37] "World Trade Organisation Ministerial Conference in Seattle: Appraisal and Prospects", no.35.
[38] "Seattle WTO talks fail", European Industrial Relations Observatory On-line, http://www.eiro.eurofound.ie

frozen, for members to take a time out, to consult one another and find creative means to finish the job.[39] But judging by their responses at final press conferences, neither the US nor the WTO Director General Mike Moore nor even the EC, which suffered a spectacular failure in its bid to launch a comprehensive new trade round to write new rules in new areas, seemed aware of what had hit them. The EU Trade Commissioner Pascal Lamy showed some awareness but seemed to be looking for new ways to continue the same old tactics of a few taking decisions and getting the others to accept them.

A large number of delegations and many observers, believed that there was organisation and planning behind the chaotic, confused and confusing conference facilities inside, and a large part of the street protests outside which created inhuman working conditions, physical and mental, under which the negotiations were conducted.

US media reports indicated that the Clinton White House had given support to a controlled street protest by organised labour and some of the environment groups in order to persuade the conference to accept US demands for labour and environment standards at the WTO, but lost control when other movements of civil society staged their own protests, and delegates refused to yield.[40]

At a press conference after the suspension of the meeting, Barshefsky claimed that everything on the table was frozen, implying that various proposals and compromises that had figured in the green rooms and working groups, or texts that the secretariat might have prepared and presented, were there, could not be taken back and could provide a basis for further negotiations.[41] But the EU Commissioner Lamy seemed to imply at another press conference that the status of the various compromise proposals and texts at the informal talks and green rooms was governed by the principle nothing is agreed until everything is agreed and hence the said proposals and texts were no longer there, a view that some other trade diplomats seemed to share.

Deep and unbridgeable differences of substance - as between the major industrial blocs and varying coalitions of developing countries - and even sharper differences as

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[39] Raghavan, no.36, http://www.twnside.org.sg
[40] *Ibid.*
[41] European Industrial Relations Observatory On-line, no.38.

between the WTO leadership and major industrialised countries and the large number of developing countries over the decision-making processes and transparency of such processes in a rules-based organisation were primarily responsible for the failure here.[42] Even the 1982 GATT Ministerial, where the US came with demands for a new trade round covering new subjects, and failed to muster support, ended in a declaration and a clear work programme of two years, leading to a difficult preparatory process of two more years and seven years of difficult and complex negotiations to create the WTO and its agreements. And while the Montreal and Brussels Ministerial of the Uruguay Round failed to agree, they had official texts before them, which were transmitted back to Geneva for further work.[43]

Contributory causes behind the collapse perhaps were the arrogance of power of the host country and its attempts, with some secretariat help, to manipulate the preparatory processes at Geneva and the Ministerial meeting in Seattle itself - including an attempt to use the street protests to get the US view accepted - and the lack of even the normal courtesies and facilities extended by a host to the member nations of the WTO. Nothing illustrated this more, perhaps, than the fact that even the normal diplomatic practice of offering 'thanks to the host country' and to the 'chair', moved from the floor, was absent at the final meeting of the COW and at the final open plenary when Barshefsky made her closing remarks and closed the meeting.[44]

However, no consensus could be reached during the Seattle talks on either of these proposals, with the main opposition coming from developing countries. There was also the growing determination of many small and medium developing countries not to be taken for granted, and their insistence on being part of the decision-making process. In general, developing countries are opposed to the discussion of core labour standards by the WTO, believing that the more developed countries have a protectionist interest in removing the comparative advantage of lower-wage countries.[45] They argue that the way forward is not to enforce labour standards through the WTO, as sanctions applied to

[42] "Post-Seattle: What Next?", speech by Pascal Lamy (European Union Trade Commissioner) in European Institute, Washington, February 17, 2000.
[43] *Ibid.*
[44] Raghavan, no.26.
[45] Posen, no.34.

developing countries for breach of such standards would merely increase their poverty, rather than help them to achieve the economic growth, which they believe is the only way to raise labour standards in the longer term.

Doha Round

Since 11 September, terrorism and war have dominated international politics and questions about the nature of globalization have been sidelined. The WTO Ministerial Conference in Doha in November 9 to 14, 2001, which agreed upon a new round of global trade talks barely made the evening news in Europe and America. There was pressure on the WTO members to agree a new round of global trade talks as a "response to terrorism". At the meeting in Doha, the US and to a lesser extent the EU showed an unusual readiness to compromise in the interests of securing agreement with developing countries.[46] The 10-page declaration adopted at the WTO ministerial conference sets out the agenda for the new round of trade negotiations, the first since the Uruguay Round of 1986-1993, called the "Doha Development Agenda".

The declaration recalled the long term objective of establishing "a fair and market orientated trading system through a programme of fundamental reform encompassing strengthened rules and specific commitments on support and protection in order to correct and prevent restrictions and distortions in world agricultural markets". The declaration reaffirmed the commitment of WTO members to comprehensive negotiations aimed at substantial improvements in market access, reductions with a view to phasing out of all forms of export subsidies, substantial reductions in trade-distorting domestic support, and the incorporation of special and differential treatment for developing countries.[47]

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[46] Duncan Green and Mathew Griffith, "Globalization and its Discontent", *International Affairs*, Vol.78 (1), January 2002, p.64.
[47] "The EU position on the WTO Agreement on Agriculture", Technical Centre for Agricultural and Rural Cooperation on ACP-EU, http://www.agricta.org/agritrade/wto/

The results of the meeting were far reaching, comprising:[48]

- a decision to launch a new WTO round - comprising both further trade liberalisation and new rule-making, underpinned by commitments to strengthen substantially assistance to build capacity in developing countries. The negotiations will last three years - until January 2005;

- a decision aimed at helping developing countries implement the existing WTO agreements;

- a decision to interpret the TRIPS Agreement in a manner that ensures Members' rights under TRIPS to take actions to protect public health.

- The Doha ministerial also brought a satisfactory outcome on agriculture, in confirming the commitment to negotiate on market access, domestic support and all forms of export subsidies, but without prejudice to the final outcome, while clearly acknowledging the multifunctional nature of this sector and the need to take fully into account the interest of developing countries. This result fully balances the EU's interests in its capacity as a major exporter and importer of agricultural products.

Looking beyond the agricultural sector, developing countries secured concessions in Doha in the following areas:[49]

- a declaration on TRIPS and public health which addressed developing country concerns with regard to affordable access to basic medicines;

- longer timeframes for implementation of tariff reduction commitments;

- opt out possibilities from agreements in new areas (investment, transparency of government procurement, competition policy etc);

- commitments on aid to capacity building;

[48] "4th WTO Ministerial Conference, 9-14 November, Doha, Qatar - Assessment of results for the EU", European Union On-Line, http://www.europa.eu.int
[49] "The EU position on the WTO Agreement on Agriculture", no.47.

- commitments to improvements in market access for agricultural products;
- the removal of tariff peaks and escalations;
- anti-dumping measures;
- a re-balancing of basic provisions.

The agriculture issue also dominated the Doha Round as it had done so in the previous rounds. The EU and the USA had major differences of opinion on export subsidies and GMOs. The EU wants to see WTO rules in this area that recognise consumers' rights to be informed of the nature, origin and methods of production of food products. The EU favours an approach to this issue which recognises the right of WTO members to choose the level of consumer information required, promotes transparency in the design and implementation of mandatory labelling schemes and allows specification of production methods (organic or non-organic, modification of agricultural products etc.). The EU recognizes developing country concerns that mandatory labelling schemes could have negative effects on trade flows (particularly for countries where small volumes are involved), but believes that mandatory labelling could increase the commercial value of exports. It nevertheless recognises that developing countries should receive assistance in establishing regulatory initiatives on labelling.

EU proposals on mandatory labelling of agricultural products need to be seen against the background of the conflict with the USA over genetically modified foods. This conflict could have serious implications for developing countries. For example, were Zimbabwe to import genetically modified grain from the USA in the context of current food shortages, the EU may come to insist that subsequent Zimbabwe beef exports to the EU include labelling as to whether genetically modified crops were used in the feedstuffs fed to Zimbabwean cattle. In the absence of the ability to verify the non-use of genetically modified crops in animal feeds, Zimbabwe could potentially face import restrictions.

Another item in the Doha Development Agenda is a review of WTO rules on Dispute Settlement Understandings (DSU). It has been a considerable source of discomfort for all countries with allegation of poor judgments that go well into rewriting existing WTO/GATT agreements. This agenda calls for a review and re-negotiation of DSU rules.[50]

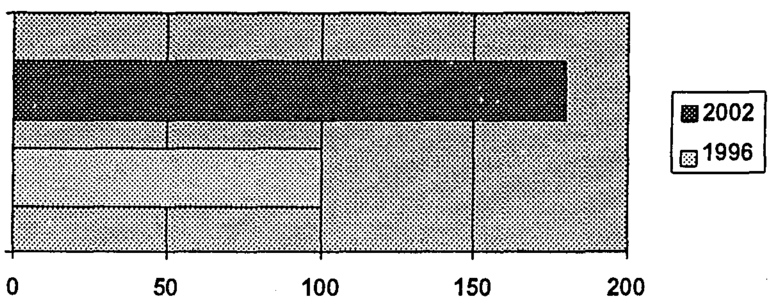
Over the issues on TRIPS, competition, investment etc. the EU and the USA had no major differences in Doha Round. Both the partners, the world's biggest trader, so often at loggerheads in the past worked in close alliance. Several simmering bilateral trade disputes from banana to Irish music, seemed to have largely diffused. Transatlantic tensions in short appeared to have given way to a joint leadership that was at last pushing free trade. The world economy was looking unexpectedly brighter this year after the Doha Round, but the transatlantic trade relationship has turned disturbingly dark. In March when president George Bush, supposedly an advocate of free trade, slapped "safe guard" tariff of up to 30 percent on foreign steel, in America's most protectionist single action for two decades. Worst of all Bush is now poised to sign a farm bill loaded with new subsidies for farmers. This matters hugely, because liberalization of trade in agricultural products was central to Doha agenda. And the Europeans notoriously, protective of their CAP are likely to grab any excuse to avoid reforms that might hurt their politically powerful farmers.[51]

It was the Americans who insisted on putting free trade in agriculture at the heart of Doha Round. The 1996 US farm bill sensibly cut subsidies, as well as partly uncoupling those that remained from production, making them less trade-distorting. The declared intention then was to move towards a subsidy –free agriculture, better able to compete in future world of liberalized farm trade. The 2002 farm bill throws all of this out of the window. It raises the level of federal subsidies by over 80 percent - and this at a time when there is fretting galore about the budget deficit. It vastly increases subsidies for soya beans, wheat and corn. It introduces new subsidies for peanuts, lentils, chickpeas and diary farms. It even resurrects programmes for honey, wool and mohair that were killed off in 1996. American subsidies per farm may soon reach three or four times

[50] "The Doha Declaration explained", World Trade Organisation, http://www.wto.org/english/tratop_e/dda_e/dohaexplained_e.htm
[51] *The Economist*, May 11, 2002

European levels. Nor with the much-loved small farmer benefit, three quarter of the cash will go to the biggest and richest 10 percent of farmers. Compare to the 1996 US farm bill of $100 billion, the 2002 farm bill has grown 80 percent more, reaching up to $180 billion. The bill could well breach the limits on farm support set by the Uruguay Round in 1994. So why is president Bush, a professed free trader signing this disgraceful bill? The real explanation for America's farm bill is absolutely electoral. Several of the closest Senate races this November are in states such as Iowa, South Dakota and Missouri that have large and powerful farm lobbies. Bush's advisor seem to be calculating that, just as steel tariff may help him to win West Virginia, Ohio, and Pennsylvania in 2004. So signing the farm bill may win him votes in that belt. Bush hailed the farm bill as offering a "generous and reliable safety net" to American farmers. When the result will be a failed Doha round, it will be the world economy, not the farmers that would need a safety net.[52]

US Federal Support for Farmers (in $billion)



Source: The Economist, May 11, 2002

To make their annoyance even clearer, the Europeans have chosen to hit America where it hurts most, in electorally sensitive districts. Tariffs may be imposed on a miscellaneous list of products from textiles wounding North Carolina to Tropicana orange juice hurting Florida. The atmosphere of trust that had begun to built up between the EU and the US, which played such a big role in Doha, has been strained and at a time when the growth of world trade has flattered because of the slowdown of the world economy. Like an old married couple, the EU and the US bicker about relatively minor

[52] *Ibid.*

issues but make sure that their broader trade relationship does not breakdown. If disputes like this accumulate there is a great risk of the WTO being clogged up, as hundreds of inconsistencies and loopholes in numerous agreements are taken to litigation. At worst, this could undermine the WTO's entire dispute-settlement system. The WTO, after all, is still young, an institution need of nurturing rather than smothering with work.

Conclusion

The WTO was established to act, as the successor to GATT and as a permanent-negotiating forum. Its main aim is to provide a stronger and more coherent framework for accelerating the trade liberalisation process. Although the WTO enjoys the use of enhanced trade rules and a more effective advocacy of a liberalised world trade system, its power of enforcement, like those of its predecessor are almost non-existent. Most decisions taken by the WTO are dependent on the consensus of its members. Supporters of the idea of free trade say that easing restriction on trade in goods and services, which has led to a fifteen fold jump in the volume of the world trade since 1960 has helped boost economic out put and per capita income in developed and developing countries as well. Opponents say it has cost workers thousands of jobs by making it more attractive for companies to move overseas.

Whatever are the pros and cons of the divergent views, the US and the EU had been successful to persuade other countries to launch a new round of trade liberalization talks at the Seattle and followed by Doha. The argument is to do nothing now could invite backsliding by some governments on earlier commitments. As host of the Seattle meeting, the US motivated other countries to agree to a negotiating agenda for the new round that includes to further liberalise trade in agriculture and services as well as to additional reductions in tariffs on industrial goods. The US had said that it would want to see improvements in the WTO's dispute settlement process arguing that current system allows countries to ignore WTO rulings for too long. For its part, the EU whose member countries had been hit by a series of food safety scares in recent past; insist on its right to restrict imports that could threaten public health. The EU also said it wants to ensure that the world trade community addresses issues of particular concern to the Public, such as environmental protection.[53]

EU officials and US have said that new forms of protectionism, including anti-competitive business practices have also taken on added importance over the years and need to be addressed. Steps need to be taken as well, to ensure that relatively new services like "electronic commerce" over the internet remain free of restrictions.

The Uruguay Round had hardly multilateral negotiations. For long periods it was bilateral confrontation between what Jacques Delors referred to in 1992 as the two elephants on the world market. This was obviously the case of high profile agricultural dispute. But the central contest between the US and the EU infected many other areas of the negotiation- in intellectual property rights, services and elsewhere – in which they might have been expected to have common interests. The whole complex negotiating machinery of the GATT was often becalmed while EC and US officials tried to resolve their differences, some of which were strictly in bilateral character.[54]

The WTO's agenda has been dominated by spats between its two most powerful members, the EU and the US. It settled two important transatlantic disputes over the EU's banana import region and hormone treated beef. The EU has been slow to implement its rulings and exploited legal loopholes at every turn, while the US waved the threat of unilateral action. Both sides gave the impression that WTO is their plaything, alienating the developing nations, which make up three-quarters of its membership. In the end, it will likely be the EU and the US that will determine the fate of the upcoming Rounds and of the WTO itself.

[53] Gary G. Yerkey, "The Next Trade Round", *Europe*, November 1999,p. 11.
[54] Charlotte Bretherton and John Vogler, The European Union as a Global Actor (London and New York: Routledge, 1999), p. 76.

CHAPTER – V

CONCLUSION

Despite the increase in trade disputes, the EU-US economic partnership is more balanced now than in the early post-war years and it continues to flourish. Economic interdependence in the early post-war period took an asymmetric form with the EU as the junior member of EU-US partnership. This partnership enabled the Europeans to recover from the devastation of the war and establish a stable monetary system and a more open trade and financial system that led to a period of unparalleled economic growth. In early 1970s, period of hegemony was replaced with hegemonic decline with the economic interdependence transformed from asymmetric form to gradual symmetric relationship. The power of US declined relative to that of the EU. A new era of symmetry arrived in EU-US economic interdependence given the EU's economic renaissance and movement toward a Single Market and Economic Monetary Union (EMU) in the 1990s. Thus EU-US economic relations have been a journey from inequality to equality of partnership over the past five decades.[1]

Sectoral trade disputes between trading nations developed since World War II, following the general acceptance of market economy, trade liberalisation and the creation of GATT. At any point of time disputes between the EU and the US cover only a tiny portion of their total bilateral trade. But, in recent years a number of disputes have proved especially difficult to resolve because they arise not from limited sectoral or from protectionist concerns or from technical disagreements over the applicability of WTO rules, but from wider issues of public and political concern.[2]

The protectionist measures used in the past ranged from brutal to the relatively sophisticated in due course of time. By the early 20th century the approach was to use

[1] Kevin Featherstone and Roy H. Ginsberg, The United States and the EU in the 1990s: Partners in Transition (London: McMillan Press Ltd., 1996), p.164.
[2] Michael D.C. Johnson, "US-EU Trade Disputes: their Causes, Resolution and Prevention", European University Institute, Florence, http://www.iue.it/

more generalised methods such as high tariffs and quantitative restrictions (QRs). In course of time the countries tried to protect their domestic industries by introducing non-tariff barriers (NTBs) on the pretext of health, standard and environmental issues. During nearly 50 years of the GATT, a total of 115 reports were issued to disputes panel set up under the General Agreement. Of these, 39 arose from disputes involving the US and the European countries. In the seven years since the WTO, 59 have reached the stage of issue of a panel report and 36 of those were subject to further review by the WTO Appellate Body.[3]

It is not surprising that between such large partners as EU and US some disagreements break out. The trade policies of the nations reflect the policy choices of governments, but inevitably also the political and economic preferences of society and the pressures exerted by interest groups.

The total value of EU-US bilateral trade including services is currently around euro 500 billion annually. Year by year, disputes between the EU and the US have never covered trade representing more that 1 or 2 percent of the total, and that remains true despite the present high political profile of certain bilateral disputes. Nevertheless, some of the disputes are of such a nature, which involve a risk to the wider transatlantic political relationship.

The most high profile current disputes between the EU and the US are the EU ban on the use of hormone growth promoters in beef, which since the 1980s has reduced the beef imports from the US to a plunge; the long standing EU preference in banana imports for producers in certain former dependent states of EU countries, particularly in the Caribbean; US tax concessions for exporting companies which the EU alleges to constitute unfair subsidies under WTO rules; EU subsidies for production of different models of the European Airbus; and the most recently imposing of a steep tariff on steel imports by the US from all foreign countries excepting Canada and Mexico.

[3] *Ibid.*

Most of the above-mentioned disputes are particularly difficult to handle whether bilaterally or through multilateral mechanisms. The familiar type of sectoral disputes are sparked by identifiable interest groups, typically by an industry that loses sale because of competition from imports, or by exporters who lose sales because of restrictions imposed by importing countries. But these disputes are different from the traditional ones. These disputes arise against a background of vastly increased public awareness of issues like:

- The impact of trade on biodiversity;
- Public health standards and their interaction with trade;
- Globalisation of economic and industrial interests, together with the interaction of global business with industrial standards and regulatory procedures that still vary widely from country to country; and
- Increasing concern about labour standards in some countries.

There is no single or constant model of trade disputes, and in recent years, there have been significant changes in the nature of those, which arise. These considerations bear fundamentally, on what can be done to resolve EU-US disputes and to avoid, or at least reduce, the risk of such dispute arising.

The key point is that both sides have interest to settle issues. Whether it is actively pursued or only reluctantly accepted following the adverse WTO finding, both parties have to have enough at stake to enable them to face down the deep-rooted interests on their own side. There has to be the political will to achieve a settlement, or sufficient risk to other national interests to stimulate the will. Thus, in 1992 the US and the EU were able in the Blair House Agreement to bundle up the settlement on some limited but inflexible agricultural trade disputes, in the greater interest of laying a foundation for eventual conclusion of the Uruguay Round. By contrast, the various current disputes are not a nature to be solved through trade-offs. The parties have to inch painfully towards a solution in each case taken separately.

Some of the basic points to facilitate the amicable settlement of current and prospective disputes are given below.

First, there are no magic all-embracing solutions. If there had been, they would have been discovered and implemented during half a century of trade negotiations and disputes between the US and the European countries.

Second, both sides have a vested interest in dispute resolution. Apart from the volume of bilateral trade, the EU and the US have joint stock of investment in each other's economies, which also totals in round figures, some euro 500 billion and sustains millions of job in both the sides of Atlantic. Running a trade dispute with a major partner, even over a limited issue, is not cost-free either politically or economically.

Third, there are already elaborate bilateral mechanisms for regular consultation and negotiation. The so-called EU-US "High Level" meting at senior political level take place regularly and are supported by constant lower level contacts between officials. Trade and economic matters are always on the agenda. A series of transatlantic initiatives began in the 1980s with bilateral declarations of good intent. From these grew first the New Transatlantic Agenda of 1995, then in 1998 the more substantial Transatlantic Economic Partnership and the simultaneous foundation of Transatlantic Business Dialogue (TABD), which conducts detailed studies and makes policy and practical recommendations to both the EU and the US government.

Fourth, both sides have invested heavily in their commitment to the multilateral mechanisms of the WTO. They have recognised in their own laws the primacy of the WTO dispute system. The two leading forces in the WTO could not withdraw to any significant degree from the system without causing it to collapse. It is therefore to be assumed that for both parties the WTO will remain the ultimate forum for settlement of disputes.

Both the US and the EU have large number of technical agencies or committees with powers to make regulations or take operational decisions that may affect trade. In this case both sides need to set up consistent internal procedures in order to ensure that all technical decisions, which affect trade, are taken in consultation with experts in trade policy and bilateral relations.

The current disputes are much harder to handle once they have broken out. But Americans and Europeans know enough about each other's economies and social attitudes for it to be perfectly plain when, for example, the large scale development in the US of genetically modified food stuffs will run into popular opposition in Europe, or when aircraft subsidies in Europe will encounter objections in the US. Both sides should conduct regular joint reviews of the likely impact on trade of new technical developments and associated regulation and rule making.

Both the parties must work more energetically in international standard setting bodies such as the Codex Alimentarius Committee and relevant environmental bodies to agree common standards for the development and implementation of new technologies, which have a potential impact on biodiversity or public health. It may be objected that such kind of defensive work in international institutions could breach commercial confidentiality and undermine the economic returns to companies from being the first to develop and introduce new techniques. But, losses from the blocking by trading partners of trade in such new products once they are marketed, and of the consequent international disputes, could be much greater. The TABD can play a much greater part in creating the right policy environment for such efforts.

Article 22 and 23 of WTO Dispute settlement Understanding (DSU) provided for consultation between the parties as an essential first stage in the event of disputes, with an explicit preference for the settlement of disputes by negotiation whenever possible. WTO procedures would still be there for use if bilateral negotiations failed.

Bilateral procedures to solve trade disputes would be effective only if the parties really want them to work. When both sides have enough at stake both politically and economically to make it worth facing down the protests of internal interest and lobby groups. Bilateral procedures would still in the real sense be only voluntary, or discretionary.

There is an urgent need for the EU and the US to find more effective ways of avoiding the outbreak of bilateral trade disputes, and when these do occur, of resolving them. But both sides also have wider responsibilities towards the international community, including the leading roles, which they play in many multilateral institutions. It would not benefit the world at large, or ultimately themselves, if they tried to invent a new bilateral framework for their trade and economic relations, which undermined their wider commitment to multilateralism. Therefore, regards to trade disputes, the only feasible approach is to remain within the rules and procedures of the existing WTO and, continuing further negotiations to improve the WTO, to work more effectively with its existing process. Better bilateral mechanisms can be introduced on the basis of the existing multilateral obligations provided that these operate transparently.

Despite the growing importance of the Pacific Rim to the US economic interest and Eastern Europe and the Mediterranean to EU interests, the US will remain a Pacific and an Atlantic commercial power, just as the EC will remain an Atlantic as well as a Mediterranean power. Since the EU and US own a piece of each other's economies, they will remain intimately acquainted with domestic policies and feel their adverse effects. The key to the future of EU-US relations is not the level of economic interdependence, which has grown so complex, but the will and capability of the US, the EU and its member state leaders to adapt change, handle trade disputes judiciously to avoid widespread damage, and indeed to proactively work to steer away from confrontation. Given the fact that trade disputes will increase exponentially with the increased interdependence, the US and the EU will need to work more closely together given the inevitability of conflict.[4]

[4] Featherstone and Ginsberg, no.1, p.198.

The EU and the US must learn quickly to how best to manage the new reality without loosing what they have already gained. Trade brinkmanship is dangerous and may set the international trade order back to the pre-war days.

SELECT BIBLIOGRAPHY

PRIMARY SOURCES

Commission of the European Communities, "The EU Approach to the WTO Millennium Round", Communication from the Commission to the Council and the European Parliament, Brussels, 08.07.1999, COM (1999) final.

Commission of the European Communities, "Commission Publishes 1997 Report on US Trade Barriers", Brussels, July 29, 1997.

Commission of the European Communities, "The New Transatlantic Marketplace", Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee, Brussels, 11.03.1998, COM (1998) 125 final.

Commission of the European Communities, "Washington Summit to Review Progress on Closer Ties", Brussels, June 11, 1996.

Commission of the European Communities, "WTO Decisions Regarding the EC Hormone Ban", Communication from the Commission to the Council and the European Parliament, Brussels, 10.02.1999, COM (1999) 81 final.

"Expanding World Trade: Challenges for the WTO" speech by the Rt Hon Sir Leon Brittan, Vice President of the European Commission at the World Trade Congress, Singapore, April 24, 1996.

"New Politics and Global Trade", address given by Dr. Franz Fischler, Member of the European Commission before the World Meat Congress in Denver, Colorado, June 2, 1995.

"Report on United States Barriers to Trade and Investment 2000", European Commission, Brussels, July 2000.

"A Review of Transatlantic Relations", EU-US News, Vol. III (7), May 2001.

"EU Agriculture and the WTO: Towards a New Round of Trade Negotiations", European Commission, Directorate-General for Agriculture, Brussels, September 2001.

"Towards a New Round", European Commission, Directorate-General for Trade, Brussels, October 2001.

SECONDARY SOURCES

BOOKS

Baldwin, Robert E., Core B. Hamilton, and Andre Sapir, (eds.) *Issues in US-EC Trade Relations* (Chicago: Chicago University Press, 1998)

Boyd, Gavin, *The Struggle for World Markets: Competition and Cooperation between NAFTA and the European Union* (Cheltenham: Edward Elgar, 1998).

Bretherton, Charlotte and John Vogler, *The European Union as a Global Actor*, (London: Routledge, 1999)

Dent, Christopher M., *The European Economy – The Global Context* (New York: Routledge, 1997)

Dinan, Desmond, *Ever Closer Union: an introduction to European Integration*, (London: McMillan Press Ltd., 1999).

Ellwood, D W., *Rebuilding Europe, America and West European Reconstruction*, (London: Longmans, 1992)

Featherstone, Kevin and Roy H. Ginsberg, *The United States and the European Union in the 1990s Partners in Transition* (Second Edition) (London: McMillan Press Ltd., 1996)

Freedman, L. (ed) *The Troubled Alliance: Atlantic Relations in the! 980's* (New York: St. Martins, 1983)

Frellesen, Thomas and Roy H. Ginsberg, *European Union-United States Relations in the 1990's: Elements of Partnership* (Brussels: Center For European Policy Studies, 1994)

Ganz, Narette and John Roper, (eds.) *Towards a New Partnership: US-European Relations in the Post Cold-War Era* (Paris: Institute For Security Studies, 1993)

Gill, Stephen (ed.), *Atlantic Relations: Beyond the Reagan Era*, (Hemel Hempstead: Wheatsheaf, 1989)

Harrison D M., *The Organization of Europe the Continental Market Order* (London: Routledge, 1995)

Harrison, Glennon (ed.), *Europe and the United States: Competition and Cooperation in the 1990s*, (Washington: Government Printing Office, 1992)

Harrison, M., The *Reluctant ally* (New York: Praeger, 1981).

Humpherey, Don, *The United States and the Common Market*, (New York: Praeger, 1962)

Kaiser, Karl, *Europe and The United States: The Future of the Relationship* (New York: Columbia University Press, 1973)

King, Kenneth, *US Monetary Policy and European Responses in The 1980's*, (London: Routledge, 1982)

Levine, Micheal K., *Inside International Trade Policy Formulation: A History of the 1982 US-EEC's Arrangements*, (New York: Praeger, 1985)

Mally, Gerhard, *The European Community in Perspective: The New Europe, the United States and the World* (Lexington: Mass. D.C. Heath, 1974)

Palmer, John, *Europe Without America*, (Oxford: Oxford University Press, 1988)

Petrson, John, *America and Europe in the 1990's: The Prospect for Partnership* (London: Edward Elgar, 1993)

Rhodes, Carolyn (ed.), *The European Union in the World Community* (Boulder: Lynne Rienner Publishers, 1998)

Schaetzel, J.R., *The Alliance: America and the European Community* (New York: Harper & Row, 1975)

Schwok, Rene, *US-EC Relations in the Post-Cold War Era: Conflict or Partnership?"*, (Boulder: Westview Press, 1991).

Smith, Michael (ed), "*Trade relations between the European Community and the United States: Common Cause or Divergent Paths?"* (London: UACES, 1983)

Smith, Michle and Stephen Woolock, *The United States and the European Community in a Transformed World* (London: Chatham House, 1993)

ARTICLES

Barber, Lionel, "Consumer's Food Safety Concerns Threaten to Share Transatlantic Relations", *Europe*, September 1999, pp. 8-13.

___________, "EU-US Trade Past, Present, and Future", *Europe*, November 1999, pp. 27-29.

___________, " What's the Beef? EU-US Trade Relations on the eve of 21st Century", *Europe*, May 1999, pp. 8-14

Bercero, Garcia I., "Trade Laws, GATT and the Management of Trade Disputes between the US and the EEC", *Yearbook of European Law*, Vol.5, 1985, pp. 125-148

Cooper, Richard N., "Trade and Monetary Relations between the United States and Western Europe" in David S. Landes (ed), *Western Europe the Trials of Partnership*, (Lexington: Lexington Books, 1977), pp.325-351

Diebold, Wiliam, "Political Implications of US-EC Economic Conflicts (III) – American Trade policy and Western Europe", *Government and Opposition*, Vol.22, (3), 1987, pp.282-301

Duesterberg, Thomas J., "Prospects for an EU-NAFTA Free Trade Agreement" *The Washington Quarterly*, Vol.18 (2), Spring 1995, pp. 71-82.

Eckes, Alfred E., "Trading American Interests", *Foreign Affairs*. Vol. 71 (4), 1992, pp. 135-154

Ellwood, D W., " You too can be like us: Selling the Marshall Plan" *History Today*, Vol. 48 (10), 1992, pp.33-39.

Fabbrini, Sergio, "The Domestic Sources of European Anti-Americanism" *Government and Opposition*, Vol.37 (1), Winter 2002, pp.4-14.

Ginsberg, Roy H., "US-EC Relations" in Juliet Lodge (ed.) *The European Community and the Challenge of the Future* (London: Pinter Publishers, 1989)

Ginsberg, R., "Political and Institutional Relations Between the United States and the European Community" in L.Hurwitz and C. Lequesne, (eds.), *The State of the European Community*, (Boulder: Lynne Rienner Publishers, 1990-91)

Green Duncan and Mathew Griffith, "Globalization and its Discontent" *International Affairs*, Vol.78 (1), January 2002, p.49-68.

Gordon, Philip H., "Recasting the Atlantic Alliance" *Survival*, Vol. 38 (1) 1996. pp. 32-57.

Grewlich, Klaus W., "Positive-sum Game USA-Japan- Europe", *Aussenpolitik*, Vol. 39 (3), 1988, pp. 216-233

Hager, Wolfgang, "Political Implications of US- EC Economic conflicts (II), Atlantic Trade: Problems and Prospects". *Government and Opposition*, Vol. 22, (3), 1987, pp. 49-63

Hakim, Peter, "The Uneasy Americas", *Foreign Affairs*, March/April, 2001, pp. 46-61.

Hellmann, Gunther, "EU and USA Need Broader Foundation: The case for a "Transatlantic Treaty" *Aussenpolitik*, Vol. 45 (3), 1994, pp. 236-245.

Hindley, Brian., "New Institutions for Transatlantic Trade?" *International Affairs*, Vol. 75 (1), January 1999, pp. 45-60.

Josling, Tim, "Who's Afraid of the GMO's?: EU-US Trade Dispute over Food Safety and Biotechnology", Seminar Paper presented at the Center for International Studies and The European Center of California, University of South California, March 11, 1999. http://www.stanford.edu

Kaiser, Karl, "The US and the EEC in the Atlantic System", *Journal of Common Market Studies*, Vol. 5 (4), June 1967.

Kersten, L., " Impact of the EU Banana Market Regulation on International Competition Trade and Welfare" *European Review of Agricultural Economics*, Vol. 22, 1995, pp -321-35.

Krause, Axel, "The Future of Agriculture", *Europe*, September 1999, pp. 37-46

Kurian, Nimmi, "Changing Dynamics of Transatlantic Relations", *International Studies*, Vol.38 (3), 2001, pp.277-288.

Landau, Alice, "The Agricultural Negotiations in the WTO: The Same Old Story" *Journal of Common Market Studies*, Vol.39 (5), December 2001, pp.913-925.

Lay, Fernando, "Euro-American Relations", *Yearbook of European Law*, Vol. 7, 1987, pp.170-184.

Liber, Robert J., " No Transatlantic Divorce in the Offing", *Orbis,* Vol. 44 (4), Fall, 2000, pp.571-584.

Lohman, Susanne and Ohalloran, Sharyan., " Divided Government and US Trade Policy", *International Organization*, Vol.48 (4), 1992, pp. 595-636.

Luard, Evan, "Western Europe and the Reagan Doctrine", *International Affairs,* Vol. 63 (4), 1987, pp. 563-574.

Meunier, Sophie, " What Single Voice? European Institutions and EU-US Trade Negotiations", *International Organization*, Vol. 54 (1), Winter 2000, pp .103-135.

Nau, Henry R., " From Integration to Interdependence: Gains, Losses and Continuing Gaps", *International Organization*, Vol. 33 (1), Winter, 1997, pp. 119-47.

Nye, Joseph Jr., " The United States and Europe Continental Drift? "*International Affairs*" Vol. 76 (1) January 2000, pp.15-25.

Parlberg,Robert, " The Global Food Fight" *Foreign Affairs*, Vol.79 (3), 2000, pp.24-38.

Patnaik, Jagdish K., " The International Trade Regime: The US Role in the Uruguay Round" *International Studies*, Vol. 38 (2), 2001, pp. 173-187.

Read, R., " The EC Internal Banana Market: The Issues and Dilemma" *World Economy*, Vol. 17 (2), 1994, pp. 219-35

Rozo, carlos A., "Protectionism in the European Union: Implications for Latin America" *Interconomics*, May/June, 2001, pp. 141-152.

Skogstad, Grace, "The WTO and Food Safety Regulatory Policy Innovation in the European Union" *Journal of Common Market Studies*, Vol.39 (3), September 2001, pp.485-505.

Smith, A Lasdair and Peter Holmes, "The EC, the USA and Japan: The Trilateral relationship in world context" in Ugur Mehement (ed.) *Policy Issues in the European Union: A Reader in the Political Economy of European Integration* (Greenwich: Greenwich University Press, 1995)

Smith, Dennis, "Making Europe – Processes of Europe Formation since 1945" in Dennis Smith and Sue Wright (eds.) *Whose Europe? The Turn Towards Democracy*, (Oxford: Blackwell Publishers, 1999).

Thagensen, Rikke, "The EU' s Common Banana Regime : An Initial Evaluation" *Journal of Common Market Studies*, Vol. 35 (4), December, 1997, pp. 615-627.

Thiel, Elke, "Economic Conflict Before and After Versailles", *Aussenpolitik*, Vol.33 (4) 1982, pp.356-369

__________, "Conflict and Cooperation: US-European Economic Relations", *Aussenpolitik*, Vol. 40, (3), 1989, pp.264-276.

__________, "EU and NAFTA: Regional Integration and Transatlantic Relations" *Aussenpolitik*, Vol. 48 (1), 1997, pp. 58-67.

Warnecke, Steven, "The United States and the European Community: The changing Political and Economic Context of Trade Relations", *Journal of International Affairs*, Vol.30 (1), Spring/Summer 1976, pp. 21-36.

Weston, Charles, "Key Foreign Policy Interests", *Aussenpolitik*, Vol.48 (1), 1998, pp. 49-57,

_____________, "American Foreign Policy Under Clinton", *Aussenpolitik*, Vol. 45 (3), 1994, pp.226-235.

Wellenstein, Edmund, "Political Implications of US-EC Economic Conflicts (I): Euro-American Turbulence-The Trade Issue", *Government and Opposition*, Vol. 21 (4), 1986, pp. 387-395.

Woolcock, Stephen, "East-West Trade: US Policy and European Interests, *The World Today*, Vol. 38 (2), 1982, pp.51-55.

Yerkey, Gary G., "The West Trade Round: The WTO Gathers in Seattle to Discuss new Trade Initiative", *Europe*, November 1999, pp. 8-11.

WEBSITES

Office of United States Trade Representative, http://www.ustr.gov

The Centre for European Policy Studies, http://www.ceps.be

The Economist, http://www.economist.com

The European Union in the United States, http://www.eurunion.org

The European Union On-Line, http://www.europa.eu.int

The International Herald Tribune, http://www.iht.com

The New York Times, http://www.nytimes.com

The United Sates Mission to the European Union, Brussels, http://www.useu.be/

Trans European Policy Studies Association, http://www.tepsa.be

U.S. Census Bureau, http://www.census.gov

United States Department of State, http://www.usinfo.state.gov

United States International Trade Commission, http://www.usitc.gov

United States International Trade Commission, http://www.usitc.gov

World Trade Organization, http://www.wto.org