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THE EUROPEAN COMMUNITY'S VIEW OF THE URUGUAY ROUND: A BRIEF PERSPECTIVE

*Richard Wright**

I appreciate the opportunity to join the symposium. If there was ever any doubt about how important intellectual property rights are to the United States, I noticed on Professor Jackson's draft paper the words at the top "All Rights Reserved." I would never dare to put "All Rights Reserved" on a draft or even final remarks that I made! However, it does indicate that he must be very eminent (which he is), and that some of his work must have been copied or plagiarized by other scholars. I was interested by that.

I would like to address two or three of the subjects that have been raised in this symposium. First, the question of where the negotiations of the Uruguay Round (Round) are right now, as seen from our perspective in the European Community (Community), secondly, the institutional situation of the General Agreement on Tariffs and Trade (GATT) that both Professor Jackson and Professor Abbott referred to, and finally, the future agenda for the GATT.

Beginning with the question of the institutional situation in the GATT, I think that the Community has a lot of sympathy with the view expressed by Professor Jackson. In fact we have embraced, indeed proposed, that a multinational trade organization (MTO) should be set up and should be accommodated within the framework of the Round. One of the important elements of an MTO is a single integrated dispute settlement system covering all areas of the GATT, the various "codes," and the new areas that are going to be covered such as services, trade related investment, and trade related intellectual property rights. The Community's perception is that setting up an MTO is more problematic from the standpoint of the United States because it would, or is perceived it would, change the character of the GATT. I think this in part reflects the sensitivities in the United States Congress. There is also a problem, from the viewpoint of the developing countries who argue that a clear separa-

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tion should be made between traditional GATT areas and services and intellectual property rights. Within this fear on their part is the question of cross-retaliation that could be authorized if the dispute settlement system were to be integrated.

In general terms the Community is very supportive of a rules-based system in GATT. The Community sees this as particularly crucial in dispute settlement, where a fundamental issue from our perspective is the need to ensure that all contracting parties respect multilateral rules and disciplines, and to eliminate a possible resort to unilateral non-Gatt-conforming action. An example of this type of reaction is what is sometimes referred to in Europe as the 301 problem, or section 301 of the Trade Law of 1974. I would like to refer you to a passage from a communique at the Summit last November between President Bush, Prime Minister Lubbers of the Netherlands, and President DeLors of the European Commission on this issue of dispute settlement and unilateralism. At that time, they said that it was vital to both sides of the agreement to achieve an effective and more binding system of resolving trade disputes. A system, in other words, that reduces the dangers of retaliatory actions by effectively channelling differences into a multilateral rule based system.

As regards to the Community's view of the Round negotiations, we are fully committed to a successful and satisfactory conclusion of the Round. Indeed, the Community is the major trading entity worldwide, accounting for twenty percent of world trade, and we have everything to gain from these negotiations, probably more than any other party. If you were to look at the total trade flow across nations, and include intra-Community trade plus trade flows between Community countries and European Free Trade Agreement (EFTA) countries, the total amount of world trade involving the Community is around fifty percent. Thus, our interests are obvious.

It is also obvious that a successful outcome of the Round is important for developing countries to bring them completely into the GATT system. A successful Round is especially important to Eastern European countries. We have explained the benefits of a multilateral trading system to them and we must now bring them into the system and give them opportunities.

What happened in November, 1991 at the Hague was not of course a determining event in itself. The Community and the United States cannot dictate what happens in the GATT, but

we are obviously the two largest participants in it. There was a very large and wide ranging discussion between the principals, particularly on questions of agriculture. I think, as some United States commentators have said subsequently to that meeting, there was, perhaps for the first time, at the highest political level, a real negotiation. Both sides have moved toward each other in the field of agriculture. The Community is engaged in the internal reform process of the Common Agricultural Policy. We are doing so by moving toward a more deficiency payments based system and away from a price based system while at the same time ensuring that farmers obtain a reasonable standard of living. This internal reform is a factor in the Round because, without being directly linked to it, there is an obvious relationship between the two exercises as to what can be done both within the Community and outside the Community. The outcome of this meeting was optimistic in the sense that both sides now feel that their prospects of reaching an agreement are much better and that in most areas it should be possible to make deals without involving the summiteers in the process again.

Having said this, there are also very difficult substantive issues being discussed in all of the negotiating groups, not the least of which is agriculture. An indication of the key points being discussed in the three agricultural areas of export subsidies, domestic support and border measures are that the negotiators must find agreement on how much agricultural supports should be reduced, over what period and using what basis, in the three areas of export subsidies, domestic supports, and border measures. Can we reduce export commitments in volume terms, in budgetary terms or both? Another question involves the Community's demand for rebalancing. Rebalancing is the idea that we need to rebalance arrangements for cereal substitutes because if we reduce supports, both internally and externally, the consequence will be large quantities of cereals in the Community with nowhere to go. At the same time, cereal substitutes are freely admitted in the Community right now at a zero tariff. There is also a question of the Community's demand on the need for "peace in the valley." These are several of the substantive issues that are being discussed and to which solutions must be found in order for the Round to be brought to a successful conclusion.

Another area that must also be addressed is the question of market access, a rather traditional GATT area. This question is

very important for rallying business support in both the United States and the Community toward an agreement. The United States has been pushing very hard for the concept of "zero for zero" tariffs in a number of areas. The Community can only agree to some but not all of these demands. In return for "zero for zero" tariffs the Community is seeking a reduction of the United States tariff peaks. There are different tariff structures in the Community and the United States, although the average levels are approximately the same. However, if movement is to be made toward the "zero for zero" concept, the Community must be satisfied on the issue of tariff peaks. These peaks in tariff rates almost always appear in highly sensitive trade areas such as ceramics, glass, footwear, and textiles.

Regarding the many new areas that are being discussed in the Round, the differences in the Community and United States positions have also been narrowed, although there are still some differences remaining. Fundamentally, the two sides share common interests. The Community is, like the United States, a major producer, exporter, and supplier of services. We are also high tech producers of industrialized goods, and, like the United States, have every interest in seeing an agreement on trade related intellectual property rights under the GATT. However, because our systems are different, negotiation of an agreement is not an easy matter. The Community's hope is to see this negotiation brought to a successful conclusion in time for implementation in 1992. Such a time frame would fit very well with the political timetables of both the Community and the United States.

What might the next GATT rounds include? First, I think it is correct, as Professor Jackson mentioned, that competition policy and the links between competition policy in trade will figure prominently. Already, from a bilateral point of view, there have been some interesting developments. The Community and the United States signed an antitrust cooperation agreement in late September that provides for the exchange of information, requires notification in cases where an activity would impact on both jurisdictions, and expresses a desire to positively coordinate enforcement actions. This is an agreement that was negotiated within the framework of our respective existing laws but it is important in that, for the first time, a key enforcer agreement was reached between the Community and the United States — the two major antitrust enforcers. In addition, it is most important to note that the philosophy underlying the agreement is one

of efficient enforcement, not so much to try to limit the extraterritorial reach of each other's laws. This is certainly the most far reaching bilateral agreement of its type, and it will be used as a guide for multilateral negotiations in the future.

Obviously the links between environmental policies and trade policies are going to figure very prominently and one already sees in Washington initiatives being taken in the Congress. Senator Baucus, for example, launched the idea of an environmental code that would permit a type of environmental countervailing duty to be applied on products that are produced from countries with low environmental standards. This is an indication that the debate is already fully engaged in the United States; and is certainly being stimulated by the very interesting GATT panel report on the tuna case, a Mexican/United States dispute, but with very important implications for the Community as well. The Community does not regard this panel as anti-environment, as it is being erroneously portrayed by a number of people, particularly in the United States Congress. Rather, we see a great deal of merit in it, not the least of which is the strong admonition against adopting measures — if you like imposing standards — extraterritorially and imposing sanctions if the countries do not apply those standards. This is a common area of dispute between the United States and the Community, and is one that we have fundamental concerns about.

Finally, a few comments on regional trading blocs. The Community has just completed laborious negotiations with EFTA countries. The greater European Economic Area (EEA) is actually moving much beyond the common idea of a trading bloc. This area covers the freedom of movement of goods, services, people, and capital. In many ways this agreement is a precursor to what will certainly be accession negotiations as many more countries seek to join the Community. The reality is that the EFTA countries are agreeing to virtually all of what we commonly call the "Aquis Communautaire" — the legal structure of the Community and its legal basis. For example, the Community Standards system will be applied integrally by EFTA countries. Each EFTA country is setting up their own competition authorities and applying Community rules. This is obviously going a lot further than what might be envisaged in other free trade arrangements. As far as the North American Free Trade Agreement (NAFTA) negotiations are concerned, the Community tracks these just as we assume the United States and Canada

has followed our EFTA negotiations, as well as our negotiations with Eastern European countries. There are some interesting questions that will arise after the NAFTA, not the least of which are questions concerning rules of origin. We are in particular looking closely at the negotiations relating to the automobile industry where proposals have been tabled that would elevate the origin rules to an extremely high level to benefit for the preferences under the NAFTA. These origin levels should not be raised to such a point that they become de facto exclusionary for third parties. The Community also has rules of origin in the EEA area; however, seemingly these are more liberal than what is being contemplated in the NAFTA negotiations. Therefore, these rules are certainly something we are looking at very closely.

Underlying all of these regional trading arrangements it is important, vital in my opinion, that the GATT multilateral system remain the bedrock of rules on international trade. It is a fact of life, both politically and economically, that there will be trading blocs. However, they should not be exclusionary. In order for this condition to be met it is important that there be an effective and operational foundation of international trading rules in the GATT. This is a supplementary and important reason why it is vital that the Round be brought to a successful conclusion.