

BRICKS IN THE WALL

Or How To Build "Fortress Europe"
while denying any intention of doing so

by Daniel Moylan

ABOUT THE AUTHOR

Daniel Moylan, who is Parliamentary Liaison Officer of the Bow Group, runs an international financial training consultancy, having previously worked in the City and in H.M. Diplomatic Service. He is the author of the Bow Group pamphlet *Unripe Time: Britain and the European Monetary System* (1988). He is a former President of the Oxford Union and was Conservative parliamentary candidate in Birmingham, Erdington in the 1983 General Election.

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1. Introduction

The argument contained herein is that the European Commission, in conjunction with promoting the policies necessary to bring about completion of the "internal market", has adopted a series of measures in regard to the Common Market's external trading relations which are strongly protectionist in intention.

In effect they are contrary to the spirit of the General Agreement on Tariffs and Trade by which the Common Market is bound, and represent a direct attack on the interests of West European consumers (both personal and commercial) and tend to the creation of the very "Fortress Europe" which all European politicians, if divided on everything else, can nonetheless agree in condemning.

The benefits of free trade have been so well demonstrated in theory and practice that they are not rehearsed here. Those who wish for a modern and witty account of them are recommended to read Professor Jagdish Bhagwati's recent book Protectionism (The MIT Press, Cambridge, Mass. and London, 1988), where will also be found a wealth of evidence that, while the principles of free trade may be universally acknowledged, they are almost as universally observed only in the breach.

From the inception of the General Agreement on Tariffs and Trade until the 1970s, it was possible to say that developments in international commerce, while never reaching a condition of perfectly free trade, were moving generally in the direction of greater liberalism. The upheavals and disorders of the 1970s brought that process to a shuddering slowdown.

The 1980s, although witnessing almost unprecedented economic recovery and growth, have not brought about a resumption of the move towards free trade but have rather been characterised by three developments which have tended to set short-sighted politicians on the path to greater protectionism.

One such development, perhaps the most fundamental and irreversible, has been a shift in manufacturing capacity in a variety of sectors from traditional producers in Europe and North America to the newly industrialised countries of the Far East, and to Japan, whose industrialisation is so far advanced as to be no longer new.

The second development is the persistent deficit on its external account maintained for some years now by the United States of America.

The third, it can now hardly be denied, is the determination of West European politicians to revitalise the appeal and effectiveness of the Common Market and the European "ideal" by putting an "internal market" in place by 1992 at any cost - even if that cost be the enhancement of trade barriers between the

Twelve and the rest of the world.

This last is a bold claim to make. What is asserted by it is as follows: some member states amongst the Twelve are inclined to protectionism as a matter of policy, at least as far as specific domestic industries are concerned; some European Commission officials are temperamentally given to the same views; all (whether protectionist or not) are so far committed to the achievement of the internal market that, should its consummation require the strengthening of external barriers, then so be it.

At the same time, a case will always be on hand to demonstrate that progress towards an internal market is in no way linked to the increasing restrictions on external trade relations.

Such steps are justified rather as measures against "dumping". The "structural bias towards finding dumping" * in the European Commission's investigation procedures, although proven irrefutably by experts, is never acknowledged. Or they are measures to enhance market access on the basis of "reciprocity", the economically illiterate and politically dangerous notion of the level playing-field.

Or again, on occasion they are "nothing to do with us", the line taken by the Department of Trade and Industry here in Britain (with the full connivance of the European Commission) about "voluntary" export restraints (VERs) until Mr Francis Maude, Parliamentary under-Secretary of State for Corporate Affairs, went so far as to admit in the House of Commons on 18th March, 1988 that "we keep an eye on what is going on"; an eye not sufficiently undimmed, however, to notice the unlawfulness of these agreements in restraint of trade.

This paper does not assert a conspiracy. The author is quite prepared to accept that what is afoot here is a mixture of horse-trading, excessive zeal, unsupervised officialdom, a desire not to turn stones and so forth. The upshot of the whole proceeding, however, when examined in its practical consequences is dire.

The burden falls on all of us; yet because the burden is so diffuse, there is no-one to speak for us who are mere consumers. Producers, from the great agricultural, textile and electronics lobbies down to the humble European Federation of Paintbrush Manufacturers, (for, yes, they too have persuaded a willing European Commission to grant them an anti-dumping levy all of their own) may exercise power and influence in Brussels; we have no voice.

The European Commission is not the only body to blame, of course: stupidity, venality and a tendency to crumble in the face of vocal lobbies are features of politicians and bureaucrats throughout the world.

* Letter to the Financial Times from Mr Christopher Norrall, 23rd November, 1988.

If this paper is particularly harsh on the European Commission, it is because its author and most of its readers have to live under its jurisdiction and may reasonably be expected to exert themselves in urging it to change its policies rather than join it in throwing brickbats at other participants in the global trading system. And the need for a change is imperative.

The global trading system is potentially at a turning-point. The principle of non-discrimination amongst members, the conceptual foundation of the General Agreement on Tariffs and Trade, is ceasing to be practised and is being replaced by regional "free trade" zones (i.e. regional protectionist zones).

The European Common Market is but one example. On the other side of the Atlantic, the United States and Canada are now proceeding at full steam to create their own. By the end of the century it is possible that the liberal trading order will have been restored; it is equally possible, however, indeed probable unless the world returns to its senses, that that order will exist in name only while protectionist blocs become the norm.

These may include the European Common Market plus the adjacent countries that are clamouring to be allowed in as they see the drawbridges being readied for the raising; a North American bloc comprising the United States, Canada, Israel (which is already committed to a United States free trade pact), possibly Mexico; and what of Japan and the Far East? Will not the inevitable response of Japan and the ASEAN countries be to form their own protectionist bloc if they are increasingly denied access for their goods to Europe and North America? And can no-one in Brussels (or Whitehall, for that matter) see that trade policies can have consequences for global geo-politics?

In this paper the words "Fortress Europe" are used principally to refer to the outrageously protectionist measures, actual and in prospect, deployed by the European Commission mainly against the Far East. In America the term is used more to denote a tendency by the Common Market countries to become more autarkic and inward looking as the 1992 programme is put in place.

It would be pleasant if this paper could contribute to dampening increasing American hysteria on this score by assuring them that this is not the case. Regrettably that is not possible. However well targetted European protectionism may be against the Far East, it has an irreversible tendency to spill over into trade relations with the USA, as illustrated by the brewing row over imports of Japanese cars and photo-copiers made in America.

The object of this paper is rather to indicate that the correct course for America, Europe, the Far East, and in particular the poorest countries of the world, is to return as rapidly as possible to a free-trading system; and to argue that the European Commission, as a principal disruptor of that system in the 1980s, has a major responsibility for leading the world back to sanity.

2. HOW PROTECTIONISM HURTS THE POOR

Much of the debate on European trade represents the demands and interests of harassed producers, most of whom are large, or, if not individually sizeable, are banded together in powerful lobbies, are vocal, and within the confines of a single constituency, are often a significant element in the local community. They are therefore well-placed to exert a specific, well-directed and all too noticeable influence on their member of parliament, many of whom can claim a specific producer interest as being of local importance to them.

Indeed, to some extent the very nature of debates on trade policy, competition, or other matters where a conflict may exist between producer and consumer, is biased in the House of Commons by a tendency to listen to Members of Parliament with a specific local interest, since that interest is invariably a producer interest. Thus in a debate on the import of footwear from Communist central Europe the Speaker would call a member in whose constituency was located a shoe factory in preference to the six hundred odd other members whose voters' only interest in the subject was the powerful but not very specific one that they did not wish to go unshod. For, while the producer may be organised, vocal and specific, the consumer is diffuse, silent and general.

There is no substance in the claim often put forward by advocates of the producer interest that "every consumer is a producer" (1) and that any penalties imposed on the consumer by restrictions on free trade are therefore recouped by him in the work-place (for producer cartels do not, when pressed, attempt to deny that their demands for protection are damaging to consumers).

It is a highly misleading claim for there are many consumers who are not producers at all: the old, the sick, the young, the unemployed; exactly the categories, incidentally, whose household budget is disproportionately dedicated to food and clothing, two of the most heavily protected commodities within the British economy. It has puzzled dispassionate observers that the Government has failed to see what a saving could be made on the Social Security budget (and what a great one-off benefit would accrue to the measurement of the rate of inflation) if prices of food and clothing could find their natural level through abolition of the Common Agricultural Policy and the Multi-Fibre Arrangement.

The decline in the liberal world trading order

Few serious observers doubt that the liberal system of international trade is to-day under direr threat than has been the case since it was institutionalised in the wake of the Second World War. Protectionist measures in the United States have increased as a consequence of that country's persistent trade deficit.

Surpluses in certain mature economies like the Japanese and the development of other Far Eastern economies are signs of a powerful but as yet unassimilated shift in productive capacity from some parts of the globe to others.

The officialdom of international trade is finding it near impossible to handle the explosion of new types of internationally traded commodities, such as services, and integrate them into the liberal trading environment; the countries of the First World are turning increasingly to regional or bilateral trade arrangements and against the multilateral framework which has sustained economic growth in the last four decades.

With little public debate, and certainly with almost no mention in the British parliament, developments are in hand at the moment which could change fundamentally the way in which the world economy operates, and impoverish us all, both in material standards and in our liberty to exercise choice.

3. DISTORTIONS IN AGRICULTURAL TRADE

Agriculture is on one level so specialised as to be almost impossible for any but an expert to follow; but the question of agriculture has been moved to a higher plane, and the terms of the argument greatly simplified by the startling proposal which the United States of America has been promoting over the last two years, the "zero-option" for international agricultural trade.

In essence the Americans have advocated the elimination of all "trade-distorting" agricultural support measures by a specific date to be agreed. To all but the small numbers of farmers the attractions and benefits of such a notion are dazzlingly obvious. They remain a dark secret, however, to the Common Market officials who have been negotiating the matter on behalf of their members (including those whose only "special interest" in this matter is that they like to eat).

The Common Market has refused absolutely to commit itself to the elimination proposed by the Americans. To agree would be to abandon the system of surplus-generating price support for agricultural products which is the heart of the Common Agricultural Policy (although it would not prevent national governments from subsidising farmers' incomes directly to alleviate hardship and, if thought desirable, keep them on the land). The reasons given by Brussels for its position on our behalf are sparse; they have been well summarised by The Economist as "just excuses, and bad ones at that" (2).

Nonetheless, so committed is the European Commission to maintaining the present indefensible system, that it was prepared to contemplate the collapse of the Uruguay Round of negotiations currently being conducted in the GATT, despite the irreparable, possibly terminal, damage to the world trading order this would have caused. Such blatant irresponsibility must call into question the authority of the European Commission to negotiate on such matters at all.

Faced with such irresponsible intransigence, the Americans have had little choice but to back down; thus is postponed an opportunity to introduce a radical reform of an agricultural support system which has become a burden to us all. (How much of a burden may be judged from an International Monetary Fund report which demonstrates that abolition of the Common Agricultural Policy would, at the end of five years, shave 1.75 pct. off West Germany's consumer prices, boost its employment by 5.5 pct. and push up real GDP by 3.5 pct. (3).)

The British Government should commit itself publicly to the American proposal for the elimination by an agreed date of all trade-distorting agricultural supports and should agitate vigorously in Brussels for the Common Market, on our behalf, to fall in with the American suggestion.

4. THE MULTI-FIBRE AGREEMENT IN TRADE IN TEXTILES

Trade in textiles suffers from one of the most elaborate protectionist regimes in existence. Within a multilateral framework known as the Multi-Fibre Arrangement (MFA), a byzantine complexity of bilateral arrangements succeeds in ensuring that textiles exported from low cost producers to "developed" countries are subject to severe quota restriction.

The effect of the MFA on high cost producer countries is to protect a number of domestic enterprises, their workers and shareholders, by levying an impost on the generality of the population by way of higher clothes prices, an impost which, moreover, by virtue of being imposed via a quota, accrues to the low cost producers rather than to the domestic government.

It is hard to imagine such an instance of economic idiocy being devised anywhere other than in a Labour Party policy review committee, but those who have followed the subject over the years will recall that the MFA (in fact a codification and expansion of earlier disparate restrictions, some dating back to the inter-war period) was first negotiated in 1973 by a Conservative government and that it has been renewed twice in the last ten years, in 1981 and 1986, on both occasions under a free market Conservative government.

In a debate in the House on 18th March, 1988 (4), the Parliamentary under-Secretary of State for Corporate Affairs (Mr Maude) said that Her Majesty's Government supported the 1986 renewal as "the best deal available". He did not trouble to specify what alternative deals were available so that the House could take a considered view of the subject for itself.

The purpose of the original MFA in 1973 was "progressively to achieve the reduction of trade barriers and the liberalisation of world trade of these products". It has manifestly had an effect in direct contradiction of its original object and so perhaps the time has come to sweep it away. The Government should announce its intention to withdraw from the MFA and to allow a regime of free trade to operate in regard to products currently covered by the arrangement and, in the alternative, should its Common Market partners not allow it to take such unilateral action, should agitate vigorously at Brussels for European withdrawal from the MFA at the earliest possible date and the immediate "liberalisation of world trade of these products".

5. THE GENERAL AGREEMENT ON TARIFFS AND TRADE

Agriculture and textiles have their own peculiar trade regime. Most other tradeable goods fall more firmly within the scope of the General Agreement on Tariffs and Trade (GATT). This is a collection of trading rules, instituted as part of the post-war settlement, to which all the world's leading trading nations are party.

The rules themselves have been several times revised (generally in the direction of more liberal world trade) through a series of negotiations (known in the jargon as Rounds). A Conservative Research Department paper published in 1981 (when that body was vocally committed to free international trade) said that it "is impossible to overestimate the importance of the GATT to the world to-day" (5).

In an ideal world there would be no need for the GATT. In an ideal world, statesmen would opt to get rid of their nation's trade barriers, even if other countries failed to reduce theirs. The arguments of the "classical" economists can leave us in no doubt that the greatest benefits arise from letting go of trade altogether and taking the leap to unilateral free trade, that is opening one's borders to others despite the barriers they may maintain. This was the policy of the United Kingdom in the nineteenth century and highly successful it was too.

It is a sad comment that in the country which invented unilateral free trade, there are so few voices to be raised in its defence, or even in defence of the multilateralism which is the basis of the current compromise arrangements embodied in the GATT. A most instructive display of all party ignorance was manifested in the House as recently as 9th December, 1988 in a debate on the MFA (6).

Since the shapers of the post-war world rightly saw that politicians were more likely than not to continue sacrificing the long term interests of their people for the short term advantages to be gained from satisfying an industrial society's natural cartels, the GATT was instituted as a sort of partial disarmament treaty following an inter-war period of increasing protectionism (which was rightly understood by the post-war statesmen as a major cause of the political instability leading to that conflagration).

In essence, the "USA was not prepared to make huge loans to the devastated nations of Western Europe unless they committed themselves to trading relations that would minimise the danger to peace and prosperity"(7). In order to make it easier for nations to do what was in any case in their own interest, the GATT was therefore established on a principle of multilateral free trade, that is, anyone who joined the club would deal with all other members on the same basis: a concession granted to one trading partner had to be extended to all; a tariff imposed against one

nation's production of particular items should be applied to all similar imported items irrespective of source.

The principle of non-discrimination enshrined in the GATT is often wilfully (or ignorantly) abused. It does not mean that countries which participate in the GATT will always have balanced trade with each other overall. Nor does it mean in particular that a country's trade with another in certain items, say electronic goods or financial services, will always be balanced in that particular sector.

These are points which officials of the European Commission appear to have the greatest difficulty in grasping. As the head of the Economics and Statistics Department at the Organisation for Economic Co-operation and Development, writing in a personal capacity, has recently stated, "the Community has evinced a strong and continuing concern with sectoral and bilateral balances, particularly in its relations with Japan This ... shows a predisposition towards the selective and discriminatory treatment of trade issues, and implies rejection of the liberal approach in which bilateral trade balances are a matter of little or no significance" (8).

Thus, when the Commission proposes, as it has, the abolition of the MFA and the return of trade in textiles to GATT rules, the sting is carried in the tail which reads that the new arrangements would have to be reciprocal in their effect. In other words, the European Commission has no wish to liberalise trade in textiles but to ensure a balance in the trade, a balance which, given the low cost production capabilities of the Far Eastern suppliers, could only be maintained by the continuance of quotas (or possibly by tariffs) at the expense of the European consumer.

The GATT itself is only a half-way house on the road to the (now probably unattainable) goal which its founders envisaged for it of an International Trade Organisation, one of a triumvirate of bodies (the IMF and the World Bank being the others) which would help to maintain the economic stability of the world and thus avoid pressures towards renewed war. It speaks volumes for the timidity and short-sightedness of our leaders that the ITO was never allowed to come into existence.

Two consequences flow from the GATT'S permanently provisional condition: one is that the Agreement itself is full of holes. The principle of non-discrimination, for example, is subject to a host of exceptions: for regional trade agreements (such as the Common Market itself, whose 1992 internal market project is contrary to the principles of non-discrimination and is only permissible under this exception); for agriculture (the special place of which within the GATT has been recognised since its inception); for textiles (as already discussed); for measures designed to combat dumping (to which we shall return); and for other matters.

Thus it is possible, as the European Commission has demonstrated

repeatedly and skilfully, to defeat the spirit of the GATT without contravening its letter.

The second consequence is that the GATT secretariat has little power to enforce its own rules. Some progress has been made on this topic in discussion in the Uruguay Round, but it remains the case that rulings on disputes (delivered through a well-established and broadly respected procedure) may be ignored by parties to the dispute.

Not surprisingly, one of the opponents to agreement in the Uruguay Round to the introduction of an enforceable disputes procedure was the European Commission (although according to the press, the United Kingdom (together with the Netherlands and West Germany) was out of step with the Commission on this subject but was defeated by "France, Denmark, Greece and some other member states" (9), a clear indication of how easily the "pro-free trade" members of the Common Market can be swamped by the natural protectionists amongst its membership.

It is a tragedy that the GATT has been denied the powers to put real teeth into the agreement it embodies. It is important that the Government recognises the need to keep up the pressure on its Common Market partners to ensure that support for an enforceable disputes procedure becomes the official policy of the European Commission in the remaining stages of the Uruguay Round and thereafter.

6. THE ATTITUDE OF THE EUROPEAN COMMISSIONERS

It is appropriate to consider the attitude of the European Commission to world trade. This is the body which, in conjunction with a majority of the Council of Ministers, decides Britain's trade policies (even though that majority may be opposed by Britain's representative).

Much has been heard of the benefits the internal market will bring us. Politicians throughout the Common Market have welcomed it and have spoken against the possibility that freer trade internally should lead to less free trade with the outside world, a "Fortress Europe" brought about perhaps by a levelling up of the trade barriers currently maintained by individual states to become the common denominator for the whole Common Market.*

It is impossible to disagree with such sentiments; but it is important to understand whence their validity springs. Free trade between members of the Common Market is devoutly to be wished, but only on the general principle that free trade with all nations is a desirable goal.

When we look at the practice of the European Commission, however, we see that, for all their fine words to the contrary, they appear to be building Fortress Europe daily. Before examining their motives, it is necessary to look at their methods.

* Note: The rejection of "Fortress Europe" is rarely unaccompanied by qualification, however. Consider the words of Mr Willy de Clercq, European Commissioner responsible (until recently) for External Relations and Commercial Policy, in a speech, "1992: the impact on the outside world" delivered to the Europaeisches Forum Alpach on 29th August, 1988: "We do not exclude, however, that by the end of 1992, there will still be a limited hard core of products where particular economic difficulties in some member states mean that national protective measures may be replaced by appropriate measures at Community level."

Mr de Clercq does not explain why this possibility should not be excluded; nor does he explain how "appropriate" measure will be arrived at and who will bear the costs. Let us assume that motor cars will form part of the "limited hard core" (for which Mr Agnelli, the owner of the Italian car industry, is understandably campaigning with vigour). Are we in Britain to pay more for our Japanese cars so that Neapolitan Alfa-Romeo employees can continue to produce their unwanted and over-priced wares (and so contribute to Italian regional policy)? And what else is to be inside the "limited hard core"?

Dumping

In the mid-1980s, the chief protectionist weapon of the European Commission has been the anti-dumping inquiry (or threat thereof) leading to the imposition of anti-dumping levies (first provisional, then definitive) or, increasingly rarely, an agreement with the "dumping" exporter to raise prices voluntarily.

In March 1986 a distinguished writer on this subject wrote: "I do not contend that anti-dumping measures in the European Community have become a wholesale substitute for safeguard measures. Nor do I wish to suggest that there is some deep laid political or bureaucratic conspiracy to subvert international trade.... I do wish to record what appears to be a steady and often subtle evolution in the European Community's anti-dumping practice which has important implications. In the past three or four years, the Commission has been presented with a growing volume of cases against a particular country, Japan. These are fuelled not only by concern about high levels of unemployment in the Community but also by a fear - which sometimes appears to approach panic proportions - that the future of new 'sunrise' industries in the Community is threatened by surges of exports from industries in Japan which have already obtained competitive advantages in these fields"(10).

That the anti-dumping weapon has been used even more widely and more frequently in the three years since those words were published can hardly be denied. Goods not only from Japan but from large swathes of the Far East, have been the subject of inquiry.

They include video-cassette recorders from Hong Kong, Japan and the Republic of Korea; computer dot matrix printing equipment worth U.S. \$ 1.3 billion per annum from Japan (a levy described scorchingly by a Financial Times leader as "An EC tax on efficiency" (11) followed six weeks later by levies on U.S. \$300m worth of daisy-wheel computer printers from Japan; blank video tapes from the Republic of Korea; hog-bristle paint-brushes from China (a country which dominates the world's supply of hog-bristle: European hogs do not occupy a level playing-field); and colour televisions from Hong Kong.

The Commission has even ingeniously succeeded in imposing an anti-dumping levy on shipping lines from the Republic of Korea (to the vocal horror of Europe's importers and exporters) for undercutting European shipping companies plying between Europe and Australia.

The following passage is from a paper "Dumping and the Far East Trade of the European Community" by Dr. Brian Hindley, Counsellor for Studies, Trade Policy Research Centre, London, to be found in The World Economy, London, December, 1988:

"Investigations by the Commission of the European Community have

yielded dumping margins of up to 33.89 per cent on ball bearings from Singapore, of up to 45.04 per cent on tapered roller bearings from Japan, of up to 76 per cent on electronic typewriters from Japan, of up to 31.9 per cent on hydraulic excavators from Japan, of up to 20.6 per cent on electronic scales from Japan, of up to 40.6 per cent on photocopying apparatus from Japan, of up to 53.2 per cent on outboard motors from Japan, of up to 86 per cent on dot-matrix computer printers from Japan, of up to 22.01 per cent on daisy-wheel computer printers from Japan and of up to 29.2 per cent on video cassette recorders from Japan and the Republic of Korea.

Anti-dumping duties based on the dumping margins worked out by the Commission have been imposed on these products. Complaints of dumping of yet other products are currently under investigation, notably EPROMs (a type of semi-conductor) from Japan, compact-disc players from Japan and the Republic of Korea, car telephones from Japan and Canada, videotape from Hong Kong and Korea, small-screen colour television sets from Korea, Hong Kong and the People's Republic of China, small hydraulic excavators from Japan, wheeled loaders from Japan and ball bearings from Thailand and Japan".

In this light, one would expect to find that Japan and other Far Eastern countries had totally pauperised themselves sustaining the losses required to maintain such widespread "dumping" in European markets. Instead, they grow even richer.

"Dumping" is an emotive word but in fact has a precise economic sense and arises when a producer, having recovered his fixed costs as well as his variable costs, with profit, from his own market (by selling goods at "unit cost plus") can afford to sell additional production overseas at a price which reflects his variable costs only (selling at "marginal cost plus").

It will readily be understood that dumping can only be effected by a producer who operates in a closed home market (otherwise entrepreneurs would buy up the dumped exports and re-import them to the producer's home market for sale at lower prices than the producer charged there, thus ruining his business). The very fact that the European Commission can find "dumping" against products emanating from Hong Kong, "an open economy with a tiny domestic market dominated by small companies which could not afford to subsidise export sales at a loss" (12) and which in any case turned in a visible trade deficit of £414.6 million in 1988, shows that the European Commission's notion of "dumping" must be far removed from economic reality.

The procedure by which a domestic producer gets protection from foreign competitors is worth examining. A few simple rules can be supplied on the basis of observation. First, form your trade association. (It does not matter how insignificant your contribution to Europe's gross domestic product or level of employment is, as the paint brush manufacturers discovered to their delight.)

Second, complain to Brussels that you are a victim of dumping. (Note: this a cost-free exercise; no penalty will be imposed on you, however frivolous or malicious your complaint may be.)

Third, gather some rudimentary evidence that your foreign competitors' products are selling here more cheaply than yours. (Never mind that this is not necessarily evidence of dumping, only of keener pricing.) A man will come from Brussels to help you with this bit, all expenses paid for by the European taxpayer. This evidence is not really necessary in any case: once the Commission has taken your complaint up, it will gather all the evidence it needs to make a judgement and fewer than half the complaints received by the Commission are rejected after initial scrutiny.

Fourth, sit back while your foreign competitor is forced to spend a fortune in money and management time briefing lawyers and lobbyists to defend himself from the complaint. Fifth, watch while your competitor starts to raise his prices in advance of the judgement, since he is well aware of its likely outcome. If you are very generous you may ask the Commission to drop its inquiry once this stage is complete (as Motorola UK did in late 1988 having been satisfied that its complaint had diminished "the steep price erosion" in cellular telephones (13) evident before it was lodged).

Finally, await the outcome of the Commission's secret inquiry. If it does not go your way, you can always have another try next year.

Expert analysis, unrebutted by the European Commission, has shown that in a significant class of cases (the many Japanese and other Far Eastern producers who market their output through sales companies that are associated through ownership with the manufacturer) the Commission's method of calculating a dumping margin has "about the same accuracy as if (it) started with the telephone number of the accused company and spent two minutes applying an arithmetical procedure to reduce it to a number appropriate for a dumping margin" (14).

In fact these words are kind, for they suggest an element of randomness in the Commission's calculations; but they are not random. They are designed, as another commentator has put it, "if certain facts are present... to make findings of dumping automatic and inevitable" (15).

There is no need to elaborate the aspects of the Commission's investigation procedure which render it likely to produce such blatantly biased findings. Those who wish may find full details in the writings of authors associated with the Trade Policy Research Centre and in particular Dr. Brian Hindley and Mr Christopher Norrall.

Their findings have not been rebutted, least of all by the

European Commission - the argument put forward, for example, by Mr Willy de Clercq that complaints about the calculation methods "have been so decisively rejected by the European Court of Justice" (16) is neither here nor there, since the European Court is empowered only to judge if the Commission has done its sums correctly, not whether the calculation is itself unfair. No-body is calling on the European Commission to ignore dumping where it is genuinely occurring. What is inexcusable in the Commission, however, is the deliberate distortion of anti-dumping measures so as to achieve a policy of selective protectionism by the back door.

Lest it be thought that it is only consumers who suffer from these barriers to "unfair" foreign competition, we should remember that European producers are also suffering directly from the Commission's measures, for when we consider whether a producer is European or not, we should surely not look only at the nationality of its owners, but also at that of its workforce, its suppliers, its other dependents.

Is it possible to believe that the European Commission is imposing anti-dumping measures on factories that are actually inside the Community? is threatening the livelihood of English workmen with its bizarre interventions? is collaborating with the forces of disorder to undo what the Government has achieved in reducing unemployment?

Incredible though it may seem, this is happening. For the Commission in its wisdom has decided that the European subsidiaries of Japanese companies which do not use a specific amount by value of components produced inside the Common Market shall be treated as if they were foreigners and suffer similar "anti-dumping" duties, however unfairly calculated.

In vain does the company point to the difficulty of establishing satisfactory relations with European producers and the unreliability of their components; in vain does it show that it is already charging considerably more than its affiliate in the USA does and point to a healthy profit and loss account to show it is not guilty of predatory pricing; in vain, in short, does the English worker plead for the chance of job.

No, his employer is simply a cunningly disguised element in the Yellow Conspiracy to destroy European high-tech industries and he, did he but know it, no better than a hungry coolie, ready to take a job for whatever pittance an exploitative tycoon is prepared to dole out to him.

Can this be allowed to continue?

There are those who would defend the Commission. They would say for example, that European high-tech industries are being destroyed or in some cases prevented from coming into existence by a concerted Far Eastern attack; that such industries or proto-

industries should indeed be given a breathing space, a chance to develop to the point where they can be internationally competitive; that anti-dumping duty calculations are unfair because they are meant to be; they are meant to provide a safeguard for our own development, at least temporarily, (although experience has taught us that the words "temporary safeguard" usually turn out to be a contradiction in terms).

Now this may be a perfectly reasonable argument. The GATT itself allows developing countries to impose safeguard measures to promote infant industries. (Those of us who believe in stiff drafts of competition as the baby food most likely to encourage long-term healthy growth may not have much sympathy with the argument, but we admit, at least for the purpose of this debate, its force).

Even developed countries are allowed to take measures to protect against temporary and disruptive surges of imports. The problem is that, if this is indeed the Commission's rationale, it seems incapable of owning up to it. If it wishes to adopt safeguard measures, let it do so, but let it do so in compliance with the GATT rules, that is universally, and by means of visible tariff. Let it be honest and open.

It does not take this course of action, first, because to do so would be to admit to a degree of protectionism ("safeguard measures" sound protectionist, after all; "anti-dumping measures" sound merely reasonable) which sits ill with the rhetoric it is peddling and makes the cost of the internal market too explicit; second, because the necessity of imposing safeguard measures (if the GATT rules are to be observed) means they would have to be effective against the United States, the one entity the Commission is rightly afraid of offending (for, as Dr. Brian Hindley has written: "Fortress Europe is designed so that only its Asian-facing ramparts will contain cannon"(17)); third, because the use of safeguard measures entitles the exporter to retaliate; fourth, because to introduce explicit safeguard measures extensively would be tantamount to adopting the Common Industrial Policy for which some elements in the Commission have always hankered but for which, given their record in regard to agriculture, they have never been able to command sufficiently wide support: if we cannot introduce the CIP through the front door, then let us bring it in through the back.

If erecting safeguard measures surreptitiously is the Commission's game, then it no doubt feels very pleased with itself. It should not be. If this is its policy, then it has chosen as its means, measures which, by distorting them, undermine the very rules of the international liberal trading order; which invite emulation to the point of wrecking any possibility of the GATT's continuing to play a role in developing global free trade; which show to the developing world that free trade is not, after all, important: what matters is being inside the Fortress.

Moreover, if this is its policy, it is one for which it has sought no mandate, neither from the peoples of Europe, nor, explicitly at least, from its member governments; but which it executes instead at the behest of the producer lobbies which often seem to be its only constituents. Such a course will inevitably damage in the long run any confidence the public may have in the European Commission or in the "European Ideal" it holds out for us.

7. PROTECTIONISM USED TO FORCE OTHERS TO OPEN THEIR MARKETS

Another interpretation of the European Commission's behaviour might go like this: the Japanese and other Far Eastern economies will never open up their markets to our goods willingly, so we must use the big stick. If we hit them where it hurts, in their export business, they will soon learn to start buying from us.

A most articulate exposition of this view is found in a work by James Moorhouse and Anthony Teasdale (18). The former sits as a European Democrat in the European Parliament; the latter, at the time he wrote, was working for the Council of Ministers in Brussels, but was writing in a personal capacity.

It is difficult to do justice to their analysis in a brief space but it can be summarised as arguing that the fact of Japanese trade imbalances with the Western world threatens to provoke a protectionist response from the West (in particular from the United States) which would seriously damage, if not end, the world trading order instituted in the GATT: the imbalances must therefore be removed if the free trading system is to be preserved.

In their section "Setting out Europe's basic demands", the authors "demand" inter alia that Japan should "remove all remaining tariffs and non-tariff barriers to trade" (a laudable goal which the authors will no doubt join me in urging equally on the European Commission); should "significantly increase its actual propensity to import manufactured products" (which no doubt the authors intend the Japanese to pay for by exporting part of its well-known natural resource reserves, its notorious agricultural surplus or just simply emigrant coolie labour); and "should accept as a national goal a situation where, on the basis of the factors above, its bilateral balance of payments with the European Community would enter equilibrium within five years".

If they do not "within twelve months, for whatever reason, ...put in place an effective policy of export restraint" (alas for Mr Moorhouse and Mr Teasdale, they did not) then "the Community should move to a coherent strategy designed to limit Japanese exports in... sensitive sectors vital to the maintenance and development of the Community's technological base" and see if they like that.

The authors analyse the causes of the imbalances in European-Japanese trade as being a mixture of official and semi-official policy, Japanese market structure and genuine competitiveness. Unfortunately, whatever laudable measures may be taken by the Japanese to abolish barriers to trade and however desirable is a gain in competitiveness in European manufacturing productivity (not least in regard to electronic consumer goods), neither step is necessarily going to lead to a bilateral balance of payments with the Common Market or, indeed, with anyone else.

Thus the authors are obliged to descend to bullying and threat to achieve their goal of the elimination of imbalances, a process which is as likely to lead to an aggressively retaliatory protectionist spiral as to the preservation of the world free trading order, as the authors desire and claim: for all their protestations, Mr Moorhouse and Mr Teasdale are not in practice defending an open trading system, but are rather promoting fair and equitable results, as they perceive them. If it is necessary to adopt the methods of the Soviet state planner to achieve them, then so be it. We might as well descend to a system of barter in international trade without further ado.

The threat of punishment to force foreigners to open their markets to our goods is not new, of course. For all her protestations of unilateral free trade in the nineteenth century, Britain too believed in forcing foreign markets to open up, often in the Far East.

The bombardment of foreign harbours, the establishment of British Residents, the stationing of troops to protect the legal extraterritoriality imposed upon the vanquished, the consequent undermining of the domestic political authority; all are measures to allow trade to follow the flag with which the Far East is perfectly familiar: the Opium Wars were, after all, fought only to require China to "open its markets" to British Empire imports.

The difficulty is that, while dropping a few mortars on Canton hurt no-one in Britain, the weapons which we must use to-day, namely tariffs and other restraints, are ones which hurt our "opponent" only by hurting ourselves. However carefully Mr Moorhouse's and Mr Teasdale's tariffs may be targeted at sunrise industries - and they are much more intelligently thought through than many of their sympathisers would insist on - they will work only if they make Japanese products expensive to the European consumer.

They will affect precisely those imports which Europe needs if its successful industry and commerce are to have cheap access to technological development. It is easy to understand what is motivating the advocates of such a view: a sense of frustration, impotence and incomprehension combined to produce a desire for punishment, but a punishment which can only be imposed, not by bombing the foreigner, but by shooting our own consumers in the foot.

There is another reason why the policy of demanding equal access to foreign markets on the basis of an equilibrium in trade does not work in practice. Prof. Bhagwati tells us why in his book on Protectionism: "Faced with demands they cannot refuse, the weaker trading partners are likely to satisfy bilateral U.S. demands by simply taking trade away from others and giving it to the United States. This is not an opening of markets. It is rather a way of increasing U.S. exports by diverting them from more efficient suppliers who have less political clout" (19).

Prof. Bhagwati offers an interesting illustration of this point: "...the pressure by the United States for the opening of Japan's beef market was aimed at increasing the imports of U.S. beef through larger Japanese quotas, rather than at liberalising the Japanese import regime (the most likely consequence of which is that Australia would have outcompeted both Japan and the United States)".

What is said of the United States may be said in this case with equal force of the European Common Market. Demands for equilibrium in bilateral balances, apart from being contrary to the principles of free trade and the letter of the GATT, are almost certain in practice not to lead to greater economic efficiency but to trade-distorting export substitution.

8. THE RIGHT APPROACH; LIBERALISING MARKETS

What are we then to do about Japan (and for that matter about other developing countries which compete directly with our own more mature industries)? The first thing to do is to examine the facts, not get carried away by anecdotal evidence of "unfair" trade barriers disseminated often by interested parties.

We have Prof. Bhagwati's authority for saying that "in truth, Japan's tariffs are among the lowest in the world" (20); while the World Bank tells us that, in the period 1981-6, the extent of Japan's trade protection through non-tariff barriers fell somewhat while the Common Market's rose by 20 pct. and the USA's by nearly a quarter (21).

Second, we must not fall into the trap of thinking that we can never effectively compete with the developing industrial powers of the Far East. Admittedly, steel production has benefited in Europe from extensive protection, but British Steel's new-won ability to produce steel competitively with South Korean producers is eloquent testimony of Europe's ability to conquer in the market-place if only it has the will to try.

Third, we should not forget that the deliberate manipulation of currency levels can have a more dramatic effect on the price of exports than any number of trade barriers. If Japan has been guilty in the past of boosting exports by deliberately keeping the yen undervalued, it has now responded to market pressures by allowing the yen to rise, dramatically against the U.S. dollar, substantially against the deutschmark currency bloc.

The Republic of Korea is also promising to liberalise the won in the near future and the Hong Kong authorities, which are having increasing difficulty in keeping their currency artificially pegged to the U.S. dollar, may allow it to float upward in due course.

All these are encouraging signs that maturing economies, after a period of growth, are coming to recognise the inevitable pressures to respond to markets and to live up to their international responsibilities. A commitment to genuinely free currency markets (not, alas, one of the European Commission's favoured goals, at least internally) is a better guarantee of genuinely fair trade than any number of protectionist measures.

Finally, we must stop imagining that Japanese and other Far Eastern producers are in a deep laid conspiracy with each other, their industrial enterprises and government officials to boycott foreign produce. Substantial evidence, which has been well covered in, inter alia, The Economist (22) shows that the rise of the yen and a new interest in consumption are behind an increasing tendency for the Japanese to import manufactured goods.

This is hardly surprising: Japanese consumers are, at bottom, as rational as our own. The tragedy is that the trade war that the European Commission is conducting against the Far East, and Japan in particular, could easily provoke the retaliation that would close these rich markets to the European exporter just as they are becoming more accessible. A more short-sighted policy would be difficult to imagine, especially when we have a simple watchword to guide us through the maze of confusion and fear in which our lords and masters in the European Commission appear to be irretrievably lost: Trust markets, even if it requires patience.

Common sense tells us that the Japanese trade surplus cannot grow indefinitely and the practical limits to its growth are set in part by the rise in their currency that is consequent on that surplus. Indeed it would not be surprising if Japan, in twenty years' time, had not settled down into something of a economic slowcoach in which we shall find it difficult to detect even the embers of that tremendous growth which so terrified the European Commission and its producer clients.

Similarly, those who now consider West Germany can only trace vestiges of the Wirtschaftswunder of the 'fifties and 'sixties and those who look at debt-ridden America can hardly credit that this was the country which once exported the capital to re-build half a continent and was thought at one point to be in danger of buying up all Europe's industry.

9. RECOMMENDATIONS TO HER MAJESTY'S GOVERNMENT

It is important to understand the motivation of the European Commission. Is it engaged in a protectionist conspiracy to subvert international trade to the advantage of its domestic producers and to ease the path to the "internal market"? or in a deceptive programme to institute safeguards for industry in a way which will not offend the United States, will avert the threat of legal retaliation and provide a spurious claim to the moral high ground? or in a deep-laid plot to open Japanese and other markets by a trade war of attrition and threat, which will be called off when the target economies give in and open up?

Or is the explanation simply that the Commission is muddle-headed, panicky, frustrated, confused by national politicians and buffeted by vocal producer cartels to the point where its actions have lost all sense, logic, coherence, honesty and purpose, at least when examined for their long-term effects on the people of the Common Market?

What can the British Government do about it? In practice there is little the British Government can do other than lobby at Brussels like any other interested party, since the Government now has no effective control over its own trade relations unless it can cobble together a compromise that will command a majority on the Council of Ministers on a particular question. On what points then should the Government be lobbying?

It should be resisting calls from the Labour Party and from some on its own benches for an indiscriminate strengthening of "anti-dumping" measures and should instead be lobbying for a radical reform of Brussels' anti-dumping policy. That reform should comprise a number of points:

First, there should be an enhancement of the rigour of the screening process which anti-dumping complaints must go through so that a better account of their likelihood of success is taken before they proceed to full investigation; to strengthen public confidence in the process the preliminary scrutiny could be carried out by an independent body not subject to the political pressures prevailing in Brussels, which should be specifically charged with assessing at the outset what the cost to the Common Market would be in terms of higher prices, employment foregone and lost growth opportunities of imposing a range of anti-dumping measures on the imports specified; naturally, its findings should be made public.

Second, there should be a system of penalties for complaints so devoid of merit that they fail to pass the preliminary scrutiny; as already demonstrated, the making of a complaint, however groundless, can be a potent weapon in a trade war, since it prompts foreign exporters to raise their prices above economically required levels in order to pre-empt the complaint, or at least mitigate the levy.

Third, the Government should press to ensure that the deliberate bias in the Commission's anti-dumping calculations that has been identified by experts is removed retrospectively forthwith.

None of the foregoing is to be taken as denying the European Commission powers consistent with the GATT to resist genuine dumping in the rare cases where it occurs.

What else should the Government be doing? The Government's own record as a promoter of free trade is not unblemished. The many "voluntary" export restraints sponsored sub rosa by the Department of Trade and Industry will vanish in due course as they are subsumed into the Commission's "appropriate measures at Community level".

The Government should anticipate that development: by abolishing our "voluntary" export restraints now, how much better placed shall we not be to combat the imposition on us of our partners' peculiar protectionist measures when the time comes to negotiate the "appropriate measures at Community level". By capturing the high moral ground now, we should be in a position to ensure, by precept, example and, if necessary, stubbornness, that the "limited hard core" is as small as possible.

For if precept and example are to be effective in shaping the European and international trading order in the crucial years to come, it is from Britain, the inventor of free trade, that they should most naturally come. We have here an opportunity to determine the nature of world trade and we are in danger of losing it, not because our instincts are against it, but because we seem willing to ignore the dangers facing us if the European Commission is allowed to continue building Fortress Europe along current lines.

That is why the Government should spend a little money on the cause and establish an independent office (similar in status to but separate from the Office for Fair Trading) which would be charged with examining all European Commission trade policies, actual and proposed, for their effect on the British consumer and which, by publishing its findings, would both raise the level of the debate and provide the Government and MPs with the ammunition necessary to combat the Commission's protectionist tendencies. Such an office would to some extent replace the influence within government in favour of free trade once exercised by the Board of Trade but progressively lost since that body was absorbed into the "Department for Enterprise".

Of all the recommendations put forward this is perhaps that most crucial in the long term, for the consumer needs a voice if his interests are to be defended. The proposed body would soon acquire the influence and prestige to be a major determinant of European trade policy and should no doubt in the course of time have its remit expanded to include the interests of other European consumers. The consumer bodies currently in existence

are not adequate to the task: they have too little money and devote themselves to a range of consumer interests such as product safety, producer liability and so forth which means that they have little time and few resources to devote to monitoring trade policy and publicising its effects.

Now is the right moment to act; stripped of our own British protectionist measures, fortified by our own independent office to supply us with the necessary facts and research, and ready to do battle for a vital principle which is daily suffering erosive attack, We have, under the Prime Minister's leadership, the opportunity to set about building, not Fortress Europe, but a Europe in the tradition of Peel and Gladstone.

SUMMARY OF RECOMMENDATIONS

Concerning the present crisis in the GATT:

That the European Commission should reverse its opposition to the United States proposal for the elimination by a date to be agreed of all trade-distorting agricultural subsidies.

Concerning the strengthening of the GATT:

That the European Commission should drop its opposition to the GATT's disputes procedure's being made enforceable; and that H.M. Government should continue to press its Common Market partners to require the Commission to support an enforceable disputes procedure.

Concerning the Multi-Fibre Arrangement:

That H.M. Government should announce its intention of withdrawing from the Multi-Fibre Arrangement concerning trade in textiles or, should its Common Market partners prevent this, agitate vigorously to this end at Brussels and for the immediate and complete liberalisation of world trade in textiles.

Concerning the European Commission's bizarre policy on "dumping":

That complaints by producers alleging foreign dumping should be subject to public scrutiny by a body independent of the European Commission prior to being submitted to the Commission's inquiries, such prior scrutiny to include examination of the potential harm to the European consumer of proceeding to impose the anti-dumping duties sought by the complainant;

that complaints from producers which do not pass the independent prior scrutiny should attract financial penalties to be imposed on the complainant;

the the European Commission should expunge from its anti-"dumping" calculations that bias which has been identified by experts as leading to "dumping" being proven even where it manifestly does not exist; and that this step should have retrospective effect.

Concerning British trade policy:

That H.M. Government should quash all "voluntary" export restraints and such other arrangements as are specifically British measures to inhibit international trade, both for the benefit of the British people now and so as to put Great Britain in a position from which it can better resist attempts by other

Common Market states to impose their peculiar protectionist measures on us as 1992 approaches.

Concerning the defence of the consumer:

That H.M. Government should establish an office (similar in status to the Office of Fair Trading) charged with examining all European Commission external trade policies, actual and proposed, for their effect on the British consumer which, by publishing its findings, would provide the ammunition necessary to combat the European Commission's protectionist tendencies.

References

- (1) See Financial Times, 10th September, 1988, letter from the Chairman of the Textile Industry Support Campaign and the author's rebuttal printed on 16th September, 1988.
- (2) The Economist, 17th December, 1988, page 14.
- (3) *ibid.*
- (4) Hansard vol. 129 no. 118 col. 1365.
- (5) The Benefits of Trade by Richard Norton, published as Politics Today no. 10, 22nd June, 1981.
- (6) Cf. Financial Times, 10th December, 1988.
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- (13) Financial Times, 24th/25th November, 1988.
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- (20) Bhagwati, *op.cit.* (p.68)

(21) The Economist, 25th February, 1989.

(22) E.g. The Economist, 17th December, 1988.