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YOUR TALKS WITH SHULTZ: BILATERAL ISSUES

1. YOU SAID THAT IN DEALING WITH BILATERAL ISSUES SUCH AS STEEL OR THE EXPORT ADMINISTRATION ACT, OUR GUIDING PRINCIPLE SHOULD BE TO AVOID PREVENTING THESE QUESTIONS FROM UPSETTING THE ALLIANCE. BUT IF THERE WAS AN INESCAPABLE CONFLICT OF INTERESTS, THEN WE WOULD DEFEND OUR CORNER. THE US MEASURES ON SPECIALTY STEELS WERE THE MOST RECENT AND CURRENT EXAMPLE. THE US MEASURES HAD COME HARD ON THE HEELS OF THE WILLIAMSBURG ACCORDS WHICH HAD GONE BEYOND THE USUAL RITUAL REHEARSAL OF OPPOSITION TO PROTECTIONISM TOWARDS OUTLINING POSITIVE STEPS WHICH COULD BE TAKEN TO DIMINISH EXISTING PROTECTIONIST MEASURES. THE US MEASURES WERE PARTICULARLY UNFORTUNATE BECAUSE THEY AFFECTED SPECIALTY STEELS, AN AREA OF THE BRITISH STEEL INDUSTRY WHICH WAS LARGELY WITHIN THE PRIVATE SECTOR. THE BRITISH GOVERNMENT WAS ANXIOUS NOT TO LET THAT SECTOR SUFFER. IN THE PAST, WHEN WE HAD IMPOSED RESTRICTIONS ON MANMADE FIBRES AND THE US HAD THREATENED RETALIATION, AND BOTH SIDES HAD AGREED TO RESCIND THEIR RESPECTIVE MEASURES. WE MUST HOPE THAT THIS ACTION BY THE US WOULD BE SUSEPTIBLE TO SIMILAR TREATMENT, BUT THE US GOVERNMENT SHOULD BE IN NO DOUBT THAT THE EUROPEAN COMMUNITY WOULD RESPOND BY CONSIDERING APPROPRIATE ACTION WITHIN THE GATT.

2. AS REGARDS THE EXPORT ADMINISTRATION ACT, WE WERE ANXIOUS ABOUT THE EXTRATERRITORIAL IMPLICATIONS, AND ABOUT ITS PROVISIONS FOR RETROSPECTIVE ACTION AND FOR IMPORT CONTROLS AGAINST COMPANIES OR COUNTRIES. IF IT WERE NOT POSSIBLE TO AVOID THESE PROVISIONS IN THE LEGISLATION, WE HOPED THAT THE ADMINISTRATION WOULD AVOID CARRYING THEM INTO EFFECT.

3. SHULTZ SAID THAT HE AGREED WITH YOUR GENERAL SENTIMENTS. THE ADMINISTRATION HAD TRIED TO MEET SOME OF OUR CONCERNS, EG ON CONTRACT SANCTITY. THE US PREFERRED NOT TO TALK OF EXTRATERRITORIALITY BUT OF CONFLICT OF JURISDICTION. HE BELIEVED THAT, ON QUESTIONS SUCH AS THE GRANTING OF LICENCES, THE US HAD A RIGHT TO EXERCISE JURISDICTION. IF A LICENCE WAS GIVEN IN THE EXPECTATION THAT CERTAIN CONDITIONS WOULD BE MET, THEN THAT COULD NOT BE CONSIDERED AN EXAMPLE OF UNACCEPTABLE EXTRATERRITORIAL REACH SINCE THERE WAS NO NEED FOR THE FIRM IN QUESTION TO ACCEPT THE TERMS OF THE LICENCE IN THE FIRST PLACE. HE COULD, HOWEVER, SEE OBJECTION TO THE APPLICATION OF SANCTIONS POST FACTO.

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4. ON STEEL, SHULTZ SAID THAT HE UNDERSTOOD THAT THE MEASURES TAKEN BY THE US WERE LEGITIMATE WITHIN GATT, EG THEY WERE IN ACCORDANCE WITH THE INJURY TEST. SECRETARY BALDRIGE HAD REGRETTED THAT IT HAD NOT BEEN POSSIBLE TO DEAL WITH SPECIALTY STEEL IN THE GENERAL STEEL SETTLEMENT REACHED A FEW MONTHS AGO. THE TIMING OF THE US MOVE HAD BEEN DICTATED BY THE INEXORABLE TIMETABLE OF THE PROCEDURES IN THESE CASES. THE PRESIDENT HAD HAD NO CHOICE ON TIMING. ALL THAT COULD BE SAID WAS THAT THE MEASURES TAKEN WERE NOT AS SEVERE AS THOSE THAT HAD BEEN RECOMMENDED TO HIM BY THE INTERNATIONAL TRADE COMMISSION. THE EUROPEAN COMMUNITY WAS RIGHT TO PURSUE THE ISSUE WITHIN GATT THOUGH HE REITERATED HIS BELIEF THAT IT COULD BE PROVED THAT THE MEASURES WERE JUSTIFIED. YOU COMMENTED THAT THE EXTENT OF THE MEASURES LOOKED TO US TO BE WIDER THAN WAS JUSTIFIED BY THE FACTS EG IN THE IMPOSITION OF WHAT APPEARED TO BE A DOUBLE PENALTY. SHULTZ SAID THAT HE WOULD REPORT YOUR VIEWS TO THE QUOTE POWERS THAT BE UNQUOTE. IT WAS IMPORTANT THAT THEY SHOULD UNDERSTAND WHEN OTHERS WERE UPSET BY DECISIONS OF THIS KIND.

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