

CORAL GABLES CHAMBER OF COMMERCE

Friday 22nd November, 1991

**"The Changes in Europe 1992 and The Eastern European Dimension"**

LORD HACKING

*Partner, Richards Butler and Member of House of Lords Select Committee on the European Communities.*

1. I am grateful to have the opportunity to talk to you. I attended, this morning, a breakfast meeting of the Beacon Council and know, recession or no recession, you have here in Coral Gables and in greater Miami an active and thrusting business community. I recognise you are actively seeking opportunities for both inward and outward investment. It is upon the latter, concerning Western and Eastern Europe, I have come to address you.
2. There will be three, or is it four, parts of my talk:

"Bananas", "the EC '1992' and its Impact on the USA", "the Eastern Europe Dimension" and back to the "Bananadrama"!

As you may have guessed, in accepting this invitation to address you, I promised Mr. David Rowe of Holland & Knight, to whom I wish to extend special thanks for my presence here today, to speak upon the banana problem as it effects the banana industry in the Caribbean. I am happy to do so because this is clearly a matter of keen concern to the Caribbean community in Florida and because it gives an opportunity for you to test the policy of the European Community upon tariffs.

3. I know you may have some concern over the European Community ("EC" for short) in '1992' and beyond. Is it going to be, to adopt the title of the Beacon Council, a "beacon" of free trade or is it going to become a "fortress Europe"? We should, therefore, start not in 1992 but in 1945. The origins of the European Community can clearly be traced back to the re-organisation of the Western countries (the Allies as they were then) following the devastation

of World War II. This re-organisation could never have taken place without the major contribution made by the USA. The first most important meeting (which was actually convened before the termination of hostilities) was on US soil in New Hampshire in 1944. In that lovely New England resort of Bretton Woods, which can be seen (as I recall when walking 15 years ago to the top of Mount Washington) by hikers on the Appalachian Trail, a conference of crucial importance took place and to it we owe the formation of both the International Monetary Fund and the World Bank. It still bears the name of the Bretton Woods Agreement!

4. Following a number of further meetings at governmental level, it fell upon 1947 to be the year of international agreements. In Geneva in 1947, your country having been actively involved in its preparation, joined 22 other nations to become a signatory of the General Agreement on Tariffs and Trade otherwise known as GATT. Notwithstanding the length and complexity of the current Uruguayan Round, GATT remains a powerful, and not unsuccessful, force in world free trade.
5. Turning our focus more precisely on Europe, 1947 was to witness three other major events in which your country played a leading part. Indeed one of them was planned and shaped in the U.S.A. and, without it, there would have been no economic base on which Europe could have built its future. I refer, of course, to the massive aid programme for Europe which your Secretary of State, George Marshall, announced at Harvard in July 1947 and which became known as the Marshall Plan. I also refer to the 1947 UN Economic Commission for Europe and to OEEC (the Organisation for European Economic Co-operation) in which once more the USA played such a notable part. While your country was not directly involved in the formation of the Council of Europe in the Hague in May 1948 and in the formation of the various European free trade unions - the Benelux Union of January 1948, the Schuman Plan of 1949 (a customs union between France and Italy) and in the formation of European Coal and Steel Community of April 1951, it actively encouraged, and gave aid in support of, each of these European ventures. Please, therefore, do not feel, with '1992' and all that, you are coming in



from the cold. You were there from the beginning! Indeed if you had not formed in 1949 NATO (The North Atlantic Treaty Organisation) with your wartime Allies, there is a good prospect that most of Western Europe would have fallen under the Communist yolk.

6. I hope, therefore, that you can view the EC as part of your achievement - as a friend and not a foe. Quite rightly, you have more precise questions to ask. What does the EC and '1992' mean to you and your businesses? Here I must assume differing experiences among you. There will be some of you who have extensive operations in the UK and in other parts of the EC. There will be others of you who have not yet ventured into the EC but may be interested to do so. It is important, therefore, to understand what '1992' is. First of all let us look at what it is not! It is not a legislative measure approved by the European Parliament and adopted by the EC Council. Nor is it an executive act of the EC Commission. It is not, therefore, the EC equivalent of the "Big Bang" of London of October 1986, when at the stroke of midnight of Big Ben a new financial market was opened. No, '1992' is a goal... a political objective to enable Member States to enter into the reality of vision of the Treaty of Rome of 1957 signed by the original 'Six': Belgium, Luxembourg and the Netherlands (the Benelux Countries), France, Germany and Italy.
7. I do not make these comments to downgrade the importance of a political objective. This one is very important. It is attempting to achieve, some 35 years after signing of the Treaty of Rome, the very constituents upon which the Treaty was based:

"DETERMINED to lay the foundations of an ever closer union among the peoples of Europe,

RESOLVED to ensure the economic and social progress of their countries by common action to eliminate the barriers which divide Europe"

*[The opening first and second recitals of the Treaty]*

"The Community shall have as its task, by establishing a common market and progressively approximating the economic policies of Member States, to promote throughout the Community a harmonious development of economic activities, a continuous and balanced expansion, an increase in stability, and accelerated raising of the standard of living and closer relations between the States belonging to it."

*[Article 2 of the Treaty]*

8. More specifically the Treaty, in seeking to create a single market, sought four great freedoms:-

The freedom of movement of goods: *Articles 30 - 37 of the Treaty*

The freedom of movement of persons: *Articles 48 - 50 of the Treaty*

The freedom of establishment whereby persons and corporations are free to provide their services in any Member State: *Articles 54 - 66 of the Treaty*

The freedom of movement of capital: *Articles 67 - 73 and 104 - 109 of the Treaty.*

Without the establishment of these four freedoms there cannot be a single market and a European Community which is an effective entity in world trade.

9. You would, therefore, be entitled to comment that '1992' is not exactly before time. Just so: the original timetable envisaged the achievement of the single market by 31st December 1969! The plan was that this would be achieved in 12 years in four stages of four years each. It is now 23 years later!

10. While the Community increased in size (it went from 'The Six' to 'The Nine' on the joining of Denmark, Ireland and The United Kingdom in 1973, to 'The Ten' on the joining of Greece in 1981 and to 'The Twelve' on the joining of Portugal and Spain in 1986) its development got stuck between the mid 1960's and early 1980's. There was the "empty chair crisis" brought about by President De Gaulle in 1965, when France refused to take part in the institutional machinery of the EC. This led to the 1966 Luxembourg Compromise under which any Member State could exercise a veto when, as it perceived, its national interest was seriously threatened. There was also the world economic problems of the 1970's and the EC budget crisis of the early 1980's - all of which blunted the development of the single market.
11. So lacking had the Community become in its purpose that in 1984 there was created informally the European Council under which the Prime Ministers of each Member State meet together every six months. While there may have been disagreements between the Prime Ministers, particularly during the latter Thatcher years, these meetings have given much greater political clout to EC decision making.
12. 1984 also witnessed the arrival at the EC Commission (the former as its new President) M. Jacques Delors from France and Lord Cockfield from England. Both had a great determination that the single market should become a reality. As the Commissioner responsible for the internal market, Lord Cockfield published in 1985 the White Paper "Completing the Internal Market". This was followed by the inter-governmental conference of Luxembourg of the latter part of that year which was in turn followed by the Single European Act (which was in fact a Treaty not an Act) of 1986. It was at the Luxembourg Conference of late 1985 that the Commission proposed:



"The Community internal market shall be progressively established during the period expiring on 31st December 1992. It shall comprise an area without borders in which persons, goods, services and capital shall move freely under conditions identical to those obtaining in a Member State"

- a resolution which found its way into the Single European Act in the form of an amended Article 8A to the Treaty of Rome. Thus '1992' became enshrined in the EC Treaties but as an aspiration and not a legislative act.

13. I hope, therefore, you will now see '1992' for what it is. It certainly will not be the striking of some enormous European clock tower as the signal for putting up a barricade against outsiders. The Single European Act, which came into force in 1987, formally established the status of the European Council, which has now been meeting for the last 6 years, and gave treaty force for other important strengthening of the Community relating to wider powers for the Commission, more involvement of the European Parliament in the legislative process and the enlarging of the European Court. The pertinent question on '1992' is, however, whether the deadline will be met in time or, you may ask, at all. In the House of Lords the Select Committee on the European Communities, we do receive reports upon '1992' progress. Altogether there are about 300 legislative measures which need to be agreed and implemented by the end of next year. The latest report given to us at the beginning of this month is that (as at the end of June 1991) 75% of these legislative measures have been adopted by the Council and that 89 out of the 282 White Paper of 1985 measures have yet to be agreed.
14. Although the progress has been reasonable it remains a difficult one. For all intents and purposes, you do have here in the USA a single market of 250 million people. We have potentially in the European Community a market of 320 million people. Yet, despite the increasing use of English as the commercial language of the Community, there is, unlike with you, no common language.

Achievement of common technical standards is particularly tough. With electricity being supplied in different Member States at different voltages and being received in a welter of different electrical plugs, it will be some time before those of you - and I am referring to the men - can go around Europe with your electric hairdryer and plug it in everywhere for instant use as you can in every State of the U.S.A! Although Community law, which is forming into a whole new jurisprudence, is gathering strength, we still run a long way behind you in the commonalty of our laws nor can we look for common allegiance to a King or a Queen or even a President of Europe!

15. In considering the impact of '1992' on you, you should also appreciate the practical difficulties which are involved in its implementation. One of the most important features of a single market is that it should have no internal border controls. This is the freedom which is accorded to all of you when you move from one State of your union to another and it is one which is crucial in the operation of any single market. For those, who do travel from one EC country to another, the removal of frontier controls are to be warmly welcomed. How many times have we been delayed on the Dover crossing into Northern France or upon one of the Alpine crossings between France and Italy? Have you seen the endless queues of lorries at the entrance of the Mont Blanc tunnel? Have you seen a lorry driver being processed at an EC frontier? For each paper he has to present, there appears to be a different rubber stamp in the border control office. It is not without reason that the crossing of EC frontiers is described as "the lorry driver's nightmare".
16. Yet there are problems in removing all frontier controls. Hitherto frontiers have been useful places for controlling immigration, crime, terrorism and the traffic of illegal drugs. They have also been effective in the control of the spread of disease and the fear, as expressed to the House of Lords Select Committee, is that the removal of frontiers could result in more internal police control with consequent loss of citizen freedom. It follows, therefore, that the removal of internal frontiers could cause more



trouble than benefit unless there is in the Community a common immigration policy, a common asylum policy and common health controls. Above all there has to be confidence in the effectiveness of the external frontiers of the Community if the internal frontiers between Member States are to be removed.

17. At airports, the removal of frontier controls is mind-bogglingly complicated. Take for example their removal for travellers between Member States at a big international airport like London Heathrow. On the basis that there is retained frontier controls for those who are coming into the Community from outside, the whole of the domestic and international passenger movement will have to be altered. Hordes of travellers, hitherto processed through customs and passport control in one of the big four terminals at London Heathrow as they start or continue their journey in the EC, will now have (as domestic travellers among Member States) to be taken out of the customs and passport control areas. This becomes all the more complicated when it is taken into account that some European countries, close by in air travel mileage, Austria, Sweden and Switzerland, are not in the EC and hence the travellers to these countries will still have to be shepherded through customs and passport control! Not only have there to be great changes in the passages and halls and in the siting of customs-free shops in the main terminals of London Airport but there are quite baffling problems with transit passengers. The choice here, for transit passengers going on to another Member State - albeit not their final destination, is whether they should have to get out of their aircraft and go through customs and passport clearance before continuing their journey, or should remain locked up in their aeroplane until they get out at their final destination whether this be in the EC or beyond. What happens then to those passengers who wish to join in London the aircraft which is, for example, flying from New York before going on to Frankfurt and a destination in the Middle or Far East? On the basis that the other passengers



on the plane will not have been through passport and customs clearance, will the joining passengers have to be separately segregated from them in the aircraft?

18. I do not put these questions to you in order to find the answers. The House of Lords Select Committee did a pretty good job in its report on this subject. I just raise them so that you can have a greater understanding, if not sympathy, over all the changes which are involved in 1992. I would just add that the British Airports Authority has calculated it will cost about £50 million to make the necessary changes at Britain's airports!
19. I think, therefore, you should view '1992' as a period of great change in the Community which is candidly more a problem for us than for you. You should also see, as we endeavour to make these changes, that the Community provides, recession aside, an immense developing market which is not only bigger than your market by some 70 million people but is a less developed one. Casting your eyes further eastward, as I shall shortly be asking you to do, there is an even bigger and more undeveloped market in Eastern and Central Europe. If I have dwelt more upon the problems rather than the achievements in the Community, I have not done sufficient justice to the EC. The fact is that there has been a considerable harmonisation of laws and regulations and more to come. Look at the benefits to, for example, the pharmaceutical industry when a common licensing regime is established throughout the EC. Although there are concerns about its remit, the establishment of the European Medicines Agency (the equivalent for pharmaceuticals of the FDA) will do much to help that industry in the licensing of its products throughout the EC. Take, for another example, the difficulties facing the airline industry having to negotiate separate bilateral agreements, under the framework of the Chicago Convention, with individual Member States. Again, with the proviso that the right EC agency is set up with the right remit, are there not enormous advantages in just having to negotiate with the EC Transport Directorate - General or a separate EC body with the

responsibility for external aviation relations? Are there not also advantages for you in the changes which are currently under consideration, relating to harmonisation of community corporate and tax law and the movement towards a single currency ... however much Margaret Thatcher does protest?!

20. What about "fortress Europe"? Is the EC, after 1992, going to be an affront to world-free trade? My answer is an emphatic "no". Since I had the conduct of the European Court case which involved the recent serious trade confrontation between the US and the EC, I think I know something about the use of tariffs as weapons in inter-state trade disputes! There will, therefore, be incidents between the EC and its trading partners when tariffs upon, or even prohibitions of, imported goods will be imposed. So it is that certain US meat has been prohibited from entering the EC and so it is that the US has taken retaliatory measures relating to French wine and Italian canned tomatoes. It is, however, wholly different to conclude that the EC, post 1992, will have a general tariff policy relating to goods entering the Community.
21. Let us, therefore, put the EC to the test over "bananas". As many of you know, the UK Government has had for a number of years a favoured policy towards the Caribbean banana industry. While the import of bananas from other areas has been subject in the UK to a 20 per cent. tariff and quota restrictions, the Caribbean bananas have not. This has meant that the so-called 'dollar bananas' of Central and South America have been at a disadvantage in selling their bananas into the UK although they have not been at this disadvantage in selling their bananas, for example, to Western Germany. With, I understand, larger plantations in flat land, better soil and weather conditions and lower wages for its work force, it is claimed that the dollar banana provides better value for money than does the Caribbean banana. I am simply not in a position to know whether this argument is right or wrong. I can, however, tell you the position is complicated in the Community



because several other Member States (France, Italy, Portugal and Spain) have also got long-standing arrangements for the supply of bananas to them from certain territories including territories (viz: the Canaries) who have now come into the EC.

22. Since I have been told of the interest of several of you in the banana problem, and since several West Indies Prime Ministers are currently visiting Brussels and EC Governments, I thought it would be helpful if I could give to you an updated report. During, therefore, the last few hours, I have been in contact with the UK Government and can report, perhaps to your relief, that neither the UK Government nor the EC Commission has reached any definitive position. I can also report that the UK Government is very aware of the reliance of the Caribbean banana industry on the UK market and the damage which would be caused if there was any significant drop in trade between the Caribbean and the UK. While the Treaty of Rome has no direct application relating to persons and countries outside the EC, it can be noted that in Article 39(1)(b) of the Treaty there is an obligation in the EC "to ensure a fair standard of living for the agricultural community, in particular by increasing the individual earnings of persons engaged in agriculture".
23. I do not think, however, it would be fair to leave my comment on the "bananadrama" in the air. I cannot express the views of the UK Government or the EC Commission. I have no authority to do so and, as I have told you, the decisions have not yet been made. It is, however, my personal view that the favoured treatment towards the Caribbean banana industry cannot be maintained in the Community after 1992. The same applies to any other favoured treatment by other Member States to their long-standing suppliers of bananas. If free trade is to have a proper application then the world's producers of bananas must compete on an equal and fair basis in the world's markets. I can see arrangements being agreed for the gradual phasing out of the favoured treatment of suppliers of

bananas to the EC to enable these banana producers to make adjustments at home. It would seem to me, however, that it would be unwise of any banana producer anywhere in the world to rely upon the continued existence in the EC of special or exclusive markets for their goods. They would do best, therefore, to concentrate on making such lovely bananas that the world's consumption continues to increase in the eating of this good fruit!

24. It may surprise you for me to lead from bananas into Eastern and Central Europe but there is a connection. Of all goods which are not home grown and which should be assured of a strong expanding market, that place must be Eastern and Central Europe. The USA at 250 million is a big market, the Community at 320 million is a bigger market and Eastern and Central Europe (Poland, Czechoslovakia, Hungary, Romania, troubled Yugoslavia, Albania, Bulgaria, the Baltic States and what was until recently the USSR) is at 407 million an even bigger market .... and by no means only for bananas!
25. For centuries the peoples of Eastern and Central Europe have formed part of greater Europe. A thousand years ago the great nomadic tribes roamed all over Central, Eastern and Western Europe sometimes settling sometimes moving on. Right up to the present time immigrants, in large numbers and individually, have been moving from Eastern and Central Europe into the West. Peter the Great of Russia went to Deptford on the Thames Estuary to learn shipbuilding and Queen Victoria sent one of her daughters - she sent most of her daughters on similar quests throughout Europe - to marry the heir to the Russian Tzar. So it is that there are, suddenly vested with their freedom, 407 million peoples of the same ethnic and cultural origins, the same religious backgrounds and, of equal significance, living in the same climatic conditions. They have always been part of Europe and now they are able to participate in our affairs. Already applications are being prepared by Poland, Czechoslovakia and Hungary for Associate



Membership of the EC with the view of obtaining, in due course, full Membership. How can any businessman pass by the potential of a vast European market with its dimension into Eastern and Central Europe?

26. There is a certain freedom in which I can put this question to you. You are the businessmen and I am not! I can, however, tell you that my law firm is actively involved in Eastern Europe and can provide to those of you who are interested fairly comprehensive information about the legal structure of the Eastern European markets. I have prepared for you, which are in your folders a lot of facts which should enable you to identify which country in Eastern Europe should have an interest in your goods and services. I, therefore, encourage you to look at that paper and, if you would like to raise any question have a word with me. I, and more so several of my colleagues, have spent quite a lot of time in Poland. Partners and other colleagues in my firm, have also made professional visits to Czechoslovakia, Hungary, Yugoslavia and Russia. I will concentrate my remarks on Poland, in particular Warsaw, but leave you to come back to me if you have interest in other Eastern European countries.
27. Poland is a large country - not far off the size of France - and has the largest population (save for the once united USSR) of all countries of the former Eastern Bloc. Its population of 38 million compares with 15½ million in Czechoslovakia, 10½ million in Hungary, 23 million in Romania and 9 million in Bulgaria. By way of further comparison the UK population is currently about 57 million. Other than Yugoslavia which for many years has taken its own course in the Communist World to its present unhappy position, Poland was the first Communist Country decisively to break with Communism and to prepare for moving into a market economy. Although the whole process of going from a command economy to a demand economy, is very stressful on its peoples, causing unemployment levels to rise significantly, it remains politically stable even at a time when its recent, and first free, elections

has left it without a Government! As with most other Eastern European countries, particularly Czechoslovakia and Hungary, its peoples are well educated and well trained in most manufacturing processes, albeit many of the processes are out of date. It does, however, mean that its work force is sufficiently educated and trained to be moved over to modern manufacturing processes. The problem is not so much the skill of the worker but the awful deadening that years of Communism, with its unresponsive command economy, has had upon personal initiative and enterprise. In a sense, the command economy made it too comfortable for its work force. Rarely was anybody made redundant. Numerous employees were able to retain their jobs although they did little and contributed hardly anything to the benefit of their work force.

28. Nobody should start transacting business in Eastern Europe without being aware of its problems: dilapidated manufacturing processes, vast over-manning of employees, appalling telephonic communications, no real transport infrastructure and fearsome environmental pollution. Yet all problems need solutions and nobody is more aware of the need for solutions than the new leaders of Eastern Europe. So it is, if you are in the communications industry, the transport or distribution industry, in engineering or in any industry connected with environmental pollution (water purifying, smoke pollution controls, etc. etc.) there is a lot of need for your skills and services. Nor do you face, throughout Eastern Europe, currency problems. Yes there is a decided shortage of hard currency but the US, UK and all the leading EC Governments (in particular France and Germany) have launched large aid programmes in which services by Western companies are paid for in hard cash. This is not to state that you can trot along to the US Government for total financial support for any venture in Eastern Europe. Generous though your Government is, it has not adopted a policy, at least relating to Eastern Europe, of free handouts! What the Western Governments are tending to do, in their aid programme for Eastern Europe, is to fund projects which assist in the converting of their economies from unviable command to viable



demand economies. Thus, for example, the UK "Know-how Fund" for Poland has underpinned the Polish Government's privatisation programme which means that quite a lot of the moneys being paid out to those who are assisting Poland in its privatisation programme are being funded from Western financial sources.

29. As you should be able to spot from the detailed analyses of the countries of Eastern and Central Europe, which are in your folder, there are a number of industries which are ripe for development: food processing, tourism, clock making, glass and ceramics and so forth. In summary Eastern and Central Europe offers the opportunity of a vast market, of well-educated peoples, of well trained work forces and of some fine specialist industries. All of these countries of the former Eastern Bloc, particularly Poland, Hungary and Czechoslovakia, are out to attract foreign investment and provide favourable terms for foreign investors. Yet there is a great hesitancy among the Western businessmen. You talk to the Western pharmaceutical company. He states: "Yes I am willing to invest in Eastern Europe as soon as the car manufacturers have moved in. The wages will then go up and there will be more moneys for buying our goods". Western car manufacturers follow the same argument. I well remember Spain 25 years ago. It was considered to be one of the poor countries of Europe offering little opportunity to a businessman. It is now judged to be one of the prime countries in the EC for the manufacture of hard goods. In particular it is thought to have an excellent work force for the auto and electronic industries. Times move faster. I do not think Poland or Hungary or Czechoslovakia will wait so long to have the skills of its peoples recognised and to become highly successful countries within the scheme of Europe.

Beaufort House  
15 St. Botolph Street  
London EC3A 7EE

5th December 1991