

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

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Committee on Subsidies and
Countervailing Measures

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DEFINITION OF INDUSTRY IN THE UNITED STATES
TRADE AND TARIFF ACT OF 1984

Communication from the EEC

The Community considers that the United States have violated their obligations under Article 19(5)(a) of the Code on Subsidies and Countervailing Duties, namely to ensure the conformity of their laws with the provisions of the Agreement, and has requested that consultations be held under 16(1) of the Code for the following reasons:

Section 612(a)(1) of the Trade and Tariff Act of 1984 has amended Section 771(4)(A) of the Trade Agreements Act of 1979, which has read:

"The term "industry" means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product."

by adding at the end thereof the following:

", except that in the case of wine and grape products subject to investigation under this title, the term also means the domestic producers of the principle raw agricultural product (determined on either a volume or value basis) which is included in the like domestic product if those producers allege material injury, or threat of material injury, as a result of imports of such wine and grape products."

Under the Code, countervailing duties can only be imposed if subsidized imports are causing injury to a domestic industry in the importing country. Article 6(5) of the Code defines the term "domestic industry" as referring to the domestic producers as a whole of the like products or to those of them whose collective output of the products constitutes a major proportion of the total domestic production of those products. And it expressly stipulates that the term "like product" shall be interpreted to mean a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration. It follows from this definition that grapes and wine can under no circumstances be considered as "like products" within the meaning of the Code and that the situation of grape growers cannot be taken into account when determining whether injury has been caused by imports of wine or other grape products.