GENERAL AGREEMENT ON TARIFFS AND TRADE

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Committee on Subsidies and Countervailing Measures

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UNITED STATES REQUEST FOR CONSULTATIONS WITH THE EEC UNDER ARTICLE 12:1 OF THE AGREEMENT

Communication from United States

The following communication, dated 20 March 1989, has been received by the Chairman from the United States Trade Representative.

My authorities have instructed me to request consultations with the European Community under Article 12:1 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (hereinafter referred to as the "Subsidies Code").

My Government is deeply concerned about the approval by the European Commission on March 8, 1989 of a German export subsidy. Such a subsidy would interfere with the international adjustment process of a free trading system and would run counter to a basic tenet of free enterprise, namely, that business firms should absorb the risks associated with their commercial ventures. Moreover, this practice (if adopted by other countries), sets a dangerous precedent for others to follow irrespective of the industry involved.

Our concerns involve the announcement by the Federal Republic of Germany (FRG) of its comprehensive plan to facilitate the merger of Messerschmitt-Boelkow-Blohm (MBB) into Daimler-Benz and the financial rescue of the MBB subsidiary, Deutsche Airbus. We understand that the Daimler-Benz board of directors accepted the German Government's plan. Under one element of the plan, the FRG would provide exchange rate "insurance" through the year 2000, whereby the Government would cover most losses attributable to lower actual market rates for the dollar than specified in the plan. We understand that the FRG will charge no premiums for the provision of this "insurance". The funds for the subsidy will come directly from the FRG. The Bundestag Budget Committee has already approved the obligation of funds for this purpose.

The German exchange rate "insurance" program appears to represent a direct cash export subsidy. We believe that the program provides a significant pricing advantage for Airbus products and will cause adverse effects on the American aerospace industry. We are also concerned that the program will cause injury to our domestic industry or impairment or serious prejudice to our interests. Therefore, we seek additional information through consultations.

Article 9 of the Subsidies Code prohibits signatories and any government within the signatory's territory, from granting export subsidies. Item (a) of the Illustrative List of Export Subsidies contained in the Subsidies Code forbids "the provision by governments of direct subsidies .... contingent upon export performance." The German subsidy appears to represent a direct cash grant contingent upon export performance. In addition, item (j) on the Illustrative List of Export Subsidies contained in the Subsidies Code forbids "the provision by governments .... of exchange risk programmes, at premium rates, which are manifestly inadequate to cover the long-term operating costs and losses of the programmes." In our view, the exchange rate program granted by the FRG is inconsistent with these provisions of the Subsidies Code. Accordingly, the United States Government requests consultations with the European Community under Article 12:1 of the Subsidies Code.