

GENERAL AGREEMENT ON

RESTRICTED

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TARIFFS AND TRADE

Committee on Subsidies
and Countervailing Measures

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CERTAIN STEEL PRODUCTS: DEFINITIVE AND PRELIMINARY AFFIRMATIVE COUNTERVAILING DUTY DETERMINATIONS

Request for Consultations with the United States under Article 3 of the Agreement

Communication from the European Community

The following communication, dated 2 February 1993, has been received from the Permanent Mission of the European Community.

In accordance with Article 3 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (the "Subsidies Code"), the European Community requests consultations with the United States concerning the following countervailing duty cases:

- Definitive affirmative countervailing duty determinations against France, Germany and the United Kingdom concerning certain hot-rolled Lead and Bismuth carbon steel products (published 19 January 1993).
- Preliminary affirmative countervailing duty determinations against Belgium, France, Germany, Italy, Spain and the United Kingdom concerning certain cut-to-length carbon steel plate products, certain hot-rolled carbon steel flat products, certain cold-rolled carbon steel flat products and certain corrosion-resistant carbon steel flat products (published 27 November 1992).

The information available to the Community gives rise to serious doubts about the compatibility of the methodology used with the provisions of the GATT and the Subsidies Code, in particular with regard to the issues mentioned below.

(i) Amortization period

Non-recurring subsidies, which in the past may have been provided to EC steel companies, have been allocated by the US authorities over 15 years (amortization period). The Community would like the US

authorities to explain how this amortization period has been determined and in particular its consistency with the "Guidelines on Amortization and Depreciation" adopted by the Subsidies Committee in 1985.

(ii) Denominator

In calculating a countervailing duty for one EC steel company, the US authorities changed in the final determination (against France) the basis on which they allocated the subsidies found as compared to what they had done in the preliminary decision.

This raises the question of establishing an appropriate denominator in order to prevent a countervailing duty being imposed in excess of the amounts of the subsidy found, calculated in terms of subsidization per unit (Article 4:2 of the Subsidies Code).

The Community questions whether the methodology used takes properly into account the nature of the operation of the company concerned.

(iii) Privatization

Subsidies which were granted to a public company, which was subsequently privatized, have been countervailed.

The Community considers that there are strong arguments for treating subsidies granted prior to privatization as having been extinguished since the privatization was carried out at arm's length and at a fair market value, and it would therefore like the US authorities to explain their approach.

(iv) Equity infusions

The US authorities have in many instances countervailed equity infusions and provisions of loan (guarantees) by public shareholders to steel companies.

The Community should like explanations from the US side in particular on the methods by which they determine whether a company can be considered "unequityworthy" or "uncreditworthy".

(v) Benchmark interest rates

In certain cases the US authorities have used several interest rates published by the IMF as "benchmark interest rates".

The Community should like to have clarification on this issue since it considers that other interest rates would have supplied more appropriate benchmarks.

The Community reserves its rights to raise any other issues concerning these cases either during the consultations or at a later stage.