

GENERAL AGREEMENT ON

RESTRICTED

SCM/167

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TARIFFS AND TRADE

Committee on Subsidies and
Countervailing Measures

Original: English

UNITED STATES: PRELIMINARY AND DEFINITIVE AFFIRMATIVE
COUNTERVAILING DUTY DETERMINATIONS ON CERTAIN STEEL PRODUCTS

Request for Conciliation under Article 17
of the Agreement

Communication from the European Community

The following communication, dated 14 April 1993, has been received from the Permanent Delegation of the European Community.

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- 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)
1. The European Community ("The Community") wishes to refer the above proceedings to the Committee on Subsidies and Countervailing Measures for conciliation in accordance with Article 17 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code").
 2. This request is made following the consultations under Article 3 of the Subsidies Code, held in Geneva on 26 February 1993, and on 29-30 March 1993 in Washington which failed to arrive at a mutually agreed solution in these cases.
 3. The Community considers that the US have infringed several provisions of the Subsidies Code in these proceedings as set out below. The Community reserves the possibility to circulate to members of the Committee a more detailed written explanation on some or all of these points as well as on other relevant issues.

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

The Community considers that this method of calculation is not compatible with Article 4:2 of the Subsidies Code and with the guidelines on amortization and depreciation as adopted by this Committee on 11 July 1985.

- (b) Non-recurring subsidies have been recalculated in such a way that the total amount countervailed over time exceeds largely the amount of subsidy granted by the government. The Community considers that by this method countervailing duties have been levied in excess of the amount of the subsidy found to exist, in violation of Article 4:2 of the Subsidies Code.
- (c) Untied subsidies granted to a steel company producing in several countries have been countervailed by allocating the complete subsidy amount found only over the domestic production of that company.

The Community considers that the US have violated Article 4:2 of the Subsidies Code by levying a countervailing duty in excess of the subsidies benefiting the product concerned.

- (d) The US have countervailed products produced by an independent company with assets it had previously purchased at a fair market value from a steel company which had been subsidized in the past.

The Community considers that the US have failed to prove that a subsidy has been granted to the new owner of these assets because of subsidies granted prior to the sale of the assets and is thereby infringing Article 4:2 of the Subsidies Code.

- (e) The US have developed a methodology which determines whether a company is credit worthy or equity worthy or not. The Community considers that this methodology has led on several occasions to an unjustified finding of subsidization in relation to equity infusions and loans made by public authorities.

The US have countervailed subsidies which did not exist, thereby infringing Article 4:2 of the Subsidies Code.

- (f) The US have countervailed debt forgiveness provided by private banks to a steel company.

The Community considers that there is no justification for countervailing such payments, taking into account that there has been no financial contribution at all from the granting authority. The Community also considers that the US have thereby infringed Article 4:2 of the Subsidies Code.

Following the failure of the bilateral consultations to arrive at a mutually agreed solution on these issues, the Community requests the Committee on Subsidies and Countervailing Measures conciliation under Article 17 of the Subsidies Code and to review immediately the facts involved and through its good offices encourage development of a mutually acceptable solution.