

**GENERAL AGREEMENT ON
TARIFFS AND TRADE**

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Committee on Anti-Dumping Practices

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Committee on Subsidies and
Countervailing Measures

UNITED STATES - ANTI-DUMPING AND COUNTERVAILING
ACTIONS ON STEEL PRODUCTS

Request for Consultations under Article 15:2 of
the Agreement on Anti-Dumping and Article 3:2 of the
Agreement on Subsidies and Countervailing Measures

Communication from Brazil

The following communication, dated 12 July 1993, has been received from the Permanent Mission of Brazil.

1. Further to the request for consultations circulated by document ADP/89-SCM/161, of 16 February 1993, Brazil and the United States have held a meeting for consultations on 26 February 1993 in Geneva. The meeting was helpful, from the point of view of Brazil, to partially clarify the factual situation.
2. During the meeting, Brazil presented the US with a written questionnaire on issues relevant to the matter under examination. The US Government has later, provided Brazil with answers to some of the questions. Other questions were not given written replies on the argument that they had been been replied orally.
3. By a letter of 20 April 1993, Brazil has reiterated it considers the written record of the replies essential in order to analyze the information adequately and in required detail. The US has not, to date, provided the written replies to the remaining questions.
4. On 22 June 1993, the US Government announced final determinations on the same investigations.
5. On 1 July 1993, Brazil requested that a new meeting for bilateral consultations be scheduled to coincide with the presence of both delegations in Geneva for an MSA meeting scheduled for the period 7-9 July 1993. The request was transmitted both by a diplomatic note delivered by the Ministry of External Relations of Brazil to the Embassy of the United States in Brasilia, and by a communication from the Mission of Brazil to the Office of the USTR in Geneva.

6. The US replied on 2 July 1993 alleging that due to shortness of time and lack of precision in the request, the United States was "unable to prepare formal consultations" during the suggested period. The US would only be prepared to "meet informally".

7. On 12 July 1993, Brazil reiterated its request to hold consultations under the relevant provisions of both Codes.

8. Following are the texts of Brazil's requests as transmitted by the Mission of Brazil in Geneva on 1 July 1993 and on 10 July 1993:

9. The communication of 1 July 1993 reads as follows:

"I refer to your letter of 10 June 1993, on the MSA meeting scheduled for 7, 8 and, if necessary, 9 July 1993, and to the ongoing U.S. countervailing and anti-dumping actions on Brazil's exports of steel products to the U.S. market.

2. As you will recall, U.S. and Brazilian delegations held a first consultation meeting on those actions last February, on the occasion of the presence, in Geneva, of delegations of both countries for the MSA meeting held that month.

3. I have now been instructed to confirm the Brazilian Government's request - as per diplomatic note to the U.S. Embassy in Brasília - that, further to that first consultation meeting, the Brazilian Government is requesting the U.S. Government that a new consultation meeting on the cited actions be held in Geneva on the occasion of the presence of both delegations here for the MSA meeting scheduled for the period indicated above.

10. The communication of 10 July 1993 reads as follows:

"Thank you for your letter dated 2 July 1993 concerning an additional consultation meeting requested by Brazil on the ongoing U.S. countervailing and anti-dumping actions on Brazil's exports of steel products to the U.S. market.

2. Although disappointed that the new meeting could not be held on the occasion of the July meeting of the MSA, as requested by Brazil in view of the presence of both delegations and their experts in Geneva for the MSA meeting, Brazil understands the reasons expressed in your letter for the U.S. refusal to hold consultations on the proposed dates. Brazil now requests, however, as anticipated informally during the recent MSA meeting, that the meeting be held with the shortest delay possible, at a mutually agreed date.

3. In regard to the information on the precise topics to be discussed during consultations, Brazil believes sufficient information was imparted to the Government of the United States by the Government of Brazil by the diplomatic note of 1 July 1993. Brazil's note referred to consultations under Article 15.2 of the Anti-dumping Code and Article 3 of the Subsidies Code. It also specified that the consultations would relate to the final DOC determinations announced on 22 June 1993. A precise list of products and issues was also indicated. As you will recall, the request communicated by the above-mentioned diplomatic note was confirmed by our letter of 1 July 1993 to the Office of the USTR in Geneva.

4. As the United States was "unable to prepare adequately for formal consultations during the period" suggested by Brazil - and on the basis of information provided by Brazil - as mentioned in your letter, I wish to inform you that Brazil is now seeking consultations pursuant to the above-mentioned relevant provisions of the Anti-Dumping and Subsidies Codes in connection with the preliminary and final determinations by the Department of Commerce in ongoing anti-dumping and countervailing duty investigations on the products and issues mentioned below.

5. In relation to the preliminary investigations, the proposed meeting would permit further clarification of the factual situation. In fact, as you are aware, not all of the written questions presented by Brazil at the consultations of 26 February 1993 have, to date, been replied in writing by the United States. The lack of the written record has prevented Brazil from analyzing the information adequately and in the required detail, so as to arrive at a mutually satisfactory solution. On the subject, I avail myself of the opportunity to thank you for your letter of 21 April 1993, in reply to ours of 20 April 1993.

6. In what regards, countervailing duty determinations, the "products" involved are:

- flat rolled steel products; and
- lead and bismuth bar.

7. The "issues" to be discussed in relation to the same countervailing duty determinations are as follows:

- Valuation of benefits associated with equity infusions;
- U.S. treatment of countervailability of equity infusion prior to privatization;
- Development bank loans; and
- Debt swap transactions.

8. In what regards, anti-dumping determinations, the "products" involved are:

- flat rolled steel products
- lead and bismuth bar; and
- special quality engineering steel products.

9. The "issues" to be discussed in relation to the anti-dumping determinations, are as follows:

(a) Procedural issues:

- Bevelled plate;
- CSN. Unwillingness to verify;
- USIMINAS verification;
- COSIPA. Undue inclusion in the investigation;

(b) "Best Information Available" ("BIA"):

- Undue use of "BIA";
- USIMINAS. "BIA" due to date of sale;
- "BIA" calculation;

(c) Cost investigation:

- Decision to initiate below cost investigation;
- Calculation of production cost;
- Use of replacement cost;
- USIMINAS coal, labor and pension costs; and depreciation; and
- Product comparison issues.

10. Brazil reserves the right to inform you of additional issues it might wish to discuss, pertaining to the referred determinations by the DOC."