

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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Committee on Anti-Dumping Practices

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**UNITED STATES - ANTI-DUMPING DUTIES ON CERTAIN STEEL
PRODUCTS (HOT-ROLLED, COLD-ROLLED, CORROSION RESISTANT
AND CUT-TO-LENGTH) FROM VARIOUS MEMBER STATES OF THE
EUROPEAN ECONOMIC COMMUNITIES**

Request for conciliation under Article 15:3 of the Agreement

The following communication, dated 11 October 1993, has been received from the Permanent Delegation of the European Community.

Definitive affirmative dumping determinations against Belgium, France, Germany, Italy, Netherlands, 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.

Definitive affirmative injury determinations against Belgium, France, Germany, Netherlands, 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.

I

The European Community ("the Community") wishes to refer the above proceedings to the Committee on Anti-Dumping Practices for conciliation in accordance with Article 15 of the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade ("the Anti-Dumping Code").

This request is made following the consultations under Article 15:2 of the Anti-Dumping Code, held on 29-30 March 1993 in Washington and in Geneva on 22 July and 30 September 1993, which failed to arrive at a mutually satisfactory solution in these cases.

The Community considers that the United States have infringed several provisions of the Anti-Dumping Code in these proceedings. 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.

II

The determinations of the Department of Commerce (DOC) published in June 1993 raise the following questions of compatibility with provisions of the Anti-Dumping Code.

1. The DOC has applied best information available (BIA) where it was not justified; in particular where:

virtually all information was made available by the exporters either in the original response or at a later stage of the proceedings at which time it could still have been used;

the deadlines imposed, bearing in mind the volume of information requested and the lack of clarity on the precise information necessary, were applied inflexibly;

requested information was made available insofar as the respondent was able to supply it;

reporting failures were invoked in cases where it would have been DOC's own obligation to evaluate the facts.

2. DOC applied its BIA in an inconsistent way.
3. The use of BIA rates resulted from a non objective and arbitrary selection of the facts available.

III

With regard to the determinations in the above-mentioned proceedings by the US International Trade Commission (ITC), published in August 1993, the following questions of compatibility with provisions of the Anti-Dumping Code arise:

1. The way the US have cumulated countries for the purpose of injury findings appears to ignore that some countries have very small and negligible market shares, although the Code requires an immediate termination in cases where the volume of dumped imports is negligible.
2. The finding of a threat of injury against products from Germany and the Netherlands for cold-rolled steel appears to be based on allegation, conjecture and remote possibility, instead of facts which show that the threat is clearly foreseen and imminent.
3. The USITC appears not to have analyzed "other factors" in its causality analysis on the basis of all relevant facts.
4. The ITC determinations in respect of certain crucial points appear insufficient or unclear. In most cases it is difficult to follow, in view of the diverging opinions of the Commissioners, the reasons and the basis for the conclusions on all issues of fact and law considered material by the investigating authority.
5. In general the determinations and views expressed in support of such determinations appear to be based on standards which are lower than those set out by the Code. This is true in particular in respect of the standards of negligibility, cumulation, material injury and causation,

as well as for threat. Moreover there remains a doubt about the standard applied for initiation in terms of injury and on the lack of causality in the provisional findings.

Following the failure of the bilateral consultations to arrive at a mutually satisfactory solution on these issues, the Community requests conciliation in the Committee on Anti-Dumping Practices under Article 15 of the Anti-Dumping Code in order to review immediately the facts involved and through its good offices encourage development of a mutually acceptable solution.