

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

RESTRICTED
ADP/111
29 October 1993
Special Distribution

(93-1840)

Committee on Anti-Dumping Practices

Original: English

UNITED STATES - DUMPING/INJURY DETERMINATIONS
AGAINST CERTAIN STEEL PLATE AND FLAT PRODUCTS FROM
VARIOUS MEMBER STATES OF THE EUROPEAN COMMUNITIES

Request for Conciliation under Article 15 of the Agreement

Communication from the European Community

The following communication, dated 26 October 1993, has been received from the Permanent Delegation of the European Community.

Definitive affirmative dumping determinations against Germany concerning certain cold-rolled carbon steel flat products.

Preliminary and definitive affirmative injury determinations against Belgium, France, Germany, the 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 above determinations raise the following question of compatibility with provisions of the Anti-Dumping Code:

The investigating authorities seem to have ignored submissions by certain Community producers of specialty steels according to which their products did not compete with steel made in the US and should therefore be excluded from the measures imposed. It is clear that imports which cannot injure the domestic producers must not be subject to anti-dumping duties.

III

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

1. The ITC, when making its affirmative preliminary injury determinations, did not base itself on sufficient evidence. The ITC reversed the burden of proof by requiring respondents to prove that there is no material injury instead of proving itself that material injury exists.

The Community considers that the US, in so doing, infringed the provisions of the Code and, in particular, Articles 3 and 10.

2. Article 10:1 in conjunction with Article 5:1(c) of the Code requires, for provisional measures to be taken, an affirmative finding that there is sufficient evidence of link between the dumped imports and the injury.

There seems to be a total absence of examination of causality and of the possible effect of "other factors" in the ITC preliminary determinations, in clear contradiction with the requirements of the Code.

3. Contrary to the requirements of Article 5, the ITC narrowed down the scope of the negligibility condition by requiring that imports can only be disregarded if they have "no discernable impact".
4. Had the ITC applied injury standards at the level prescribed by the Code, a large number of cases either should not have been initiated or should have been terminated immediately.

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 urgently the facts involved and through its good offices encourage development of a mutually acceptable solution.