

**GENERAL AGREEMENT ON
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Committee on Subsidies and
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OUTSTANDING "OLD" COUNTERVAILING DUTY CASES
IN PARTICULAR FLOAT GLASS

Communication from the European Communities

The following communication, dated 28 September 1981, has been received from the Commission of the European Communities, with the request that it be circulated to the members of the Committee on Subsidies and Countervailing Measures.

NOTE BY THE EEC

TO THE COMMITTEE ON SUBSIDIES AND COUNTERVAILING MEASURES :
OUTSTANDING "OLD" COUNTERVAILING DUTY CASES IN PARTICULAR
FLOAT GLASS

The Commission of the European Communities wants to draw the attention of the members of the Committee on Subsidies and Countervailing Measures to the considerable delays caused in countervailing duty procedures in the United States concerning a number of products exported from the Community. These procedures were originally initiated in the United States before the GATT Subsidy Code came into effect : i.e. before 1980, but as of today, a number of these cases have not been decided upon by the ITC or even sent to them for injury determination. Despite the fact that injury has never been determined to exist, Community products are subject to countervailing duties, albeit on a provisional basis, and this situation has now existed for a prolonged period.

The most striking examples of delays in the examination of injury are those concerning countervailing duty procedures on float glass exports from Germany, the United Kingdom, Italy and Belgium to the United States. On 7 January 1976, a negative notice of final countervailing duty determination with respect to float glass from the Federal Republic of Germany, the United Kingdom, Italy and Belgium was published in the Federal Register, determining that no bounty or grant was being paid or bestowed, directly or indirectly, upon its manufacture, production or exportation. This determination was contested by the United States plaintiff and since then the cases have been the subject of legal proceedings which still continue in the German and United Kingdom cases. Recently, the United States Court of Customs and Patent Appeals has even ruled that the United States Court of International Trade should look at the German case "de novo", which implies that there will be no new countervailing duty determination for a considerable time to come. As a result, provisional countervailing duties have been imposed on these products since 1979, rendering it virtually impossible for producers to continue to export to the United States. Moreover, the cases have still not been transmitted to the ITC for injury determination. Furthermore, other outstanding countervailing duty cases concerning refrigerators, ski lifts, steel units for electrical

transmission towers, wire mesh, compressors, die presses and cap screws from Italy and certain agricultural products from various EC countries, although not held up by legal proceedings, are still under review by the competent United States authorities and have not yet been decided upon by the International Trade Commission or even sent to them for injury determination.

The Commission of the European Communities considers that the prolonged legal uncertainty to which Community firms concerned by the aforementioned proceedings are exposed in the United States, because injury determination has not yet taken place, places an unreasonable burden upon the firms involved. Even if account is taken of the fact that legal problems may have extended the period of investigation, the continued delays in the countervailing duty cases concerning float glass which prolong the existing suspension of customs liquidation, runs counter to the spirit and wording of the GATT Agreement on Subsidies and Countervailing duties.

The Commission of the European Communities therefore wishes to draw the attention of the GATT Committee on Subsidies and Countervailing Measures to this situation and requests that the matter be discussed in the Committee at its forthcoming meeting.