GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

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Special Distribution

Committee on Subsidies and Countervailing Measures

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COMMUNICATION FROM THE EUROPEAN COMMUNITIES

The following letter, dated 27 March 1991, has been received by the Chairman from the Permanent Representative of the European Communities.

The European Community has carefully considered your proposal for terms of reference for a Panel regarding the US complaint brought against the exchange rate guarantee scheme operated by the Federal Republic of Germany in favour of its civil aircraft manufacturing industry.

We regret to inform you that the European Community considers that this proposal does not meet the concerns of the Community. The European Community feels very strongly that the provisions of the GATT Agreement on Trade in Civil Aircraft must be taken into consideration by the Panel in this case and it should be recalled that Article 8.8 of that Agreement allows for a matter of this nature to be dealt with under both the Aircraft and the Subsidies Agreements. The United States refusal to recognize the relevance of the provisions of the Aircraft Agreement is unreasonable because it deprives the Community of its rights under the GATT Agreement on Trade in Civil Aircraft.

For these reasons the Community formally proposes that the following terms of reference be adopted:

> "To review the facts of the matter referred to the Committee by the United States in SCM/108 and, in the light of such facts, present to the Committee its findings concerning the rights and obligations of the signatories party to the dispute under the relevant provisions of the General Agreement as interpreted and applied by the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement, as well as under the provisions of the Agreement on Trade in Civil Aircraft."

Since, in line with the nature of the case these Terms of Reference refer to both agreements their adoption should be discussed in both the Subsidies as well as the Civil Aircraft Committee. In our view the most appropriate way to proceed would be for both Committees to hold a joint meeting to discuss the matter.

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We kindly request you to forward a copy of this letter to the members of the Subsidies Committee.

We have written to the Chairman of the Aircraft Committee in similar terms, and a copy of our letter is enclosed for your information.

We should like to thank you for your efforts to achieve a satisfactory compromise and hope that the joint meeting which we have suggested can be arranged as quickly as possible in order to expedite dispute settlement on this important matter.