

GENERAL AGREEMENT ON

TARIFFS AND TRADE

RESTRICTED

SCM/110

4 April 1991

Special Distribution

Committee on Subsidies and
Countervailing Measures

Original: English

COMMUNICATION FROM THE UNITED STATES

The following letter, dated 27 March 1991, has been received by the Chairman from the United States Trade Representative.

At its meeting on 6 March 1991, the Committee on Subsidies and Countervailing Measures established a panel at the request of the United States to consider a complaint relating to an exchange rate guarantee scheme export subsidy provided by Germany. During the meeting, the United States indicated that it would defer for a short time its request that the Committee proceed to empower the panel with the Code-mandated terms of reference to allow the EC an opportunity to propose special terms.

By letter dated 13 March 1991, the EC proposed such terms to the United States. My authorities did not find them acceptable, as we indicated to you in our letter of March 15. At your request the EC representative and I met with you on March 22, the meeting having been postponed from March 19 at the insistence of the EC. At that meeting the EC presented a new suggestion¹ for special terms of reference and you presented a suggestion which would add an understanding to the Code-mandated standard terms of reference. (The essence of your understanding was that use of standard terms did not preclude either party from arguing that its obligations under the Subsidies Agreement should be interpreted also in light of the Aircraft Agreement).

After thorough review, my authorities have concluded that the second EC proposal is unacceptable to them. As we have stated before the Subsidies Committee, we do not agree with the EC that the provisions of the Aircraft Agreement have any relevance to our complaint about export subsidization by the German Government. We also are unable to accept your proposed understanding because we have concluded that it could possibly lead to confusion as to the scope of the mandate of the panel.

¹Reproduced in the EC letter to the Chairman (SCM/109).

./.

In light of these circumstances, we see no useful purpose in continuing the effort to find mutually acceptable special terms of reference. Accordingly, we now renew our request that you as Chair of the Committee proceed on its behalf to empower the panel established on March 6 with terms of reference in accordance with Article 18.1 of the Code. If you decide not to proceed on your own authority as requested above, then we request that you convene a meeting of the Committee at the earliest possible moment so that it can exercise its legal obligations to provide the panel with the terms of reference specified in Article 18.1