

GENERAL AGREEMENT ON

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UNITED STATES - ANTI-DUMPING AND COUNTERVAILING ACTIONS ON STEEL PRODUCTS

Communication from Brazil

The following communication, dated 27 January 1993, has been received from the Permanent Mission of Brazil, with the request that the matter be inscribed on the Agenda of the Council meeting on 9 February.

After the expiration, in March 1992, of the so-called "voluntary restraint arrangements (VRA's)", by which countries exporting steel products to the US market had agreed to limit their exports within specific limits, industry representatives in that country have filed approximately eighty requests for anti-dumping and countervailing investigations on imports from several sources. Requests for investigations continue to proliferate.

The levels of imports of steel products into the United States from most sources remain, however, lower than would have been compatible even with the extinguished VRA's, at the same time that the US steel industry has recovered and presents nowadays enviable rates of growth, especially as compared to most other countries and areas.

It is of particular concern that the decisions by US authorities in the investigations seem to be made more and more on the basis of concepts proposed by the complainants alone.

As an illustration of the difficulties, new criteria has altered the traditional methodology for the calculation of the amount of subsidies. US authorities, despite having applied the same methodology for valuation of countervailable government equity infusion over the past decade, adopted, in recent decisions, a radically different methodology, which, as applied to imports from Brazil, results in considerably higher margins. Had the traditional methodology been applied, the findings would have been substantially different and the Brazilian claim that the investigation was groundless would have been confirmed. This new factor, by itself, threatens to jeopardize the accomplishment of the entire Brazilian privatization programme for the steel sector.

Another important and negative aspect in the recent methodology is the treatment of development bank lending as a subsidy. Lending by the

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Brazilian development bank within criteria encouraged by the multilateral lending institutions such as the World Bank and the Inter-American Development Bank, and which are clearly legitimate under the relevant provisions of the Subsidies Code, is being included in the calculations, which leads to dramatic rises in the amounts to be countervailed.

Brazilian exports of iron and steel products to the US market occupy a high position in bilateral trade. The paralyzing effects of the investigations themselves, with the high costs involved, and the effects of preliminary findings have already practically excluded some steel products from the list of exports from Brazil to the US and caused substantial damage to whole sectors of the steel industry in Brazil, threatening to make exports to the US market virtually prohibitive. This occurs at the same time that, consequently to Brazil's liberalization of its market, there has been a significant increase of overall exports from the United States to Brazil.

Also to be noted is the tendency of US authorities to have recourse, in anti-dumping investigations, to the procedural criterion of "best information available", with disregard to the actual information presented by exporters, and calculations based on the information contained in the complainants' petition.

Brazil and several other affected exporters have already raised these concerns at the Committee on Anti-Dumping Practices; at the Committee on Subsidies and Countervailing Measures; at the last meeting of the Contracting Parties, held last December; as well as bilaterally and during plurilateral meetings on steel trade.

In the last week of January 1993, final determinations in some of the actions affecting Brazilian products confirmed the application of the same highly objectionable principles.

As Brazil has stated before the CONTRACTING PARTIES last December, it considers the recent countervailing measures in the US arbitrary, designed to protect the interests of less efficient domestic producers. The Brazilian Government wishes to recall that the measures are applied in spite of determined participation, by Brazil and other steel international traders, in lengthy, costly, time-and-effort consuming plurilateral negotiations of a Multilateral Steel Agreement (MSA).

Brazil will take all necessary steps, preliminary to procedures under both the Anti-Dumping and the Subsidies Code, so as to fully exercise its rights under those Agreements.

Nevertheless, the determinations by the Government of the United States have already unjustifiably impeded international trade in general. They also tend to have disturbing effects over other areas of international trade, with the aggravation of the trade environment and the succession of retaliatory measures, thus affecting the operation of the General Agreement.