

GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

L/4745
13 December 1978

Limited Distribution

Original: English/
French

UNITED STATES - APPLICATION OF COUNTERVAILING DUTIES

Recourse to Article XXIII:1 by the European Communities

The following communication, dated 7 December 1978, has been received from the Permanent Delegation of the Commission of the European Communities.

I have the honour to communicate herewith, for the information of the Contracting Parties, a copy of the request addressed to the United States Delegation for the opening of consultations, under Article XXIII:1 of the General Agreement, concerning the application of countervailing duties.

As you know, for various reasons, until 1974, the United States Government has had available, and has used, a large measure of discretionary authority in the application of countervailing duties under Section 303 of the Tariff Act of 1930. In addition, since 1974, under the provisions of Section 331 of the Trade Act of 1974, the United States Government has similarly had, and has used, discretionary authority to waive the application of countervailing duties in the United States. This waiver provision expires on 2 January 1979 with the consequence that, after that date, countervailing duties will be legally applicable in accordance with the other provisions of United States legislation in this field.

The European Community is of the view that where material injury to a domestic industry or threat thereof has not been determined to exist, the application of countervailing duties is contrary to the provisions of the General Agreement, and in particular Article VI:6(a). The United States authorities have, in the cases pending at present, not sought to show such injury or threat thereof, and have not taken the necessary steps since 1947 to bring the domestic legislation of the United States in this field into line with the GATT.

The European Community consider that the expiry of the waiver provision on 2 January next is already creating serious uncertainties for trade and that any action subsequent to that date will cause serious adverse trade effects and will be in violation of the GATT. For these reasons the Community considers further that the benefits due to it under the General Agreement are being nullified or impaired, in the sense of Article XXIII. Therefore the European Community request that consultations under Article XXIII:1 be opened promptly in order to discuss this matter.

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