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TO: EC Commercial Counselors

DATE: 16 March 1993

FROM: Gilles Briatta <sup>AC</sup>  
CHRONO: Trade/302

Subject: GATT Consultations on Steel

The attached demarche on the above mentioned subject was delivered yesterday by the Delegation to State Department. A copy was also delivered to the DOC.

Andreas van Agt

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The Delegation of the Commission of the European Communities presents its compliments to the Department of State and has the honour to refer to the countervailing duty proceedings currently being carried out by the Department of Commerce (DOC) and the International Trade Commission (ITC) with regard to certain steel products from several Members States of the European Community.

1. On 1 May 1992 consultations were held between the European Community and the United States of America (under Article 3:1 of the Subsidies Code) before the initiation of an investigation concerning certain Hot Rolled Lead and Bismuth Carbon Steel products. On 16 July 1992 consultations also took place before the initiation of an investigation concerning certain Flat Rolled Carbon Steel products.

On 2 February 1993 the European community requested consultations with the USA under Article 3 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (the "Subsidies Code") in respect of final affirmative countervailing duty determinations in the Hot Rolled Lead and Bismuth Carbon Steel products cases and the preliminary affirmative countervailing duty determinations in the Flat Rolled Carbon Steel products cases.

By letter of 12 February 1992 the European Community informed the USA that it "would also like these consultations to cover the preliminary injury and causality findings in these cases".

2. These consultations took place on February 26, 1993 in Geneva.

The European Community notes with regret that the International Trade Commission (ITC) was not represented at any of these consultations and should like to refer in this context to:

Article 3:2 of the Subsidies Code which states:-

"Furthermore, throughout the period of investigation, Signatories, the products of which are the subject of the investigation, shall be afforded a reasonable opportunity to continue consultations with a view to clarifying the factual situation and to arriving at a mutually agreed solution."

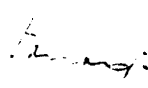
Moreover, footnote 13 to this provision states that particular importance is attached to a reasonable opportunity for consultations before an affirmative finding, either preliminary or final, is made.

3. The European Community considers that the absence from these consultations of representatives of the competent US Agency dealing with the injury and causality elements of these cases (the ITC) has deprived the European Community of an opportunity, as is required by the Subsidies Code, to obtain clarifications of the factual situation. This, in turn, may jeopardize the finding of a mutually agreed solution. In addition, the Community considers that reasonable opportunity for consultations on these subjects was not given, as mentioned in footnote 13 to article 3:2 of the Subsidies Code.

The European Community wishes therefore formally to protest against what it considers to be the non-respect by the US Government of the above-mentioned provisions of the GATT Subsidies Code.

4. The consultations mentioned above will continue in the very near future and the European Community respectfully requests that the Department of State ensures that the international obligations of the US are met in full and the Community's right to full discussion and clarification of this matter be respected.

The Delegation of the Commission of the European Communities avails itself of this opportunity to renew to the Department of State the assurance of its highest consideration.

  
Washington, D.C.

12 March 1993

