QUESTIONS BY THE EUROPEAN COMMUNITIES CONCERNING
THE COUNTERVAILING DUTY LEGISLATION OF THE
UNITED STATES

1. **Sec. 1312 Trade Act 1988  Actionable Domestic Subsidies**

   How do the US authorities propose to apply in practice the subparagraph (B) inserted by this section in Sec. 771 (5) of the Tariff Act 1930?

   Will the main criterion be the manner in which the granting authority exercises its discretion in conferring benefits to enterprises?

   Would it be possible to find such de facto specificity only because it so happens that applicants for a subsidy belong to a particular economic sector, even without any discrecretionary selection by the granting authority?

2. **Sec. 1313 Calculation of subsidies on Certain Processed Agricultural Products**

   Why should agricultural products be treated differently for this purpose?

   When is the "demand for the prior stage product" substantially dependent on the demand for the latter stage products?

   Do the US authorities have in mind a specific threshold?

   What does "limited value" mean?

   Why is it considered that under these conditions an "upstream subsidy analysis" should not be necessary?

3. **Sec. 1314 Revocation of Status as a Country under the Agreement**

   What criteria will the US employ to ascertain whether a country is not "in fact" honouring its obligations?

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4. **Sec. 1316  Treatment of International Consortia**

How do the US authorities propose to calculate the benefit conferred to an international consortium by subsidies granted to members of the consortium?

Will all subsidies received by member firms be taken into account, or only those in some way linked to their participation in the consortium?

If the latter will be the case, what could such links be?

Will the US provide all home countries of members of a consortium with appropriate opportunity for consultations as provided for in the Subsidies/CVD Code?

5. **Sec. 1326  Processed Agricultural Products**

How do the US reconcile the inclusion of producers of a raw agricultural product in the industry producing a processed product with the provision in Article 6:5 of the Subsidies/CVD Code, whereby "domestic industry shall ... be interpreted as referring to the domestic producers ... of the like product"?

Do the US consider that the tests set out in Sec. 1326 render a raw agricultural product and a product processed from that one "like" each other within the meaning of footnote 18 of the Subsidies/CVD Code?

In determining "substantial coincidence of economic interest", which factors might the ITC consider relevant, in addition to those mentioned in Sec. 1326?

What may prompt the United States Trade Representative to notify the administering authority and the Commission that the definition of industry contained in Sec. 1326(a) is inconsistent with the international obligations of the United States?

When will such a decision be taken?

Have the US considered that the legal uncertainty arising from this "termination" provision may seriously affect private parties and foreign governments involved in CVD proceedings?

What would happen to CVD orders issued and/or duties collected as a consequence of the application of Sec. 1326(a) if this provision will be terminated?