

action is initiated." During the consultations, the governments would determine, based upon political and diplomatic considerations, whether the case should be allowed to proceed; should be terminated unconditionally; or should be terminated upon the imposition of quotas, added duties, voluntary price increases, or voluntary subsidy reductions. The FTA could provide either that the results of the consultations would be binding or that they would be nonbinding.

a. Binding Dispute Settlement

An example of a binding consultative mechanism is the EEC Treaty. Under the Treaty, the European Commission ("Commission") has wide discretionary power to determine whether the various types of aid granted by the member states are compatible with the Common Market. Commission control takes the form of constant review; member states are under a continuous obligation

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" A strong argument could be made for a provision on consultations based on the fact that the GATT Subsidies Code requires consultations with the exporting country before a countervailing duty case is initiated. Current U.S. law contains no such requirement; the Commerce Department's regulations require only that a copy of the countervailing duty petition, with confidential information deleted, be delivered to a representative in Washington, D.C. of the affected country. 19 C.F.R. § 355.26(g). On the other hand, foreign governments normally do have the opportunity to participate in the countervailing duty investigation after the case is initiated.