

HTS Sub-heading	Base Rate	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
7013.39.30	11.3%	9.8%	8.4%	7%	5.6%	4.2%	2.8%	1.4%	Free	Free	Free.
7013.99.10	15%	13.1%	11.2%	9.3%	7.5%	5.6%	3.7%	1.8%	Free	Free	Free.
7013.99.80	11.3%	9.8%	8.4%	7%	5.6%	4.2%	2.8%	1.4%	Free	Free	Free.
8213.00.90	3¢ each + 3%	2.6¢ each + 2.6%	2.2¢ each + 2.2%	1.8¢ each + 1.8%	1.5¢ each + 1.5%	1.1¢ each + 1.1%	0.7¢ each + 0.7%	0.3¢ each + 0.3%	Free	Free	Free.
9612.10.90	7.9%	5.9%	3.9%	1.9%	Free	Free	Free	Free	Free	Free	Free.
9911.69.10	25%	22.5%	20%	17.5%	15%	12.5%	10%	7.5%	5%	2.5%	Free.

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS317]

### WTO Dispute Settlement Proceeding Regarding United States—Measures Affecting Trade in Large Civil Aircraft

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative (“USTR”) is providing notice of the request by the European Communities (“EC”) for the establishment of a dispute settlement panel under the Marrakesh Agreement Establishing the World Trade Organization (“WTO Agreement”) to examine certain U.S. measures affecting trade in large civil aircraft (“LCA”). The request for the establishment of a panel alleges that such measures are inconsistent with various provisions of the Agreement on Subsidies and Countervailing Measures (“SCM Agreement”) and the General Agreement on Tariffs and Trade 1994 (“GATT 1994”). USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 22, 2005 to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to [FR0506@ustr.eop.gov](mailto:FR0506@ustr.eop.gov), with “United States—Aircraft (DS317)” in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to the e-mail address above.

**FOR FURTHER INFORMATION CONTACT:** Willis S. Martyn III, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-3581; or Jonathan S. Kallmer, Assistant General Counsel, Office of the United States Trade Representative, 600 17th

Street, NW., Washington, DC 20508, (202) 395-3150.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act (“URAA”) (19 U.S.C. 3537(b)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that the establishment of a panel has been requested pursuant to the Understanding on Rules and Procedures Governing the Settlement of Disputes (“DSU”). The EC’s request for the establishment of a panel may be found at <http://www.wto.org> contained in a document designated as WT/DS317/2. If a panel is established, such panel, which would hold its meetings in Geneva, Switzerland, would be expected to issue a report on its findings and recommendations within six to nine months after it is established.

### Major Issues Raised and Legal Basis of the Complaint

On October 6, 2004, the EC requested consultations with the United States with respect to certain U.S. measures affecting trade in LCA. Consultations were held on November 5, 2004.

On May 31, 2005, the EC requested the establishment of a panel pursuant to Article 6 of the DSU, Article XXIII:2 of the GATT 1994, and Articles 4, 7, and 30 of the SCM Agreement with respect to such measures. In its request, the EC alleges that such measures are inconsistent with Articles 3.1(a), 3.1(b), 3.2, 5(a), 5(c), 6.3(a), 6.3(b), and 6.3(c) of the SCM Agreement and Article III:4 of the GATT 1994. In particular, the EC claims that WTO-inconsistent subsidies were provided to the U.S. LCA industry by:

1. State and local governments in the States of Washington, Kansas, and Illinois through financial incentives such as tax advantages, bond financing, lease arrangements, corporate headquarters relocation assistance, research funding, infrastructure measures, and other measures;
2. The National Aeronautics and Space Administration (“NASA”), Department of Defense (“DoD”), and

Department of Commerce (“DOC”) through research and development (“R&D”) contracts, allowances, and other programs;

3. NASA, DoD, and DOC through the waiver of patent rights, the protection of trade secrets, and the granting of exclusive rights to data;

4. NASA and DoD through the procurement of goods on better than commercial terms;

5. NASA and DoD through the provision of personnel and research, test, and evaluation facilities support on a non-commercial basis;

6. The Department of Labor through a grant of funds to Edmonds Community College in the State of Washington; and

7. The U.S. Government through the Federal tax system, specifically through the American Jobs Creation Act of 2004, among other measures.

### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the EC’s request for the establishment of a panel. Persons submitting comments may either send one copy by fax to Sandy McKinzy at (202) 395-3640, or transmit a copy electronically to [FR0506@ustr.eop.gov](mailto:FR0506@ustr.eop.gov), with “United States—Aircraft (DS317)” in the subject line. For documents sent by fax, USTR requests that the submitter provide a confirmation copy electronically. USTR encourages the submission of documents in Adobe PDF format, as attachments to an electronic mail. Interested persons who make submissions by electronic mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files.

Comments must be in English. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the

submitter. Confidential business information must be clearly designated as such and the submission must be marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page of the submission.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must clearly so designate the information or advice;

(2) Must clearly mark the material as "SUBMITTED IN CONFIDENCE" at the top and bottom of the cover page and each succeeding page of the submission; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room, which is located at 1724 F Street, NW., Washington, DC 20508. The public file will include non-confidential comments received by USTR from the public with respect to the dispute; the U.S. submissions to the panel in the dispute, the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the panel; and, if applicable, the report of the Appellate Body. An appointment to review the public file may be made by calling the USTR Reading Room at (202) 395-6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 p.m. and 1 p.m. to 4 p.m., Monday through Friday.

**Daniel E. Brinza,**

*Assistant United States Trade Representative for Monitoring and Enforcement.*

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## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS316]

### WTO Dispute Settlement Proceeding Regarding European Communities and Certain Member States—Measures Affecting Trade in Large Civil Aircraft

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice; request for comments.

**SUMMARY:** The Office of the United States Trade Representative ("USTR") is providing notice that on May 31, 2005, in accordance with the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement"), the United States requested the establishment of a dispute settlement panel to examine certain measures of the European Communities ("EC") and of Germany, France, the United Kingdom, and Spain ("member States" affecting trade in large civil aircraft ("LCA"). The request alleges that such measures are inconsistent with various provisions of the Agreement on Subsidies and Countervailing Measures ("SCM Agreement") and the General Agreement on Tariffs and Trade 1994 ("GATT 1994"). USTR invites written comments from the public concerning the issues raised in this dispute.

**DATES:** Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before July 22, 2005 to be assured of timely consideration by USTR.

**ADDRESSES:** Comments should be submitted (i) electronically, to [FR0505@ustr.eop.gov](mailto:FR0505@ustr.eop.gov), with "European Communities and Certain Member States—Aircraft (DS316)" in the subject line, or (ii) by fax, to Sandy McKinzy at (202) 395-3640, with a confirmation copy sent electronically to the e-mail address above.

**FOR FURTHER INFORMATION CONTACT:** David J. Ross, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-3581; or William D. Hunter, Associate General Counsel, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508, (202) 395-3582.

**SUPPLEMENTARY INFORMATION:** Section 127(b) of the Uruguay Round Agreements Act ("URAA") (19 U.S.C. 3537(b)) requires that notice and opportunity for comment be provided after the United States submits or receives a request for the establishment of a WTO dispute settlement panel. Consistent with this obligation, USTR is providing notice that the establishment of a panel has been requested pursuant to the Understanding on Rules and Procedures Governing the Settlement of Disputes ("DSU"). The U.S. request for the establishment of a panel may be found at [www.wto.org](http://www.wto.org) contained in a document designated as WT/DS316/2. If a panel is established, such panel, which would hold its meetings in Geneva, Switzerland, would be

expected to issue a report on its findings and recommendations within six to nine months after it is established.

### Major Issues Raised and Legal Basis of the Complaint

On October 6, 2004, the United States requested consultations with the EC and the Governments of the member States with respect to certain measures of the EC and the member States affecting trade in LCA. Consultations were held on November 4, 2004.

On May 31, 2005, the United States requested the establishment of a panel pursuant to Article 6 of the DSU, Article XXIII:2 of the GATT 1994, and Articles 4, 7, and 30 of the SCM Agreement with respect to such measures. In its request, the United States alleges that such measures are inconsistent with Articles 3.1(a), 3.2, 5(a), 5(c), 6.3(a), 6.3(b), and 6.3(c) of the SCM Agreement and Article XVI:1 of the GATT 1994. In particular, the measures that the United States claims are WTO-inconsistent subsidies include:

1. The provision by the member States of financing for LCA design and development to the Airbus companies on non-commercial terms, such as financing with no interest rates, below-market interest rates, or repayment obligations tied to sales ("launch aid");

2. The provision by the EC and the member States, through the European Investment Bank, of financing to the Airbus companies for LCA design, development, and other purposes;

3. The provision by the EC and the member States of financial contributions to develop, expand, and upgrade facilities and other infrastructure for the Airbus companies;

4. The assumption and forgiveness by the EC and the member States of debt resulting from launch aid and other financing for LCA development and production;

5. The provision by the EC and the member States to the Airbus companies of equity infusions and grants, including through government-owned and government-controlled banks;

6. The provision by the EC and the member States of financial contributions for aeronautics-related research, development, and demonstration undertaken by Airbus or to the benefit of Airbus; and

7. Any other measures that involve a financial contribution by the EC or any of the member States that benefit the Airbus companies.

### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning