

**EUROPEAN COMMUNITIES AND CERTAIN MEMBER STATES –
MEASURES AFFECTING TRADE IN LARGE CIVIL AIRCRAFT**

Request for the Establishment of a Panel by the United States

The following communication, dated 10 April 2006, from the delegation of the United States to the Chairman of the Dispute Settlement Body, is circulated pursuant to Article 6.2 of the DSU.

The United States refers to the 6 October 2004, request by the United States for consultations with the Governments of Germany, France, the United Kingdom, and Spain (the "member States"), and with the European Communities ("EC") (WT/DS316/1), the consultations held on 4 November 2004, and the US request for the establishment of a panel dated 31 May 2005 (WT/DS316/2). The United States refers also to the request by the United States for additional consultations with the EC and the member States (WT/DS316/1/Add.1) and the consultations that the United States held with the EC and the member States pursuant to that request on 23 March 2006. These consultations unfortunately did not resolve the dispute.

Accordingly, the United States respectfully requests the Dispute Settlement Body to establish a panel pursuant to Article 6 of the DSU, Article XXIII:2 of the *General Agreement on Tariffs and Trade 1994* ("GATT 1994"), and Articles 4, 7, and 30 of the *Agreement on Subsidies and Countervailing Measures* ("SCM Agreement").

The measures of the EC and the member States that are the subject of this panel request include:

- (1) The provision by the member States of financing for large civil aircraft design and development to the Airbus companies¹ ("launch aid").² This financing provides benefits to

¹ The Airbus companies, as referenced throughout this request, include Airbus SAS, its predecessor Airbus GIE and current and predecessor affiliated companies, including each person or entity that directly, or indirectly through one or more intermediaries or relationships, controls or controlled, is or was controlled by, or is or was under common control with Airbus SAS or Airbus GIE, such as parent companies, sibling companies and subsidiaries, including Airbus Deutschland GmbH, Airbus España SL, Airbus France S.A.S., Airbus UK Limited, European Aeronautic Defence and Space Company ("EADS"), and BAE Systems.

² The EC and the member States use different terms to describe the type of financing at issue, such as launch aid, launch investment, repayable launch investment, development support in the form of royalty-based financing, avances remboursables, Rückzahlbare Zuwendungen, Entwicklungsbeihilfen, Zuschüsse zur Entwicklung von zivilen Flugzeugen, anticipo reembolsable, and prestamo reembolsable. Although the United States will hereinafter refer to the financing as "launch aid," the U.S. request is with respect to all such types of financing, regardless of the specific term or terms that the entities providing or receiving the financing use.

the recipient companies including financing for projects that would otherwise not be commercially feasible. The non-commercial terms of the financing may include no interest or interest at below-market rates and a repayment obligation that is tied to sales. If the aircraft is not successful, some or all of the financing need not be repaid. Specific examples of the financing at issue include:

- (a) French financing for the Airbus A300, A310, A320, A330/340, A330-200, A340-500/600, A380, and A350;
 - (b) German financing for the Airbus A300, A310, A320, A330/340, A380, and A350;
 - (c) United Kingdom financing for the Airbus A300, A310, A320, A330/340, A340-500/600, A380, and A350; and
 - (d) Spanish financing for the Airbus A300, A310, A320, A330/340, A340-500/600, A380, and A350.
- (2) In addition to launch aid, the provision by the EC and the member States, through the European Investment Bank ("EIB"), to the Airbus companies, of financing for large civil aircraft design, development, and other purposes. Specific examples of the financing at issue include:³
- (a) Financing to British Aerospace for the A320 and the A330/A340;
 - (b) Financing to Aérospatiale, Aérospatiale Gramont and Aérospatiale Super Transporteurs for the A300 and the A330/340;
 - (c) Financing to Construcciones Aeronauticas SA ("CASA") for the A320 and the A330/340;
 - (d) Financing to Airbus Industrie for the A321; and
 - (e) Financing to EADS for the A380.
- (3) The provision by the EC and the member States of financial contributions in connection with the construction, creation, development, expansion, upgrade, and use of facilities and other infrastructure for or by the Airbus companies. Specific instances include:
- (a) the expenditure of at least €751 million by the Hamburg government since 2000 to create and develop land, installations, and facilities for the expansion of the Airbus companies' production and assembly site in Hamburg-Finkenwerder, and the provision of this land, installations, and facilities to the Airbus companies for less than adequate remuneration;
 - (b) the expenditure of at least €6 million by the government of Niedersachsen in 2002 for the Airbus companies' factory in Nordenham;
 - (c) the expenditure of at least DM40 million by the government of Bremen to extend a runway at Bremen airport for use by the Airbus companies and the provision of the

³ EIB financing to airline customers for the purchase of new aircraft is not within the scope of this panel request.

extended runway to the Airbus companies for use for cargo and passenger flights for less than adequate remuneration;

- (d) the expenditure of at least €182 million by the French central government and/or regional, departmental and/or local authorities and bodies (including, but not limited to the *Region Midi-Pyrénées*, the *Departement de la Haute Garonne*, the *Communauté de l'Agglomération de Grande Toulouse*, *SETOMIP* and others) to create and develop the AeroConstellation site adjacent to the Toulouse airport, including investment in access roads, taxiways and other specific infrastructure, the provision of land on this site to the Airbus companies for their exclusive use for less than adequate remuneration, and the granting to the Airbus companies of access to, and use of, infrastructure on this site, or linking this site to public infrastructure, for less than adequate remuneration;
- (e) the financial contributions made by the Spanish central government as well as by Spanish regional authorities to the Airbus companies, including, but not limited to the following:
 - (i) the 2001 contribution by the Spanish Government of €2.2 million to EADS, CASA and/or Airbus España for its site at Sevilla and of €814,000 to EADS, CASA and/or Airbus España for its site at La Rinconada, Sevilla;
 - (ii) the 2001 contribution by the Andalusian Government of €8.6 million to EADS, CASA and/or Airbus España for its production and maintenance facility in El Puerto de Santa Maria, in Cadiz, in Spain;
 - (iii) the 2002 contribution by the Andalusian Government of €9.3 million to EADS, CASA and/or Airbus España for its facilities at Tablada, Sevilla;
 - (iv) the 2002 contribution by the Andalusian Government of €35.7 million to EADS, CASA and/or Airbus España for its site in Sevilla;
 - (v) the 2003 contribution by the Spanish Government of €37.9 million to EADS, CASA and/or Airbus España for its site in Illescas, in Toledo, Spain;
 - (vi) the 2003 contribution by the Spanish Government of €43 million to EADS, CASA and/or Airbus España for its site in La Rinconada in Spain;
 - (vii) the 2003 contribution by the Spanish Government of €5.9 million to EADS, CASA and/or Airbus España for its site in Puerto de Santa Maria in Spain;
 - (viii) the 2003 contribution by the Spanish Government of €13.1 million to EADS, CASA and/or Airbus España for its site in Puerto Real in Spain;
 - (ix) the 2003 contribution by the Andalusian Government of €17.5 million to EADS, CASA and/or Airbus España for its production and maintenance facility in Puerto Real, in Cadiz, in Spain;
 - (x) the 2004 contribution by the Castilla-La Mancha government of €7.6 million to EADS, CASA and/or Airbus España for its production site in Illescas, in Toledo;

- (xi) the 2004 contribution by the Andalusian Government of €1.9 million for an investment project by EADS, CASA and/or Airbus España in the municipalities of Sevilla and La Rinconada, Sevilla;
 - (xii) the 2004 contribution by the Andalusian Government of a further €35.7 million for an investment project by EADS, CASA and/or Airbus España in the municipalities of Sevilla and La Rinconada, Sevilla; and
 - (xiii) the 2005 contribution or contributions of at least €22 million and the provision of land by the Spanish government and/or the regional government of Andalusia to EADS, CASA and/or Airbus España in connection with its site at or near the Sevillian airport of San Pablo;
- (f) the 2002 grant by the Welsh Assembly of £19.5 million for the Airbus companies' Broughton site;
- (g) the 2006 grant by the Welsh Assembly of £5.2 million for the Airbus companies' Broughton site;
- (h) the £230 million "on-site investment" by UK government authorities for the Airbus companies' Broughton site; and
- (i) the £5 million contribution by UK authorities (including the Department of Trade and Industry and the South West Development Agency) for the Airbus Composites Centre at Airbus UK Filton.
- (4) The assumption and/or repayment by the EC and the member States of debt and/or losses incurred by the Airbus companies and the forgiveness of debt by the EC and the member States, including:
- (a) The assumption and/or repayment of the Airbus companies' debt by the German government between 1975 and 1982;
 - (b) The assumption and/or repayment of the Airbus companies' debt by the German government between 1987 and 1995 as part of the "Altlastenhilfe" agreed in 1987⁴ and as part of the 1989 aid package for Messerschmitt-Bölkow-Blohm and Deutsche Airbus in the context of the transfer of these companies to Daimler-Benz AG;⁵
 - (c) The assumption by the government of Spain of CASA's Airbus-related losses from 1971 through 1989, and the deferral and forgiveness by the government of Spain of the resulting CASA debt;⁶

⁴ German Economics Ministry, Press Release, November 1988, reprinted in *Handelsblatt*, "Erklärung des Bundesministeriums für Wirtschaft zur Neustrukturierung der Luftfahrtindustrie," November 3, 1988, p. 24 ; German Monopolkommission, Sondergutachten 18, Zusammenschlussvorhaben der Daimler-Benz AG mit der Messerschmitt-Bölkow-Blohm GmbH, 1989, p. 72, para. 121; German Bundestag, BT-Drs. 13/8409, p. 14; German Bundestag, BT-Drs. 11/4375, pp. 18-19.

⁵ German Monopolkommission, Sondergutachten 18, Zusammenschlussvorhaben der Daimler-Benz AG mit der Messerschmitt-Bölkow-Blohm GmbH, 1989, p. 75, para. 131; Daimler-Benz AG, 1994 Annual Report, p. 84; Daimler-Benz AG, 1995 Annual Report, p. 66.

⁶ See Boletín Oficial de las Cortes Genrales, Seccion Cortes Generales, April 30, 2001, Serie A Núm. 139, pp. 98, 99.

- (d) The 1997/98 forgiveness by the German government of debt relating to launch aid for the A320; and
 - (e) The 1998/99 forgiveness by the German government of debt relating to launch aid for the A300, A310, A330 and A340 and other government financing for large civil aircraft development and production (including German government loans and German *Besserungsscheine* (profit-sharing obligations) accumulated by Deutsche Airbus);
- (5) The provision by the EC and the member States of equity infusions and grants, including through government-owned and/or government-controlled banks, to the Airbus companies, including:
- (a) The equity investment made by the German government through Kreditanstalt für Wiederaufbau ("KfW") in Deutsche Airbus between 1989 and 1992;
 - (b) The return of the shares acquired through the transaction listed in subparagraph (a) to Deutsche Airbus' parent, the Daimler group, without compensation, in 1992;
 - (c) The equity infusions by the French government into Aérospatiale in 1987/1988 and 1988;
 - (d) The equity infusion by or through French government-owned Crédit Lyonnais into Aérospatiale in 1992;
 - (e) The equity infusion by the French government into Aérospatiale in 1993/1994; and
 - (f) The transfer by the French Government of its 45.76 percent share of Dassault Aviation's capital to Aérospatiale in 1998.
- (6) The provision by the EC and the member States of financial contributions for aeronautics-related research, development, and demonstration/evaluation ("R&D"), undertaken by the Airbus companies, whether alone or with others, or in any other way to the benefit of the Airbus companies, including:
- (a) EC funding for civil aeronautics-related R&D projects under the Second (1987-1991), Third (1990-1994), Fourth (1994-1998), Fifth (1998-2002) and Sixth (2002-2006) EC Framework Programs in which the Airbus companies participated.
 - (b) Funding from the German federal government and from German sub-federal entities for civil aeronautics-related R&D projects in which the Airbus companies participated, including:
 - (i) federal government funding as set forth in the most updated version of the government's Förderkatalog database, since 1990,⁷ including funding under the federal aeronautics research programs *Luftfahrtforschungsprogramm 1* (1995-1998), *Luftfahrtforschungsprogramm 2* (1998-2002), and *Luftfahrtforschungsprogramm 3* (2003-2007);

⁷ Available at <http://www.foerderkatalog.de>.

- (ii) funding by the German land Bremen under the Airbus Materials & System Technology Centre Bremen (AMST) (2000-2002) and the Airbus Materials & System Technology Centre Bremen II (AMST II) (2002-2006) programs;
 - (iii) funding by the German land Bavaria from the budgets of the *Bayerische Staatsministerium für Wirtschaft, Verkehr und Technologie* (and any predecessor or successor Ministries) (including the budget items "*Zuschüsse und sonstige Ausgaben zur Förderung neuer Technologien und ihrer wirtschaftlichen Verwertung*" and "*Zuschüsse und sonstige Ausgaben zur Förderung von Luft- und Raumfahrttechnologien*"), as well as funding from the "*Offensive Zukunft Bayern*", "*Offensive Zukunft Bayern II*" and "*Hightech Offensive Bayern*" budgets; and
 - (iv) funding by the German land Hamburg under its *Luftfahrtforschungsprogramm* (2000-2005).
- (c) Funding from the government of the United Kingdom since 1990 for civil aeronautics-related R&D projects in which the Airbus companies participated, including
 - (i) under the Civil Aircraft Research and Development Program ("CARAD") as well as any predecessor and successor program thereof, including the Aeronautics Research Programme (ARP);
 - (ii) under the Technology & Strategy Program;
 - (iii) through the Engineering and Physical Sciences Research Council ("EPSRC"); and
 - (iv) through the Department of Trade and Industry ("DTI") and the Regional Development Agencies ("RDAs"), such as the South West Development Agency ("SWRDA"), to R&D initiatives involving the Airbus companies, such as the National Composite Network, including the Composite Structures Development Centre based at Airbus UK, Filton.
- (d) Funding from the Spanish government, including regional and local authorities, since 1993 for civil aeronautics-related R&D projects in which the Airbus companies participated, including loans and other financial support provided under:
 - (i) the *Plan I+D para el Sector Aeronautico (Plan Tecnológico Aeronáutico I)* (1993-1998) and the *Plan Tecnológico Aeronáutico II* (1999-2003); and
 - (ii) the *Programa de Fomento de Innovación Técnica* ("PROFIT"), including the *Programa Nacional de Aeronáutica* of PROFIT 2000-2003 and the *Subprograma Nacional de Transporte Aéreo* of PROFIT 2004-2007.
- (e) Funding from the French central government since 1990 for civil aeronautics-related R&D projects in which the Airbus companies participated, including R&D funding from the Transport Ministry (*Ministère de l'Équipement, des Transports et du Logement*) and the Defense Ministry (*Ministère de la Défense*). Some of the relevant R&D funding is recorded as "*recherche amont*" in the annual French budgets and described, e.g., in the annual reports prepared by the French Sénat concerning the air

transport budget.⁸ Funding may also have come from other French central government budgets. Examples of relevant R&D projects supported by the French central government include:

- (i) *Aérothermique Transitoire* ("ATRAN");
 - (ii) *Commandes de l'Avion Souple* ("COVAS");
 - (iii) Aircraft anti-icing and de-icing project ("ECLIPPS");
 - (iv) *Modélisation et Simulation de l'Avion Souple* ("MOSAS"); and
 - (v) Aircraft vibration/static testing ("*DTP Tremblement*").
- (f) The provision by the EC and member State governments of preferential, early and/or exclusive access to results of government-funded research (such as data, trade secrets, intellectual property rights or any other form of research results), including pursuant to the EC's rules concerning the participation in, and the dissemination and exploitation of, research results and/or knowledge from projects and programs funded under the EC Framework Programs listed in subparagraph (a) above and pursuant to the rules governing the access to the results of research funded by the member States under any of the programs listed in subparagraphs (b) through (e) above.
- (g) The provision by research institutions controlled and/or financed by member State governments (including, in particular, ONERA, DLR and DERA/Queen's) of civil aeronautics R&D-related financial contributions to the Airbus companies since 1990, including by providing civil aeronautics R&D services to the Airbus companies for less than adequate remuneration; by making payments to the Airbus companies; by providing the results of civil aeronautics-related R&D to the Airbus companies for

⁸ Cf. Sénat, No. 367 (session ordinaire de 1996-1997), Rapport d'Information "Mission de contrôle effectuée sur le soutien public à la construction aéronautique civile," Commission des Finances, du Contrôle Budgétaire et des Comptes Économiques de la Nation, Chapitre IV at IV. Les Soutiens à la Recherche; Assemblée Nationale, Avis, au nom de la Commission de la Production et des Échanges sur le projet de loi de finances pour 1999 (n° 1078), Tome XIII, Équipement, Transports et Logement, Transports Aériens, p. 15; Sénat, No. 89 (session ordinaire de 1999-2000), Rapport Général, Commission des Finances, du Contrôle Budgétaire et des Comptes Économiques de la Nation sur le projet de loi de finances pour 2000, Tome III, Annexe No. 25, Équipement, Transport et Logement: III. - Transports: Transport Aérien et Météorologie et Aviation Civile, p. 88; Sénat, No. 92 (session ordinaire de 2000-2001), Rapport Général, Commission des Finances, du Contrôle Budgétaire et des Comptes Économiques de la Nation sur le projet de loi de finances pour 2001, Tome III, Annexe No. 24, Équipement, Transport et Logement: III. - Transports: Transport Aérien et Météorologie et Aviation Civile, p. 79; Sénat, No. 87 (session ordinaire de 2001-2002), Rapport Général, Commission des Finances, du Contrôle Budgétaire et des Comptes Économiques de la Nation sur le projet de loi de finances pour 2002, Tome III, Annexe No. 24 Équipement, Transport et Logement: III. - Transports et Sécurité Routière: Aviation et Aéronautique Civiles, p. 22; Sénat, No. 68 (session ordinaire de 2002-2003), Rapport Général, Commission des Finances, du Contrôle Budgétaire et des Comptes Économiques de la Nation sur le projet de loi de finances pour 2003, Tome III, Annexe No. 18, Équipement, Transport, Logement, Tourisme et Mer: III. - Transports et Sécurité Routière: Aviation et Aéronautique Civiles, p. 50; Sénat, No. 73 (session ordinaire de 2003-2004), Rapport Général, Commission des Finances, du Contrôle Budgétaire et des Comptes Économiques de la Nation sur le projet de loi de finances pour 2004, Tome III, Annexe No. 18 Équipement, Transport et Logement: III. - Transports et Sécurité Routière: Aviation et Aéronautique Civiles, p. 40; Sénat, No. 74 (session ordinaire de 2004-2005), Rapport Général, Commission des Finances, du Contrôle Budgétaire et des Comptes Économiques de la Nation sur le projet de loi de finances pour 2005, Tome III, Annexe No. 17 Équipement, Transport, Aménagement du Territoire, Tourisme et Mer: II. - Transports et Sécurité Routière: Aviation et Aéronautique Civiles, p. 50.

less than adequate remuneration; by allowing the Airbus companies to exploit the results of civil aeronautics-related R&D undertaken by such research institutions (including the granting of exclusive or early access to data, trade secrets and other knowledge resulting from such R&D); and by allowing the Airbus companies to participate in civil aeronautics-related R&D projects undertaken by such institutions.

The following are examples of projects in which such civil aeronautics R&D-related financial contributions have been made by research institutions controlled and/or financed by member State governments to the Airbus companies:

- (i) The *Deutsches Zentrum für Luft- und Raumfahrt* ("DLR") has provided civil aeronautics R&D-related financial contributions through R&D projects in numerous research areas, including:
 - advanced materials and manufacturing technologies, including the development of fibre reinforced lightweight fuselage structures, the development of advanced materials and manufacturing technologies for vertical and horizontal tails for the Airbus companies' aircraft, the development of a full-scale A320 carbon fibre composite fuselage (the "Schwarzer Rumpf" / "Black Fuselage" program), the development of adaptive wings for the A380 manufactured from composite materials, the development of hybrid-laminarization technologies, the development of differential-pressure resin-transfer moulding technologies for the A380 and other Airbus aircraft, the development and testing of riblet surfaces, and other projects;
 - aerodynamics and acoustics technologies, including the development of a quiet slat for the Airbus companies, the development of winglets for the A380, the use of vortex generators to reduce noise, the reduction of the A380's wake vortices, the development of slat and flap track configurations for the A380 to reduce highlift-related noise, the improvement of cabin acoustics, and other projects;
 - aircraft development and testing technologies, including the development of aerodynamic simulation and optimization processes (*e.g.*, the DLR R&D projects MEGAFLOW and MEGADESIGN), the improvement of the Airbus companies' design tool "ISSY", the design and valuation of a virtual test station for the Airbus companies, the development and improvement of numerical simulation for aerodynamic flaps, the construction of a static vibration test station for the A340-500/600 and the A380, and other projects; and
 - other technologies, including, for example, the development of certain control units within the "Flexible Aircraft" program, the development of enhanced vision systems, the development and improvement of autopilot technologies, and other projects.
- (ii) The UK Defence Evaluation and Research Agency ("DERA") and its successor Qinetiq have provided civil aeronautics R&D-related financial contributions through R&D projects in numerous research areas, including:

- advanced materials, including through DERA's Structural Materials Centre,⁹ including in the fields of carbon-fiber composite airframe structures (e.g., the "Civil Aircraft Structural Composites - Application, Development and Exploitation" (CASCADE) project), manufacturing methods for advanced aircraft materials¹⁰ (e.g., through structural optimisation and structural hardening techniques),¹¹ lightweight titanium metal-matrix composite technology,¹² and other wing-related materials technology¹³ (e.g., metal/composite interface joints, aluminium/lithium laminates, welded structures, and fibre reinforced laminates of new large wings);¹⁴
 - aerodynamics;¹⁵
 - cabin design, semiotics and seat comfort;¹⁶
 - fuel systems;¹⁷ and
 - modular avionics design.¹⁸
- (iii) The *Office National des Études et des Recherches Aérospatiales* ("ONERA") has provided civil aeronautics R&D-related financial contributions through numerous R&D projects, including:
- *Modélisation Aérothermique des Ecoulements en Ventilation Avion* ("MAEVA");
 - Robust Efficient Automatic Control Laws Design ("REAL");
 - *DTP Pilotage*;
 - *Ensemble Logiciel pour la Simulation en Aérodynamique*, ("elsA"); and
 - Aircraft vibration/static testing (*Essais pour maîtriser le tremblement des avions*).

⁹ DTI Press Release, "Partnership to Revolutionise Aircraft Manufacture," 8 September 1998, available at <http://www.gnn.gov.uk/environment/detail.asp?ReleaseID=19917&NewsAreaID=2&NavigatedFromDepartment=False> (attachment 63).

¹⁰ DTI Press Release, "Partnership to Revolutionise Aircraft Manufacture," 8 September 1998, available at <http://www.gnn.gov.uk/environment/detail.asp?ReleaseID=19917&NewsAreaID=2&NavigatedFromDepartment=False>.

¹¹ QinetiQ website, Case studies aviation, Airbus - The World's Largest Airliner.

¹² DTI, Aerospace & Defence Technology Report 2001/2002, p. 6.

¹³ QinetiQ, Press Release, "DTI funding lifts QinetiQ's standing as aerospace world leader in field of polymeric composites," August 19, 2002, available at the QinetiQ website.

¹⁴ QinetiQ website, Case studies aviation, Airbus - The World's Largest Airliner.

¹⁵ DTI Aerospace & Defence Technology Report 2001/2002, p. 4; QinetiQ website, Case studies aviation, Airbus - The World's Largest Airliner.

¹⁶ QinetiQ website, Case studies aviation, Airbus - The World's Largest Airliner.

¹⁷ QinetiQ website, Case studies aviation, Airbus - The World's Largest Airliner.

¹⁸ QinetiQ website, Case studies aviation, Airbus - The World's Largest Airliner.

- (iv) The *Centre National de la Recherche Scientifique* ("CNRS"), at several of its locations, has provided civil aeronautics R&D-related financial contributions through numerous R&D projects, including:
 - Validation of the movement-control software guiding the transportation of the A380 parts, at *Laboratoire d'analyse et d'architecture des systèmes*, Toulouse ("LAAS");
 - Software development for the A380 flight controls, at *laboratoire Verimag* at Gières/Grenoble;
 - Development of the statics analyzation tool "Astree" at *École Normale Supérieure* at Liens; and
 - Research on the wake vortex of the A380 at *Institut de recherche sur les phénomènes hors équilibre* ("IRPHE").
- (v) The *Centre National de la Recherche Technologique* ("CNRT") has provided civil aeronautics R&D-related financial contributions through numerous R&D projects, including:
 - Amélioration des PROpriétés de Surface des alliages de Titane Structuraux en conditions sévères de fonctionnement ("APROSUTIS"); and
 - Mise en oeuvre par UML des Systèmes Informatiques Certifiés ("MUSIC").
- (vi) The *Institut National de Recherche en Informatique et en Automatique* ("INRIA") at several of its research units, including the units Futurs, Rhône Alpes and Sophia Antipolis, has provided civil aeronautics R&D-related financial contributions to the Airbus companies through numerous R&D projects, including:
 - Environnement de spécification de programmes réactifs synchrones ("ESPRESSO");
 - Methods, algorithms and software in automatic control ("METALAU"); and
 - Constraints solving, Optimization Robust Interval Analysis ("COPRIN").
- (vii) The *Commissariat à l'Energie Atomique* ("CEA") has provided civil aeronautics R&D-related financial contributions through numerous software development projects, including:
 - CAVEAT;
 - GATel; and
 - Panorama.

- (h) The granting to the Airbus companies of access to R&D facilities funded or co-funded and/or owned, in whole or in part, by the UK, French, German and/or Spanish governments (including research institutions controlled and/or financed by member State governments such as, in particular, ONERA, DLR and DERA/Qinetiq) for less than adequate remuneration, including, *e.g.*, the provision, by the German, French, and UK governments, of access by the Airbus companies to the wind tunnels operated by ONERA, DLR and DERA/Qinetiq (whether alone or jointly with others), including the wind tunnels owned and/or operated by European Transonic Windtunnel GmbH ("ETW") and by the DNW Foundation, for less than adequate remuneration.
- (7) Any amendments, revisions, implementing or related measures to the measures described above.
- (8) Any other measures that involve a financial contribution by the EC or any of the member States that benefit the Airbus companies.

The United States is concerned that the launch aid provided by the EC and the member States to the Airbus companies for the development of large civil aircraft and the EIB loans provided to the Airbus companies appear to be subsidies that are inconsistent with Articles 3.1(a) and (b) and Article 3.2 of the SCM Agreement.

The United States further is concerned that the measures of the EC and the member States that are the subject of this request appear to be causing adverse effects to US interests within the meaning of:

- Article 5(a) of the SCM Agreement because the measures are specific subsidies within the meaning of Articles 1 and 2 of the SCM Agreement that are causing or threatening to cause injury to the US large civil aircraft industry.
- Articles 5(c), 6.3(a), 6.3(b), and 6.3(c) of the SCM Agreement because the measures are specific subsidies within the meaning of Articles 1 and 2 of the SCM Agreement that are causing or threatening to cause serious prejudice to the interests of the United States through displacement and impedance of imports of large civil aircraft of the United States into the EC and third country markets, and through significant price undercutting by large civil aircraft of the EC as compared with the price of large civil aircraft of the United States in the same markets, and significant price suppression, price depression or lost sales in the same markets.

The United States also is concerned that the measures appear to be inconsistent with Articles III:4 and XVI:1 of the GATT 1994.
