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UNITED STATES: PROPOSED AMENDMENTS

Section C - Subsidies

Article 25

Subsidies in General

If any Member grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to maintain or increase exports of any product from, or to restrict ~~reduce~~ imports of any product into its territory, the Member shall notify the Organization in writing of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected product or products imported into or exported from the territory of the Member and of the circumstances making the subsidization necessary. In any case in which a Member considers ~~it is determined~~ that serious prejudice to its ~~the~~ interest ~~of any other Member~~ is caused or threatened by any such subsidization, the Member granting the subsidy shall, upon request, discuss with the other Member or Members concerned, or with the Organization, the possibility of limiting the subsidization.

Article 26

Additional Provisions on Export Subsidies

1. Except with respect to primary products, no ~~no~~ Member shall grant directly or indirectly any subsidy on the exportation of any product, or establish or maintain any other system, which subsidy or system results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, due allowance being made for differences in the conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.
2. Notwithstanding the provisions of paragraph 1 of this Article a Member may exempt ~~The exemption of~~ exported products from duties or taxes imposed in respect of like products when consumed domestically, or may remit ~~the remission of~~ such duties or taxes which have accrued, ~~in amounts not~~ in excess

in excess of those which have been collected, shall not be construed to be in conflict with the provisions of paragraph 1 of this Article. The use of the proceeds of [such] duties or taxes to make payments to domestic producers [, however,] shall be considered as a case under Article 25. [except in so far as such payments subsidize exportation, in the sense of paragraph 1 of this Article, by more than the amount of the duties or taxes remitted or not imposed, in which case the provisions of paragraph 1 of this Article shall apply to such excess payments.]
Article 27 [28]

Undertaking regarding Stimulation of Exports

1. [Notwithstanding the provisions of paragraphs 1, 2 and 3 of Article 26 and of paragraph 3 of Article 27, no Member shall grant any subsidy on the exportation of any product which has the effect of] Any Member granting any form of subsidy which operates, directly or indirectly, to maintain or increase the exportation of any primary product from its territory, shall not apply the subsidy in such a way as to have the effect of maintaining or acquiring for that Member a share of world trade in that product in excess of the share which it had during a previous representative period, account being taken insofar as practicable of any special factors which may have affected or may be affecting the trade in that product. The selection of a representative period for any product and the appraisal of any special factors affecting the trade in the product shall be made initially by the Member granting the subsidy; Provided that such Member shall, upon the request of any other Member having an important interest in the trade in that product, or upon the request of the Organization, consult promptly with the other Member or with the Organization regarding the need for an adjustment of the base period selected or for the re-appraisal of the special factors involved.
2. Should the Organization, upon complaint by a Member that serious prejudice to its interest was caused or threatened by any subsidization of the kind referred to in this Article find that such serious prejudice was in fact caused or threatened and that the consultation provided for in this Section had not resulted in such limitation of the subsidization as would avoid such prejudice, the Organization may authorize the complaining Member to suspend the applications to the subsidizing Member of such obligations or concessions under or pursuant to this Charter as the Organization determines to be appropriate.

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Article 25

In the Geneva Draft this Article might be interpreted to apply only when there is a change in the volume of trade; under the present amendment it would apply to a subsidy tending to affect trade, even if other factors prevented any actual change in the volume of trade.

In the Geneva Draft a Member cannot call a subsidizing Member into consultation until it is determined that its interest is seriously prejudiced; under the present amendment the determination of prejudice would be made by the complaining Member itself.

Articles 26 and 27

Paragraph 1 of Article 26 in the Geneva Draft bans export subsidies on all types of products; paragraphs 3 and 4 of Article 26, and all of Article 27, outline detailed and complicated exceptions relating essentially to primary products. Under the proposed amendment, Article 26 applies only to non-primary products; the exceptions set forth in paragraphs 3 and 4 of the Article, and in Article 27, are, therefore, rendered unnecessary.

The changes suggested in paragraph 2 of Article 26 are purely of a drafting character.

Article 28

The Geneva Draft discriminates between subsidies which directly stimulate exports and those which operate indirectly to do so. The proposed amendment removes this discrimination. It affords insurance that no form of subsidization shall be used to increase any Member's share in world trade. Since export subsidies on non-primary products would be banned by Article 26 and since domestic subsidies on such products would not appear to present a serious problem so far as stimulating exports is concerned, the provisions of Article 28 would apply only to primary products.

The proposed paragraph 2 establishes a procedure whereby a Member who is injured by direct or indirect subsidization of exports can complain to the Organization and, if its complaint is found to be justified, can obtain permission to take offsetting action. This paragraph is designed to put teeth into the general rule established by the Article.

Article 29

Since the foregoing amendments would do away with all of the ITO determinations that are required under the Geneva Draft, this Article becomes superfluous.
