

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## Committee on Subsidies and Countervailing Measures

### MINUTES OF THE MEETING HELD ON 15 JULY 1982

Chairman: Mr. M. Ikeda (Japan)

The Committee on Subsidies and Countervailing Measures met on 15 July 1982. The following items were on its agenda:

- A. Possible Contributions to the Ministerial Meeting
- B. Notifications Under Article 7:3 of the Agreement

A. Possible Contributions to the Ministerial Meeting

The Chairman recalled that at the April meeting of the Committee signatories and interested observers had been invited to prepare notes setting forth their views on this issue. He had received only one note for circulation, from Australia (SCM/24). However, several other delegations had presented their opinions to him orally and a number of informal consultations had taken place. Delegations were now invited to present their views on the substance of a possible contribution as well as on its form.

2. The representative of the United States said that he was of the view that the Committee should make a contribution to the Ministerial Meeting. One important issue which should be drawn to the attention of the Preparatory Committee and the Ministers was the fact that subsidies and countervailing duties had created a substantial trade problem. The concept underlying Article XVI:5 of the General Agreement should also be included in a contribution. In his view it was essential to keep in mind that the Subsidies Agreement was an interpretation of Article XVI of the GATT, which affected all contracting parties.

3. The representative of Chile said his delegation considered the Agreement to have worked satisfactorily both with regard to specific problems and in general. The rights and obligations in this area were one of the most delicate problems of international trade. The Agreement did not cover all these problems; there was not a proper balance of rights and obligations for instance in the field of agriculture. There had appeared important differences in the interpretation of certain provisions. In his view, the Committee should make a contribution to the Preparatory Committee in the form of a brief description of the operation of the Agreement, recognizing the existence of serious problems in the field of subsidies and expressing a willingness to resolve them. There should be an expression of political will to improve the Agreement, and a call for a review of Article XVI by the

contracting parties as provided for in paragraph 5 of that Article. The Committee could recommend that, pending such negotiations, a status quo on subsidies be agreed followed by a gradual reduction of subsidies.

4. The representative of the EEC said that his delegation was prepared to participate in the elaboration of a contribution to the Ministerial Meeting. Such a contribution should be a photograph of the actual situation. Referring to Chile's comment on expressing a political will to improve the Agreement, he recalled that the Subsidies Agreement had been the object of very hard negotiations during the Tokyo Round. These negotiations had been so difficult that at one point there had been a real possibility of not having an agreement at all. Thus, after two years of the Agreement's operation, there should not be an attempt by its parties to achieve what they had not achieved two years before. His delegation was of the view that the contribution should be a factual note by the Chairman, flagging the importance of subsidies and countervailing measures but without any appeals or recommendations. Dealing with the problems under the Code was the Committee's obligation.

5. The representative of the United Kingdom speaking on behalf of Hong Kong said that in his view the Committee had functioned satisfactorily; it was in the process of examining specific problems relating to definitions and implementation, and it was trying to define what constituted a subsidy. He agreed with the representative of the EEC that this was not a time for renegotiation of the Agreement. He acknowledged that the Subsidies Agreement was a dual system in so far as it was linked to Article XVI of the General Agreement, which applied to all contracting parties. That Article XVI of the GATT and the Subsidies Agreement were inter-related could not be ignored; nor the fact that Article XVI:5 called for a review by the contracting parties. Any contribution should address these facts. Furthermore, it would be proper for the Committee to encourage other contracting parties to adhere, in particular developing countries, while recognizing that they might have problems in so doing. He also stressed the question of the openness of the operation of the Agreement and the role of observers. It would be proper in his view to have as few closed meetings as possible. He invited the members of the Committee to give thought to opening the meetings regarding dispute settlements, adding that an active participation of observers was desirable in terms of obtaining new adherences.

6. The representative of Switzerland, referring to the United States' and Hong Kong's views regarding Article XVI:5, said that it was better for the Committee to limit its attention to the Subsidies Agreement and the operation of its Committee. Whatever positions delegations had concerning Article XVI:5, it was not within the purview of the Committee to invite the Preparatory Committee's attention to Article XVI:5. The contribution should limit itself to matters within the Subsidies Agreement. A possible contribution should contain a clear recognition of the increasingly important rôle of subsidies and their effects on international trade. He agreed that a photographic picture should be given. The contribution should also recognize that the Agreement was in its early stages and that there were several specific problems before the Committee which have to be settled in the near future. Accordingly the Committee will soon have to determine what some of the Agreement's provisions meant. Whatever action may be envisaged by the Committee for improving the discipline in this area, the interested countries

not yet signatories should be associated very closely to such efforts. Furthermore, the contribution should have a pragmatic tone and should avoid raising unrealistic expectations.

7. The observer for Argentina said that the question of participation of observers was of great concern to his delegation especially when questions of agricultural subsidies were discussed. His delegation had attended all open meetings but unfortunately those of most interest had been closed meetings where he was unable to attend. Thus observers were unable to be fully informed on the application of the provisions of the Agreement. He was aware that there were discrepancies between Signatories' interpretations of certain provisions. Not being able to attend all meetings, this had led to some confusion for the observers as to what provisions meant in practice. He was left with the impression that should an observer decide to adhere to the Agreement, it would take on many obligations, but get few benefits.

8. The representative of Canada pointed out that the Subsidies Agreement had been one of the great achievements of the Multilateral Trade Negotiations. Because the Agreement had been so difficult to negotiate, difficulties in its implementation were to be expected. He agreed with the view of the EEC that these problems should be dealt with by the Committee. He also agreed that the contribution of the Committee should not call for renegotiation of the Agreement. He noted that there were no review provisions within the Agreement, but pointed out that Article XVI of the GATT was central to the Subsidies Agreement and its paragraph 5 did contain review provisions. His delegation supported a recommendation for an early review under Article XVI. The contribution should also draw attention to the work being undertaken in the Committee concerning the calculation of a subsidy. Finally, he agreed that the Committee give thought to associating observers more closely to its work.

9. The representative of Austria supported EEC's and Switzerland's remark. He added that the Agreement was in its early stage of application and that it was natural that the Committee would encounter some difficulties. He recalled that this Agreement had been one of the most delicate ones to negotiate in terms of balance of rights and obligations.

10. The representative of Australia recalled that his delegation had submitted a proposal for a review under Article XVI:5 of the GATT. He also stressed that in the Group of Eighteen his delegation had put forward a proposal for a standstill on protectionist measures followed by a gradual wind back; an important part of this proposal concerned subsidies which were also to be frozen and wound back. It was his view that the Committee should not prejudice individual delegations' positions; as a consensus was unlikely to develop, one way to make the contribution was to present the different views of delegations on the issues to the Preparatory Committee. The contribution should be action-oriented and should take into account all the views expressed. He disagreed with the view that solutions to problems which had arisen with the Code were contingent on wider participation in it. He said that the membership of further developing countries would not necessarily help the Committee resolve the problems before it, because there was little in the Agreement to attract developing countries or to attract agricultural producers. He could not agree that it was a view of the Committee that the Agreement created a legal framework for developing disciplines in the field of subsidies. Not only was such a discipline not developing, but there were many

disputes in hand which confirmed the current lack of discipline in respect of the use of subsidies. Furthermore, he did not share the view that discussion in the Committee alone would be sufficient to resolve existing subsidy problems. The manner in which Ministers might address such problems was something which would need to be considered in the Preparatory Committee.

11. The representative of New Zealand said that export subsidies should be a priority issue for the GATT Ministerial Meeting. Subsidies had a direct effect on depressing commodity prices by obliging efficient producers to lower prices in order to return market share. For this reason alone subsidies were the most appropriate non-tariff measure deserving priority attention for elimination by the international community. He recalled that New Zealand had not initially acceded to the MTN Subsidies Code in view of its inadequate coverage of agricultural subsidization. His Government now proposed that Contracting Parties and Code Signatories address themselves to the unequal treatment and inadequacy of Article XVI and the Code as they relate to agriculture. He would therefore endorse the need for a review and further definition/interpretation of Article XVI and the Subsidies Code, particularly to ensure that agricultural export subsidies are brought more fully within the purview of the GATT multilateral trading system. In this context he was able to lend his support to the Australian proposal in SCM/24 as a suitable contribution. He also supported the Chilean proposal made at the 29 April meeting and calling for a review of code/disciplines to align these with those existing for non-primary products. While agreeing with the Nordics' request for improved discipline and transparency, he believed substantive decisions by Ministers in the subsidies area were necessary. This could take the form of a strong political statement in Part I, provided such a statement was to endorse a positive Post-Ministerial Work Programme for the Subsidies Committee.

12. The representative of India stressed that there were two points of paramount importance: (1) domestic legislation and implementation practices; unless these were in conformity with the Agreement, its operation would become more and more problematic and the value of the General Agreement and of the Subsidies Agreement would be seriously eroded. There were a number of specific problems under the Agreement with which the Committee should deal. Nevertheless it was important to flag that the number of problems would increase unless domestic legislation and implementing practices were brought into conformity with the Code. (2) Wider participation in the Agreement. The Agreement should be made more attractive for developing countries and a fuller participation of observers should be arranged. For instance, Article XVI:1 examination of notifications should be open to observers. The same applied to dispute settlement procedures. In his view, priority attention should be given to these two points and the Committee as a whole should report them to the Preparatory Committee so that the Ministers could decide that Signatories should make an effort to ensure that domestic legislation and implementing practices conform to the Geneva Agreement and also regarding the adherence of other contracting parties. In this context Signatories could show more flexibility and facilitate the adherence of other Contracting Parties.

13. The representative of Australia said that as contracting parties were still in a process of formulating their position for the Ministerial Meeting, nothing should be done in the Committee to prejudice their position in other GATT fora and that all views, however different they might be, should be reflected in the contribution of this Committee.

14. The Chairman said that he had carefully noted the different views expressed and suggested that he would reply to the invitation of the Chairman of the Preparatory Committee for possible contributions to the Ministerial Meeting by a factual note, under his responsibility, based on the points which had emerged during the discussion.

B. Notifications under Article 7:3 of the Agreement

15. The Chairman recalled that pursuant to Article 7:3 of the Agreement the United States delegation had made a number of requests for notification of certain practices of several signatories. These requests had been circulated in documents SCM/26, 27, 28, 29, 30, 31 and 32.

16. The representative of the United States said that granting of export credits at rates below those which actually prevailed on international capital markets constituted a subsidy within the meaning of Article XVI:1 of the General Agreement and Article 7 of the Code. The United States had notified its export credit programs and so had Canada, Finland and Korea. These notifications in no way implied that these programs were illegal or prohibited under the Code or the General Agreement. They were perfectly legal subsidies which operated to increase exports and therefore were subjected to obligations of Article XVI:1. However, a number of signatories had neglected to notify their export credit programs and in view of this fact, the United States felt obliged to request them to comply with their obligations. The United States had no reason to believe, at this point in time, that export credit programs of these signatories were not in conformity with the OECD Arrangement on Export Credits and therefore the United States considered them as perfectly legal. He expressed the hope that signatories would comply with their obligations and would notify their export credit programs without further delay. Referring to documents SCM/32 he said that the United States requested Canada to notify its subsidy programs which operated to increase exports of automotive parts from Canada and to reduce imports of front end wheel loaders and power cruisers into Canada. He also said that although the Canadian scheme of export subsidies as such was not prohibited by the Code, its recent operation resulted, at least in the case of subway cars, in a violation of the Code and in particular of item (k) of the Illustrative List. The United States had consultations with Canada on this matter and although no solution was yet found, he wished to urge Canada to bring its policies in conformity with its obligations under the Code.

17. The representative of Brazil acknowledged the reception of the US request (SCM/27) and said that this request as well as the statement of the US representative would be transmitted to his authorities for appropriate consideration. The representative of the EEC recalled that his delegation had, on several occasions, presented its views on the interpretation of item (k) of the Illustrative List. An appropriate written reply to the US requests (SCM/28, 29 and 30) would be submitted as soon as possible. The representative of Austria said that the US request (SCM/26) had been transmitted to his authorities. His personal reaction was that the United States had misunderstood the actual situation because the export credit program in question was operated by a bank which was a joint-stock company and operated as a private enterprise.

18. The representative of Spain acknowledged the reception of the US request (SCM/31) and said that it had been transmitted to his authorities. Pending their clarifications, he could say that the export credits in question were in

full conformity with item (k) of the Illustrative List. The representative of Canada said that the US request (SCM/32) had been transmitted to his authorities for consideration. As to the question of the financing of certain subway cars, he considered that this practice was neither in violation of GATT obligations nor of the OECD Arrangement. The representative of the United Kingdom expressed his surprise that the United States had made such a request as that in SCM/30.

19. The Chairman said that the Committee took note of statements made and would revert to the matter if necessary.