

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Special Distribution

Committee on Subsidies and
Countervailing Measures

NOTIFICATIONS UNDER ARTICLE XVI:1

Comments on Points Raised in Document SCM/49

Note by the Secretariat

The text which follows is a compilation of written comments on points raised in document SCM/49 and circulated in addenda to that document. In cases where it seemed to the secretariat that views expressed were concordant, only one response has been reproduced (sometimes with minor modifications). The square brackets have been used not necessarily to indicate divergencies of views but also to reflect certain nuances in approaches to points which, in general terms, do not seem to be controversial. The numbering of paragraphs follows that used in SCM/49.

1(a) The content of notifications should be sufficiently specific to enable other signatories to evaluate the trade effects and to understand how subsidy programmes operate. If subsidies are granted to specific products or sectors, the notifications should be organized by product or sectors.

1(b) Efforts should be made to develop criteria which would give clear guidance on the type of measures to be notified. The work of the Group of Experts is relevant in this respect.

1(c) Whenever there is a reason to believe that a subsidy might have a trade effect (direct or indirect), it should be notified. [In case of doubt, the measure should be notified].

1(d) [The decision to notify or not should be left to the judgement of the notifying country]. [Given the important objective of transparency, notifications cannot be based solely on an assessment by the granting government or country as to whether a particular programme falls under Article XVI:1]. Where other signatories have reason to believe that a subsidy affecting trade has not been notified, they could avail themselves of the possibilities under Article 7 of the Code.

1(e) [Procedures requiring the notification of all measures that could constitute a subsidy would be detrimental to the objective of transparency. Flexible and pragmatic procedures under which essential data could be used in a rational way in order to draw conclusions are preferable]. [It is desirable to notify all measures which could possibly constitute a subsidy in

terms of Article XVI:1]. [The notification format should be the most complete possible, consistent with the objective of transparency and the avoidance of undue administrative burden].

1(f) [In principle, subsidies with social objectives, in particular those referred to in Article 11 of the Code, do not have any meaningful trade effects. Any judgement in this respect is necessarily subjective. Article 7 of the Code could be used by signatories to fill perceived gaps in notifications by other parties]. [The fact that a subsidy may be maintained for the purpose of achieving social objectives does not, in itself, mean that the measure does not also have a trade effect. Many such subsidies have meaningful trade effects and should therefore be notified. There should not be an a priori exclusion of any type of subsidy programme on the basis that the presumed trade effect is not meaningful].

1(g) [Subsidies granted at the provincial level should be notified when they affect trade]. [Subsidies granted at the provincial level are generally unlikely to cause injurious effects on the trade of other signatories. Any judgement as to whether such subsidies should be notified will be subjective. Procedures under Article 7 of the Code are relevant in this area]. [The notification of sub-federal or sub-national level programmes raises important questions of jurisdiction which will need to be examined closely by the Committee].

2. [The notification system should be formed in such a way that there is no difference in notifying government aids, whether the country has a strong private sector or a strong state-owned sector]. [Governmental, quasi-governmental or government-supported private monopoly institutions or agencies that buy or sell, and/or lay down regulations covering private trade, may have policies or engage in practices that could have meaningful trade effects and which would fall under Article XVI:1. These policies and practices should be notified].

3(a) Procedures under Article 7 should be used to effectively fill any gap which may result from incomplete notifications under Article XVI:1. [Cross-notifications should be used for dealing with specific practices that are believed to cause problems for other signatories, and not for unreasonable investigations].

3(b) Procedures of Article 7 are bilateral at the first stage [although they clearly provide that a signatory can bring to the attention of the Committee any practice that it considers should have been notified and was not]. [a signatory has the right, by virtue of Article 7:3, to bring the matter to the Committee if the problem cannot be solved at a bilateral stage]. [The existence of the procedures of Article 7:3 should not be a substitute for the notification obligations under Article XVI:1]. [The Committee may wish to consider how the bilateral procedure under Article 7 should be implemented in practice (including the question of transparency, recording of subsidy practices brought before the Committee, etc.)].

4. It should be generally recognized by all signatories that notifications do not have any effect of self-incrimination.

5. The existing arrangements regarding the timing of notifications and their up-dating seem to be appropriate.

6(a) [In the light of past experience, it seems that the questionnaire could be improved. In order to achieve this, it would be necessary on the one hand to take account of the results of the work of the Group of Experts, and on the other hand, of the work of the Committee on Trade in Agriculture in the area of agricultural subsidies]. [It would be useful for the questionnaire to be examined by the Committee to determine whether it should be revised for the purposes of the Code].

6(b) The questionnaire should be revised in such a way as to simplify the task of preparing notifications and to reduce the margin for subjectivity.

6(c) In many cases it is difficult to quantify the trade effects of a subsidy. [This inherent difficulty probably does not exclude a qualitative evaluation in some cases]. [Notifying countries should at least attempt to provide a good estimate of trade effects in quantitative terms].

6(d) The unit amount of a subsidy should be indicated whenever possible. [Where a subsidy is commodity or sector-specific, countries should provide details by commodity on the amount of the subsidy and the value of trade affected].

6(e) Where specific points in the questionnaire have not been addressed in a notification, an explanation should be provided in the notification itself.