

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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Committee on Subsidies and Countervailing Measures

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## NOTIFICATIONS UNDER ARTICLE XVI:1

### Addendum

The following observations and suggestions have been received from the Delegation of Chile.

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The Chilean delegation has felt it appropriate to make a proposal on existing notification procedures as envisaged in Article XVI:1. The purpose of this proposal is to reach agreement on a notification system which, while making optimum use of what has been achieved to date, would improve the procedures used, making optimum use of the results and coverage of the existing system.

#### 1. Improved transparency and greater uniformity of notifications

The notification procedure provided for in Article XVI:1 of the General Agreement is designed to achieve adequate transparency of information on measures that can constitute a subsidy and on their effects. This obligation is incumbent on all contracting parties, and all the more so on those which are signatories of the Subsidies Code. Accordingly, the general principle is that all subsidy programmes should be notified if, whether directly or indirectly, they have the trade effect described in Article XVI:1.

The objective of information transparency is to allow all signatories to evaluate the trade effects, and understand the operation, of subsidy programmes granted or maintained by other signatories.

Nevertheless, an excess of information, whether in terms of quality or of quantity, would run counter to the objective of transparency. It is desirable, therefore, to arrive at a balance corresponding to the commitments entered into by signatories and to their interests. For this, it may be useful to establish three types of notifications, so as to some extent to eliminate the questions raised in points 1(c), (e) and (f) of document SCM/49. Indeed, an information system that makes a differentiation according to the type of measure applied would contribute to arriving at a system that is simpler, of better quality and would ultimately represent a lighter administrative burden.

The system would operate on the basis of three types of notification: full notification, simplified notification and programmes exempt from notification.

(i) Full notification: This would include full and detailed information in order to give a clear and immediate picture of the subsidy programmes included, in such a way that other signatories can evaluate the trade effects of those programmes and understand how they operate.

For the purpose of determining which programmes are to be notified in full, criteria could be developed as suggested in point 1(b) of document SCM/W/85. The practice of notifications and reverse notifications made in GATT can be a good way of identifying which programmes should be the subject of full notification. Indeed, the secretariat could draw up a summary of such measures which would serve as an Illustrative List.

(ii) Simplified notification: This would include essential particulars on the measures concerned, i.e. title of the programme, identification of the relevant legal provisions, beneficiary activity or economic area, total amount and objectives of the programme. This form of notification would afford some measure of transparency for programmes having an indirect effect on trade.

(iii) Programmes exempt from notification: In principle all programmes must be notified. Nevertheless, in order to facilitate this task and not make it unnecessarily burdensome, under this third category, programmes would be exempt from notification when determined by the signatories not to warrant full or simplified notification - for example, those that fulfil social objectives, without any meaningful trade effects. The decision on exemption would be made in the Committee by the signatories case by case, and in a single exercise for existing programmes. This would avoid any subjective and discriminatory approach in determining whether or not a measure should be notified.

The mechanism regulating operation of this notification system would be based on the following criteria:

(i) A new notification should be made every three years. In the intermediate years, any changes would be notified.

(ii) In the first year of each three-year period a review would be carried out of full and simplified notifications.

(iii) For the next three-year period, each signatory would furnish to the secretariat a list of programmes which, in its view, should be exempt from notification and which would be available at the secretariat for consultation by interested parties, without having to be circulated.

(iv) During the review, if any signatory considered that an exempt programme should be notified, it would say so, and could likewise request a full notification of a programme notified under the simplified procedure.

(v) In this way signatories would be informed of all programmes and would have the notifications that are really relevant. At the same time, the notifying signatory would have a proper picture of the others, in respect of programmes that do not warrant notification and review.

## 2. Procedures provided for in Article 7 of the Code

Notwithstanding the multilateral review, signatories would have the option of invoking Article 7 of the Code in order to obtain more information and/or clarify certain aspects of programmes. This could result in changing the status of a notification - for example from simplified notification to full notification, without prejudice to the possibility of making a reverse notification. Recourse to Article 7 of the Code implies, because of its two-fold character, a bilateral approach and then a multilateral one when the matter is brought to the attention of the Committee. These mechanisms of consultation and reverse notification seem adequate for solving problems regarding the status of a notification. It should be underlined that the Committee will have to consider just how this two-fold procedure should be carried out, since because of the number of notifications available a flexible mechanism affording a rapid decision will be necessary. It should be noted that the status of the notification, reverse notification, or exemption from notification would be without prejudice to any countervailing measures that might follow from any particular measure applied, since the objective is to regulate programmes so as to achieve full transparency, and not to "qualify" programmes as such. Nor would the fact of notifying a measure have any effect of self-incrimination.

## 3. Improving the questionnaire on subsidies

It would seem of interest that the Committee should study the possibility of revising the questionnaire, in particular the point regarding the grant of drawback on exports (whether termed refunds, rebates, tax credits, reimbursements, remissions, etc.), including the items in respect of which drawback is granted (internal charges, customs duties, etc.) and the incidence of inputs on the final product, such inputs being specified.

In general, the points established in the written report to be made by contracting parties are clear and precise. It would nevertheless be desirable to consider including a third point, explaining the functioning of the programme in operative terms, and at the same time recommend that an explanation should be given for all points in the questionnaire that have not been answered by the notifying contracting party.