

GENERAL AGREEMENT ON TARIFFS AND TRADE

Committee on Subsidies and
Countervailing Measures

DRAFT REPORT (1986) OF THE COMMITTEE ON
SUBSIDIES AND COUNTERVAILING MEASURES

Addendum

Pursuant to informal consultations between the Chairman and delegations the following new wording of paragraphs 15, 20 and 21 is submitted to the Committee:

15. At the request of the Committee the Group reverted to certain paragraphs of document SCM/W/74/Rev.1 which had not been included in the Guidelines on Physical Incorporation (SCM/68) adopted by the Committee at its meeting of October 1985. Other issues examined by the Group were: criteria with regard to a distinction between subsidies and other measures having a possible trade distorting effect; export restrictions; indirect subsidies; subsidies granted for research and development purposes; aspects of drawback systems which might constitute a subsidy and equity. However, the lack of progress in the Committee with respect to the definition of a subsidy, the concept of specificity and other fundamental questions is adversely affecting the work on some of these issues and prevents papers from being brought before the Committee for adoption.

20. At its meeting of April 1986 the Committee continued its discussion of problems which have arisen regarding the uniform interpretation and effective application of the Code (SCM/53) but was unable to agree on how to approach those issues. One signatory reiterated its position and that expressed by some other signatories at previous meetings that the issues in document SCM/53 went beyond simple interpretation and that it would be inappropriate to engage the Committee in a negotiating exercise that would be prejudicial to global negotiations on agriculture. Some signatories, [while agreeing on the global character of future negotiations on agriculture], were of the view that the Committee should continue its task of clarifying the existing rules within the normal framework of the Agreement. Some signatories considered that the Committee had the right and the competence to undertake an exercise aiming at the clarification of the existing provisions of the Agreement and to make those provisions more effective, including those relating to agriculture. Those signatories considered that the Committee on Subsidies and Countervailing Measures had well-defined responsibilities regarding subsidies and that the signatories had an obligation to ensure that these responsibilities be effectively discharged in the Committee. Furthermore, at

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the October 1986 meeting, one signatory pointed out that the Ministerial Declaration of Punta del Este had clarified the situation in that a negotiating group had been created that had primary responsibility for all aspects of agriculture. In its view, referring to the particular issues described above, this negotiating group had, under the Declaration, been mandated, inter alia, to bring all measures affecting import access and export competition under strengthened and more operationally effective GATT rules and disciplines. Some signatories pointed out that the Ministerial Declaration had created a negotiating group on subsidies and countervailing measures with the objective of improving GATT disciplines relating to all subsidies and countervailing measures that affect international trade. They pointed out, furthermore, that the Declaration provided that aspects of one issue may be discussed in more than one negotiating group; therefore each negotiating group should as required take into account relevant aspects emerging in other groups.

21. The Committee noted that, in response to a question, the Chairman provided [, on his own responsibility,] a list of problems which, in his view, had not been resolved during the period of the operation of the Agreement. These problems are:

- (a) on the subsidies side: improvement of notifications under Article XVI:1; application of Article 8 including disciplines to prevent subsidies causing serious prejudice; increased disciplines under Article 10 (including effective definition of "more than an equitable share", "special factors" and "previous representative period"); application of Article 9 to primary components of processed products; export credits;
- (b) on the countervailing duty side: definition of subsidies (in particular generally available subsidies, so-called natural resource subsidies and indirect subsidies); basic rules concerning the calculation of the amount of a subsidy (inter alia cost to the government versus benefits to the recipient); more precise definitions of injury (including cumulation), industry and sale; alternative measures (undertakings);
- (c) blockage of the dispute settlement procedures.

In this context one delegation pointed out that, if these problems had not been resolved it was mainly because of divergences of views concerning the competence over certain of these problems as well as because of divergent views on the substance.