

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Group "Non-Tariff Measures"

Sub-Group on Subsidies and Countervailing Duties

## SUBSIDIES AND COUNTERVAILING DUTIES

### India

1. At its meeting in November 1975 the Sub-Group "Subsidies and Countervailing Duties" reiterated its agreement that participants be invited to submit comments on problems encountered in the areas of subsidies and countervailing duties as well as any specific proposals for appropriate solutions to these problems including, where feasible, draft texts or suggestions. It was also understood that delegations which had already submitted comments or proposals might wish to revise them in the light of the discussion. The Sub-Group also invited participants to submit in writing any additional observations or questions they might have in respect of submissions by other members (MTN/NTM/10, paragraph 2 and GATT/AIR/1242).
2. A communication has been received from India and is reproduced hereunder.

### SUMMARY OF POINTS MADE BY THE INDIAN DELEGATION

1. We welcome the positive indication in the United States statement that they are prepared to negotiate provisions for special and differential treatment for developing countries in the context of new international rules on subsidies and countervailing duties. Although the United States delegation have stated that they cannot agree with the Indian proposal, they have not themselves come forward with any concrete suggestions in this regard.
2. The clear recognition in any new rules of the right of developing countries to grant subsidies would not constitute a material change from the present situation because the developing countries already enjoy this right by virtue of the fact that they have not subscribed to the declaration giving effect to paragraph 4 of Article XVI. All that the developing countries are seeking is to have this situation

clearly recognized and appropriate provisions to this effect incorporated in any new rules which may be drawn up. It is precisely because the special problems of developing countries had not been adequately taken into account in the past that situations had arisen whereby developing countries had found themselves unable to subscribe fully to new rules and codes such as the declaration on subsidies and the Anti-Dumping Code. The developing countries do not wish such a situation to continue because they are keen to be able to participate fully in any new rules for the conduct of international trade. However, they cannot do so unless their special problems are adequately taken into account in the preparation of such rules.

3. It has been argued by the United States that when a developing country has attained a competitive level in an industrial product it would have to relinquish its right to differential treatment if certain criteria are met. We have ourselves pointed out in our submission that as and when the handicaps from which the developing countries suffer disappear, so would the need for exports subsidies designed to overcome them. However, it must be emphasized that the developing country concerned must remain the sole judge as to whether or not the product in question needs to be subsidized. It would be both impracticable and undesirable to attempt to lay down any criteria in this regard.

4. As long as the handicaps to which we have referred in our submission continue to be encountered, we must continue to enjoy the right to subsidize our exports. This does not mean that we shall automatically exercise the right in each and every case. There is no reason to believe that developing countries will utilize their scarce resources to subsidize their exports and thus benefit the consumers in rich countries at the cost of their own tax payers unless they really believe that there is economic justification for doing so.

5. With regard to the argument that exports subsidies for selected items are preferable to a general devaluation we agree that it would be necessary to look at the specific circumstances surrounding the product in question. However, it must be reiterated that the judgment as to whether a particular product needs to be subsidized, must be left to the developing countries. We do take into account such criteria as elasticity of supply and demand.

6. The United States delegation have stated that in some cases the grant of subsidies by developing countries would result in "unfair" competition for the American producers, as it would "tilt the balance in favour of developing countries". It is strange that such a highly industrialized country as the United States should be worried about the balance being tilted in favour of poorer countries who have a long way to go before they can ever catch up with the position already attained by developed countries. What the developing countries

are seeking, and what they are entitled to receive in terms of the Tokyo Declaration, is not an equal competitive position but an equitable competitive position. In other words they must have a competitive edge over the developed countries. This is in fact the basic philosophy of GSP. As long as subsidization by developing countries does not cause material injury to the domestic producers in the developed countries, they should not be unduly worried about so-called "unfair" competition.

7. It has been argued by the United States that curbing domestic consumption to generate an exportable surplus would work against the goal of establishing economies of scale. This is no doubt a desirable goal. However, the developing countries just do not possess the resources required for investment of a magnitude which would attain economies of scale.

8. With regard to the incidence of indirect taxation it has been suggested that these should be refunded through drawback procedures and not subsidies. However, it is not always practicable to adopt such procedures. In a federal State like India taxes are levied not only by the Central Government but also by the State Governments and a variety of local authorities. In many cases the local authorities are unwilling to refund taxes such as sales tax, octroi, production taxes, etc. It is administratively much simpler to give cash subsidies to neutralize the incidence of such indirect taxes. Moreover, such a system is also much more convenient for the traders who would find it extremely difficult to cope with the complex administrative formalities connected with drawback procedures.

9. We have not been able to appreciate fully the implications of the United States statement that "no country can allow another country to infringe upon its sovereignty by unilaterally passing judgment as to the logic, economic or otherwise, of its tariffs and then negating those tariffs through an export subsidy". We had no intention, of course, to infringe upon anybody's sovereignty just as we would not permit anybody else to infringe upon our sovereignty. The only point which we were trying to make in our submission was that in many cases barriers are maintained by developed countries against exports of developing countries at levels which are unreasonably high and are not at all justified on economic grounds. As long as such high barriers are maintained by developed countries, for whatever reasons, the developing countries may have to resort to subsidies to neutralize their adverse effects on their exports. After all we are engaged in a multilateral exercise to seek the liberalization of barriers to trade and it would be wrong to regard these efforts as an infringement of national sovereignty.

10. As regards the adverse effects on developing countries of the subsidies given by developed countries for their exports to third markets, it would, no doubt, be more beneficial for the developing countries if such subsidization by developed countries ceases because in that event subsidization by developing countries to neutralize such adverse effects would no longer be required. However, even in such a situation developing countries may have to use subsidies to overcome the handicaps from which their production suffers.

11. It has been argued by the United States that it is better to neutralize distortions arising from structural or other factors through subsidies which do not differentiate between exported and non-exported products than through subsidies that are designed to promote exports. However, we do not see the need for subsidization of domestic consumption nor do we have the resources for doing so.

12. Some delegations have argued that if a meaningful test of material injury is evolved and relevant procedures agreed upon, it may no longer be necessary to have special provisions for developing countries. We agree that an agreement along these lines would go a long way in meeting our concern. However, it is clear to us even now that the need for differential treatment for developing countries will still remain. This is because under the new rules which are contemplated, there will remain a list of subsidy practices which will continue to be banned ab initio. In such cases the question of any material injury being caused would not arise at all. However, for reasons we have stated the developing countries cannot accept any subsidy practices to be banned ab initio in their case.

13. What the developing countries are seeking is extremely reasonable and fair. As long as they continue to suffer from structural and other handicaps, they must enjoy the right to subsidize their exports and there should be no question of any countervailing action against them except in highly exceptional circumstances in the event of material injury to the domestic industry in developed countries.