

**ILLUSTRATIVE MOCK EXAMPLES**

**ILLUSTRATIVE<sup>1</sup> MOCK EXAMPLES OF NOTIFICATIONS UNDER ARTICLE 25.1**

The following matrix can be used to determine what type of notification must be made<sup>2</sup>:

Does your Government or any public body grant any subsidy (as defined in Article 1.1 of the Agreement)	Is the subsidy specific within the meaning of Article 2 of the Agreement or does it operate directly or indirectly to increase exports from or reduce imports into its territory (within the meaning of Article XVI:1 of the GATT 1994)	Type of notification to be made
NO	-	Letter stating this fact. (Nil notification)  EXAMPLE:  "In accordance with Article 25.2 of the Agreement on Subsidies and Countervailing Measures and Article XVI:1 of the GATT 1994, the government of [ <b>name of Member</b> ] wishes to inform you that [ <b>name of Member</b> ] does not grant or maintain within its territory any subsidy within the meaning of Article 1.1 of the Agreement on Subsidies and Countervailing Measures which is specific within the meaning of Article 2 of the Agreement, or which operates directly or indirectly to increase exports from or reduce imports into its territory within the meaning of Article XVI:1 of the GATT 1994."
YES	NO	Letter stating this fact. (Nil notification)  EXAMPLE:  "In accordance with Article 25.2 of the Agreement on Subsidies and Countervailing Measures and Article XVI:1 of the GATT 1994, the government of [ <b>name of Member</b> ] wishes to inform you that [ <b>name of Member</b> ] does not grant or maintain within its territory any subsidy within the meaning of Article 1.1 of the Agreement on Subsidies and Countervailing Measures which is specific within the meaning of Article 2 of the Agreement, or which operates directly or indirectly to increase exports from or reduce imports into its territory within the meaning of Article XVI:1 of the GATT 1994."
YES	YES	Full response to the Questionnaire (Annex IV)

<sup>1</sup> Please note that this is an illustrative non-exhaustive list of mock examples. Other situations may exist and in case of doubt, Members/Observer governments are requested to contact the Secretary of the SCM Committee.

<sup>2</sup> For "mock" examples of notifiable subsidies, see pages 14 through 16 of this section.

**"MOCK" EXAMPLES OF NOTIFIABLE SUBSIDIES UNDER ARTICLE 25.1 OF THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES**

The first section is comprised of the Illustrative List of Export Subsidies, which is Annex I of the Agreement on Subsidies and Countervailing Measures. The second section, dealing with domestic subsidies, is comprised of examples taken from actual notifications made since the implementation of the WTO Agreement. These sections provide only an illustration of such subsidies, and not an exhaustive list.

**1. SUBSIDIES IDENTIFIED IN THE WTO ILLUSTRATIVE LIST OF EXPORT SUBSIDIES**

ANNEX I OF THE AGREEMENT ON  
SUBSIDIES AND COUNTERVAILING MEASURES

ILLUSTRATIVE LIST OF EXPORT SUBSIDIES

- a) The provision by governments of direct subsidies to a firm or an industry contingent upon export performance.
- b) Currency retention schemes or any similar practices which involve a bonus on exports.
- c) Internal transport and freight charges on export shipments, provided or mandated by governments, on terms more favourable than for domestic shipments.
- d) The provision by governments or their agencies either directly or indirectly through government-mandated schemes, of imported or domestic products or services for use in the production of exported goods, on terms or conditions more favourable than for provision of like or directly competitive products or services for use in the production of goods for domestic consumption, if (in the case of products) such terms or conditions are more favourable than those commercially available<sup>3</sup> on world markets to their exporters.
- e) The full or partial exemption, remission, or deferral specifically related to exports, of direct taxes<sup>4</sup> or social welfare charges paid or payable by industrial or commercial enterprises.<sup>5</sup>
- f) The allowance of special deductions directly related to exports or export performance, over and above those granted in respect to production for domestic consumption, in the calculation of the base on which direct taxes are charged.

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<sup>3</sup> The term "commercially available" means that the choice between domestic and imported products is unrestricted and depends only on commercial considerations.

<sup>4</sup> For the purpose of this Agreement:

The term "direct taxes" shall mean taxes on wages, profits, interests, rents, royalties, and all other forms of income, and taxes on the ownership of real property;

The term "import charges" shall mean tariffs, duties, and other fiscal charges not elsewhere enumerated in this note that are levied on imports;

The term "indirect taxes" shall mean sales, excise, turnover, value added, franchise, stamp, transfer, inventory and equipment taxes, border taxes and all taxes other than direct taxes and import charges;

"Prior stage" indirect taxes are those levied on goods or services used directly or indirectly in making the product;

"Cumulative" indirect taxes are multi-staged taxes levied where there is no mechanism for subsequent crediting of the tax if the goods or services subject to tax at one stage of production are used in a succeeding stage of production;

"Remission" of taxes includes the refund or rebate of taxes;

"Remission or drawback" includes the full or partial exemption or deferral of import charges.

<sup>5</sup> The Members recognize that deferral need not amount to an export subsidy where, for example, appropriate interest charges are collected. The Members reaffirm the principle that prices for goods in transactions between exporting enterprises and foreign buyers under their or under the same control should for tax purposes be the prices which would be charged between independent enterprises acting at arm's length. Any Member may draw the attention of another Member to administrative or other practices which may contravene this principle, and which result in a significant saving of direct taxes in export transactions. In such circumstances the Members shall normally attempt to resolve their differences using the facilities of existing bilateral tax treaties or other specific international mechanisms, without prejudice to the rights and obligations of Members under the GATT 1994, including the right of consultation created in the preceding sentence.

Paragraph (e) is not intended to limit a Member from taking measures to avoid the double taxation of foreign source income earned by its enterprises or the enterprises of another Member.

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- g) The exemption or remission in respect of the production and distribution of exported products, of indirect taxes<sup>3</sup> in excess of those levied in respect of the production and distribution of like products when sold for domestic consumption.
- h) The exemption, remission or deferral of prior stage cumulative indirect taxes<sup>3</sup> on goods or services used in the production of exported products in excess of the exemption, remission or deferral of like prior stage cumulative indirect taxes on goods or services used in the production of like products when sold for domestic consumption; provided, however, that prior stage cumulative indirect taxes may be exempted, remitted or deferred on exported products even when not exempted, remitted or deferred on like products when sold for domestic consumption, if the prior stage cumulative indirect taxes are levied on inputs that are consumed in the production of the exported product (making normal allowance for waste).<sup>6</sup> This item shall be interpreted in accordance with the guidelines on consumption of inputs in the production process contained in Annex II.
- i) The remission or drawback of import charges<sup>3</sup> in excess of those levied on imported inputs that are consumed in the production of the exported product (making normal allowance for waste); provided, however, that in particular cases a firm may use a quantity of home market inputs equal to, and having the same quality and characteristics as, the imported inputs as a substitute for them in order to benefit from this provision if the import and the corresponding export operations both occur within a reasonable time period, not to exceed two years. This item shall be interpreted in accordance with the guidelines on consumption of inputs in the production process contained in Annex II and the guidelines in the determination of substitution drawback systems as export subsidies contained in Annex III.
- j) The provision by governments (or special institutions controlled by governments) of export credit guarantee or insurance programmes, of insurance or guarantee programmes against increases in the cost of exported products or of exchange risk programmes, at premium rates which are inadequate to cover the long-term operating costs and losses of the programmes.
- k) The grant by governments (or special institutions controlled by and/or acting under the authority of governments) of export credits at rates below those which they actually have to pay for the funds so employed (or would have to pay if they borrowed on international capital markets in order to obtain funds of the same maturity and other credit terms and denominated in the same currency as the export credit), or the payment by them of all or part of the costs incurred by exporters or financial institutions in obtaining credits, in so far as they are used to secure a material advantage in the field of export credit terms.

Provided, however, that if a Member is a party to an international undertaking on official export credits to which at least twelve original Members to this Agreement are parties as of 1 January 1979 (or a successor undertaking which has been adopted by those original Members), or if in practice a Member applies the interest rates provisions of the relevant undertaking, an export credit practice which is in conformity with those provisions shall not be considered an export subsidy prohibited by this Agreement.

- l) Any other charge on the public account constituting an export subsidy in the sense of Article XVI of the GATT 1994.

## 2. DOMESTIC SUBSIDIES NOTIFIED BY MEMBERS IN THE RECENT PAST

### **Grants**

- a) Cash payments by the government to local manufacturers of computers calculated as a percentage of the companies' in-house value-added.

### **Reimbursable advances**

- b) Government advances for aerospace R&D to be reimbursed where certain conditions are met.

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<sup>6</sup> Paragraph (h) does not apply to value-added tax systems and border-tax adjustment in lieu thereof; the problem of the excessive remission of value-added taxes is exclusively covered by paragraph (g).

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### **Equity infusions**

- c) Regional government purchase of share in capital in promoted companies.

### **Loans**

- d) Government loans to fishermen at below-market rates for the acquisition of fishing vessels and equipment.

### **Interest subsidies**

- e) Government subsidies of interest paid on loans to the mining sector.

### **Loan-guarantees**

- f) Government guarantees of loans to priority sectors.

### **Tax concessions**

- g) Reduced customs duties on imported parts used to produce aircraft and ships.
- h) Corporate income tax exemptions and/or reductions for income generated by investments in promoted regions.
- i) Reduced social security contributions for companies operating in specified regions.

### **Purchase of goods**

- j) The purchase by the government of oilseeds at an above-market price designed to support farmers' income, with resale to consumers of the product at a loss.

### **Provision of goods**

- k) Provincial government sale of land at less than fair market value to priority industries.

## **"MOCK" EXAMPLE OF NOTIFICATIONS UNDER ARTICLE 32.6**

### **Case 1: Your country does not have any countervailing duty laws and/or regulations.**

A simple letter stating this fact is sufficient.<sup>7</sup>

#### EXAMPLE:

"With reference to Article 32.6 of the Agreement on Subsidies and Countervailing Measures, the Government of **[name of Member]** notifies the Committee on Subsidies and Countervailing Measures that it has no laws and/or regulations relevant to the Agreement."

### **Case 2: Your country has no specific countervailing duty laws and/or regulations, BUT the Agreement is (a) incorporated into national law or (b) has force of law.**

The notification should state either (a) or (b), and in the case that (a) applies, should be accompanied by a copy of the domestic legal instrument incorporating the Agreement into national law, if such exists.

#### EXAMPLES:

- a. "With reference to Article 32.6 of the Agreement on Subsidies and Countervailing Measures, the Government of **[name of Member]** notifies the Committee on Subsidies and Countervailing Measures that it has no laws and/or regulations relevant to the Agreement. The Agreement was

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<sup>7</sup> The fact that no countervailing duty laws or regulations are in existence at the time the notification is made does not mean that such legislation cannot be introduced in future and in no way circumscribes the Member's right to develop such legislation.

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incorporated in national law by **[Act]** Number **[\_\_\_\_]** of **[date]**, published in the Official Gazette on **[date]**. A copy of that **[Act]** is enclosed."

- b. "With reference to Article 32.6 of the Agreement on Subsidies and Countervailing Measures, the Government of **[name of Member]** notifies the Committee on Subsidies and Countervailing Measures that it has no laws and/or regulations relevant to the Agreement. The Agreement is applied with force of law in **[name of Member]**."

### **Case 3: Your country has no countervailing duty laws and/or regulations BUT is in the process of developing such laws and/or regulations.**

The notification should state this fact and should state an estimated date when such laws and/or regulations will take effect and will be notified to the Committee.

EXAMPLE:

"With reference to Article 32.6 of the Agreement on Subsidies and Countervailing Measures, the Government of **[name of Member]** notifies the Committee on Subsidies and Countervailing Measures that it has no laws and/or regulations relevant to the Agreement. Such laws and/or regulations are currently being drafted and enactment is expected in **[month, year]** at which time the full text of the law **[translated into [English] [French] [Spanish]]** will be notified to the Committee."

### **Case 4: Yes, there are currently countervailing laws and/or regulations in existence in your country.**

The Member should submit to the Committee, in English, French, or Spanish, the full text of the laws and/or regulations regardless of the date of enactment of such laws and/or regulations.

### **Case 5: Yes, there are currently countervailing laws and/or regulations in existence in your country, BUT the text of the laws and/or regulations is in a language other than English, French, or Spanish.**

The Member should translate the text(s) into English, French, or Spanish and submit the full translated text(s) to the Committee. In the meantime, a letter stating the existence of such laws and/or regulations, and the date on which the Committee can expect to receive the translated text(s), should be sent to the Committee.

EXAMPLE:

"With reference to Article 32.6 of the Agreement on Subsidies and Countervailing Measures, the Government of **[name of Member]** notifies the Committee on Subsidies and Countervailing Measures that it has laws and/or regulations relevant to the Agreement. Such laws and/or regulations are currently being translated into **[English][French][Spanish]**, and it is anticipated that the full text(s) will be notified to the Committee in **[month, year]**."

### **Case 6: Yes, there are currently countervailing laws and/or regulations in existence in your country, BUT new laws and/or regulations are being drafted.**

The Member should submit to the Committee, in English, French, or Spanish, the full text(s) of the currently existing laws and/or regulations regardless of the date of enactment of such laws and/or regulations. In addition, a letter stating the fact that new laws and/or regulations are being drafted and stating an estimated date when such laws and/or regulations will take effect and will be notified to the Committee, should be sent to the Committee.

EXAMPLE:

"With reference to Article 32.6 of the Agreement on Subsidies and Countervailing Measures, the Government of **[name of Member]** submits the enclosed laws and/or regulations relevant to the Agreement. In addition, the Government of **[name of Member]** wishes to inform the Committee that new laws and/or regulations are currently being drafted. Enactment is expected in

**[month, year]**, at which time a translation into a WTO language will be prepared and the law will be notified to the Committee."

**"MOCK" EXAMPLES OF NOTIFICATIONS UNDER ARTICLE 25.11**

**Case 1: Your Government has not taken any countervailing duty actions during the period January through June of the reporting year.**

A simple letter stating this fact is sufficient.

EXAMPLE:

"In accordance with Article 25.11 of the Agreement on Subsidies and Countervailing Measures, and in response to the request for semi-annual reports contained in document G/SCM/N/[number], the Government of **[name of Member]** notifies the Committee on Subsidies and Countervailing Measures that it has taken no countervailing duty actions during the period 1 January through 30 June 1996."

**Case 2: Your Government has taken countervailing duty actions during the period January through June of the reporting year.**

The format contained in G/SCM/2/Rev.1 should be completed and submitted. It should be received by the Secretariat not later than the date set forth in the request for semi-annual reports issued by the Committee.

**Case 3: Your Government has no competent authority, has never taken countervailing action, and does not anticipate doing either for the foreseeable future.**

A one-time notification should be submitted, using the format in G/SCM/129, as follows:

"This is to notify that **[Member's name]** has not established an authority competent to initiate and conduct an investigation within the meaning of Article 25.12 of the Agreement on Subsidies and Countervailing Measures ("the Agreement") and thus has not, to date, taken any countervailing actions within the meaning of Article 25.11 of the Agreement and does not anticipate taking any countervailing actions for the foreseeable future.<sup>8</sup> **[Member's name]** shall promptly notify the Committee on Subsidies and Countervailing Measures ("the Committee") of any changes that may take place in this regard. Specifically, **[Member's name]** shall notify the Committee pursuant to Article 25.12 of the Agreement upon the establishment of an authority competent to initiate and conduct countervailing duty investigations, as well as the domestic procedures governing the initiation and conduct of such investigations and shall report without delay to the Committee any countervailing actions in accordance with Article 25.11 of the Agreement."

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<sup>8</sup> This notification shall be valid until further notice.