

GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

L/5055

3 November 1980

Limited Distribution

REPORT (1980) OF THE COMMITTEE ON SUBSIDIES AND COUNTERVAILING MEASURES

1. The Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement entered into force on 1 January 1980. On 23 October 1980 the following were the signatories of the Agreement: Austria, Brazil, Canada, Chile, Finland, India, Japan, Korea, Norway, Pakistan, Sweden, Switzerland, United Kingdom on behalf of Hong Kong, United States, Uruguay, Yugoslavia and the European Communities. Some of these signatories are still in the process of ratifying the Agreement.

2. The signatories of the Agreement are ipso facto members of the Committee established under the Agreement. During the reporting period the Committee has held four meetings:

23 January 1980 - (SCM/M/1 and L/4946)

28 March 1980 - (SCM/M/2 and L/4965)

8 May 1980 - (SCM/M/3 and L/4983)

23 October 1980 - (SCM/M/4 and L/5059)

Twenty-five contracting parties and four non-contracting parties have observer status. Furthermore two international organizations (IMF and UNCTAD) have attended meetings of the Committee in an observer capacity.

3. Procedural questions have been settled in the same way as in other Committees. These include:

(a) procedures for the participation of observers - L/4965, Annex I and SCM/M/2, paragraph 2

(b) observers from international organizations (UNCTAD AND IMF) - SCM/M/3, paragraphs 3-4

(c) circulation of documents - SCM/M/3, paragraphs 7-8.

4. The Committee adopted a procedure for handling commitments under Article 14:5 of the Agreement. This Article provides that a developing country signatory should endeavour to enter into a commitment to reduce or eliminate export subsidies when the use of such export subsidies is inconsistent with its competitive and development needs. A number of signatories stated that in their view these commitments were unilateral and voluntary. The Committee agreed that countries intending to enter into a commitment under Article 14:5 shall notify the Committee in good time. For this purpose they are invited to notify the Chairman of the Committee of the

proposed commitment at least forty-five days before the matter is taken up by the Committee. The following signatories have notified their commitments under Article 14:5: Brazil (L/4922), Uruguay (L/4924), and Korea (SCM/3). The need of transparency of existing export subsidy systems for appropriate evaluation of commitments and their effects has been stressed by some signatories.

5. At its May 1980 meeting the Committee established two groups of experts to identify and examine questions related to two items which, because of their highly technical nature, were not settled during the MTN. However, the text of the Agreement specifically requests the Committee to deal with them. The first item is to develop a definition of the term "related" for determination of a relationship between producers and exporters or importers. As this problem is common to this Agreement and to the Agreement on Implementation of Article VI of the GATT it was decided to set up a common group for both Committees. The second item is the criteria for the calculation of the amount of a subsidy (SCM/M/3, paragraphs 33-45). These two groups had their first meetings during the week of 20 October 1980 to organize their work. They will report to the Committee at its April 1981 meeting. In order to meet the concern expressed by certain observers the Chairman will consult with interested observers and inform them about the experts' work so as to keep interested observers fully informed and to provide them ample opportunity to transmit their expertise.

6. The Committee has examined notifications of national legislation and implementing regulations submitted by the following signatories: Austria, European Communities, Finland, Japan, Norway, Sweden, Switzerland and the United States (SCM/1 and addenda). Some other signatories informed the Committee of the progress made in preparing their implementation of the Agreement. In this regard the representative of one signatory informed the Committee about steps being taken by his Government to implement its obligations under the Agreement. In the course of the examination the attention of several signatories has been drawn to some provisions in their legislation where certain signatories believed that certain modifications should be made in order to conform better to the provisions of the Agreement. Attention was drawn, inter alia to such problems as: time-limits given to respondents in a countervailing duty investigation to prepare their case, conditions under which an investigation can be terminated, need to provide for disclosure conferences, systems allowing influence of interested industries on countervailing duty proceedings.

7. The Committee has also examined draft legislation which is being prepared by one signatory. Many points were raised and modifications were proposed for consideration by that signatory where it was felt that there were some discrepancies between the proposed provisions and the provisions of the Agreement.

8. It was agreed that the signatories to which the comments were addressed would consider them. It was also agreed that the Committee would discuss at a subsequent meeting what is meant by "other measures" referred to in connexion with undertakings under Article 4:5(a) of the Agreement. Some signatories reserved their rights to revert to particular aspects of the national legislations at a later stage or in the light of their practical application. The signatories which had not submitted their national legislation and implementing regulations were invited to do so by 31 December 1980. The Committee agreed to maintain on its agenda the examination of national legislations already submitted and those which will be submitted in future.

9. Article 2:16 of the Agreement provides that the signatories shall submit, on a semi-annual basis, reports of any countervailing duty actions taken within the preceding six months. In this relation a standard form for such reports has been worked out (SCM/2).

10. The following semi-annual reports under Article 2:16 have been submitted to, and examined by, the Committee:

Austria	- (SCM/4)
European Communities	- (SCM/4)
Finland	- (SCM/4)
United States	- (SCM/4/Add.1)
Norway	- (SCM/4/Add.2)
Sweden	- (SCM/4/Add.2)
Switzerland	- (SCM/4/Add.2)
Canada	- (SCM/4/Add.3)

The Committee has examined these reports. Several comments on particular cases were made and explanations given. A table summarizing the cases where investigations have been opened, provisional or final actions taken, etc. during the period 1 January-30 June 1980 is reproduced in the Annex. Austria, Finland, Norway, Sweden and Switzerland have notified that no countervailing duty cases were pending or initiated in the period under review. In the course of this examination attention was drawn to the need to expedite and rationalize proceedings with respect to transitional countervailing measures cases by one signatory. It was also stressed that investigations should be initiated only when there is sufficient evidence of subsidy and injury and of a causal link between them.

11. Some signatories considered that in order to maintain the balance of the Agreement it seemed appropriate to pursue its subsidy side as well. For this reason they would like to discuss, in future, certain subsidy practices

and programmes. In this relation it was recognized that if a signatory wanted to raise any particular problem it should notify other signatories in good time about its intentions.

12. The Committee had a preliminary discussion of problems raised by the representative of one signatory in relation to the invocation of the provisions of Article 19:9 of the Agreement by another signatory with respect to the former. It was agreed that, without prejudging the issues to be discussed, the Committee would meet at a date to be fixed by the Chairman in consultation with interested delegations to afford signatories the opportunity to consult further on these problems.

13. The Committee noted that no procedures had been initiated or notified under Articles 12 and 13 or under Articles 17 and 18 of the Agreement.

ANNEX

SUMMARY OF COUNTERVAILING DUTY ACTIONS

for the period 1 January 1980 to 30 June 1980

Reporting country (A)	No. of reported cases (B)	Initiation (C)	Provisional measures (D)	Definitive duty (E)	Final outcome					Outstanding countervailing duty action ¹ (K)
					Undertakings (F)	No subsidy (G)	No injury (H)	Case withdrawn (I)	Other (J)	
Canada	3	3			(F)	(G)	(H)	(I)	(J)	(K)
EEC ²	1	1				1			3 (terminated)	n.a.
USA ³	40	32	28	12		4	14	10	5	96

¹ Calculated for each exporting country and each product (country x product). Calculated on a basis of products only irrespective of the number of exporting countries, these numbers would be considerably lower.

² Actions taken with respect to signatories only.

³ Period covered 1 July 1979-30 June 1980.