

1
GENERAL AGREEMENT ON
TARIFFS AND TRADE

RESTRICTED

L/5902

5 November 1985

Limited Distribution

REPORT (1985) OF THE COMMITTEE ON
SUBSIDIES AND COUNTERVAILING MEASURES

I. Organization of the work of the Committee

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 15 October 1985 the following were the signatories of the Agreement: Australia, Austria, Brazil, Canada, Chile, Egypt, the European Communities, Finland, India, Indonesia, Israel, Japan, Korea, New Zealand, Norway, Pakistan, Philippines, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom on behalf of Hong Kong, United States, Uruguay and Yugoslavia (subject to approval). Some signatories apply the Agreement in their mutual relations on a provisional basis.

2. The signatories of the Agreement are ipso facto members of the Committee on Subsidies and Countervailing Measures established under the Agreement. During the period under review the Committee has held nine meetings, four of which were held under the dispute settlement procedure.

4-5 December 1984	-	SCM/M/24
6 December 1984	-	SCM/M/22
7 January 1985	-	SCM/M/23
15 February 1985	-	SCM/M/25
19 March 1985	-	SCM/M/26
25 April 1985	-	SCM/M/27
26 April 1985	-	SCM/M/28
4 October 1985	-	SCM/M/29
23-24 October 1985	-	SCM/M/30

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

II. National legislation and implementing regulations (Article 19:5)

4. As of 15 October 1985 eighteen signatories have submitted their legislation concerning countervailing duty procedures or made communications in this respect to the Committee (SCM/1 and addenda). Eight signatories have not, as yet, made formal notifications to the Committee under Article 19:5 of the Agreement. Some of these signatories made oral statements to the effect that their national legislation did not contain any provisions on the imposition of countervailing duties which would be in conflict with the Agreement.

5. During the period under review, the Committee has examined the countervailing duty legislation of Canada (SCM/1/Add.6/Rev.1), Israel (SCM/1/Add.22), Indonesia (SCM/1/Add.21), New Zealand (SCM/1/Add.15/Rev.1) and the United States (SCM/1/Add.3/Rev.1 and Corr.1). The Committee also discussed some points related to the legislation of Chile.

6. Some signatories drew the Committee's attention to certain provisions in domestic legislation of some other signatories which they considered were inconsistent with the Agreement and urged those signatories to ensure the full conformity of their legislation with the Agreement. It was agreed that signatories to which comments concerning their legislation were addressed would consider them. Some signatories reserved their right to revert to particular aspects of the national legislations at a later stage or in the light of their practical implications. The Committee therefore agreed to maintain on its agenda the examination of national legislations.

III. Semi-annual reports on all countervailing duty actions

7. 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). During the period under review, the following reports have been submitted and circulated to the Committee:

- (a) reports for the period 1 July 1984-31 December 1984 have been circulated in addenda to SCM/59. The following signatories have notified the Committee that they have not taken any countervailing duty action during that period: Austria, Brazil, the EEC, Egypt, Finland, India, Japan, Korea, New Zealand, Norway, Pakistan, Portugal, Spain, Sweden, Switzerland, United Kingdom on behalf of Hong Kong, Uruguay and Yugoslavia (Add.1). Countervailing duty actions have been notified by Australia (Add.2); Canada (Add.5/Rev.1); Chile (Add.3); and the United States (Add.4).
- (b) reports for the period 1 January 1985-30 June 1985 have been circulated in addenda to SCM/66. The following signatories have notified the Committee that they have not taken any countervailing duty action during that period: Brazil, Egypt, Finland, India, Indonesia, Japan, Korea, New Zealand, Norway, Pakistan, Philippines, Spain, Sweden, Switzerland, Turkey, United Kingdom on behalf of Hong Kong, Uruguay and Yugoslavia (Add.1). Countervailing duty actions have been notified by Australia (Add.2/Rev.1), Canada (Add.6), Chile (Add.5), the EEC (Add.3) and the United States (Add.4/Rev.1). No report has been received from Austria.

The Committee has examined these reports. A number of comments on particular cases were made and explanations given. The Committee decided to revert to some of those explanations at its subsequent meetings. A table summarizing the cases where investigations have been opened and provisional or final actions taken during the period 1 July 1984-30 June 1985 is reproduced in the Annex I.

IV. Reports on all preliminary or final countervailing duty actions

8. Notifications under these procedures have been received from Canada, the EEC and the United States and circulated in documents SCM/W/82, 88, 90, 92, 93 and 95.

V. Notification of subsidies

9. In accordance with the Decision of the CONTRACTING PARTIES at their twentieth session (BISD, Eleventh Supplement, page 58), contracting parties should submit, every third year, new and full responses to the questionnaire on subsidies (BISD, Ninth Supplement, pages 193-'94) and bring these notifications up-to-date in the intervening years. Full notifications have been due in 1984 and updating notifications in 1985. The present status of notifications by signatories is reproduced in Annex II.

10. The Committee held a special meeting on 4-5 December 1984 to examine notifications under Article XVI:1. It noted that all signatories, except one, submitted their full notifications due in 1984. A number of questions were raised and clarification sought regarding individual notifications. This discussion continued at the regular session of the Committee on 26 April 1985. The Committee agreed that at every autumn session an item would be included in the agenda to examine the situation in the field of notifications and that every three years, i.e. after new and full notifications have been submitted, the Committee would have a detailed examination of those notifications.

11. At its meeting of 4 December 1984 the Committee authorized the Chairman to establish a small group of experts comprised of representatives who had made or would make comments on issues listed in SCM/49 with the task of working out a set of draft guidelines on notifications and submitting them to the Committee for consideration at its October 1985 meeting. This group has so far been unable to agree on any guidelines and should therefore continue its work and report to the Committee at its April 1986 meeting.

VI. Group of Experts on the calculation of the amount of a subsidy

12. The Group of Experts on the calculation of the amount of a subsidy, established by the Committee at its May 1980 meeting, submitted the following draft guidelines:

- (a) Amortization and Depreciation (SCM/W/83)
- (b) Application of the Concept of Specificity in the Calculation of the Amount of a Subsidy (SCM/W/89)
- (c) Physical Incorporation (SCM/W/74/Rev.1)

13. The Committee adopted the guidelines on Amortization and Depreciation (circulated in SCM/64) and Physical Incorporation (circulated in SCM/68).

VII. Dispute settlement procedures

14. The following dispute settlement cases are pending in the Committee:

- (a) Report of the Panel on the EEC subsidies on export of wheat flour (SCM/42) submitted to the Committee on 21 March 1983.
- (b) Report of the Panel on the EEC subsidies on export of pasta products (SCM/43) submitted to the Committee on 19 May 1983.

These reports deal with fundamental issues bearing, respectively, upon the interpretation of Article 10 and the application of Article 9 of the Agreement. As there have been divergent perceptions in the Committee in this respect, it has not been possible, so far, to adopt these reports (see also Chapter VIII below).

- (c) At its meeting of 18 November 1983 the Committee examined a request from the United States to undertake conciliation under Article 17:1 of the Agreement pursuant to the US complaint concerning the granting of subsidies by Brazil and the EEC on the export and production of poultry. The Committee authorized the Chairman to organize informal consultations with interested signatories, without prejudice to any legal positions delegations may have in the Committee. There have been five rounds of such informal consultations, but they have been suspended since December 1984.

15. At the November 1984 meeting of the Committee the EEC delegation expressed its very serious concern regarding the definition of industry concerning wine and grape products in the US Trade and Tariff Act of 1984, which, it considered, departed in a significant way from the Agreement's definition of industry. The matter referred to the Committee by the EEC (SCM/54) was discussed at its meetings of 6 December 1984 (SCM/M/22), 7 January 1985 (SCM/M/23), 15 February 1985 (SCM/M/25) and 4 October 1985 (SCM/M/29). At the meeting of 15 February 1985 the Committee established a panel, the terms of reference of which were decided at the meeting of 4 October 1985 by the Chairman. The Panel will shortly begin the examination of the EEC complaint.

VIII. Uniform interpretation and effective application of the Agreement

16. The Committee discussed problems which have arisen regarding uniform interpretation and effective application of the Agreement. Many signatories recognized the importance of the efficient functioning of the Committee and expressed a strong wish to render the Code and its dispute settlement procedure fully operational. In this relation they considered that document SCM/53 would constitute a good basis for concrete discussions. Other signatories expressed the view that since most problems raised in document SCM/53 are related to subsidies in agriculture it would be better if they were examined by the Committee on Trade in Agriculture. However, a number of signatories considered that the Committee on Subsidies and Countervailing Measures had well-defined responsibilities regarding subsidies and that signatories had an obligation to ensure that these responsibilities be effectively discharged in this Committee.

IX. Special meetings of the Committee held in pursuance of the decision of the CONTRACTING PARTIES of 30 November 1984 (L/5756) and draft procedures concerning commitments under Article 14:5 (SCM/W/86/Rev.2)

17. The CONTRACTING PARTIES had invited, by their decision (L/5756), inter alia, the Committee on Subsidies and Countervailing Measures to hold a special meeting to examine the adequacy and effectiveness of the Agreement and obstacles to acceptance which contracting parties may have faced. This invitation coincided with some action which had been taking place in the Committee since the November 1983 meeting (when the observer for Colombia had raised some problems related to the difficulties his country and other

developing countries were facing in their efforts to accede to the Agreement) and which resulted in a draft procedure for commitments under Article 14:5 (SCM/W/86/Rev.2), worked out by the Chairman in consultation with some signatories and observers.

18. The Committee examined these issues at its special meetings of 19 March and 26 April 1985. Some signatories considered that the procedures as drafted did not adequately address the basic problem relating to one signatory's non-application of the Agreement with respect to those developing country signatories which did not submit what it considered to be a satisfactory commitment under Article 14:5 and that the draft procedures could affect the balance of their rights and obligations. Interested developing country observers, however, supported the adoption of the draft procedures. The Committee was unable to agree on the procedures and, in the absence of any other concrete proposal, requested the Chairman to hold further consultations. The Committee will revert to the matter at a future meeting.

X. Other activities of the Committee

19. At its meeting of 25 April 1985 the Committee took note of commitments made pursuant to Article 14:5 by Turkey (SCM/61), Indonesia (SCM/62) and the Philippines (SCM/63), which were made upon accession of these countries to the Agreement.

20. At its meeting of 23 October 1985 the Committee took note of a commitment made pursuant to Article 14:5 by Israel (SCM/67).

21. According to the terms of acceptance by the Committee of their respective reservations, New Zealand (SCM/12) and Spain (SCM/25) have withdrawn their reservations.

22. One signatory raised problems relating to the acceptance of requests for initiation of countervailing duty investigations, allegedly made on behalf of an industry.

ANNEX I

Summary of Countervailing Duty Actions

Reporting country	Reporting period	Initiation		Provisional Measures		Definitive duties		Price undertakings		Outstanding cvd actions
		No.	Countries ¹ involved	No.	Countries ¹ involved	No.	Countries ¹ involved	No.	Countries ¹ involved	
Australia	1.7.1983-30.6.1984	3	FR(2) NO	6	DE(2) DK(2) FR NL	-		-		2
	1.7.1984-30.6.1985	5	IT NZ(4)	3	GR IT NO	1	GR	3	FR IT NO	1
Canada	1.7.1983-30.6.1984	3	DK CE NL	3	DK CE NL	-		-		3
	1.7.1984-30.6.1985	2	BR ES	2	BR ES	3	DK CE ES	-		3
CE ²	1.7.1983-30.6.1984	1	BR	1	ES	2	BR ES	-		n.a.
	1.7.1984-30.6.1985	-		-		-		-		4
Chile	1.7.1983-30.6.1984	20	AR BR(12) ES(6) PE	-		-		-		n.a.
	1.7.1984-30.6.1985	10	AR(3) BR(3) CO KR PE TW	-		-		-		n.a.

ANNEX I (cont'd)

Reporting country	Reporting period	Initiation		Provisional measures		Definitive duties		Price undertakings		Outstanding cvd actions
		No.	Countries ¹ involved	No.	Countries ¹ involved	No.	Countries ¹ involved	No.	Countries ¹ involved	
US	1.7.1983-	22	AR AU BR(3) CN CS DD ES(2) IS IT MX(6) PE PK PL ZA	17	AR BR ES(2) IS IT MX(6) PE PH PK SG TT	11	AR BR ES IT MX(3) PH PK TT ZA	-		56
	30.6.1984									
US	1.7.1984-	60	AR(3) AT(2) BR(6) CA CO(2) CR ES(2) ID(2) FR LK(2) KR(4) MY(2) MX(7) NZ(2) PA(2) PE(3) PH(2) PT(3) SE SG(2) TH(3) TR(2) VE(4) ZA	39	AR(3) AT(2) BR(4) CA CO(2) CR ES(3) ID(2) KR(3) LK(2) MY MX(4) NZ(2) PE PH(2) SE TH(3) TR VE	21	AR(3) BR(2) CA ES(2) IS KR(2) LK(2) MX(5) PE(2) TH	6	BR CO(2) CR PE TH	86
	30.6.1985									

¹ Countries or customs territories. The abbreviations used are those adopted by the ISO. AR=Argentina, AT=Austria, AU=Australia, BE=Belgium, BR=Brazil, C1=Canada, CE=EEC, CH=Switzerland, CL=Chile, CN=China, CO=Colombia, CR=Costa Rica, CS=Czechoslovakia, DD=German, Dem.Rep.; DE=Fed.Rep. of Germany, DK=Denmark, ES=Spain, FI=Finland, FR=France, GB=United Kingdom, GR=Greece, HK=Hong Kong, HU=Hungary, ID=Indonesia, IN=India, IS=Israel, IT=Italy, JP=Japan, KR=Korea, LK=Sri Lanka, LU=Luxembourg, MX=Mexico, MY=Malaysia, NL=Netherlands, NO=Norway, NZ=New Zealand, PA=Panama, PE=Peru, PH=Philippines, PK=Pakistan, PL=Poland, PT=Portugal, QA=Qatar, RO=Romania, SE=Sweden, SG=Singapore, SU=USSR, TR=Turkey, TT=Trinidad and Tobago, TW=Taiwan, US=United States, UY=Uruguay, YU=Yugoslavia, ZA=South Africa.

² Actions taken with respect to the Signatories only.

Note: Numbers in brackets indicate the number of products subject to countervailing duty.

ANNEX II

Status of Notification under Article XVI:1
by Signatories to the Agreement

Status on 1 November 1985

	Full (1984) notifications L/5603	Updating (1985) notifications L/5768
Australia	Add.18	Add.6
Austria	Add.11 + Suppl.1	Add.7
Brazil	Add.26/Rev.1	X
Canada	Add.20	X
Chile	Add.1	Add.3
Egypt	*	
Finland	Add.16	Add.10
India	Add.6	X
Indonesia	Add.28	L/5603/Add.28
Israel	*	
Japan	Add.25	X
Korea	Add.13	X
New Zealand	Add.22	Add.9
Norway	Add.10	X
Pakistan	Add.23	X
Philippines	Add.29	L/5603/Add.29
Portugal	Add.27	X
Spain	Add.24	Add.4
Sweden	Add.21	X
Switzerland	Add.12	Add.11
Turkey	*	
UK/Hong Kong	Add.3	Add.2
United States	Add.9	X
Uruguay	Add.14	X
Yugoslavia	Add.19 + Suppl.1+2	Add.1
European Economic Community	Add.15 + Suppl.1	Add.8
Belgium	XX + Suppl.1	X
Denmark	XX	X
France	XX	X
Germany, F.R.	XX + Suppl.1	X
Greece	XX	X
Ireland	XX	X
Italy	XX	X
Luxembourg	XX	X
Netherlands	XX	X
United Kingdom	Add.8	X

* - no full notification submitted

X - no changes to the full notification reported

XX - subsidies concerning products covered by the CAP have been notified in document L/5603/Add.15. Measures applied in the industrial sector at the EEC level have been notified in Add.15/Suppl.1.