

Committee on Subsidies and
Countervailing Measures

DRAFT REPORT (1988) 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 1988 the following were the signatories of the Agreement: Australia, Austria, Brazil, Canada, Chile, Egypt, the European Economic Community, Finland, Hong Kong, India, Indonesia, Israel, Japan, Korea, New Zealand, Norway, Pakistan, Philippines, Spain, Sweden, Switzerland, Turkey, United States and Uruguay. Yugoslavia signed the Agreement subject to ratification. Some signatories do not apply the Agreement in their mutual relations and some other signatories apply it 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 [seven] meetings: on 9 December 1987 (SCM/M/36), 3 February 1988 (SCM/M/37), 31 May 1988 (SCM/M/38), 14 July (SCM/M/39), 6 October 1988 (SCM/M/40), [26 October 1988 (SCM/M/41) and 27 October 1988 (SCM/M/42)].

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

II. Notification and examination of countervailing duty laws and/or regulations of signatories of the Agreement (Article 19:5)

4. As of 15 October 1988, twenty-two signatories have submitted their legislation concerning countervailing duty procedures or made communications in this respect to the Committee (SCM/1 and addenda). Three 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 received new notifications regarding amendments to countervailing duty laws and/or regulations from the following signatories:

- Australia: Anti-Dumping Authority Act 1988, Customs Legislation
(Anti-Dumping) Amendment Act 1988, Customs Tariff
(Anti-Dumping) Amendment Act 1988
(SCM/1/Add.18/Rev.1/Suppl.2)
- EEC: Council Regulation (EEC) N° 2423/88 of 11 July 1988 on
protection against dumped or subsidized imports from
countries not members of the European Economic Community and
Commission Decision N° 2424/88/ECSC of 29 July 1988 on
protection against dumped or subsidized imports from
countries not members of the European Coal and Steel
Community (SCM/1/Add.1/Rev.1)
- New Zealand: Part VA (revised) of the Customs Act 1966
(SCM/1/Add.15/Rev.2)

6. At its two regular meetings held during the period under review the Committee reverted to and concluded its examination of the countervailing duty legislation of Brazil (Decree N° 93.962 of 22 January 1987, SCM/1/Add.26/Suppl.1), Korea (Article 13 of the Customs Act and Article 4-13 of the Presidential Decree of the Customs Act, SCM/1/Add.13/Rev.2), Japan (Guidelines for the Conduct of Countervailing Duty Investigations SCM/1/Add.8/Suppl.1), Pakistan (Ordinance No. III of 1983, SCM/1/Add.24) and [the Philippines (Section 302 of Presidential Decree No. 1464 and Department of Finance Order No. 300, SCM/1/Add.23).] In addition, the Committee started its examination of the notifications listed in the preceding paragraph.

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/79). During the period under review, the following reports have been submitted and circulated to the Committee:

- (a) reports for the period 1 July 1987-31 December 1987 have been circulated in addenda to SCM/86. The following signatories have notified the Committee that they have not taken any countervailing duty action during that period: Austria, Brazil, Chile, the EEC, Finland, Hong Kong, India, Israel, Japan, Korea, Norway, Pakistan, the Philippines, Switzerland, Turkey, Uruguay and Yugoslavia (Add.1).

* The Committee may revert to particular aspects of any legislation or implementing regulations at a later stage or in the light of their practical implementation.

Countervailing duty actions have been notified by Australia (Add.5); Canada (Add.3); New Zealand (Add.2) and the United States (Add.4). No report has been received from Indonesia, Sweden and Egypt.

- (b) reports for the period 1 January 1988-30 June 1988 have been circulated in addenda to SCM/88. The following signatories have notified the Committee that they have not taken any countervailing duty action during that period: Austria, Brazil, Canada, Chile, Egypt, Finland, Israel, Japan, Norway, Sweden and Switzerland (Add.1). Countervailing duty actions have been notified by New Zealand (Add.2), Australia (Add.3) and the United States (Add.4). No report has been received from the EEC, India, Indonesia, Korea, Pakistan, Turkey and Uruguay.

8. The Committee has examined these reports. A table summarizing the cases where investigations have been opened and provisional or final actions taken during the period 1 July 1987-30 June 1988 is reproduced in Annex I.

IV. Reports on all preliminary or final countervailing duty actions

9. Notifications under these procedures have been received from New Zealand and the United States and circulated in documents SCM/W/148, 150, 152, 153, 155 156, 158 and 159.

V. Notification of subsidies

[To be added]

VI. Dispute settlement procedures

10. Four of the five panels reports which since the entry into force of the Agreement in 1980 have been submitted by respective panels, have not been adopted by 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.
- (c) Report of the Panel on the US definition of industry concerning wine and grape products (SCM/71) submitted to the Committee on 24 March 1986.
- (d) Report of the Panel on the Imposition by Canada of countervailing duties on imports of boneless manufacturing beef from the EEC (SCM/85).

11. The report under (d) above was discussed by the Committee at its special meetings of 9 December 1987, 3 February 1988 and 14 July 1988 and at its regular session of 31 May 1988.

12. At the meeting of 31 May 1988 the Chairman stated that the implementation of the dispute settlement mechanism in the Committee continued to deteriorate. Both the rules on the use of subsidies and on the application of countervailing measures were subject to divergent interpretations. In the course of last year he had offered his good offices, believing that despite the existence of important divergencies, there was enough political will to make a common effort to overcome the deadlock situation in which the Committee found itself. He offered some suggestions regarding the manner in which the Committee could try to resolve the problem of the four pending Panel Reports. No follow-up was, however, given to these suggestions.

13. The Committee held a special meeting on 14 July 1988 to consider the request by Brazil for conciliation under Article 17:1 of the Agreement. This request concerned the collection by the United States of countervailing duties on entries of non-rubber footwear from Brazil (SCM/87). As the matter remained unresolved, notwithstanding efforts at conciliation, the Committee established, at its meeting of 6 October 1988, a panel and agreed on its terms of reference. The Committee authorized the Chairman to decide, after securing the agreement of the signatories concerned, on the composition of this panel.

VII. Other activities of the Committee

14. The Committee was unable to adopt the Draft Guidelines on the Application of the Concept of Specificity (SCM/W/89) but at its meeting of 31 May 1988 expressed its desire that the principles contained in the Draft Guidelines continue to be applied by all signatories.

14. The Committee discussed the following issues:

- (i) United States - countervailing duty investigation of imports of fresh cut flowers from various countries.
- (ii) United States - countervailing duty investigation of imports of granite from Italy.
- (iii) United States - initiation of a countervailing duty investigation of imports from Canada of thermostatically controlled appliance plugs and internal probe thermostats therefor.
- (iv) Canada - countervailing duty investigation on imports of drywall screws from France.
- (v) Canada - countervailing duties on imports of grain corn from the United States.
- (vi) New Zealand - countervailing duty investigation of imports of edible rape seed oil from the Federal Republic of Germany and the Netherlands.

ANNEX I

Summary of Countervailing Duty Actions
1 July 1987-30 June 1988

[to be added]

ANNEX II

Notifications under Article XVI:1 of the General Agreement
by Signatories of the Code on Subsidies and
Countervailing Measures (1987 and 1988)

| | L/6111 full notifications | L/6297 up-dating notifications |
|---------------|---------------------------------|--------------------------------------|
| Australia | Add.14 | Add.9 |
| Austria | Add.16 | Add.3 |
| Brazil | Add.6 | |
| Canada | Add.5 | Add.8 |
| Chile | Add.9 | Add.7 |
| Egypt | Add.24 | |
| Finland | Add.2 + Suppl.1 | |
| Hong Kong | Add.1 | Add.1 |
| India | Add.4 | |
| Indonesia | None | |
| Israel | Add.23 | |
| Japan | Add.22 | |
| Korea | Add.12 | |
| New Zealand | Add.20 | |
| Norway | Add.21 | Add.6 |
| Pakistan | None | |
| Philippines | Add.18 | |
| Spain | None | |
| Sweden | Add.15 | |
| Switzerland | Add.13 | |
| Turkey | Add.7 | |
| United States | Add.17 | |
| Uruguay | Add.8 | Add.2 |
| Yugoslavia | Add.11 | Add.5 |

| | L/6111 full notifications | L/6297 up-dating notifications |
|------------------|---------------------------------|--------------------------------------|
| EEC ¹ | Add.19 | |
| Belgium | | |
| Denmark | | |
| France | | |
| Germany, F.R. | | |
| Greece | | |
| Ireland | | |
| Italy | | |
| Luxembourg | | |
| Netherlands | | |
| Portugal | | |
| Spain | | |
| United Kingdom | | |

¹ Document L/6111/Add.19 covers measures applied at the EEC level concerning products covered by the common agricultural policy and measures applied or authorized by the EEC and the ECSC in the industrial sector.