

# GENERAL AGREEMENT ON TARIFFS AND TRADE

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## Multilateral Trade Negotiations

### Group "Non-Tariff Measures"

#### Sub-Group on Subsidies and Countervailing Duties

### SUBSIDIES AND COUNTERVAILING DUTIES

#### Australia

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 Australia and is reproduced hereunder.
3. Delegations who wish to respond to these invitations are requested to do so without delay.

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1. The problems posed by subsidies for international trade are quite general and are experienced across the whole spectrum of world traded products, whether primary or non-primary. However, subsidies are most extensively used and their consequences are most severe in the agricultural sector, and it is to this sector in particular that the following comments refer.

2. The subsidy practices of certain major developed countries have been of enduring concern to Australia. They have resulted in the partial or total loss of markets in those countries themselves, and in disruption to Australia's exports to third countries. This latter disruption has included loss of market shares and reductions in the prices at which commodities are traded.

3. Subsidies which have an impact on world trade may be divided into two categories: domestic or internal subsidies and direct subventions on exports. In agriculture, domestic subsidies take various forms, e.g. deficiency payments, intervention purchasing, subsidies on inputs. They are usually operated in combination with other measures such as levies, QRs or State trading and their significance in the overall protective régime varies according to country. In cases where countries protect local production by frontier controls subsidies may not, by comparison, be a major element in the protective régime. In other cases, where e.g., governments wish to keep prices to consumers low, assistance to producers may be by direct treasury disbursement rather than frontier protection, and the subsidy element in the protective régime is proportionately higher. Hence whilst reductions in subsidies would have to be an element in any meaningful liberalization of access to developed country markets, the extent to which this is so depends on the particular régime.

4. Where production benefiting from domestic subsidies is exported, such subsidies may also have trade distorting effects in third markets. However, direct export subsidies - those which reduce the price of goods for export - have caused far more disruption to international trade than domestic subsidies. The need for them arises because production costs in the developed countries referred to above is so high that otherwise the produce could not be disposed of on commercial markets. In this way problems arising from the domestic welfare and support policies of certain countries are passed on to the international community for it to cope with as it can.

5. As regards direct export subsidies, the particular mechanisms employed by these countries have not been merely static in effect, i.e., they have tended to win increasing shares of world trade for the subsidizing countries. This happens because, for many products, all surplus production generated by an internal guaranteed price is eligible for export subsidy, even though calculation of the internal price does not reflect in any significant way movements in the world price. Further, there is often no clearly established limitation on the amount of government funds that can be used for export subsidy purposes. In this way surplus production for export can increase quite independently of world market conditions. It is therefore not surprising that encroachment on the markets of the more efficient suppliers has been a dynamic process, and there is no end in sight.

6. The effect of subsidization on world commodity prices is possibly even more important than the distortion it causes to trading patterns. As inefficient suppliers enter and increase their share of markets by use of subsidies, there is heavy pressure on efficient suppliers to react defensively with subsidies of their own. Whilst this action may enable market shares to be maintained, it also

results in a general, and often severe, downward pressure on prices for many major world traded commodities. As these cycles of competitive subsidization proceed, the notion of a "commercial" world price becomes lost. In these circumstances it is irrelevant to argue that subsidization is designed only to meet world prices and not to get under them.

7. Australia would in any case challenge the claim of some high cost producers that their subsidies are not of a predatory character. For example, there are subsidy systems where the size of the export subsidies varies according to particular markets and where the subsidy can be taken up at any time over quite a long period (up to twelve months). Such systems seem to offer maximum opportunity (indeed incentive) to traders to undercut competition.

8. The extent to which countries can protect their trading positions by use of subsidies varies significantly. Some countries are able to pay out large export subsidies because agricultural exports are only a small proportion of total exports, and a relatively small proportion of producers income depends on exports. However in Australia's case, there are significant constraints on the extent of the defensive subsidization to which she can resort. These constraints arise from the facts that over half her exports comprise agricultural commodities and about 60 per cent of Australian farmer's incomes derive from exports. Subsidization on the scale possible to other countries would thus impose intolerable financial strains on Australia. Accordingly there are strict limits on government funding, and consideration of possible aid to producing or exporting industries is subject to public examination and justification before an independent body, the Industries Assistance Commission. This means that subsidized competition from other countries may well exceed what Australia can match with the result that Australia cannot fully exploit her most competitive industries, and may even have to move resources out of them.

9. Subsidization in international trade can have other, quite anomalous, results. For example it might be argued that whatever their undesirable effects, subsidies at least make available cheap produce to the consumer. But this is not the case where governments intervene to ensure that imports are not lower in price than domestic production (e.g. by use of levies or State-trading operations). In such cases subsidization simply amounts to a transfer of funds from one country's treasury to another's, with no benefit reaching the consumer. The distortion is compounded when import levies are used to finance export subsidies.

#### Solutions

10. Australia does not wish at this stage to propose in detail how these complicated problems might be tackled but merely to indicate the general direction in which the Group's work might head.

11. There are two GATT provisions governing the use of agricultural export subsidies and neither has been effective in controlling the situation described in the preceding paragraphs. Article XVI:3 discourages but does not prohibit countries from using agricultural subsidies. If they do, then the subsidies must not be such as to gain "more than an equitable share of world trade". The principal defect of this provision is that damage must occur to a country's markets before it can complain. Apart from that, it is virtually unworkable in practice because the only way of establishing what is "equitable" is to calculate what share of the trade countries would have in the absence of subsidies (and other distorting factors) and these are exhypothesi present. Moreover it has nothing to say on the price effects of subsidization.

12. The other relevant provision is Article VI which allows the imposition of countervailing duties where subsidies cause damage to domestic industry. This provision has proven an inadequate deterrent to the use of subsidies. It does not take sufficient account of the fact that, at least in agricultural trade, subsidized competition usually occurs in third markets, where the importing country has no real interest in taking countervailing action. Moreover, subsidies are often not clearly identifiable and, even if they are, are hard to quantify.

13. How can the GATT rules be reformed? One obvious move would be to tighten up Article XVI:3. For example its provisions ought to be obligatory, just as are those of Article XVI:4. This would go some way to meeting the problems of third country subsidization, and the inadequacy of existing countervail provisions to deal with them. Again, like Article XVI:4, it should not merely aim to regulate the effects of subsidies, but rather, should categorize the general characteristics in terms of which subsidy practices ought to be prohibited. Even adoption of the simple two price criterion of Article XVI:4 would be a major advance if it were applied to agricultural subsidization.

14. Australia sees this sort of general "in principle" approach as complementary to the proposal that various forms of subsidy practices be categorized as prohibited, permissible, and permissible only under certain conditions. The danger with an exclusively general regulation covering subsidies is that it will never be applied to concrete practices. On the other hand it will not do to simply list banned practices, since others can always be invented to take their place. Hence in our view these two approaches are not antipathetic, indeed could work very well in tandem.

15. If new GATT rules were effective in preventing the use of trade distorting subsidies, countervailing action would be unnecessary. In practice, however, countervailing provisions could be a useful means of both ensuring that the rules

are followed and in compensating for any deficiencies in those rules. As they stand the countervailing provisions of Article VI are permissive - i.e., a country need not take countervailing action against subsidized imports, but may if it so wishes. As such, Article VI has been quite ineffective in deterring subsidized disruption in third country markets. For this reason consideration ought to be given to whether and how these provisions could be made obligatory.