

GENERAL AGREEMENT ON TARIFFS AND TRADE

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SUBSIDIES AND COUNTERVAILING DUTIES

Hungarian Proposal on Chapter VII of MTN/NTM/W/168

The following statement and proposal is circulated at the request of the Hungarian delegation.

During the negotiations of the draft code on subsidies and countervailing measures several participating countries in the MTN, among them the Hungarian delegation, too, reserved their position on the proposal contained in Chapter VII in document MTN/NTM/W/168 titled as "State controlled economy countries".

At the present stage of negotiations the Hungarian delegation deems it proper to elaborate on its position and to submit a respective proposal.

1. Chapter VII of the draft intends to introduce in the code the term of "State controlled economy countries" which has no meaning within the terms of the GATT. GATT, as a legal instrument, does not recognize such a term. Therefore any issue relating to the draft code which meant to be - being negotiated in the GATT context - a legal instrument, too, should not be approached from any but a juridical point of view.

2. Chapter VII of the draft code suggests that the determination of the existence and/or the amount of a subsidy could be made on any reasonable basis. This approach is unacceptable because it would give to the importing countries an uncontrollable possibility to pass unilateral and arbitrary judgements on the existence of subsidies on the basis of which they would enjoy a complete freedom to introduce countervailing measures. Such an approach cannot be accepted because it would jeopardize the necessary balance of rights and obligations between the participants.

3. Consequently the Hungarian delegation is not in a position to accept Chapter VII of the present draft code and requests its deletion. The Hungarian delegation, however, does not deny the possibility of the existence of actual

cases where the existence and/or the amount of subsidy cannot be determined, or that difficulties may exist at the determination of subsidies. The Hungarian delegation wishes to co-operate on the solution of this problem and proposes therefore that instead of the present Chapter VII the following interpretative note to Chapter II "Application of Article VI" (page 3, MTN/NTM/W/168) should be inserted:

"In examining concrete cases of injury caused by imports where the existence and/or amount of subsidy cannot be determined, the amount of countervailing duties in any such cases will be determined on the basis of comparison of export price with the export prices of identical or similar goods at which they are sold by third exporting countries at comparable level of economic development to the country of importation or other importing countries. Due allowances shall be made for differences in terms of sale including quantity and quality and for any other difference which might affect price comparability."