

**MULTILATERAL TRADE
NEGOTIATIONS
THE URUGUAY ROUND**

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and Countervailing Measures

COMMUNICATION FROM THE NORDIC COUNTRIES

The following communication has been received from the Nordic countries with the request that it be circulated to the members of the Group.

General¹

The MTN Agreement on Subsidies and Countervailing Measures, that was achieved in the Tokyo Round after difficult negotiations was certainly a significant step forward and an important improvement to the then existing disciplines. However, it was necessarily a compromise reflecting the different standpoints and views that still today prevail among the Code signatories on government aid in general.

Quite evidently the Code has had certain positive effects on the use of subsidies and countervailing measures but it is also evident that there still exist unresolved problems. Competitive subsidization continues to be a pressing problem in world trade. There are still deficiencies both in the use of internal subsidies and in the application of countervailing measures.

The Code covers quite effectively the use of clear-cut export subsidies whereas the practice as to domestic subsidies has not always been in conformity with the agreed rules. Reasons for imperfections in the functioning of the disciplines seem to lie particularly in differing interpretations made possible by the ambiguity of the rules, lack of discipline but also in weaknesses of the Code.

The problems and difficulties arising from the present application of the disciplines are well reflected in the various negotiating proposals

¹The Nordic countries recall that in accordance with the Ministerial Declaration the primary responsibility for negotiations on agriculture rests with the Negotiating Group on Agriculture. Consequently, this paper is limited to government aid to industry.

already presented, as well as in the background documentation prepared by the secretariat. Therefore the Nordic countries wish to draw attention only to some issues and aspects that in their view merit particular consideration in the substantive negotiations. We anyhow reserve our rights to revert to other aspects later, if needed.

The point of departure for the review and consequent further development and clarification of disciplines on subsidies and CVD action should be the existing GATT rules, particularly the Code. Furthermore, it is important to maintain the delicate balance in the Code when we try to develop and improve it further.

Effect of subsidies

The Code quite rightly intends not to restrict the right of signatories to use other subsidies than export subsidies as legitimate instruments for the promotion of important social and economic policy objectives which are given the form of, e.g. regional development, employment policy programmes, structural adjustment, research and development schemes. Furthermore, it is also stated in the Code, that the type of the subsidy is not decisive when the possible adverse effects of a subsidy on other signatories are assessed. Subsidies not having adverse effects on trade naturally give no grounds for CVD action.

Domestic subsidies should aim at reducing the disadvantages the beneficiary has to bear as a consequence of, e.g. commitments related to location or adjustment measures it undertakes to fulfil. A subsidy should thus not create any additional economic advantage to improve the competitive standing of the beneficiary.

It is quite evident that present rules or at least their application leave rather ample room for manoeuvre for the signatories wishing to take recourse to subsidies despite their distortive effects. The existing rules or their poor observance have not succeeded in keeping the Government aid systems within agreed disciplines. Elementary transparency has often been lacking and even cases where internal subsidies have had the effect of an export subsidy are not so uncommon.

The Nordic countries will consider whether improved transparency is sufficient to forestall arbitrary use and to minimize trade distortive effects of internal subsidies. If deemed necessary we would revert to this issue at a later stage. A review of the existing GATT rules, on subsidies and countervailing action with a view to clarifying and strengthening disciplines should serve to this end.

As the negotiations proceed there may also be need for a closer look at the provisions on export subsidies and the illustrative list at a later stage.

CVD action

Stricter discipline and application as well as clarified interpretations of internal subsidies must also be reflected in the CVD procedures and practices where the actual application gives rise to concern, particularly to small exporting countries. It could be argued that CVD measures have also been used to give temporary relief from import competition for an industry or particular enterprise(s) suffering from declining or lost competitiveness.

There seems to be need for clarification or development of rules on questions like initiation and conduct of an investigation, imposition of countervailing duties, lack of sunset clauses and cumulation of injury. How to secure the interests of the exporter, especially where the investigation proves the case to be unfounded, also deserves attention and improvement, particularly some kind of compensation arrangements might be envisaged with the aim of raising the threshold for the initiation of investigations. In many cases the threshold seems to have been arbitrarily low indeed, as also demonstrated by the great number of negative findings.

Transparency and notification

As stated above, the approach of focusing on trade effects of a subsidy measure necessarily requires sufficient transparency which the existing rules and practice seem not to provide.

Increased transparency, and better monitoring of subsidies could be achieved and facilitated through development of the notification procedures and practise. A first step should be that all parties would notify and supply appropriate information on their subsidies. In addition, more detailed guidelines on the coverage and contents as well as the form and frequency of the notifications could include more specific information on the government aids (objective, type, possible conditions attached) to facilitate the examination procedures. A thorough examination of the notifications of subsidies as that of CVD measures would improve the possibilities to come to grips with and consequently to reduce government aids that constitute trade barriers or promote unfair conditions of competition.