

**MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND**

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Group of Negotiations on Goods (GATT)  
Negotiating Group on Subsidies  
and Countervailing Measures

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COMMUNICATION FROM AUSTRALIA

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

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1. In accordance with the agreed negotiating plan for the Group on Subsidies and Countervailing Measures, Australia submits the following proposals regarding the work of the Group, without prejudice to the possibility of providing further details or of submitting additional issues at a later stage.

Negotiating Objectives

2. Australia strongly supports the negotiating objective of improving (i.e. significantly strengthening) GATT rules and disciplines on all subsidies and countervailing measures that affect international trade. Australia wishes to emphasise that, to be effective, these strengthened rules and disciplines must cover production and other domestic subsidies as well as direct export subsidies, with the burden of discipline more weighted against the subsidiser than is now the case.

3. In support of this objective, Australia believes that the Negotiating Group should focus on securing improvements in those GATT Articles which relate to subsidies and

countervailing measures and in the Subsidies Code. Priority attention should be given to:

- developing disciplines on the use of subsidies on primary products that are at least as rigorous as those applying to non-primary products including, in particular, an effective prohibition on all export subsidies;
- developing more effective disciplines on subsidies other than export subsidies, through for example amending Article XVI:1 of the GATT and Article 11 of the Code;
- reviewing existing countervailing procedures and mechanisms with the aim of enhancing their effectiveness while ensuring that they cannot be used as unwarranted barriers to trade;
- improving the provisions relating to notification of subsidies with the aim of establishing more clearly those measures for which notification is required;
- the establishment of multilateral surveillance of adherence to the rules, disciplines and procedures in respect of subsidies;
- developing more effective dispute settlement procedures.

#### Definition of a Subsidy

4. Australia believes that agreement on the definition of a subsidy is not a prerequisite to the development of effective disciplines on the use of subsidies. Australia agrees with other participants that the Group will need to address the important issue of developing an agreed definition of a

subsidy. However, experience has shown that this will be a complex and protracted process and the consideration of this issue should not and need not become an impediment to progress in the Group.

5. Australia considers that a direct cost to Government should not necessarily be the only criterion used in identifying a countervailable subsidy. For example, a variety of selectively applied measures which do not make a direct claim on Government expenditure may still represent subsidies that affect trade.

6. While there may be merit in distinguishing between subsidies and incentives, there are obvious problems inherent in distinguishing between the two categories solely on the basis of intention while ignoring any trade-distorting effects.

#### Subsidies Other Than Export Subsidies

7. Australia considers that there is a need to develop effective disciplines for production and other domestic subsidies which directly or indirectly affect trade, and that this should be a high priority for the Negotiating Group. This could entail negotiating new disciplines on the use of such subsidies, and Australia may wish to submit further proposals on those aspects.

8. Australia is of the opinion that the current provisions regarding limiting or removing subsidies which nullify or impair benefits or which cause "serious prejudice" (Article XVI:1 of the GATT and Article 8 of the Code) are inadequate. These provisions should be amended to impose a clear obligation on the subsidising country to remove the cause of the nullification or impairment or the prejudice. Action taken in this regard should be subjected to effective multilateral surveillance.

9. In addition to strengthening the above provisions, it should be agreed that any domestic subsidies which demonstrably restrict or distort trade are actionable under the GATT and the Subsidies Code.

10. Accordingly, Australia considers that the Negotiating Group should defer any attempt to define broad categories of non-actionable measures until it has examined the trade effects of at least the more commonly used types of subsidies and identified those which have no impact on trade. Australia does not consider that the definition of non-actionable subsidies should become a prerequisite for progress on other issues before the Negotiating Group.

#### Export Subsidies on Primary Products

11. A major objective of these negotiations should be to extend the existing prohibition on export subsidies to cover all products, primary as well as non-primary.

12. Australia fully recognises the serious deficiencies of Article XVI:3 of the GATT and of Article 10 of the Code, notably the fundamental problems connected with the "more than equitable share" concept. However, these problems arise from the basic fact that current disciplines for primary products are significantly weaker than those which apply to manufactured goods. They cannot be resolved merely by making minor adjustments to rules which are intrinsically defective. The only genuine, long-term solution is an effective prohibition on all export subsidies. Accordingly, at this stage of the negotiating process, Australia sees little value in trying to improve the "more than equitable share" rule, which is only relevant so long as there is no general prohibition on export subsidies.

Export Subsidies on Products Other Than Primary Products

13. One aspect of particular concern to Australia (and to other participants) is the problem of export subsidisation of processed primary products. Australia believes that this practice is contrary to the intent of the current rules and should be eliminated. It is clear that the weak disciplines currently applying to primary product subsidies have contributed to this problem, the most appropriate resolution of which would be the prohibition of all export subsidies.

Countervailing Measures

14. Australia wishes to emphasise the importance of ensuring that countervailing measures offer a real and effective remedy against injurious subsidy practices. It also sees a need to ensure that countervailing actions are not used as instruments to restrict or harass legitimate trade.

15. In this context, an unduly narrow interpretation of the phrase "domestic industry" would deny any remedy against injurious subsidisation to producers of agricultural and other raw materials which are destined for transformation into a commonly traded form. In particular, under one current Panel interpretation of the Subsidies Code (i.e. the Panel Report on Canadian imports of manufacturing beef from the EEC), countervailing measures would offer no remedy at all in the very area where subsidy disciplines are weakest and cause the greatest problems. Australia therefore considers that the Subsidies Group should develop an agreed and more reasonable interpretation of the definition, in relation to this type of product.

16. The Subsidies Group should also review the operation of Article VI:6 of the GATT with a view to introducing more effective provisions enabling contracting parties to take countervailing action on behalf of third countries.

### Dispute Settlement

17. There is a real need to review the dispute settlement provisions of the Subsidies Code at a later stage of the negotiations. This issue should be considered in the light of developments in the Negotiating Group on Dispute Settlement, with a view to possibly integrating the various dispute settlement provisions in the Codes with the main GATT instrument.

### Work of Other Negotiating Groups

18. Australia notes that under Part I, Section G (iii), of the Punta del Este Ministerial Declaration, it is recognised that aspects of one issue may be discussed in more than one negotiating group. Australia accordingly reserves the right to raise in the Subsidies Group, as necessary throughout the negotiations, any relevant issues which are before other negotiating groups. Some issues that may need to be raised in the Subsidies Group are subsidies on agricultural and natural resource-based products.

19. Section G (iii) of the Ministerial Declaration also states that each negotiating group should take into account relevant aspects emerging in other negotiating groups. Issues before other negotiating groups which are also relevant to the work of the Subsidies Group include, for example, dispute settlement, MTN agreements and arrangements, and enhanced surveillance in the GATT.