

MULTILATERAL TRADE  
NEGOTIATIONS  
THE URUGUAY ROUND

RESTRICTED

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

ELEMENTS OF THE NEGOTIATING FRAMEWORK

Proposed Revision of Article 6 of the Chairman's Text

Submission by the United States

6.1 Serious prejudice in the sense of Article 5(c) exists if:

- (a) the total ad valorem subsidy on a product exceeds ... per cent;\*\*
- (b) a subsidy is contingent upon production performance, in the sense that it requires the attainment of certain production surpluses and increases with the increasing production;
- (c) subsidies are granted to firms or industries which sell ... per cent or more of their production for exports.\*\*

6.2 Serious prejudice in the sense of Article 5(c) may arise in any case where there is a subsidy within the meaning of Article 3 on a product and one or several of the following apply:

- (a) displacement or impeding of imports of a like product in the market of the subsidizing country;
- (b) displacement or impeding of exports of a like product of another signatory in a third country market;
- (c) there is a significant price undercutting by the subsidized products as compared with the price of a like product of another signatory in the same market or there is price suppression, price depression or lost sales in the same market;

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\*\*It is for consideration whether this provision should appear under this Article or under Article 1 with a different percentage threshold.

- (d) the world market share of the subsidizing country in a specific product has increased compared to the share it had during the previous period of [X] years and this increase is demonstrated through a consistent trend over a period when subsidies have been granted.

6.3 The existence of serious prejudice in the sense of paragraphs 6.1(a) through 6.1(c) may be rebutted if the subsidizing signatory demonstrates that none of the circumstances enumerated in paragraph 6.2 above has occurred.

6.4 For the purpose of paragraph 6.2(a), displacing or impeding imports shall include any case in which it has been demonstrated to the Committee that a subsidy has been granted or significantly increased on a product which directly competes with the product on which a GATT concession, as set out in the GATT schedule, or another GATT benefit has been granted.

6.5 For the purpose of paragraph 6.2(b), displacing or impeding exports shall include any case in which, subject to the provisions of paragraph 8 below, it has been demonstrated to the Committee that there has been a change in relative shares of the market to the disadvantage of the non-subsidized like product (over an appropriately representative period of, in normal circumstances, at least one year, sufficient to demonstrate clear trends in the development of the market for the product concerned). "Change in relative shares of the market" shall include any of the following situations: (i) there is an increase in the market share of the subsidized product; (ii) the market share of the subsidized product remains constant in circumstances in which, in the absence of the subsidy, it would have declined; (iii) the market share of the subsidized product declines, but at a slower rate than would have been the case in the absence of the subsidy.

6.6 For the purpose of paragraph 6.2(c), price undercutting should be demonstrated through comparing prices of the subsidized product with prices of like non-subsidized products supplied to the same market. The comparison shall be made at the same level of trade and at comparable times. However, if such a direct comparison is not possible, the existence of price undercutting may be demonstrated on the basis of export unit value.

6.7 Each signatory, in the market of which serious prejudice is alleged to have arisen, shall make available to the parties to a dispute and to the Committee all relevant information that can be obtained as to the changes in market shares of the disputing parties as well as concerning prices of the products involved.

6.8 For the purpose of paragraph 6.2, serious prejudice shall not be deemed to occur where any of the following circumstances exist<sup>8</sup> during the relevant period;

- (a) prohibition or quantitative restriction on exports of the like product from the complaining signatory or on imports from the complaining signatory into the third market concerned;
- (b) decision by an importing government operating a monopoly of trade or state trading in the product concerned to shift, for non-commercial reasons, imports from the complaining signatory to another country or countries;
- (c) natural disasters, strikes, transport disruptions or other force majeure substantially affecting production, qualities, quantities or prices of the product available for exports from the complaining signatory;
- (d) existence of arrangements limiting exports from the complaining signatory;
- (e) voluntary decrease in the availability for export of the product concerned from the complaining signatory (including, inter alia, a situation where firms in the complaining country have been autonomously reallocating exports of this product to new markets);
- (f) failure to conform to standards and other regulatory requirements in the importing country.

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<sup>8</sup>The fact that certain circumstances are referred to in this paragraph does not, in itself, confer upon them any legal status in terms of either the General Agreement or this Agreement.