

# GENERAL AGREEMENT ON TARIFFS AND TRADE

RESTRICTED

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Committee on Subsidies and  
Countervailing Measures

DRAFT PROCEDURES CONCERNING COMMITMENTS UNDER ARTICLE 14:5

Proposal by the Chairman

Revision

The following draft procedures concerning commitments under Article 14:5 are proposed by the Chairman, on his own responsibility, for consideration by the Committee.

1. The Committee recalls the obligation of all contracting parties, under Article XVI:1 of the General Agreement, to notify their subsidies affecting their exports or imports. The Committee recognizes that signatories to the Subsidies Code should feel especially obliged to comply with this obligation. It therefore expresses its strong expectation that countries seeking accession to the Code will make similar efforts and will submit their notifications under Article XVI:1. In particular, countries which have not submitted Article XVI:1 notifications and which intend to follow the procedures outlined hereunder are invited to submit such notifications at least thirty days before the matter is taken up by the Committee.
2. If a developing country acceding to the Code elects to enter into a commitment it may wish to state that:
  - (a) it will reduce or eliminate its export subsidies when the use of such export subsidies is inconsistent with its competitive and development needs; and
  - (b) it will consult with the Committee on any export subsidy practice which any signatory, in the light of paragraph 4 below, considers appropriate to be the subject of a commitment and will take, as appropriate, a Committee's recommendation into account.
3. Any signatory which has reason to believe that a commitment would be appropriate in respect of a specific export subsidy practice of the acceding country may notify such a practice to the Committee.
4. There shall be no presumption that export subsidies granted by an acceding country on a particular product should be the subject of a

commitment. Any such contention must be substantiated by positive evidence that one or more of the following conditions holds:

- (a) the acceding country is an established supplier<sup>1</sup>, and the amount<sup>2</sup> of the export subsidy on the product in question has increased compared to the subsidy received by other suppliers;
- (b) the export subsidy in question results in prices of an established supplier being materially below those of other suppliers to the same market;
- (c) the export subsidy in question results in the acceding country's supplies of a product to an individual market accounting for more than 50 per cent of all imports of this product into the market concerned;
- (d) the export subsidy has been found to cause injury to the domestic industry in the complaining signatory and is subject<sup>3</sup> to a final countervailing duty measure at the time of accession.

In a situation where any of the above-noted conditions has been demonstrably shown to exist and one or more other countries are granting subsidies on exports to the market in question, the acceding country which can substantiate that its subsidies are equal to or below the average should not be subject, in this market, to more severe disciplines than the other countries.

5. The Committee shall review the practice and shall make an appropriate decision. If, as a result of its review, the Committee concludes that the practice in question should be the subject of a commitment, it shall make a recommendation to the acceding country to include such a practice into its commitment, i.e. to eliminate or reduce the subsidy in question or to eliminate its prejudicial effect.

6. The Committee and the acceding country will make all reasonable efforts to complete this procedure within one month from the date of the acceptance

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<sup>1</sup>"Established supplier" means a supplier which accounts for 20 per cent or more of imports of a product into the market of the notifying signatory referred to in paragraph 3. The period normally to be used will be the twelve most recent months for which import statistics are available.

<sup>2</sup>Any increase in export subsidies should be considered in the same, or closely related, time period as the period of imports used to establish suppliers' position including that of an established supplier.

<sup>3</sup>If a commitment is entered into which relates to this sub-paragraph, the competent authorities of the importing country should immediately take appropriate action under Article 4:9 of the Code.

of the Code<sup>4</sup>. If this proves not to be possible, the Code will nevertheless enter into force for the acceding country in accordance with Article 19:4, it being understood that the procedure has to be completed as soon as possible thereafter<sup>5</sup>.

7. If, once the procedure has been completed, the acceding country decides not to follow the Committee's recommendation, it should notify the Committee accordingly. It is understood that until the thirtieth day following the date of such a notification, signatories' rights under Article 19:9 of the Agreement remain unaffected.

8. Where any signatory has reason to believe that the content of a commitment made under these procedures should be modified, paragraphs 3, 4, 5 and 9 will apply in the context of any subsequent review of specific export subsidy practices of the developing country signatory concerning products not covered by the commitment. Any such subsequent review would not normally be undertaken within a thirty-six month period. However, where a developing country signatory has entered into a commitment on the basis of these procedures and subsequently finds that compliance with this commitment has resulted in a situation where its trade is adversely affected by the export subsidy practices of another signatory, the Committee shall immediately review the facts involved with a view to providing relief through an appropriate modification of the commitment.

9. The Committee recognizes that any failure to implement its recommendation<sup>6</sup> may be a cause for proceedings under the relevant provisions of Parts II and VI of the Code.

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<sup>4</sup> Signatories recognize that, for the effective application of these procedures, it is indispensable that the Committee promptly arrives at a decision as to whether or not a recommendation should be made to the acceding country. If this process is delayed by differences of views as to whether the conditions of paragraph 4 have been met or on any other issue, the Chairman will consult all interested parties and, taking account of the results of such consultations, will propose an appropriate solution to the Committee.

<sup>5</sup> A generally applicable deadline may be set by the Committee (i.e. additional 30 days) which may be extended only by the Committee's decision. Should the matter remain unresolved, notwithstanding efforts made under footnote 4 above, the Chairman will declare that the procedures have failed. It is understood that until the thirtieth day following the date of such a declaration, signatories' rights' under Article 19:9 of the Agreement remain unaffected.

<sup>6</sup> The term "recommendation" includes also cases where, failing notifications under paragraph 3, the Committee had taken note of the statement referred to in paragraph 2 of these procedures. Paragraph 9, however, does not apply to the situation covered by paragraph 7.