

PREPARATIONS FOR THE 1999 MINISTERIAL CONFERENCE

Improved Disciplines and Remedies under the
Agreement on Subsidies and Countervailing Measures

Communication from Canada

The following communication, dated 1 October 1999, has been received from the Permanent Mission of Canada.

1. Disciplining the use of government subsidies is one of the key challenges facing WTO Members in their efforts to reduce distortions to trade and investment and foster global competition on the basis of comparative advantage. The trade problems created by trade distorting agricultural subsidies are well recognized by the WTO and there is a commitment to undertake comprehensive negotiations towards the objective of improved disciplines. The problem of subsidies is not, however, restricted to the agricultural sector. It is unfortunately a more general problem that has become relatively more important as we make progress on reducing more overt trade barriers such as tariffs.

2. It is the natural inclination of governments to want to encourage economic activity and employment within their borders. However, when government intervention takes the form of subsidies, price and cost factors may be altered resulting in distortions to trade and investment. The increasing globalization of production and marketing strategies can result in greater pressures on governments to provide investment incentives and other forms of assistance which can then lead to escalating subsidy practices. If countries have to deal with this situation individually, they are unlikely to be able to respond to both domestic demands and to principles of international trade. It is largely for this reason that we must continue our efforts to strengthen and refine subsidy disciplines and remedies by conducting negotiations under the Agreement on Subsidies and Countervailing Measures (ASCM).

3. While considerable work remains to be done, the results of the Uruguay Round ASCM provides us with a good base on which to build. This Agreement achieved for the first time a definition of subsidy, and established a framework of prohibited, actionable and non-actionable subsidies which attempted to balance the need to discipline subsidies that distort trade with the right of governments to address legitimate economic and environmental objectives. Significant gaps remain, however, regarding the interpretation of the rights and obligations of members under ASCM. This is evident from dispute settlement cases involving subsidy practices. We have seen the divergence in interpretations, and a resulting divergence in practice. In such circumstances, it is more appropriate to address these deficiencies multilaterally rather than addressing them via dispute settlement. There must be a concerted effort to continue work on this Agreement so that governments, and the private sector, have a clearer understanding of their international obligations.

4. Moreover, despite the pressures resulting from global competition, many countries have made progress in reducing subsidies as a consequence of their broader efforts to achieve fiscal stability. This has occurred to varying degrees in both developed and developing countries. This trend offers contracting parties an opportunity to reinforce and further this trend through greater commitment to subsidy disciplines in the context of the ASCM.

5. Negotiations on the ASCM should focus on building on the framework we have developed. In this regard the renewal of Article 6.1 on deemed serious prejudice and Article 8 respecting non-actionable subsidies are essential to the structure of the Agreement. If we begin a negotiation without first agreeing to the renewal of these provisions, we will impair our ability to make progress. These provisions offer a balance that provides for the acceptance of disciplines.

6. Article 6.1 is important in our efforts to give practical effect to the concept of adverse effects. This provision strengthens the ability of exporting countries to address the adverse effects caused by domestic subsidies that displace imports or exports to third countries. This multilateral approach to remedy the impact of subsidies is a critical provision that must be maintained and further refined. The non-actionable categories under Article 8 are also equally important. It is understandable that governments are hesitant to agree to international rules that restrain their ability to react to important economic and environmental concerns. Article 8, however, recognizes that certain support practices are legitimate and unlikely to cause trade distortions. If this Article were allowed to expire, the ability to make further progress on the overall issue of disciplines would be seriously impaired.

7. Negotiations should also seek to address a number of sectoral issues in areas such as aircraft, shipbuilding and fisheries. These sectoral issues are best addressed in a comprehensive effort to improve subsidy disciplines under the ASCM. Likewise, there is a need to take into account the crosswalks between generic subsidy disciplines and rules for subsidies in mandated negotiations on agriculture and possibly services.

8. In approaching a negotiation on subsidies, special efforts must be made to ensure a balanced review. In this regard, the legitimate needs of developing countries need to be examined. As well, there is a need to ensure that subsidy disciplines and remedies apply equitably between countries regardless of market size and export orientation.
