

**ARTICLE 27.4 OF THE AGREEMENT ON SUBSIDIES AND  
COUNTERVAILING MEASURES**

Decision of 27 July 2007

The General Council,

**Having regard** to Articles IV:1 and 2 and IX:1 of the Marrakesh Agreement Establishing the World Trade Organization ("WTO Agreement") and Article 27.4 of the *Agreement on Subsidies and Countervailing Measures* ("*SCM Agreement*");

**Recalling** that the Members of the Committee on Subsidies and Countervailing Measures ("SCM Committee" or "Committee"), as directed by the Ministerial Conference<sup>1</sup> have granted, pursuant to the procedures set forth in document G/SCM/39, extensions pursuant to Article 27.4 of the *SCM Agreement* of the transition period under Article 27.2(b) of the *SCM Agreement* for the elimination of export subsidies, in respect of certain programmes of certain developing country Members;

**Noting** the proposals submitted by those developing country Members to extend the procedures contained in G/SCM/39;<sup>2</sup>

**Noting** the terms of paragraph 5 of this Decision;

**Recognizing** the economic, financial and development needs, as well as the capacity and administrative constraints, of those Members in implementing their commitments pursuant to the *SCM Agreement* in respect of the elimination of export subsidies;

**On the basis of** the commitment of those Members to eliminate the export subsidies in question not later than 31 December 2015, with no requests for extension beyond those foreseen pursuant to this Decision;

**Decides** to adopt the following procedures.

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<sup>1</sup> Ministerial Decision on Implementation-Related Issues and Concerns, (WT/MIN(01)/17), paragraph 10.6.

<sup>2</sup> See documents G/SCM/W/535 and G/SCM/W/537 and addenda.

**PROCEDURES FOR CONTINUATION OF EXTENSIONS PURSUANT  
TO ARTICLE 27.4 OF THE SCM AGREEMENT OF THE TRANSITION  
PERIOD UNDER ARTICLE 27.2(b) OF THE SCM AGREEMENT  
FOR CERTAIN DEVELOPING COUNTRY MEMBERS**

The SCM Committee shall follow the procedures set forth below in respect of the continuation of extensions pursuant to Article 27.4 of the *SCM Agreement* ("SCM Article 27.4") of the transition period under Article 27.2(b) of the *SCM Agreement* for certain programmes, identified in the Annex.<sup>1</sup>

**1. Mechanism for continuation of extension**

- (a) A Member that wishes to seek a continuation, for calendar year 2008, of the extension under SCM Article 27.4 for a programme listed in the Annex, shall submit a request to that effect to the SCM Committee not later than 3 September 2007. The request also shall include a reference to the WTO document containing the corresponding updating notification covering calendar year 2006, which the Member shall have submitted to the SCM Committee pursuant to 1(d) of G/SCM/39.<sup>2</sup>
- (b) Not later than 26 October 2007, Members of the SCM Committee shall agree to continue the extensions, for calendar year 2008, for programmes listed in the Annex in respect of which requests have been submitted pursuant to 1(a) and for which the Committee has verified, in its annual review conducted pursuant to G/SCM/39<sup>3</sup>, that the transparency and standstill requirements under G/SCM/39 were fulfilled during 2006.
- (c) As provided for in SCM Article 27.4, the continuation of extensions by the SCM Committee pursuant to these procedures shall be subject to annual reviews in the form of consultations between the Committee and the Members receiving continuations of extensions. These annual reviews shall be conducted on the basis of annual updating notifications from the Members in question, as referred to in 2(a). The purpose of the annual reviews shall be to verify that the transparency and standstill requirements set forth in 2 and 3 are being fulfilled.
- (d) During the period 2008-2012, Members of the SCM Committee shall agree to continue the extensions pursuant to these procedures, subject to verification through annual reviews as provided for in 1(c) that the transparency and standstill requirements set forth in 2 and 3 are being fulfilled.<sup>4</sup> The "last authorized period" referred to in the last sentence of SCM Article 27.4 shall not extend beyond 31 December 2013, and the final two-year phase-out period provided for in the last sentence of SCM Article 27.4 shall end not later than 31 December 2015.

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<sup>1</sup> The programmes eligible for continuations of extensions under these procedures are programmes providing export subsidies in the form of full or partial exemptions from import duties and internal taxes for which the SCM Committee continued extensions of the transition period under SCM Article 27.4 for calendar year 2007 pursuant to the procedures in G/SCM/39.

<sup>2</sup> At the regular meeting of the Committee in April 2007, these Members were reminded to submit their updating notifications by 30 June 2007.

<sup>3</sup> The procedures in G/SCM/39 shall cease to be effective upon completion of this 2007 annual review.

<sup>4</sup> This extension mechanism shall cease to be effective upon completion in 2012 of the annual review by the Committee to continue the extensions for calendar year 2013, such that there will be no basis for requests for extension beyond those foreseen in this Decision.

- (e) A Member receiving a continuation of an extension under these procedures shall take, from 1 January 2008, the necessary internal steps with a view to eliminating export subsidies under the programme before the end of the final two-year phase-out period provided for in the last sentence of SCM Article 27.4. These steps shall include consultations with relevant government bodies and organisations and any necessary technical and/or legal assessments. In addition, from 1 January 2008 and in no case later than 31 December 2009, the Member shall notify each beneficiary under the programme indicating that no export subsidies within the meaning of SCM Article 3.1(a) will be granted or maintained beyond the end of calendar year 2015.
- (f) A Member receiving a continuation of an extension under these procedures shall provide, for transparency purposes, an action plan for eliminating export subsidies under the programme, as an integral part of the annual updating notification submitted for the annual review to be conducted in 2010.<sup>5</sup> As part of this review, the SCM Committee shall undertake a mid-period assessment of each programme for which it has continued an extension under these procedures. During this mid-period assessment, the SCM Committee shall take stock of the steps undertaken as of that point by the notifying Member pursuant to 1(e), and shall discuss the action plan provided by the Member.
- (g) A Member receiving a continuation of an extension under these procedures may request the WTO Secretariat to provide technical assistance for eliminating export subsidies under the programme.

## **2. Transparency**

- (a) The annual updating notifications shall follow the agreed format for subsidy notifications under SCM Article 25 (found in G/SCM/6/Rev.1). Beginning with the updating notifications covering calendar year 2008, notifying Members also shall provide information regarding the actions they have taken pursuant to 1(e) and 1(f).
- (b) During the annual reviews by the SCM Committee referred to in 1(c), notifying Members can be requested by other Members to provide additional detail and clarification with a view to maintaining transparency in respect of the scope, coverage and intensity of benefits (the "favourability") of the programmes in question<sup>6</sup> and the form of the subsidies provided thereunder; and in respect of the actions taken pursuant to 1(e) and 1(f). Any information provided in response to such requests shall be considered part of the notified information.
- (c) A Member receiving a continuation of an extension under these procedures shall ensure transparency in respect of the final two-year phase-out period provided for in the last sentence of SCM Article 27.4 by submitting updating notifications under paragraph 2(a), which shall be subject to annual review by the Committee.

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<sup>5</sup> The action plan shall indicate how the Member intends to eliminate export subsidies under the programme not later than the end of the final two-year phase-out period provided for in the last sentence of SCM Article 27.4, including information as to legislative changes, administrative amendments and/or other procedures as may be necessary, and whether any of these actions have been undertaken or are in the process of being undertaken, including how the individual beneficiaries have been notified pursuant to 1(e).

<sup>6</sup> The scope, coverage and intensity of benefits of the programmes in question will be determined on the basis of the legal instruments underlying the programmes.

**3. Standstill**

- (a) Through the end of the final two-year phase-out period provided for in SCM Article 27.4, the programmes for which extensions are continued under these procedures shall not be modified so as to make them more favourable than they were as at 1 September 2001, as specified in the notified information previously submitted pursuant to the procedures in G/SCM/39. The continuation of an expiring programme without modification shall not be deemed to violate standstill.
- (b) The verification of standstill in respect of the scope, coverage and intensity of benefits (the "favourability") of the programmes shall be based on the notified information referred to in 1(c), 2(a), 2(b) and 3(a).

**4. Product graduation on the basis of export competitiveness**

Notwithstanding these procedures, Articles 27.5 and 27.6 shall apply in respect of export subsidies for which extensions are continued pursuant to these procedures.

**5. Members listed in Annex VII(b) which reserved rights pursuant to the procedures in G/SCM/39**

- (a) This Decision does not prejudge rights of Annex VII Members.
- (b) If, during the period 2008-2015, the per capita GNP of a Member that reserved rights under paragraph 6(b) of G/SCM/39<sup>7</sup> reaches the level provided for in Annex VII(b) of the *SCM Agreement* such that the Member is no longer included in Annex VII(b), that Member shall be able to make use of these procedures as from the date at which its per capita GNP reaches that level and for the remainder of that period. The effective date for the standstill requirement referred to in 3(a) shall be the year in which that Member's GNP per capita reaches the level provided for in Annex VII(b) such that it is no longer included in Annex VII(b).

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<sup>7</sup> The Members that reserved rights, and the programmes in respect of which these rights were reserved, are identified in documents G/SCM/N/74/BOL & Suppl.1, G/SCM/N/74/HND, G/SCM/N/74/KEN, and G/SCM/N/74/LKA.

ANNEX

**LIST OF PROGRAMMES ELIGIBLE FOR CONTINUATION OF EXTENSIONS  
UNDER THE PROCEDURES<sup>8</sup>, AND DOCUMENT REFERENCES FOR THE  
EXTENSION DECISIONS BY THE SCM COMMITTEE  
COVERING CALENDAR YEAR 2007**

**Antigua & Barbuda**

- Fiscal Incentive Act Cap 172 (December 1975) (G/SCM/50/Add.4)
- Free Trade and Processing Zone Act No. 12 of 1994 (G/SCM/51/Add.4)

**Barbados**

- Fiscal Incentive Programme (G/SCM/52/Add.4)
- Export Allowance (G/SCM/53/Add.4)
- Research & Development Allowance (G/SCM/54/Add.4)
- International Business Incentives (G/SCM/55/Add.4)
- Societies With Restricted Liability (G/SCM/56/Add.4)

**Belize**

- Fiscal Incentives Act (G/SCM/57/Add.4)
- Export Processing Zone Act (G/SCM/58/Add. 4)
- Commercial Free Zone Act (G/SCM/59/Add.4)
- Conditional Duty Exemptions Facility under Treaty of Chaguaramas (G/SCM/60/Add.4)

**Costa Rica**

- Free Zone Regime (G/SCM/61/Add.4)
- Inward Processing Regime (G/SCM/62/Add.4)

**Dominica**

- Fiscal Incentives Programme (G/SCM/63/Add.4)

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<sup>8</sup> Programmes for which the SCM Committee continued extensions of the transition period under SCM Article 27.4 for calendar year 2007 pursuant to the procedures in G/SCM/39. It is recalled that the eligibility criteria in G/SCM/39 on the basis of which the original extension decisions pursuant to those procedures (for calendar year 2003) were taken for the listed programmes were as follows (footnotes omitted):

"Programmes eligible for extension pursuant to these procedures, and for which Members shall therefore grant extensions for calendar year 2003 [...], are export subsidy programmes (i) in the form of full or partial exemptions from import duties and internal taxes, (ii) which were in existence not later than 1 September 2001, and (iii) which are provided by developing country Members (iv) whose share of world merchandise export trade was not greater than 0.10 per cent, (v) whose total Gross National Income ("GNI") for the year 2000 as published by the World Bank was at or below US\$20 billion, (vi) and who are otherwise eligible to request an extension pursuant to Article 27.4, and (vii) in respect of which these procedures are followed."

It is further recalled that, in respect of the above eligibility criteria, G/SCM/39 also provided that:

"The criteria set forth in these procedures are solely and strictly for the purpose of determining whether Members are eligible to invoke these procedures. Members of the Committee agree that these criteria have no precedential value or relevance, direct or indirect, for any other purpose."

**Dominican Republic**

- Law No. 8-90 to "Promote the Establishment of New Free Zones and Expand Existing Ones" (G/SCM/64/Add.4)

**El Salvador**

- Export Processing Zones and Marketing Act, as amended (G/SCM/65/Add.4)

**Fiji**

- Short-Term Export Profit Deduction (G/SCM/66/Add.4)
- Export Processing Factories/Export Processing Zones Scheme (G/SCM/67/Add.4)
- The Income Tax Act (Film Making and Audio Visual Incentive Amendment Decree 2000) (G/SCM/68/Add.4)

**Grenada**

- Fiscal Incentives Act No. 41 of 1974 (G/SCM/69/Add.4)
- Statutory Rules and Orders No. 37 of 1999 (G/SCM/70/Add.4)
- Qualified Enterprises Act No. 18 of 1978 (G/SCM/71/Add.4)

**Guatemala**

- Exemption from Company Tax, Customs Duties and Other Import Taxes for Companies under Special Customs Regimes (G/SCM/72/Add.4)
- Exemption from Company Tax, Customs Duties and Other Import Taxes for the Production Process Relating to Activities of Managers and Users of Free Zones (G/SCM/73/Add.4)
- Exemption from Company Tax, Customs Duties and Other Import Taxes for the Production Process of Commercial and Industrial Enterprises Operating in the Industrial and Free Trade Zone (G/SCM/74/Add.4)

**Jamaica**

- Export Industry Encouragement Act (G/SCM/75/Add.4)
- Jamaica Export Free Zone Act (G/SCM/76/Add.4)
- Foreign Sales Corporation Act (G/SCM/77/Add.4)
- Industrial Incentives (Factory Construction) Act (G/SCM/78/Add.4)

**Jordan**

- Partial or Total Exemption from Income Tax of Profits Generated from Exports under Law No. 57 of 1985, as amended (G/SCM/79/Add.4)

**Mauritius**

- Export Enterprise Scheme (G/SCM/80/Add.4)
- Pioneer Status Enterprise Scheme (G/SCM/81/Add.4)
- Export Promotion (G/SCM/82/Add.4)
- Freeport Scheme (G/SCM/83/Add.4)

**Panama**

- Official Industry Register (G/SCM/84/Add.4)
- Export Processing Zones (G/SCM/85/Add.4)

**Papua New Guinea**

- Section 45 of the Income Tax (G/SCM/86/Add.4)

**St. Kitts and Nevis**

- Fiscal Incentives Act No. 17 of 1974 (G/SCM/90/Add.4)

**St. Lucia**

- Fiscal Incentives Act No. 15 of 1974 (G/SCM/87/Add.4)
- Free Zone Act, No. 10 of 1999 (G/SCM/88/Add.4)
- Micro and Small Scale Business Enterprises Act, No. 19 of 1998 (G/SCM/89/Add.4)

**St. Vincent & Grenadines**

- Fiscal Incentives Act No. 5 of 1982, as amended (G/SCM/91/Add.4)

**Uruguay**

- Automotive Industry Export Promotion Regime (G/SCM/92/Add.4)
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