SUBSIDIES IN GATT

1. The international trading system is faced today with a number of important problems in the area of subsidies. In response to perceived political and social necessities, governments are engaged in large financial programmes intended, among other things, to prop up industries in difficulty, support depressed areas, stimulate consumer demand and promote exports. Subsidies also operate, either deliberately or incidentally, as an important instrument of protection in most countries, in regard both to industrial and to agricultural products. Furthermore, due to mounting sensitivities resulting from import competition, there has been increasing resort to countervailing duty procedures which have acted to discourage exports from other countries. These developments have given rise to growing concern among contracting parties, and the trade conflicts resulting from them are placing international trade relations under increased strain. At the same time governments are led to reconsider their policies in the field of subsidies because of increased constraints resulting from growing budget deficits.

2. The General Agreement contains a number of provisions relating to the use of subsidies. These provisions have been elaborated by the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement (the Subsidy Code). If one may judge by the persistence and difficulty of disputes arising in this area, neither Article XVI of the General Agreement nor the Subsidy Code have been found to provide satisfactory solutions to the problems that have arisen and which are identified in Part III of this note. It appears necessary for the contracting parties to consider whether these are discrete problems capable of individual solution or whether they can be resolved only if there is a genuine consensus on the role and permissible limits of subsidization in international trade. It may be that only in the light of such a consensus will it be possible to see which rules should be strengthened or clarified in order to establish a more efficient legal framework for the use of subsidies. The purpose of this note is to stimulate a discussion of subsidy issues at a general trade policy level, with a view to seeking, from a broader economic perspective, a better understanding of what might be a generally acceptable policy in the field of subsidies.

3. The note is divided into three parts. Part I is an effort to examine some economic aspects of subsidization as a background for a general discussion. Part II describes briefly the relevant provisions of the GATT and of the Subsidy Code. Part III identifies the problems which have been brought to various GATT bodies.
I. ECONOMICS OF SUBSIDIES

General observations

4. Public subsidies are charges on the account of central, state or local governments. The transfers take many forms: direct financial grants, partial or full exemption from taxes and/or other charges, the provision of goods or services at less than full cost, government purchases at artificially high prices, and so forth. It is obvious that some subsidies are more transparent than others.

5. Subsidies constitute a prominent tool of micro-economic policy. Their economic justification rests on two presumptions. The first is that laissez-faire results in inefficiencies (because of market imperfections) or in an undesirable distribution of national income, problems that government intervention can, in principle, resolve. Second, when government action is deemed justified on efficiency grounds or because of a deliberate decision to modify the distribution of income, a subsidy may be the most appropriate form of government intervention. This follows from the fact that there are situations in which a correctly specified subsidy removes the source of the problem, whereas other forms of government intervention would simply compensate for its effects.

6. Subsidies play an important rôle in the development efforts of many developing countries. They are used to attack imperfections in capital and labour markets, to speed up industrialization, to compensate for overvalued exchange rates, and so forth. Generally, lack of funds restrain the possibilities for developing countries to engage in ambitious income redistribution programmes. This latter fact also puts developing countries at a disadvantage in worldwide competition to subsidize exports.

7. Developed countries suffer less from financial constraint. In consequence, their structure of subsidies is more strongly shaped by the income distribution rationale, which appears, for example, to be one of the main justifications for most of the subsidy programmes in the area of agriculture, as well as for subsidies used implicitly or explicitly to control social or other effects of structural adjustment throughout the economy.

Trade related subsidies

8. From the point of view of international trade, subsidies are only relevant to the extent that they distort competition in domestic and foreign markets. This focus excludes all those subsidies granted in the developing countries or in the developed countries which serve purely domestic purposes and whose international ramifications remain negligible. Certain subsidies for the development of the social and physical infrastructure or for consumers or savers are cases in point.

9. In the present context, it is therefore adequate to concentrate on subsidies for producers and exporters. Some such subsidies, for example certain tax exemptions, may be available to all producers in the economy, while others are limited to producers in a specific industry or sector. This
is an important distinction because there is a presumption that, other things being equal, selective subsidies to tradeable goods industries have a greater impact on the country's trade pattern - and thus on its partners' trading patterns - than do general subsidies. Governments therefore often face the difficult choice of where to draw the line between subsidies that are sufficiently selective to be of concern to trading partners and those which are not.

10. Also important in the GATT context are the distinctions between production and export subsidies, and between subsidies for primary and for non-primary products. Suffice to note at this point that a production subsidy is available irrespective of whether the commodity is sold domestically or abroad. There are, of course, situations where the bulk of domestic production is exported. In contrast, an export subsidy is designed to deal primarily with the problem of competitiveness on world markets.

11. Production subsidies to import-competing industries are equivalent to tariffs in their effects on producers, but are often preferred to tariffs. Both arrangements redistribute income from the society at large to the producers concerned. The tariff transfers income from purchasers to producers by increasing the price the domestic producers can charge (the tariff revenue from imports of the product of course goes to the government). A subsidy channels income to producers from general tax revenue. Thus the transfer by tariff is random from the equity viewpoint (for example, the price increase for a certain food item due to a tariff could "tax" consumers which are less well off than the employees or the capital owners thus protected). If the society considers its tax system to be an equitable one, a subsidy is superior to a tariff from this viewpoint.

12. From the viewpoint of the trade system, however, subsidies pose a much more serious problem than the tariff. There are two reasons for this. One is that tariffs are permitted under the General Agreement, whereas the status of subsidies remains subject to differing interpretations (see Part II below). The other is that subsidies are a much more complex instrument than tariffs, and give rise to a number of problems related to definition, transparency and potential for misuse.

Subsidies and structural adjustment

13. Subsidies play a prominent rôle in governments' reaction to pressure for structural adjustment (which has become as much a problem in industrial countries as in developing countries). In the industrial countries, there has always been strong pressure for government intervention to aid senile industries. In the developing countries, such demand is frequently built around the infant industry argument, which has been recently extended to cover also the case of high-technology industries in the developed countries.

14. According to the infant industry argument, ventures in non-traditional areas of economic activity, for example, an effort to replace imports of some labour-intensive manufactures or to get a head start in a new high technology industry, may involve a socially desirable investment in training the labour-force and in acquiring the necessary production knowledge. However, the investing firm or industry may not be able to fully capture the future returns on this investment because labour and knowledge are mobile: in such
a situation potential investors may decide not to make the investment because they fear that other firms would attract part of the better trained labour or apply the new production knowledge as it becomes freely available, thereby bringing down prices and lowering the rate of return on the original investment.

15. Thus as a consequence of inadequate market incentives, the industry may not be established in the first place or, at any rate, the levels of investment in the industry may be lower than is desirable from an economy-wide point of view. An efficient way of improving the allocation—assuming that a credible case could be made that the alleged situation actually existed—could be to grant a temporary subsidy strictly linked to the levels of training activity and activity in the acquisition of new production knowledge. Such a subsidy would be superior to a tariff (see para. 9 above) for two reasons: it subsidizes only the factor(s) of production subject to the market imperfection, and it does not involve a consumption-distorting price increase.

16. The senile industry argument basically maintains that firms or industries under adjustment pressure need 'breathing space', either for an orderly retreat or to improve their ability to compete. As in the case of infant industries this would suggest temporary aid.

17. Yet experience shows that aid for senile sectors tends to weaken the incentives and the efforts to adjust on the part of the subsidized sector. The pressure for intervention is often based on employment and regional arguments. In this context, it is important to note that capital (stockholders) in the subsidized industry generally benefit more than labour (in agriculture, the subsidy is soon capitalized into land values which means that its benefit accrues to the landowner, not the grower, though the two may be identical, depending on the country under consideration).

18. Moreover, subsidies, once "temporarily" granted, tend to become permanent in practice. They readily lend themselves to becoming covert forms of protection and, as recent experience suggests, to developing a dynamism of their own on a worldwide scale.

19. The costs of production or export subsidies are impossible to measure, but it is clear that the budgetary cost of the subsidy is only a small fraction of the total cost. The total cost includes the many ways in which subsidies are likely to lead to market distortions, to decrease the adjustment capacity of an economy, and, thus, to eventually create economic instability: subsidies often bias production structures towards inflexible, 

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1Consider the case of bankruptcy, the prevention of which is the main motive of subsidization, at least outside agriculture. Bankruptcy results in net unemployment only when (i) the real assets of the bankrupt firm can fetch no price exceeding their scrap value or (ii) the real assets of the bankrupt firm are exported. Empirical analyses suggest these two cases constitute only a small proportion of total bankruptcies. In all other cases, the real capital of the bankrupt firm will, after an appropriate correction of its book values, continue to operate and give employment under the new management.
senile sectors; they distort competition within the subsidized sector as their implementation generally has differential effects on domestic producers; they tend to increase cost pressures via an increase in taxes or because they accommodate wage pressures in the subsidized industries that can spill over to other industries; they create uncertainty by interfering in an unpredictable manner with the market mechanism; they divert resources into unproductive rent-seeking activities; subsidies tend to further proliferate by the simple rule of precedent; and the resulting rigidities and inefficiencies also reduce the effectiveness of macroeconomic (monetary and fiscal) policies. As a consequence, subsidies are likely to distort international competition through a variety of channels and, moreover, to induce a vicious circle of international subsidy competition.

Export subsidies

20. There are some market imperfections for which an export subsidy could be an adequate solution. An example may be the so-called infant exporter case, occasionally referred to in the context of developing countries. The flow of resources into the export sector of developing countries is often blocked by inadequate infrastructure or other domestic rigidities. In addition, the market incentives alone may not generate the socially desirable level of export activity because potential exporters neglect the fact that the experience and information about market conditions and marketing strategies abroad, which they would gain, could be useful to other domestic firms and industries interested in selling internationally. Therefore, it has been suggested that a temporary subsidy for acquiring information and learning to sell on world markets could be granted.

21. In principle, export subsidies could also be used to partially offset the damage which tariff protection causes to the national economy. This notion is a corollary of two propositions which have been discussed at some length in GATT publications, namely, that (i) a tax on imports is a tax on exports and (ii) devaluation is equivalent to an across-the-board tax on imports cum an across-the-board subsidy to exports (in other words, a uniform 20 per cent tariff, coupled with a uniform 20 per cent export subsidy, would be equivalent to a 20 per cent devaluation). It must be noted, however, that such use of export subsidies is rare in practice since both protection and subsidization are nearly always selective.

Rent-seeking behaviour may be defined as activities designed to raise the income of a group of individuals not by increasing their productivity, but rather by transferring funds from the rest of society to them. This is not the place to engage in a long essay on the political economy of economic policy making. Suffice it to say that there is now a large and well documented literature analyzing the intricacies of policy making - stressing the rôle of pressure groups, rent-seeking behaviour, the economics of bureaucracy, and so forth. The unmistakeable conclusion is that there is considerable potential for economic policies being misused to benefit certain groups at the expense of the society as a whole.
22. In countries with a small tax-base, notably developing countries, export subsidies serve sometimes as a partial substitute for production subsidies on the grounds that a fully-fledged subsidy scheme would put too heavy a strain on government revenue. However, even an export subsidy programme may be too burdensome for many such countries.

23. Export subsidies, however, pose a particular problem for trade relations as they are basically intended to interfere with the normal course of international trade. They create international friction since they affect international competition directly. They lend themselves to mutual escalation.

**Primary versus non-primary products**

24. The GATT distinguishes between primary and non-primary products, the former being exempt from the general prohibition of export subsidies (see Part II).

25. This distinction is not based on pure economic reasoning. Export subsidies for primary products are used to channel farm products on the world market, in particular production surpluses which are often generated by pervasive domestic price support programmes. In so doing, export subsidies have disturbed traditional trade flows and have contributed to price instability and uncertainty on commodity markets.

26. Other arguments for the exemption of primary products deserve question marks as well. For example, the infant exporter argument could only apply to developing countries exporting primary commodities. On the other hand, it is true that many developing countries discriminate against the primary sector by granting protection to other sectors. Yet the efficient way of dealing with this problem would be to remove the distortion at its root. Finally, there is the serious danger that export subsidies for primary products hamper the diversification into higher production stages, because they give negative effective protection for processing industries.

**Evidence on subsidies**

27. Because most subsidies lack transparency, the available empirical data are extremely limited. International comparisons of the levels of subsidization suffer seriously from this lack of information. The only readily available statistics are the OECD National Accounts. The table

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3 The predominant use of price support programmes in agriculture also distorts the pattern of consumption and conveys windfall gains on efficient producers whose incomes may already exceed the national average.

4 A recent OECD study comes to the conclusion that the eleven OECD countries investigated publish more or less detailed information on public subsidies. However, the information is far from complete and, in most cases, is widely scattered across all sorts of government publications; to get a comprehensive picture for a specific year is hardly possible, not to speak of a consistent time series. See OECD (1983). Transparence et Ajustement Positif. Identification et Evaluation des interventions de l'Etat (Paris: OECD).
in Annex I presents data on subsidies as a proportion of gross domestic product, for selected industrial countries, taken from this source. Two points stand out. First, it is evident that the order of magnitude involved is generally far from being negligible. This is particularly so when it is noted that (i) the data do not include subsidies granted in the form of tax exemptions which may well attain orders of magnitude similar to those evident from the table in Annex I, and (ii) the financial grants published in the national accounts are frequently based on a rather narrow subsidy concept. In other words, the presented figures reveal only a fraction of the true amount of subsidization.

28. Second, throughout the period under inspection there has been a general trend towards increased use of subsidies. In Japan and the United States, this trend was particularly pronounced in the 1960s. In Europe, the proliferation of subsidies accelerated in the 1970s; efforts to stop the trend are visible only since the last cyclical peak in 1979.

29. It should be added that the data required for a full appreciation of trends in the use of subsidies includes not only aggregate data on subsidies as a fraction of gross domestic product, but also evidence on whether the balance between general subsidies and industry-specific subsidies has changed. For example, the ratio of subsidies to gross domestic product could remain constant between two points in time, but the degree of distortion increases because in the more recent period a larger share of the funds is going to industry-specific programmes.

Implications

30. Along with its proliferation, subsidization has become a source of escalating tensions in international trade. The problems are compounded as there are a number of important, but unsettled questions of a technical nature. For example, in contrast to tariffs and quantitative restrictions, there is no generally accepted definition of what constitutes a "government subsidy". The absence of an agreed definition manifests itself in disputes over where to draw the line on the continuous spectrum between the extremes of, say, a direct grant to a firm and publicly-supplied weather forecasts.

31. A closely related further source of friction among trading partners is the problem of measuring the amount of a subsidy. For example, if a government loans money to a firm at a subsidized interest rate, should the margin of subsidy be calculated using the rate of interest the firm would have had to pay on the open market, or the rate which the government pays when it borrows? On top comes the problem of measuring the impact of a particular subsidy on trade flows.

32. On the whole, this analysis reinforces the point that the concept of "trade policy" can no longer be limited to border measures. Any subsidy that has a significant impact on a country's pattern of trade is a component of that country's trade policies.
II. GATT PROVISIONS

33. The provisions of the General Agreement dealing with subsidies make a distinction between export subsidies and production subsidies. There is practically no obligation with respect to the latter, except that they should be notified if they affect imports or exports, and that a contracting party granting a subsidy which causes serious prejudice to the interests of any other contracting party should, upon request, discuss the possibility of limiting the subsidization (Article XVI:1). As to export subsidies, the GATT recognizes that the granting by a contracting party of a subsidy on the export of any product may have harmful effects for other contracting parties, may cause undue disturbance to their normal commercial interests, and may hinder the achievement of the objectives of the General Agreement. Consequently, the GATT limits the use of subsidies on exports of primary products (they shall not be applied in a manner which results in a contracting party having more than an equitable share of world export trade) and prohibits the use of subsidies on exports of non-primary products if such subsidies result in the sale of a product abroad at a price lower than the domestic price. The prohibition is, however, applicable only to those contracting parties which have signed the 1960 Declaration Giving Effect to the Provisions of Article XVI:4. There is also a strong element of discipline in Article VI of the General Agreement which permits the use of countervailing duties to offset injurious subsidies.

34. Subsequently, the Subsidy Code established a prohibition of subsidies on exports of non-primary products and minerals, irrespective of their price effects. Developing countries are, however, exempted from this prohibition (see paragraph 36). The Subsidy Code also strengthens disciplines in the use of subsidies on export of primary products (Articles 10:2 and 10:3).

35. The General Agreement itself does not contain other provisions on subsidies except those described in paragraph 33 above. However, the developments that have taken place during the existence of the GATT caused at least some forms of subsidies to have been tacitly accepted, such as subsidies consistent with the competitive and development needs of developing countries. These developments are reflected in the Subsidy Code which recognizes that subsidies are used by governments to promote important objectives of national policy, while at the same time stating that they may have harmful effects on trade and production. The Subsidy Code also recognizes that subsidies (other than export subsidies) are widely used as an important instrument for the promotion of social and economic policy.

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5 The text of Article XVI of the General Agreement is reproduced in Annex II. In addition it should be noted that Article III:8(b) of the General Agreement stipulates that "the provisions of this Article shall not prevent the payment of subsidies exclusively to domestic producers, including payments to domestic producers derived from the proceeds of internal taxes or charges applied consistently with the provisions of this Article and subsidies effected through governmental purchases of domestic products."

6 See Annex II, Note 2.

7 Article 10 of the Subsidy Code is reproduced in Annex II.
objectives and it does not seek to restrict the right of signatories to use such subsidies to achieve these and other important policy objectives. This statement is again counter-balanced by another one to the effect that such subsidies may cause or threaten to cause injury to a domestic industry of another signatory or serious prejudice to the interests of another signatory, or may nullify or impair benefits accruing to another signatory under the General Agreement.

36. The Subsidy Code further recognizes that subsidies are an integral part of the economic development programmes of developing countries. It maintains the existing legal situation of developing countries under the General Agreement with one important modification, namely that their right to use export subsidies on processed products is formally recognized. This right is, however, subject to the qualification that these subsidies shall not be used in a manner which causes serious prejudice to the trade or production of another signatory. The Subsidy Code also provides that "a developing country signatory should endeavour to enter into a commitment to reduce or eliminate export subsidies when the use of such export subsidies is inconsistent with its competitive and development needs." The question has, however, arisen as to whether developing countries, when adhering to the Subsidy Code, must necessarily make such a commitment so that other signatories extend to them the benefits of the Code, including the injury test, in the application of countervailing duties. It should be noted that the Subsidy Code tried to balance the acceptance of greater disciplines in the use of subsidies with a requirement that countervailing duties would be used only when subsidized imports are causing injury. The difficulties in negotiating the commitment referred to above have affected accession of a number of developing countries to the Subsidy Code.

III. PROBLEMS OF APPLICATION

Lack of consensus on basic issues

37. Though the increased recourse by governments to subsidies, as shown in paragraphs 27-29 above, has been reflected in increased difficulties in international trading relations, it has hardly been perceived by most contracting parties as taking place in violation of the GATT rules. This might be so because these rules leave several loopholes and inadequacies which allow different interpretations to fit diverse national interests. The disputes brought before various GATT bodies within the last four to five years have highlighted the lack of consensus among contracting parties with respect to basic issues relating to a wide range of products and practices, thus leading to considerable insecurity in respect of the rights and obligations of contracting parties in the area of subsidies.

Effect-oriented approach

38. There is a certain ambiguity resulting from the "effect-oriented" approach of some rules. There is, for example, sufficient imprecision in the description of effects prohibited by the rules to allow countries using export subsidies to argue that the subsidies used by them do not produce

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The list of signatories to the Subsidy Code is reproduced in Annex III.
these effects. Furthermore, in many cases it is difficult to produce generally acceptable evidence to demonstrate that prejudice exists or that the effects prohibited by the rules have been manifested. In addition it may also be difficult to prove causality between the subsidy and the adverse effects. Even where it is possible to do so, the rules are not sufficient protection from injurious subsidies because in most cases they do not become effective until after the damage has taken place.

More than an equitable share

39. The most pronounced difficulties have occurred in connection with the concept of "more than an equitable share" embodied in Article XVI:3 of the GATT. The Subsidy Code (Article 10) attempted to bring precision to Article XVI:3 but it has not always been found to give clear guidance on its interpretation. Consequently, a number of disputes involving the concept of "more than an equitable share" have not found a satisfactory solution and in some cases have provoked retaliatory subsidization. The case-by-case application of this concept has revealed its imprecisions and the fact that it largely refers to notions which escape objective criteria. It is, therefore, impossible to derive a general line of case law from the decisions of panels, some of which have given divergent interpretations. It has been relatively easy for panels to determine, on the basis of facts and statistics, whether a subsidy existed and whether there had been an increase in the market share of a country and a decrease in the market share of its competitors. However, divergent interpretations are possible as to the nature and relevance of the "special factors" (referred to in Article XVI:3 of the General Agreement and Article 10 of the Subsidy Code), thus confusing the causality between the subsidization and the increase in the market share. The existence of important divergences on the interpretation of these provisions shows a need to clarify them in order to avoid possible future conflicts of the same nature.

Primary versus non-primary products

40. The most important qualitative difference in obligations with respect to export subsidies is the difference between primary and non-primary products. Since export subsidies on non-primary products are prohibited - at least as far as certain contracting parties are concerned - irrespective of their effects, while those on primary products are not, the classification of a product into one or the other category may have very serious consequences and may substantially change the existing balance of rights and obligations. However, some contracting parties seem to treat all agricultural products, whether in their natural form or in processed form, as primary products, thus subjecting them only to the obligations under Article XVI:3. This has led several contracting parties to consider that the prohibition of export subsidies (Article XVI:4) does not apply to processed agricultural products. However, the text of the General Agreement makes it clear that the distinction between Articles XVI:3 and XVI:4 is not between agricultural and non-agricultural products but between primary and non-primary (i.e. processed) products.

9 The existing situation is that export subsidies on non-primary products are prohibited for all developed contracting parties by virtue of these contracting parties either having signed the 1960 Declaration or by having become signatory of the Subsidy Code.
Subsidization of a primary product component

41. Another problem has arisen under Article XVI:4 of the GATT and Article 9 of the Subsidy Code. The relatively precise language of these provisions prohibits the use of export subsidies on all processed products. However, it has been a long-standing practice of some contracting parties to subsidize primary product components of exported processed agricultural products. These practices are being strongly contested on legal grounds by some other contracting parties. It has been impossible to resolve these disagreements because of the basic difference of views on the legality of these practices and while these differences persist, conflicts are likely to recur.

Export credit practices

42. In various GATT fora concern has been expressed with respect to certain export credit practices and this issue still remains as a potential source of friction. The problem is that some of the commitments under the Subsidy Code have been defined in relation to an arrangement or arrangements concluded and operated, by some contracting parties, outside and independently of the GATT. Moreover, there are divergent views as to whether an export credit at a rate below the actual market rate, but consistent with such an arrangement, is (i) nevertheless a subsidy although not a prohibited one or (ii) does not constitute a subsidy at all. This question has repercussions as to whether these types of export credits are subject to the notification requirement of Article XVI:1 or not.

Production subsidies

43. A number of problems have also arisen in the case of production subsidies. The General Agreement does not limit their use, and the requirement not to prejudice the interests of other contracting parties is very vague. The Subsidy Code has provided some discipline as to the effects in the sense that signatories are obliged to seek to avoid causing, through the use of any subsidy, adverse effects on the interests of another signatory. To the extent that these effects have arisen in the domestic market of the importing country, they have been dealt with through the use of countervailing duties. As the importing country has an efficient deterrent against these effects, the problems result rather from possible abuse of this deterrent. The increased number of countervailing duty investigations,

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10 The text of Article 9 is reproduced in Annex II.

11 Paragraph (k) of the Illustrative List of Export Subsidies, annexed to the Subsidy Code, provides that an export credit practice which is in conformity with the provisions of an international undertaking on official export credits to which at least twelve original signatories to the Code were parties as of 1 January 1979 (or a successor undertaking which has been adopted by those signatories) shall not be considered an export subsidy prohibited by the Subsidy Code. The arrangement which meets these criteria is the so-called "Arrangement on Guidelines for Officially Supported Export Credits".
usually resulting from pressure from industries, creates uncertainty in trading relations. Furthermore, there are problems with the application and assessment of the injury test. There is no question that if there is real injury to a national industry caused by subsidized imports, relief in the form of countervailing duties is fully justifiable under GATT rules, irrespective of the source of the imports. The problem, however, is to ensure a fair assessment of the injury, thus avoiding the use of countervailing duties for protectionist purposes.

Existence of a subsidy and its amount

44. There is a whole range of problems related to the existence of a subsidy and calculation of its amount. For example, as indicated further in paragraph 45, certain practices considered by some countries as a form of subsidy may be considered by others as normal governmental activity. Here again there are conflicting concepts which may result in serious trade disputes. There are also conflicting concepts as to measuring the amount of a subsidy (an example affecting an important volume of trade is the case of a countervailing duty action by the United States against certain steel products exported by the EEC, which was settled through voluntary export restraints outside the GATT framework). Such bilateral solutions on a temporary basis will not remove the danger of possible future conflicts.

Transparency

45. In addition to the inadequacies described above, a disturbing element is that the increase in the number and volume of subsidies has not been accompanied by improved transparency. In spite of certain progress recently noted in this regard, the situation is far from satisfactory. Firstly, only thirty out of ninety contracting parties have submitted notifications under the relevant GATT procedures. Secondly, a number of practices which, at least because of their effects, must be considered as subsidies in terms of Article XVI:1 are not being notified. As there is no agreed definition of subsidy, contracting parties have considerable latitude as to the choice of notifiable practices; it happens that the same practice, having the same trade effects, is notified as a subsidy by one contracting party and considered as not being a subsidy by another. As another example, in the agricultural sector the non-commercial transactions (e.g. food aid) are not normally notified. Furthermore the question arises whether certain types of special transactions (such as barter, compensation or buy-back agreements) contain subsidy elements and should therefore be notified. Transactions by state-trading or semi-state organizations, either directly or within the terms of long-term agreements between governments, are not systematically notified. The transparency in the industrial sector leaves even more to be desired. Only recently have some contracting parties decided to fulfill their obligations under Article XVI:1 in this respect and in many cases these notifications are either too general or too partial to be considered satisfactory.
INTERNATIONAL COMPARISON OF PUBLIC SUBSIDIES TO ENTERPRISES, 1950 to 1982

*(As a percentage of gross domestic product)*

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Note: Former (F), Present (P), System of National Accounts (SNA) and European System of Integrated Economic Accounts (ESA).

Sources: OECD, National Accounts of OECD Countries, various issues.
Eurostat, National Accounts ESA - Aggregates.
ANNEX II

Article XVI of the General Agreement on Tariffs and Trade

Subsidies

Section A - Subsidies in General

1. If any contracting party grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to increase exports of any product form, or to reduce imports of any products into, its territory, it shall notify the CONTRACTING PARTIES in writing of the extent and nature of the subsidization, of the estimated effect to the subsidization on the quantity of the affected product or products imported into or exported from its territory and of the circumstances making the subsidization necessary. In any case in which it is determined that serious prejudice to the interests of any other contracting party is caused or threatened by any such subsidization, the contracting party granting the subsidy shall, upon request, discuss with the other contracting party or parties concerned, or with the CONTRACTING PARTIES, the possibility of limiting the subsidization.

Section B - Additional Provisions on Export Subsidies

2. The contracting parties recognize that the granting by a contracting party of a subsidy on the export of any product may have harmful effects for other contracting parties, both importing and exporting, may cause undue disturbance to their normal commercial interests, and may hinder the achievement of the objectives of this Agreement.

3. Accordingly, contracting parties should seek to avoid the use of subsidies on the export of primary products. If, however, a contracting party grants directly or indirectly any form of subsidy which operates to increase the export of any primary product from its territory, such subsidy shall not be applied in a manner which results in that contracting party having more than an equitable share of world export trade in that product, account being taken of the shares of the contracting parties in such trade in the product during a previous representative period, and any special factors which may have affected or may be affecting such trade in the product.

4. Further, as from 1 January 1958 or the earliest practicable date thereafter, contracting parties shall cease to grant either directly or indirectly any form of subsidy on the export of any product other than a primary product which subsidy results in the sale of such product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market. Until 31 December 1957 no contracting party shall extend the scope of any such subsidization beyond that existing on 1 January 1955 by the introduction of new, or the extension of existing, subsidies.

5. The CONTRACTING PARTIES shall review the operation of the provisions of this Article from time to time with a view to examining its effectiveness, in the light of actual experience, in promoting the objectives of this Agreement and avoiding subsidization seriously prejudicial to the trade or interests of contracting parties.
Note to Article XVI

The exemption of an exported product from duties or taxes borne by the like product when destined for domestic consumption, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be a subsidy.

Section B

1. Nothing in Section B shall preclude the use by a contracting party of multiple rates of exchange in accordance with the Articles of Agreement of the International Monetary Fund.

2. For the purposes of Section B, a "primary product" is understood to be any product of farm, forest or fishery, or any mineral, in its natural form or which has undergone such processing as is customarily required to prepare it for marketing in substantial volume in international trade.

Paragraph 3

1. The fact that a contracting party has not exported the product in question during the previous representative period would not in itself preclude that contracting party from establishing its right to obtain a share of the trade in the product concerned.

2. A system for the stabilization of the domestic price or of the return to domestic producers of a primary product independently of the movements of export prices, which results at times in the sale of the product for export at a price lower than the comparable price charged for the like product to buyers in the domestic market, shall be considered not to involve a subsidy on exports within the meaning of paragraph 3 if the CONTRACTING PARTIES determine that:

(a) the system has also resulted, or is so designed as to result, in the sale of the product for export at a price higher than the comparable price charged for the like product to buyers in the domestic market; and

(b) the system is so operated, or is designed so to operate, either because of the effective regulation of production or otherwise, as not to stimulate exports unduly or otherwise seriously to prejudice the interests of other contracting parties.

Notwithstanding such determination by the CONTRACTING PARTIES, operations under such a system shall be subject to the provisions of paragraph 3 where they are wholly or partly financed out of government funds in addition to the funds collected from producers in respect of the product concerned.

Paragraph 4

The intention of paragraph 4 is that the contracting parties should seek before the end of 1957 to reach agreement to abolish all remaining subsidies as from 1 January 1958; or, failing this, to reach agreement to extend the application of the standstill until the earliest date thereafter by which they can expect to reach such agreement.
Note 1

Until 1955 the text of Article XVI of the General Agreement contained only what is now paragraph 1. Paragraphs 2-5 have been added as a result of the Review Session in 1955.

Note 2

The contracting parties that accepted the Declaration Giving Effect to the Provisions of Article XVI:4 are: Austria, Belgium, Canada, Denmark, France, the Federal Republic of Germany, Italy, Japan, Luxembourg, the Kingdom of the Netherlands, New Zealand, Norway, Sweden, Switzerland, the United Kingdom and the United States.

SUBSIDY CODE

Article 9

Export subsidies on products other than certain primary products

1. Signatories shall not grant export subsidies on products other than certain primary products.

2. The practices listed in points (a) to (l) in the Annex are illustrative of export subsidies.

Article 10

Export subsidies on certain primary products

1. In accordance with the provisions of Article XVI:3 of the General Agreement, signatories agree not to grant directly or indirectly any export subsidy on certain primary products in a manner which results in the signatory granting such subsidy having more than an equitable share of world export trade in such product, account being taken of the shares of the signatories in trade in the product concerned during a previous representative period, and any special factors which may have affected or may be affecting trade in such product.

Footnote: For purposes of this Agreement "certain primary products" means the products referred to in Note Ad Article XVI of the General Agreement, Section B, paragraph 2, with the deletion of the words "or any mineral".
2. For purposes of Article XVI:3 of the General Agreement and paragraph 1 above:

(a) "more than an equitable share of world export trade" shall include any case in which the effect of an export subsidy granted by a signatory is to displace the exports of another signatory bearing in mind the developments on world markets;

(b) with regard to new markets traditional patterns of supply of the product concerned to the world market, region or country, in which the new market is situated shall be taken into account in determining "equitable share of world export trade";

(c) "a previous representative period" shall normally be the three most recent calendar years in which normal market conditions existed.

3. Signatories further agree not to grant export subsidies on exports of certain primary products to a particular market in a manner which results in prices materially below those of other suppliers to the same market.
ANNEX III

Signatories to the Subsidy Code

Australia
Austria
Brazil
Canada
Chile
Egypt
European Economic Community
Finland
India
Japan
Korea
New Zealand
Norway
Pakistan
Spain
Sweden
Switzerland
UK/Hong Kong
United States
Uruguay