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Draft Subsidy Articles

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ARTICLE XVI

Subsidies

If any contracting party grants or maintains any subsidy or other artificial incentive, including any form of income or price support, which operates directly or indirectly to increase exports of any product from, or to reduce imports of any product into, its territory, it shall notify the CONTRACTING PARTIES in writing of the extent and nature of the subsidization or other incentive, of its estimated effect on the quantity of the affected product or products imported into or exported from its territory and of the circumstances making the subsidization or other incentive necessary. In any case in which a contracting party considers that serious prejudice to its interests 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.

ARTICLE XVII

Export Subsidies

1. No contracting party shall grant, directly or indirectly, any subsidy on the export of any product, or establish or maintain any other system, which subsidy or system 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.

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2. No contracting party shall grant any other form of special incentive to sell abroad.

3. If any contracting party considers itself unable to comply forthwith with the provisions of this Article in respect of any particular product or products it shall give notice in writing to the Organization requesting a specific extension of time. Such notice shall be accompanied by a full analysis of the system in question and the circumstances considered to justify it. The Organization shall then determine whether the extension requested should be permitted and if so on what terms.

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

(a) the system has also resulted, or is so designed as to result, in the sale of the commodity for export at a price higher than the comparable price charged for the like commodity 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 prejudice the interests of other contracting parties.

5. Notwithstanding the provisions of this Article a contracting party may apply an export subsidy to a product, in respect of which it operates a system of price support having the effect of maintaining domestic prices above the level of prices obtaining in international trade, provided that the subsidy does not have the effect of:
(a) Obtaining for the contracting party granting the subsidy more than an equitable share of world trade in the product, or

(b) substantially affecting the price of the product in the export markets of other contracting parties or otherwise unduly interfering with the normal commercial marketing by another contracting party of that product or of a directly competitive product.

6. If any contracting party applies an export subsidy or other special incentive to sell abroad it shall, on request, consult with any other contracting party about such subsidy or incentive. In any consultation involving a subsidy maintained in accordance with the provisions of paragraph 5, account shall be taken of the desirability of facilitating gradual expansion of production for export in those areas able to satisfy world market requirements of the product in the most effective and economic manner, and therefore of limiting any subsidies or other measures which tend to retard that expansion. If no agreement is reached in such consultations within a reasonable period the matter may be referred to the Organization, which shall review the matter in the light of the provisions of this Article.
Interpretative Notes

Paragraphs 1 and 2

Nothing in this Article precludes the use by a contracting party of exchange controls or exchange restrictions in accordance with the Articles of Agreement of the International Monetary Fund or with that contracting party's special exchange agreement with the CONTRACTING PARTIES.

Paragraph 5

In determining what is an equitable share of the world market, account shall be taken of the shares which individual contracting parties might have been expected to obtain in the absence of the subsidy, having regard to the shares of individual contracting parties during a previous representative period and the trends of trade before and after the introduction or any modification of the subsidy.