SUBSIDIES

Various proposals and statements in favour of strengthening the subsidy provisions of the Agreement have been made: Australia (Press Release GATT/184), Belgium (SR.9/17), Canada (Press Release GATT/187), Cuba (SR.9/17), Denmark L/273), Dominican Republic (Press Release GATT/197), Germany (L/261 and Add.1), Greece (L/277), India (SR.9/17), Italy (Press Release GATT/183), New Zealand (SR.9/17), Norway (L/276), South Africa (L/264), United Kingdom (Press Release GATT/174), International Chamber of Commerce (Sec/113/54), International Federation of Agricultural Producers (Sec/119/54). In addition, the United States was prepared to consider a strengthening of the subsidy provisions of the Agreement.

Article XVI

South Africa has proposed an amendment to Article XVI to make it conform to the Charter text of Article 25. The obligation imposed on contracting parties granting a subsidy to consult, with a view to limiting the subsidy, would thereby no longer arise out of a determination of the CONTRACTING PARTIES that serious prejudice is caused to the interests of another contracting party; it would suffice that a contracting party considered that serious prejudice to its interests is caused or threatened.

Domestic Agricultural Subsidies

Australia (L/274) and the Dominican Republic (SR.9/17) suggested the consideration of the question of subsidies should include domestic agricultural subsidies.

Additional Provisions on Export Subsidies

The incorporation of Article 26 of the Havana Charter – Additional Provisions on Export Subsidies – is favoured by Australia (GATT/184), New Zealand (SR.9/17) and the International Federation of Agricultural Producers (Sec/119/54).
The inclusion of exceptions to any rule barring export subsidies is contemplated in special cases by the Australian (SR.9/17), Greek (L/277), Italian (SR.9/17) and Turkish (L/282) Governments. The Greek Government has also made the suggestion that, if provisions barring subsidies which affect exports cannot be introduced into the Agreement, Article XVI should be so amended as to allow affected contracting parties to negotiate with the government granting the subsidy with a view to obtaining compensation.

Denmark (L/273), Norway (L/276) and South Africa (L/264) have submitted draft paragraphs corresponding to paragraph 1 of Article 26 of the Charter, barring the grant of export subsidies which result in the sale for export at a price lower than the comparable domestic price. A similar proposal is made by the International Chamber of Commerce (Sec/113/54). These three countries also propose the inclusion of the text of paragraph 2 of Article 26, providing that the exemption of exported products from duties or taxes imposed on domestic products shall not be deemed a violation of that paragraph. A similar proposal is made by the International Chamber of Commerce. Denmark and Norway also suggest the addition of an Interpretative Note to the effect that, for the purposes of this paragraph, the exemption should extend only to customs duties or indirect taxes actually borne by the product or by the material going into the manufacture of such product.

Denmark (L/273) and Norway (L/276) present a draft establishing a date (31 December 1955) by which contracting parties would be required to give effect to these proposed rules on export subsidies. An extension of the date for any particular contracting party is provided for subject to approval by the CONTRACTING PARTIES.

Denmark (L/273), Norway (L/276) and South Africa (L/264) propose the incorporation of a text corresponding to paragraph 4 of Article 26 of the Charter to allow a contracting party to subsidize the exports of any product to the extent necessary to offset a subsidy granted by a non-contracting party and affecting the contracting party's exports of the product. It is further proposed that, if any other contracting party considers its interests prejudiced, it should be entitled to consult with the CONTRACTING PARTIES or with the contracting party granting the subsidy.

Australia (SR.9/17) and India (SR.9/17) have expressed the desire to see in the Agreement provisions designed to protect exporters who do not benefit from subsidies against the competition of subsidized exporters in other countries. Other delegations suggested specific action along these lines which involved an extension of the use of countervailing duties and which may be considered in connection with the study of those provisions.

Denmark (L/273) and Norway (L/276) further propose a paragraph providing for the right to complain to the CONTRACTING PARTIES if a contracting party considers the practices of another contracting party to be incompatible with the rules on export subsidies and that the CONTRACTING PARTIES, after examination, might request the withdrawal or modification of the measures.
Special Treatment of Primary Commodities

The incorporation of Article 27 of the Charter - Special Treatment of Primary Commodities - is favoured by Australia (GATT/184), New Zealand (SR.9/17), and the International Federation of Agricultural Producers (Sec/119/54).

Norway (L/276) and South Africa (L/264) propose the incorporation of the provisions contained in paragraph 1 of Article 27 of the Charter, whereby a system for the stabilization of the domestic price or of the return to domestic producers of a primary commodity shall be considered not to involve a subsidy on exports under certain specified conditions.

The incorporation of Article 28 of the Charter - Undertaking regarding Stimulation of Exports of Primary Commodities - is favoured by Australia (GATT/184), New Zealand (SR.9/17), and the International Federation of Agricultural Producers (Sec/119/54).

Export Incentives

Reference to the need for rules to limit the use of so-called "export incentives" or artificial aid to exports was made by the representatives of South Africa (SR.9/17), and Belgium (SR.9/17). The Government of Germany (L/261, Add.1) has proposed a new article requiring the abolition of artificial aid to exporters. Provision is also made in the German proposal for notification and consultation aiming at the abolition, by joint action, of all measures of export promotion.

NOTE

For the convenience of reference the articles of the Havana Charter, to which frequent reference is made in this paper are attached hereto.
ANNEX

HAVANA CHARTER - CHAPTER IV

SECTION C - SUBSIDIES

ARTICLE 25

Subsidies in General

If any Member grants or maintains any subsidy, including any form of income or price support, which operates directly or indirectly to maintain or increase exports of any product from, or to reduce, or prevent an increase in, imports of any product into, its territory, the Member shall notify the Organization in writing of the extent and nature of the subsidization, of the estimated effect of 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 a Member considers that serious prejudice to its interests is caused or threatened by any such subsidization, the Member granting the subsidy shall, upon request, discuss with the other Member or Members concerned, or with the Organization, the possibility of limiting the subsidization.

ARTICLE 26

Additional Provisions on Export Subsidies

1. No Member 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, due allowance being made for differences in the conditions and terms of sale, for differences in taxation, and for other differences affecting price comparability.

2. The exemption of exported products from duties or taxes imposed in respect of like products when consumed domestically, or the remission of such duties or taxes in amounts not in excess of those which have accrued, shall not be deemed to be in conflict with the provisions of paragraph 1. The use of the proceeds of such duties or taxes to make payments to domestic producers in general of those products shall be considered as a case under Article 25.

3. Members shall give effect to the provisions of paragraph 1 at the earliest practicable date but not later than two years from the day on which this Charter enters into force. If any Member considers itself unable to do so in respect of any particular product or products, it shall, at least three months before the expiration of such period, give notice in writing to the Organization, requesting a specific extension of the period. Such notice shall be accompanied by a full analysis of the system in question and the circumstances justifying it. The Organization shall then determine whether the extension requested should be made and, if so, on what terms.
4. Notwithstanding the provisions of paragraph 1, any Member may subsidize the exports of any product to the extent and for such time as may be necessary to offset a subsidy granted by a non-Member affecting the Member's exports of the product. However, the Member shall, upon the request of the Organization or of any other Member which considers that its interests are seriously prejudiced by such action, consult with the Organization or with that Member, as appropriate, with a view to reaching a satisfactory adjustment of the matter.

ARTICLE 27
Special Treatment of Primary Commodities

1. 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 within the meaning of paragraph 1 of Article 26, if the Organization determines 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 Members.

2. Any Member granting a subsidy in respect of a primary commodity shall cooperate at all times in efforts to negotiate agreements, under the procedures set forth in Chapter VI, with regard to that commodity.

3. In any case involving a primary commodity, if a Member considers that its interests would be seriously prejudiced by compliance with the provisions of Article 26, or if a Member considers that its interests are seriously prejudiced by the granting of any form of subsidy, the procedures set forth in Chapter VI may be followed. The Member which considers that its interests are thus seriously prejudiced shall, however, be exempt provisionally from the requirements of paragraphs 1 and 3 of Article 26 in respect of that commodity, but shall be subject to the provisions of Article 28.

4. No Member shall grant a new subsidy or increase an existing subsidy affecting the export of a primary commodity, during a commodity conference called for the purpose of negotiating an intergovernmental control agreement for the commodity concerned unless the Organization concurs, in which case such new or additional subsidy shall be subject to the provisions of Article 28.
5. If the measures provided for in Chapter VI have not succeeded, or do not promise to succeed, within a reasonable period of time, or if the conclusion of a commodity agreement is not an appropriate solution, any Member which considers that its interests are seriously prejudiced shall not be subject to the requirements of paragraphs 1 and 3 of Article 26 in respect of that commodity, but shall be subject to the provisions of Article 28.

ARTICLE 28

Undertaking regarding Stimulation of Exports of Primary Commodities

1. Any Member granting any form of subsidy, which operates directly or indirectly to maintain or increase the export of any primary commodity from its territory, shall not apply the subsidy in such a way as to have the effect of maintaining or acquiring for that Member more than an equitable share of world trade in that commodity.

2. As required under the provisions of Article 25, the Member granting such subsidy shall promptly notify the Organization of the extent and nature of the subsidization, of the estimated effect of the subsidization on the quantity of the affected commodity exported from its territory, and of the circumstances making the subsidization necessary. The Member shall promptly consult with any other Member which considers that serious prejudice to its interests is caused or threatened by the subsidization.

3. If, within a reasonable period of time, no agreement is reached in such consultation, the Organization shall determine what constitutes an equitable share of world trade in the commodity concerned and the Member granting the subsidy shall conform to this determination.

4. In making the determination referred to in paragraph 3, the Organization shall take into account any factors which may have affected, or may be affecting world trade in the commodity concerned, and shall have particular regard to:

(a) the Member country's share of world trade in the commodity during a previous representative period;

(b) whether the Member country's share of world trade in the commodity is so small that the effect of the subsidy on such trade is likely to be of minor significance;

(c) the degree of importance of the external trade in the commodity to the economy of the Member country granting, and to the economies of the Member countries materially affected by, the subsidy;

(d) the existence of price stabilization systems conforming to the provisions of paragraph 1 of Article 27;
(e) the desirability of facilitating the gradual expansion of production for export in those areas able to satisfy world market requirements of the commodity concerned in the most effective and economic manner, and therefore of limiting any subsidies or other measures which make that expansion difficult.