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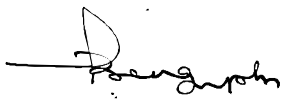
From the Director's Desk

Prabir Sengupta

Certain forms of subsidies such as production and export promotion given by various countries have led to trade distortions in international trade. To correct these distortions, WTO is trying to impose certain disciplines by way of bringing in the Agreement on Subsidies and Countervailing Measures (ASCM).

The perception of developing countries towards ASCM is that there are serious imbalances existing in the Agreement. Developing countries argue that the subsidies presently being used by them for their industrialization and social development have been included in the actionable or prohibited category, while the same used by the developed countries belong to the non-actionable category. This asymmetrical treatment of handling of the issue looks unfair, particularly when seen in the context that present form of subsidies used by developing countries are exactly what were previously used as instruments of development by developed countries, they argue. Such an asymmetrical dimension is also visible when one looks into agricultural subsidy under AOA and the subsidy regime visualized in ASCM, as the former permits a lot of flexibility and latitude while the latter is more stringent.

The inequities of the subsidy regimes as also the development compulsions in the developing countries make the role of Governments in such countries very critical. It must play a positive and proactive role for facilitating removal of the current impediments and help the domestic industry to become globally competitive.



Subsidies and Countervailing Measures in WTO

A View from India

Parthapratim Pal* **and** ***Mitali Das Gupta*****

I. Introduction

ONE of the basic objectives of the WTO Agreement is to remove the distortions present in international trade. It is recognized that certain subsidies are trade distorting in nature and in order to remove distortions in international trade, it is important to impose disciplines on these subsidies. To achieve this goal, WTO has established a set of rules to govern subsidies and export incentives in its member countries. For non-agricultural products, subsidies and export incentives are governed by the WTO Agreement on Subsidies and Countervailing Measures (SCM). The WTO Agreement on Agriculture (AoA) disciplines the export incentives and subsidies given to the agricultural items. This paper gives an overview about the SCM Agreement and discusses some important issues relating to this agreement which are particularly relevant for India. This paper will also briefly discusses the agricultural subsidies and how these subsidies are treated differently from industrial subsidies in WTO.

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The views expressed in this article are those of the authors and do not necessarily reflect the views or policies of IIFT.

II. Overview of the Agreement on Subsidies and Countervailing Measures

The WTO SCM Agreement contains a definition of the term "subsidy". According to the definition, a measure must have three basic elements to be considered as a subsidy. These are: (i) The measure must be a financial contribution, (ii) It should be made by a government or any public body within the territory of a Member, and (iii) The measure must confer a benefit. All three elements must be satisfied in order for a subsidy to exist.

Even if a measure is a subsidy within the meaning of the SCM Agreement, it is not subject to the disciplines of the SCM Agreement unless the concerned subsidy is a "specific subsidy". By *specific subsidy* the SCM Agreement means subsidies which are specifically provided to a region, an enterprise or industry or group of enterprises or industries. In other words, SCM will treat a subsidy as specific subsidy if the granting authority limits access to the subsidy to certain enterprises or certain regions. For example, if the Central Government grants a subsidy exclusively to a particular state, the subsidy would be a specific subsidy even if it is available to all enterprises of that state. However, if that state government gives subsidies to all enterprises of that state, the subsidy would not be termed as a specific subsidy.

When a subsidy is made widely available by the granting authority, it is presumed that such subsidies do not lead to distortions in the allocation of resources. The basic premise of WTO SCM Agreement is that only subsidies, which distort the allocation of resources within the jurisdiction of a granting authority, should be subject to discipline. Thus, non-specific subsidies are exempted and only "specific subsidies" are subject to the SCM Agreement disciplines. There are four types of "specificity" within the meaning of the SCM Agreement:

1. ***Enterprise-specificity:*** A government targets a particular company or companies for subsidization;
2. ***Industry-specificity:*** A government targets a particular sector or sectors for subsidization.
3. ***Regional specificity:*** A government targets producers in specified parts of it's the territory under its jurisdiction for subsidization.
4. ***Prohibited subsidies:*** A government targets export goods or goods using domestic inputs for subsidization. As product specific subsidies directly affect trade and are most likely

to have adverse effects on the interests of other Members, the SCM Agreement deals more stringently with these subsidies and these are termed as "Prohibited Subsidies" by the WTO SCM Agreement.

Two categories of subsidies are defined as prohibited subsidies by Article 3 of the SCM Agreement. The *first* category consists of subsidies which are contingent on export performance and the *second* category consists of subsidies for use of domestic goods over imported goods ("local content subsidies").

All specific subsidies are actionable under the SCM Agreement.[1] But depending upon the trade distorting nature of specific subsidies, the SCM Agreement deals differently with prohibited subsidies and other types of specific subsidies. The SCM Agreement provides a graduated approach to disciplines on subsidies–closer a subsidy brings a product to the market, stricter the discipline. Thus R&D subsidies were earlier considered to be non-actionable, while export subsidies are generally prohibited.

According to the SCM agreement, if a country grants or maintains prohibited subsidies, then other member countries can initiate remedial actions against the errant country. Article 4 of the SCM Agreement specifies the consultation and panel process. According to this Article, a complaining member can request consultations with the offending member. If the two members fail to reach a mutually agreed solution about the subsidy within a stipulated time period, then the matter is referred to the Dispute Settlement Board (DSB) of WTO. If the dispute settlement procedure confirms that the subsidy is prohibited, it must be withdrawn immediately. Otherwise, the complaining country can take counter-measures which may be in the form of charging extra duty (known as "countervailing duty") on subsidized imports that are found to be hurting domestic producers. However, authorization from DSB is required for the appropriate counter-measures.

However, for non-prohibited actionable subsidies, a Member country can initiate remedial measures only if it proves that there are subsidized imports from the other (subsidizing) Member country, there are adverse effects on the complaining country and there exists a causal link between the subsidized imports and the adverse effect. There can be three types of adverse effects. *First,* there can be injury to a domestic industry caused by subsidized imports in the territory of the complaining Member. This can be the sole basis for imposing countervailing measures against the subsidized imports. *Secondly,* there is the issue of "serious prejudice". Serious prejudice usually arises as a result of adverse effects of subsidies in the market of the subsidizing Member or in a third country market (e.g., export displacement). Thus, unlike injury, it can serve as the basis for a complaint related to harm to a Member's export interests (Box 1 describes the criteria for determining serious prejudice). *Finally,* there is nullification or impairment of benefits accruing under the GATT 1994.

BOX 1

CRITERIA FOR DETERMINING SERIOUS PREJUDICE

(SCM, Article 6)

The Agreement clarifies that serious prejudice to the interest of another country shall be presumed to have occurred, *inter alia*, where:

- Total *ad valorem* subsidization of a product exceeds 5%;
- Subsidies cover operating losses sustained by an industry;
- Subsidies other than one-time measures cover operating losses sustained by an enterprise; or
- There is direct forgiveness of debt by the government.

In all other cases, in order to establish that serious prejudice has actually occurred, the complainant must demonstrate that the effect of the subsidy is:

- To displace or impede imports from another member country into the subsidizing country;
- To displace exports to a third country market;
- Significantly to undercut or suppress prices in the subsidizing market;
- An increase in the world market share of the subsidizing country over its average share in the previous three years for the product or commodity benefiting from subsidy.

Nullification or impairment arises most typically where the improved market access presumed to flow from a bound tariff reduction is undercut by subsidization.

Under the SCM Agreement, broadly two types of remedies are possible against actionable subsidies. The affected country can conduct its own investigation to establish that subsidized imports are causing material injury to its industry. Once this is established and the procedural rules of the SCM Agreement regarding the initiation and conduct of countervailing investigations are properly followed, then the affected country can unilaterally impose an extra duty (known as "countervailing duty") on subsidized imports that are found to be hurting domestic producers. Alternately, the country can use the WTO's dispute settlement procedure to seek the withdrawal of the subsidy or the removal of its adverse effects. However, if a serious prejudice claim has to be established, the complainant has to go through the panel process, as it requires multilateral action. Table 1 summarizes the discussion.

III. Developing Countries and the SCM Agreement

Article 27.2 of the SCM Agreement exempts the developing countries with per capita income of less than US$ 1,000 from the prohibition of export subsidies. India's per capita income is less than this stipulated limit and therefore, for non-agricultural products, WTO rules do not prevent India from subsidizing its exports. However, the SCM Agreement imposes two restrictions on the use of export subsidies by the developing countries. The first exception to the right of use export subsidies arises if a country reaches "export competitiveness" in a certain product, the SCM Agreement requires that the export subsidy on that product should be phased out over a period of eight years. According to the SCM Agreement, "export competitiveness" in a product exists if a developing country Member's exports of that product have reached a share of at least 3.25 per cent in world trade of that product for two consecutive calendar years. However, from the SCM Agreement it is not clear that if a country subsequently loses export competitiveness after achieving it for more than two years, whether the country becomes once again eligible to introduce export subsidies.

Developing country Members were allowed to use local content subsidies for a period of 5 years ending on 31 December 1999. For the least developing country Members the exemption period is 8 years. India being a developing country Member has crossed 5-year exemption from prohibition on import substitution. India is now prohibited from giving such subsidies.

TABLE 1

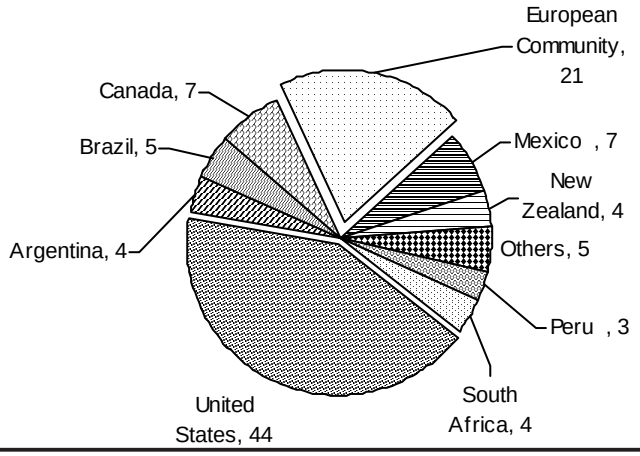
PROHIBITED, ACTIONABLE AND NON-ACTIONABLE SUBSIDIES

Type of Subsidy	*Non-Countervailable Subsidies*	*Countervailable Subsidies*	*Remedies*
Non Actionable Subsidies	a.For general infrastructure b.Non-specific subsidies	…… ……	…… ……
Actionable Subsidies	Specific but non-prohibited subsidies, if they do not cause adverse effects, i.e.: -No injury -Benefits not nullified or impaired -No serious prejudice caused	Specific but non-prohibited subsidies, if they do cause adverse effects	- Consultations - Dispute Settlement through WTO - Countervailing measures
Prohibited Subsidies		Export subsidies Local content subsidies	Dispute Settlement through WTO or Countervailing measures

Source: Adapted from UNCTAD (2000)

It should be emphasized that even if the WTO SCM Agreement allows some developing countries to have export subsidies, this does not make the exports from these countries immune from the countervailing duties. If the conditions for imposing CVD are met, then other Member countries can impose countervailing measures on subsidized imports from the developing countries mentioned under Article 27.2. However, Article 27.10 and 27.11 allows certain *de minimis* level (maximum permissible level) of subsidies for developing countries and for countries mentioned in Article 27.2.[2]

Figure 1
Countervailing Measures: By Reporting Member (till June 2004)



IV. SCM Agreement and Its Impact on India

In a notification to WTO (G/SCM/N/3/IND/Suppl.) dated 30 October 1995, the Government of India notified that it does not maintain any subsidy which is inconsistent with the provisions of the Agreement on Subsidies and Countervailing Measures as they are applicable to India. In subsequent notifications given to WTO, the Government of India has conceded that the Income Tax concession on export of goods from India constitutes a subsidy. This subsidy is provided under Sections 10A, 10B and 80 HHC of the Income Tax Act 1961, and according to the notifications, this subsidy is provided with a view to improving the foreign exchange reserves of the country. A number of other policy measures followed by the Government of India have also come under scrutiny from other WTO members.[3]

It is notable here that India is the worst sufferer from countervailing duties among the WTO members. Since the inception of WTO in 1995, 174 cases of countervailing measures have been initiated against exporting countries in WTO. Among these 174 cases, 40 cases have been initiated against India. Similarly, among 104 countervailing measures taken against WTO member countries, 21 have been against India. Tables 2A and 2B show the top 5 exporting countries against which maximum number of countervailing measures have been initiated or imposed.

From the tables it can be seen that 23 per cent of all CV initiations and 21 of all CV measures have been against India. To put these figures into perspective, it should be mentioned here that India's share in global merchandise trade is barely 1 per cent. It is worth mentioning here India has neither contested any CVDs imposed on its products by other WTO Member countries nor has India taken any countervailing actions

TABLE 2A

CV INITIATIONS: TOP 5 EXPORTING COUNTRIES

From: 01/01/95 To: 30/06/04

India	*Italy*	*Korea, Rep. of*	*European Community*	*Indonesia*
40	13	13	11	9

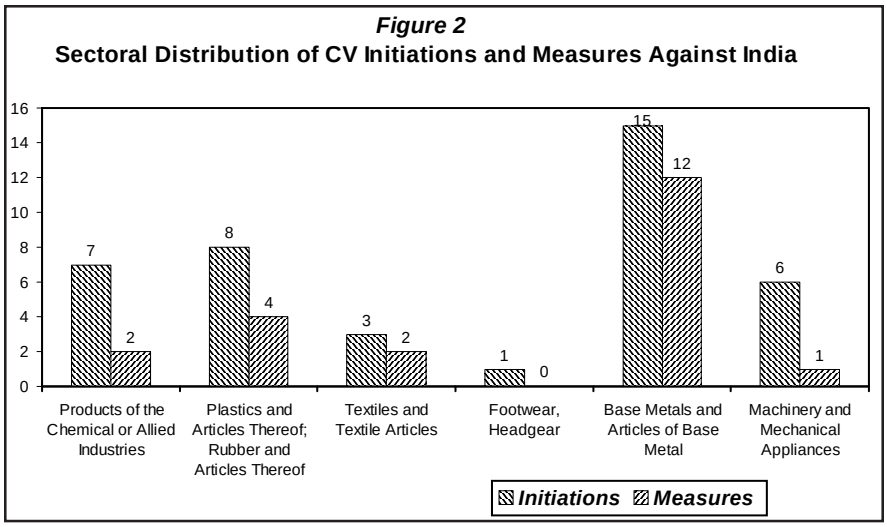
TABLE 2B

CV MEASURES: TOP 5 EXPORTING COUNTRIES

From: 01/01/95 To: 30/06/04

India	*Italy*	*Brazil*	*European Community*	*Indonesia, Korea*
21	9	8	8	6

Source: WTO



against any WTO Member till June 2004.

If one looks at the reporting countries, it shows that developed countries are main users of CV measures in WTO. Figure 1 shows that only two countries, USA and the EU account for more than 60 percent of total CVD measures undertaken by WTO members. Five countries (Brazil, Canada, European Union, South Africa and United States) have initiated CV measures against India and among these countries the European Union and the United States have imposed maximum number of CV measures against Indian exports (Table 3).

Sectoral analysis of CV measures against India shows that Base Metals and Articles of Base Metals has attracted maximum number of CV measures against India (Figure 2). These CV measures have been basically imposed against steel exports from India. India's exports of chemicals, plastics and textiles have also attracted CV measures in other WTO member countries.

It has been established that imposition of CVDs on exports from developing countries can create instability and uncertainty for these countries. UNCTAD (2000a) points out that the adverse impact of these measures on developing countries may be greater than the actual trade involved. Initiation of countervailing actions not only has an immediate impact on trade flows but it also reduces the size of the potential market as importers tend to seek alternative sources of supply. There is also evidence to suggest that in some cases countervailing measures were initiated only to harass and threaten the suppliers as there were prior knowledge that the outcome of the investigations are likely to be negative. Also the complexity of CVD and the WTO Dispute Settlement rules and procedures put significant strain on exporters and administrators of developing countries.

Because of these potential adverse effects of these trade defense measures allowed in the SCM agreement, there is a feeling among developing countries that this agreement does not protect the interests of these countries. A proposal from India about the functioning of the SCM Agreement (TN/RL/W/4) suggests that as the industries in developing countries suffer from structural weaknesses, the state will have to play a more pro-active role in assisting the industry. It emphasizes the role of input subsidies in the industrialization process of developing countries and urges WTO to take a more lenient view about industrial subsidies in developing countries. This proposal further argues that the S&D provisions given to developing countries have been inadequate to meet the concerns of developing countries. This report alleges that the benefits of the S&D concessions have largely

TABLE 3

COUNTRIES THAT HAVE INITIATED OR IMPOSED CV MEASURES AGAINST INDIA

From: 01/01/95 To: 30/06/04

	Brazil	*Canada*	*European Community*	*South Africa*	*United States*
Initiations	2	5	14	9	10
Measures	0	3	10	3	5

Source: WTO

been offset by imposition of too many countervailing duties against products originating in developing countries. Recent WTO data show that out of the 104 cases in which countervailing duty action was taken by various countries during the period 1 January 1995 to 30 June 2004, 67 cases were against developing countries. Considering the fact that the share of developing countries in world merchandise trade is less than 30 percent[4] , this is disproportionately high.

The Doha declaration promised to look into some of the concerns of developing country about the SCM Agreement. The paragraph 28 of the Doha Ministerial Declaration says:

"The ministers agreed to negotiations on the Anti-Dumping (GATT Article VI) and the Subsidies and Countervailing Measures agreements. The aim is to clarify and improve disciplines while preserving the basic concepts, principles and effectiveness of these agreements, and taking into account the needs of developing and least-developed participants.

In the initial negotiating phase, participants will indicate which provisions of these two agreements they want clarified and improved in the next phase – including provisions disciplining trade distorting practices. The ministers mention specifically fisheries subsidies; they say participants should aim to clarify and improve WTO disciplines, taking into account the sector's importance to developing countries".

The Doha Implementation Decision has also looked into some of the difficulties faced by developing countries when implementing the current WTO Subsidies and Countervailing Measures Agreement. It has recognized some important issues like the need for certain subsidies for developing countries and allowing more time for some developing countries to phase out export-contingent subsidies. However, most of these issues are under negotiation and so far has not been implemented.

V. Anti-Dumping and Countervailing Duties: Similarities and Differences

While discussing the SCM Agreement, one should distinguish clearly between Antidumping Duties (AD) and Countervailing Duties (CVD). Sometimes AD and CVD are referred to at the same time. This is because they share a number of similarities and also many countries handle the two under a single law, apply a similar process to deal with them and give a single authority responsibility for investigations. However, these are two different trade defense mechanisms available to WTO members and are addressed by two different WTO Agreements. If a company exports a product at a price lower than the price it normally charges in its own home market, it is said to be "dumping" the product. It is therefore a situation of international price discrimination. The Agreement on Implementation of Article VI of GATT 1994, commonly known as the Anti-Dumping Agreement (ADA), provides elaboration on the basic principles set forth in Article VI of GATT,[5] to govern the investigation, determination, and application, of anti-dumping duties. The WTO Agreement on Subsidies and Countervailing Measures (SCM) on the other hand disciplines the use of subsidies, and it regulates the actions countries can take to counter the effects of subsidies. The fundamental difference between the two is while dumping is an action by a company, for subsidies, it is the government that acts either by granting subsidies directly or by requiring companies to subsidize certain customers.

Another important feature of AD and SCM is that the GATT agreements, as well as Indian laws allow that the injured domestic industry is permitted to file for relief under the anti-dumping as well as countervailing duties. However, simultaneous imposition of both countervailing and anti-dumping duties to compensate for the same situation of dumping or export subsidization is not allowed. Article VI.5 of GATT clearly specifies, "*No product of the territory of any contracting party imported into the territory of any other contracting party shall be subject to both anti-dumping and countervailing duties to compensate for the same situation of dumping or export subsi-dization*".

Exports from India have been targeted by both CVDs and anti-dumping duties in other WTO member countries. However, India has only used anti-dumping duties so far and has not used any CVDs against any WTO member country.

VI. WTO Agreement on Agriculture (AoA)

Subsidies on agricultural goods are governed in WTO by the rules of Agreement on Agriculture. There are significant differences in the way the SCM Agreement and the AoA deal with domestic and export subsidies. However, in case the subsidy on an agricultural product is found to be inconsistent with the AoA, action against it can be taken in accordance with the SCM Agreement.

AoA distinguishes between support programmes that stimulate production and trade directly, and those that are considered to have no direct effect. The AoA does not impose restrictions on the later category. Support measures, which are exempt from reduction commitments, are categorized as Blue Box and Green Box subsidies. Production and trade distorting subsidies are classified as Amber Box subsidies and are subject to reduction commitments. AoA allows developed countries to have Amber Box subsidies upto 5 percent of the value of agricultural production. This is called the "*de minimis*" level. Amber Box subsidies above the *de minimis* level come under reduction commitments. It was stipulated that developed countries should reduce their Amber Box subsidies from the base period level (1986-88) over a period of five years (1999-2000) by 20 per cent.

Reduction commitments of domestic subsidies proved to be least constraining during the implementation period of AoA. At the end of the implementation period, it is observed that almost all the countries have fulfilled their WTO commitments. However, it is also observed that most of the developed countries have managed to increase their total domestic support to the agricultural sector. This has been achieved through shifting of subsidies from the prohibitive Amber Box to the permissible categories of Blue and Green Boxes.

As far as export subsidies are concerned, the AoA stipulates that both the amount of export subsidies and quantities that receive export subsidies should be reduced over the implementation period. Though most of the WTO members have reduced export subsidies in the post Uruguay Round phase, its continued presence led to distortions in global markets. Agriculture is unique in this respect, as export subsidies are prohibited in WTO in all other sectors. Also, unlike the SCM Agreement which allows export subsidy for poor developing countries, grant of export subsidy is prohibited under AoA. But as a Special and Differential Treatment (S&D), AoA allows developing countries to have transport subsidies for exports of agricultural products. Export credit, which has a similar distortionary effect, is not disciplined under AoA. In the Uruguay Round agreement, export credit programmes were not specifically listed as subsidies subject to reduction commitments, but were given a special status that exempted them from such commitments

The Agreement on Agriculture also contains a "due restraint" or "peace clause" (Article 13 of AoA). Peace Clause states that permissible domestic subsidies cannot be subject to countervailing duties during the implementation period, and that other ("amber") domestic support and export subsidies are subject to Countervailing (CV) action only if a determination of injury or threat thereof is established as per the Subsidies and Countervailing Measures agreement. The "Peace Clause" provided special immunity to subsidy providers in AoA. However, the Peace Clause has expired in 2004 and many analysts are of the opinion that after the expiration of Peace Clause, many commodity-specific EC and US agricultural subsidies will be vulnerable to legal challenges (Steinberg and Josling, 2003).

VII. Conclusion

The discussion on subsidies and their treatment in WTO show a distinct asymmetry about dealing with industrial and agricultural subsidies. Whereas industrial subsidies have been put under considerable discipline in WTO, the rules are much more lenient towards agricultural subsidies. It is also ironical that while USA and EU are the two largest users of domestic support and export subsidies in agriculture, for non-agricultural goods, these two countries are the biggest users of countervailable measures in WTO.

Many economists view this asymmetry as a fundamental problem with the prevalent

multilateral trading system. For example, Stiglitz and Charlon (2004) are of the opinion that the new trade rules and domestic disciplines introduced in WTO reflected the priorities and needs of developed countries more than developing countries.[6] According to them, many of these rules constrain developing countries' policy options and, in some cases, prohibit the use of instruments that had been used by developed countries at comparable stages of their development. Similar opinions have been expressed by Chang (2002) who argues that most developed countries, including USA and Britain, have actively used the so-called "bad" trade and industrial policies like infant industry protection and export subsidies during the earlier stages of their development. However, WTO rules are preventing developing countries from using these practices during their catch-up period. Chang eloquently describes the situation by saying that developed countries are attempting to "kick away the ladder" by which they have climbed to the top, thereby preventing developing counties from adopting policies and institutions that they themselves used. Given the asymmetric treatment received by developing countries in WTO, it is not surprising that multilateral trade negotiations are increasingly looking like an international stage for North-South confrontations. The negotiations under the Doha Development Agenda is currently on and in this round of negotiations the developing countries should emphasize and try to rectify the fundamental difference in approach taken by WTO about agricultural and industrial subsidies.

REFERENCES

Ahuja, R. (2000): Export Incentives in India within WTO Framework, ICRIER Working Paper No. 72. Indian Council for Research on International Economic Relations, New Delhi.

Chang, H-J.(2002): *Kicking away the Ladder? Policies and Institutions for Economic Development in Historical Perspective*, London: Anthem Press.

Hoda, Anwarul and Ahuja, Rajeev (2003): "Agreement on Subsidies and Countervailing Measures: Need for Clarification and Improvement", *ICRIER Working Paper No. 101*, Indian Council for Research on International Economic Relations, New Delhi.

Steinberg, Richard F and Josling Timothy (2003): "When the Peace Ends: The Vulnerability of EC and US Agricultural Subsidies to WTO Legal Challenge", November 2003, available at www.ictsd.org

Stiglitz, Joseph E and Charlon Andrews (2004): "A Development Round of Trade Negotiations?", Report prepared for the Commonwealth Secretariat by the Initiative Policy Dialogue (IPD) in collaboration with the IPD Task Force on Trade Policy.

UNCTAD (2000): Impact of Anti-Dumping and Countervailing Duty Actions, UNCTAD Paper No. TD/B/COM.1/EM.14/2.

UNCTAD (2000a): Subsidies, Countervailing Measures and Developing Countries: With a focus on the Agreement on Subsidies and Countervailing Measures. UNCTAD Paper No. UNCTAD/DITC/COM/23.

ENDNOTES

[1]The SCM Agreement, as it originally entered into force, contained a third category of specific subsidies called non-actionable subsidies. This category applied provisionally for five years ending 31 December 1999, and pursuant to Article 31 of the Agreement, could be extended by consensus of the SCM Committee. As no such consensus has been reached, the SCM Agreement no longer recognizes this category of subsidies.

[2]27.10. Any countervailing duty investigation of a product originating in a developing country Member shall be terminated as soon as the authorities concerned determine that:

(a) the overall level of subsidies granted upon the product in question does not exceed 2 per cent of its value calculated on a per unit basis; or

(b) the volume of the subsidized imports represents less than 4 per cent of the total imports of the like product in the importing Member, unless imports from developing country Members whose individual shares of total imports represent less than 4 per cent collectively account for more than 9 per cent of the total imports of the like product in the importing Member.

27.11. For those developing country Members within the scope of paragraph 2(b) which have eliminated export subsidies prior to the expiry of the period of eight years from the date of entry into

(Continued on page 52)

NEWS
(NATIONAL/INTERNATIONAL)

Targeting of Agriculture Subsidies Needed

THE issue of subsidy *vis-a-vis* public investment in farm sector in India needs a judicious balance. It depends both on the will and affordability of the Government of India.

A regime without subsidies will be an ideal one, provided it is world over. But the situation is quite different in the present context. Developed countries, by increasing their farm subsidies by quantum jumps are distorting global prices. The developing countries cannot race with the developed ones in rendering high levels of subsidies. The only alternative left for them is to bail out their farmers by offering meagre subsidies. Yet off and on several criticisms are being made by the World Bank over the meagre farm subsidies given in India. The call for targeting of subsidies is justified, but not its total elimination in the context. However, Dina Umali-Deininger, lead agricultural economist in the World Bank in the paper *India: Re-energising the Agricultural Sector to Sustain Growth and Reduce Poverty* admits by saying : "although agriculture contributes only about one-quarter of India's total gross domestic product (GDP), its importance in the economic, social and political fabric of India goes well beyond what is indicated by its contribution to the economy."

A similar study has been made by Dr Ashok Gulati and Dr Shenggen Fan of the US-based International Food Policy Research Institute (IFPRI). This study was discussed recently at a workshop in Delhi. The Gulati-Fan study shows that both public investment in agriculture and for agriculture has declined. The subsidies for the farm sector have increased. It says that the decline in public investment is primarily due to the Government's emphasis shifting to subsidies.

The Gulati-Fan study segregates the investments made in sectors like roads and education as "investments for agriculture" and that made in areas like irrigation and research as "investments in agriculture". The study admits that Green Revolution was possible due to public investment and subsidies.

The study makes a passing reference to an output subsidy, i.e., food subsidy and has rightly shown that the benefits are not equally distributed to farmers across the country. The study comments mainly on four subsidies, i.e., for fertilizer, credit, irrigation and power.

The Gulati-Fan study measured fertilizer subsidy as the difference between the import parity price and what the farmer actually pays, multiplied by the total consumption of fertilizers. It estimated that the fertilizer subsidy increased by more than 30 times from Rs 2.6 billion in 1976 to Rs 80 billion in 2000, measured at 1993 constant price. As a percentage of overall GDP, fertilizer subsidy increased from 0.07 to 0.61 per cent. The fertilizer subsidy increased at a faster rate than total subsidy of the central government.

It could have been better if the study could have taken the difference between domestic production cost of fertilizers and what the farmer actually pays in estimating the fertilizer subsidy. Urea is the major fertilizer used in the country and India imports only a small quantity to meet its needs. Global prices usually remain depressed and shoot up when India or China starts importing in large quantities. Comparatively the domestic cost of production is higher due to high costs of feedstock. Hence it would have been more realistic if the study could have taken into account the difference between the cost of production and what the farmer actually pays while estimating fertiliser subsidy.

However, the study admits that on the basis of import parity prices of fertilizers, the average share of farmers in the subsidy in the last two decade was about 67.5 per cent and rest was to the industry.

If the pricing of gas is adjusted as per Kelkar panel report the subsidy seems to be equally shared by farmers and the industry.

The point that Gulati-Fan study missed is the reference to organic farming. There is no subsidy for organic farming in the country.

Organic food is more hygienic and has a lucrative market abroad. Organic farming too causes an increase in yield in respect of many crops. The issue here is — Should we phase out subsidies on chemical fertilizers or should we extend similar subsidy for organic farming. Here is the issue of rightly targeting subsidies.

The Gulati-Fan study says about the subsidy on interest rates to farmers. It is no longer relevant now as interest rates are deregulated and the farmers are paying interests at 12 to 18 per cent while those for purchase of car and consumer durables are below 7 per cent.

Similarly, there are reports of lack of quality power in rural areas and the SEBs are wrongly accounting their losses under the head as supply to agriculture. A lump of irrigation subsidy constitute staff payments. All these call for rightly estimating and targeting farm subsidies.

(*The Financial Express*, 20 December 2004)

Do Away with Farm Subsidy: World Bank

CONCERNED over low growth in India's farm sector in 1990s, the World Bank said bold action from policy-makers is required to do away with subsidy-based regime and step up investment to make agriculture sector productive, internationally competitive and diversified.

"Bold action from policy-makers will be required to move away from the existing subsidy-based regime and instead invest in building a solid foundation for a highly productive, internationally competitive, diversified agricultural sector," the World Bank said in a report titled *India: Re-energising the Agricultural Sector to Sustain Growth and Reduce Poverty* released on 17 December 2004.

The large number of poor agricultural households and their income vulnerability are major concerns among policy-makers.

These concerns in turn have driven both agricultural policies (trade protection and private trade marketing controls) and public expenditures (investments and subsidies) in agriculture, the Report adds.

There is a need to develop a new strategy for the farm sector. Clearly, the current policy regime will not be sufficient to achieve the sectoral growth target of 4 per cent per year over the longer term nor to achieve the Indian Government's poverty reduction goals.

Heavy dependence on the foodgrain sector will require even higher and fiscally unaffordable increases in the Government's minimum support price and input subsidies, which will lead to the accumulation of even larger bufferstocks and exacerbate land degradation problems in many areas.

These policies at the same time will discourage farmers from diversifying to other higher-value crops, which could be a potentially important means for raising farm incomes and source of growth. It is recognized that political economy considerations will not make the new path easy, the World Bank said.

Improving India's agricultural performance will require progress in two key policy areas. The *first* is to reorient government expenditures, the Report says. Recognizing the difficult plight of poor farmers, there is a need to strive for improved targeting and efficient delivery of agricultural subsidies. These measures will be critical to free up resources for urgently needed productivity enhancing investments, including rural infrastructure and services.

The *second* policy change is required to permanently eliminate restrictions on domestic trade (storage, transport, credit controls), subject to their imposition only in true emergencies, and to remove the levies on rice and sugar, the small-scale reservation of agro-enterprises, and state controls on wholesale marketing.

These changes will improve the investment climate for farmers and the private sector to effectively meet market opportunities.

While appreciating India for the significant advances towards achieving its goals of rapid agricultural growth, improving food security, and reducing rural poverty during the last four decades,

the Report say fostering high growth in farm sector should be one of the key priorities of the Government of India.

(The Financial Express, 18 December 2004)

Textile Cos. Oppose Move to Subsidise Cotton Exports

TEXTILE companies, bracing up for the quota-free regime in global textile trade beginning January, have raised objection to the Agriculture Minister, Sharad Pawar's proposal to subsidise cotton exports, in the wake of the record cotton production this season.

In a letter to Finance Minister P. Chidambaram, the Indian Cotton Mills' Federation (ICMF) has warned that such "exclusive assistance" to cotton growers would make Indian cotton available to competitors at cheaper prices.

Shri Pawar had earlier proposed WTO-compatible subsidy for export of cotton, as a measure to stabilize domestic cotton prices, and avoid distress sale by farmers. The Cotton Advisory Board (CAB) had estimated record cotton production at 213 lakh bales (lb) for 2004-05 (October-September) as against 177 lb last year.

The ICMF has pointed out that export assistance would only enrich cotton traders who export rather than farmers. The apex textile industry body has also urged Shri Chidambaram to advise RBI to relax the norms on working capital for procurement of cotton. The relaxation would enable banks to extend working capital for six months, increase the bulk limits suitably and make the additional funds available at concessional interest rate of 5 per cent and 10 per cent margin, according to ICMF.

Admitting that there has been a steep decline in cotton prices this year as compared to last year, ICMF pointed out that last year (2003-04) was an "exceptionally good year" for Indian cotton growers, with the prices ruling high in domestic and international markets owing to the global shortage of the commodity. Last year's prices could not be sustained because of increase in global availability of cotton and the resultant decline in international prices, ICMF said.

(The Financial Express, 10 December 2004)

AP to Give "Free Land" for R&D

IN a major policy shift in the information technology (IT) sector, the Andhra Pradesh government has decided to extend various time-bound incentives for those companies creating "intellectual property" in software products.

According to sources close to the development, the government has agreed to extend even "free land" to those companies, which are focusing on high-end research and development areas. Also, the proposed policy envisages subsidies for patents and quality certification.

The IT Policy 1999 has more incentives to software and business process outsourcing (BPO) companies in the year 2002, which is in force till 2005. However, with the industry demand for more incentives, especially research-based companies, the government is coming forward with a new policy - targeting infrastructure, human resources and segment wise incentives.

The current policy offers 25 per cent rebate on power tariff, 50 per cent rebate on stamp duty, rebate in the cost of land at Rs 20,000 per each job created and investment subsidy of 20 per cent on fixed capital investments. Besides, it offers special incentives in land cost for major projects with investment of over Rs 50 crore.

Though the existing policy is effective and investor-friendly, the government has decided to give facelift to the existing policy to attract those companies and also new entrants, the official said. With the new policy, the incumbent government wants to inspire high-end corporates engaged in research and researchers. "Though we have enough talent here in the area of research, we lack more attractive policies. Hence, we are losing out to other states," the official said. According to the proposed policy, the government will also offer *patent subsidy* for those newly developed software products. "The government will *subsidise* the cost of patenting the innovations. If required, we will also help the industry bodies to establish a separate office for such activity", the official pointed out.

The new policy is also working out a structured package to offer incentives to the international certification bodies. According to sources, the government will subsidise the cost of quality

certifications for the products. "The process will ensure human resources development in Cyberabad," the sources said.

(*The Financial Express*, 2 November 2004)

NAMA Talks to Leverage Liberalization Process

INDIA is looking at the negotiations on Non-Agriculture Market Access (NAMA) at the WTO with a positive bent of mind but the problems of tariff and non-tariff barriers need to be addressed.

"Efforts are on to make India's manufacturing sector more competitive. The government's intention is to take the liberalization process forward. Thus, India looks at the NAMA negotiations with a positive frame of mind," Minister of State for Commerce Mr. EVKS Elangovan said while addressing the closing session of three-day Conference on the WTO Framework Agreement.

"Our concerns relate to the problems of tariff peaks and tariff escalation as well as non-tariff barriers faced by products of export interest to developing countries," Mr. Elangovan said. Any formula that may be explored as part of the modalities would have to address these issues more effectively, he added.

The Minister said the country saw the negotiations on trade facilitation at the WTO as an opportunity to take forward its autonomous initiatives in this regard but it was cautious to ensure that the provisions that may emerge were not overtly burdensome. In the case of agriculture, India cannot approach the WTO negotiations only from a market access angle due to the way the sector is organized in the country. He said special and differential treatment for developing countries was an integral part of the negotiations and it was their right to get it.

On the promises made by the developed countries in the framework agreement to cap *domestic subsidies* and eliminate *export subsidies*, Mr Elangovan said fungibility of export subsidies and domestic support was a reality and had to be looked at carefully.

"Countries with deep pockets can provide support covered by Green Box subsidies (given to farmers ostensibly to protect environment) with equivalent effect of export subsidy, expect that the quantum of subsidy may have to be larger," he added.

(*The Economic Times*, 30 October 2004)

Exporters Plan to Cash in on $20/Tonne Dole Meant for Ordinary Rice

Basmati Eating into Grain Subsidy

THE Gulf is likely to be the biggest beneficiaries of India's grain export subsidy. Indian exporters are planning to export basmati labelled as ordinary rice to the Middle East and claim the $20/tonne subsidy promised by the Government. And there is nothing in the policy sent by Commerce Minister Kamal Nath to Cabinet that could stop them.

India exports almost 5 lakh tonnes basmati annually to the Middle East. So if they want, exporters can claim almost $10 million or Rs 45 crore in subsidy. As only meagre quantities of parboiled non-basmati and wheat are still being exported, basmati masquerading as non-basmati would be the top gainer.

Though the proposed grain policy specifically bars basmati rice from getting any subsidy, the Commerce Ministry did not incorporate any mechanism to ensure that only genuine non-basmati rice exports put in a claim. Any exporter of basmati can simply label the rice non-basmati in the export document and later claim subsidy.

Similarly, the policy does not stipulate any criterion of export price for being eligible for subsidy. Consequently, even premium rice like basmati, labelled as non-basmati and exported to the Gulf for anything between $300-450/t can claim the subsidy. "If exporters say they are getting a unusually high value for Indian parmal rice abroad, the Government cannot use this reason to deny them subsidy. Even if a price band does come, the difference between basmati/non-basmati in the Gulf market is so little that underinvoicing would not be a problem," they added. Ironically, even if Indian basmati exporters do claim the subsidy, it will not boost their own bottom lines. Instead, competition and monophonic buyers will ensure that it gets immediately passed on to Gulf firms.

Shri Kamal Nath has been ploughing a lone furrow with the grain export policy as there is little consensus within the Government. The Food Ministry has been warning that if Indian grains are not competitive abroad, they should not be pushed out with artificial sweeteners.

(*The Economic Times*, 29 October 2004)

"India Can Open Its Market, If Rich Nations Cut Subsidies"

IF major industrial countries reduce their domestic subsidies, India would reduce the market access barriers for them, said Mr Anwarul Hoda, Member of the Planning Commission and former Deputy Director General of the WTO.

Addressing the Federation of Indian Chambers of Commerce-International Chamber of Commerce (FICCI-ICC) India Joint International Conference on "Doha Development Agenda: Issues and Options", he said, "India cannot reduce its tariffs, unless it sees a reduction in domestic support in these countries."

Unless there is an assurance that there will be a real reduction and not mere shifting of domestic subsidies from one box to another in developed countries, domestic agriculture in India cannot be exposed to undue risks of import, he added.

Referring to the July 2004 Framework Agreement of WTO, Mr Hoda said that "while we applaud this framework, as it has set the ball rolling, we cannot afford to be complacent, since there is a lot that still needs to be done." He pointed out that the July Framework Agreement does not mention any numbers and does not specify the extent of reductions. So if the reduction in support in agriculture is only going to be a few percentage points, then not much is achieved, Mr Hoda said.

As international prices increase due to the reduction in subsidies, India will be benefited by its increased export of milk, skimmed milk and sugar. The country needs to stay deeply involved in the agriculture negotiations with the WTO, he said.

(*The Hindu Business Line*, 28 October 2004)

West Should Cut Farm Subsidies: Kamal Nath

INDUSTRIALIZED countries should cut farm subsidies before seeking higher market access from developing countries, Commerce & Industry Minister Kamal Nath said in New Delhi. Emphasising that cut in agri subsidies should not be linked to forthcoming WTO negotiations on liberalization of market access for industrial products and services, he said no trade-off was involved.

"The possibilities, therefore, of trade-offs between agriculture and other areas in the negotiations stand diminished when we consider the role our Agri section plays in our economy… But we must be clear that this is not a chicken and egg situation," he said while addressing an UNCTAD seminar on WTO.

"There is no doubt as to what needs to be done first…it is the removal of subsidies. It is logical that market access can only succeed it, not precede it," Shri Kamal Nath added. The tussle over huge level of farm subsidies provided by the rich nations has been blocking progress in WTO talks.

(*The Economic Times*, 27 October 2004)

EU to Lift Trade Sanctions on US

THE EU said it would remove trade sanctions imposed on the US in a dispute over US corporate tax subsidies, but warned it might levy new penalties next year over continued benefits it sees as illegal to Boeing, the aircraft maker, and other US companies.

In a calculated move that will keep the five-year-old trade dispute simmering, the EU praised the US for finally complying with a WTO ruling that the $4 billion (•3.1 billion, £2.2 billion) Foreign Sales Corporation (FSC) scheme was an illegal tax subsidy.

But Brussels plans to take the issue back to the WTO, seeking a ruling on whether the US remains in violation because of special provisions that will leave the tax subsidy in place for contracts already signed on future deliveries of aircraft and other heavy goods.

President George W. Bush signed legislation that would phase out the FSC scheme, beginning

next year, and replace it with nearly $140 billion in new corporate tax breaks. The bill was propelled through Congress by the need to end the European tariff penalties against US imports, which have cost between $200 million and $300 million since March.

Despite forcing Washington's hand, Brussels says it is still not entirely happy with the outcome. Mr. Pascal Lamy, the outgoing Trade Commissioner, said that he would ask the WTO to review the US bill because of continued concerns about the "grandfathering" arrangement.

In a statement, the EU noted that Boeing had contracts for billions of dollars in future aircraft deliveries that would continue to receive the FSC benefits.

The EU also continues to have concerns over a two-year transition period for phasing out the FSC benefits, but has said it could live with the transition as long as the rest of the legislation complied with WTO rules.

"We can accept a transition period (for abolishing the FSC) but not a super-transition that could benefit some companies beyond 2006," Lamy said. "We keep our legal options open."

The EU move is primarily aimed at maintaining leverage against Boeing, which is backing Washington in a separate WTO complaint against European subsidies for Airbus, its rival in the large civil aircraft market.

The US has warned the EU against linking the two disputes and trying to use the FSC benefits for Boeing as a bargaining tool.

Senator Max Baucus, a senior Democrat on trade issues, called the European decision to send the decision back to the WTO "a misguided attempt to gain leverage in the Airbus dispute . . . that could do real harm to the WTO system".

He said the US had already accepted far more generous transition provisions in a dispute with the EU over bananas.

Lamy insisted that pending the WTO's opinion, the FSC dispute was being "put to bed, but more time is needed before we can switch the lights off".

He said it was too early to speculate on the size of tariffs that could be reintroduced if the WTO again sided with the EU, but remaining issues were "a small part of what was a big problem".

(*Business Standard*, 27 October 2004)

Food Subsidy Bill Rises to Rs 16,000 crore

WITH more than five months to go for the current fiscal, the Union government has run a food subsidy bill of about Rs 16,000 crore. This is higher than the budgeted amount by 62 per cent.

The Government has pegged food subsidy at Rs 25,800 crore for the current fiscal, which was Rs 600 crore more than the revised estimates for the last fiscal. The subsidy bill, which was less than Rs 10,000 crore in 1999-2000, has been rising steadily, Government efforts to control non-plan expenditure notwithstanding.

The subsidy is given to Food Corporation of India (FCI) to compensate it for losses incurred on running food procurement and distribution scheme and maintenance of a bufferstock. Although the expenditure this year will be relatively less on maintenance of the bufferstock, which has dipped to a low of 20 million tonnes from a peak of 65 million tonnes in June 2002, the other ongoing food schemes will cost the exchequer dearly.

FCI has procured 16.8 million tonnes of wheat (as on 19 July 2004) and 5.9 million tonnes of rice (20 October 2004). The procurement of rice is continuing.

Although FCI purchases foodgrains at the procurement price fixed by the Centre, grains are issued to states for targeted public distribution system (TPDS) to be supplied to below poverty line (BPL) and above poverty line (APL) families at concessional rates. Foodgrains are also supplied at highly concessional rates, under the Antyodaya Anna Yojna, to families belonging to the poorest strata of society. The difference between the economic cost and the Central issue price is reimbursed to FCI in the form of subsidy.

The FCI channel is also used for supplying foodgrains for the mid-day meal scheme, a national programme of nutrition support to primary education in schools. Under the scheme every child is entitled to 3 kg of rice/wheat per month.

As far as offtake of foodgrains is concerned, the maximum amount is lifted by BPL families under TPDS. During April-August 2004, 2.3 million tonnes of wheat and 3.3 million tonnes of rice were supplied to BPL families as against 2.0 million tonnes and 3.1 million tonnes respectively during the corresponding period last year. The total offtake of foodgrains, including wheat and rice, under TPDS during April-August worked out to 9.4 million tonnes as against 7.7 million tonnes during the corresponding period last fiscal.

(*The Financial Express*, 26 October 2004)

No Trade-Offs in WTO: Kamal Nath

THE government has ruled out any trade-off between agriculture and other areas of negotiations in the WTO.

Agriculture played an important role in our economy and society and huge farm subsidies by the developed countries distorted international trade, said Commerce & Industry Minister Kamal Nath in his inaugural address at a three-day Consultation on the WTO Framework of July 2004 organized by the United Nations Conference on Trade & Development (UNCTAD) in New Delhi.

Distortions, characterized by huge export subsidies and high domestic support, provide asymmetric opportunities for production and export to some, leaving a multitude of poor farmers in developing countries at the risk of extreme poverty and even lower standards of living than at present, the Minister said.

The disparity between interventions by government in developed countries and those in developing countries is stark. The poor countries cannot subsidise their own agriculture because they cann't afford to do so, he said. "I feel that the time is ripe for use to discuss precisely how far we can go in agriculture, based on the elements that are contained in the framework agreement."

Shri Nath pointed out that India remains committed to robust domestic reform and progress in agriculture. "We do not deny the developed world agricultural market access on a whim, or because we do not want to engage in trade. We have been forced to turn protectionist because we have no alternative; there is no level playing field.... Eliminate subsidies completely and fully, in all its guises, and we would not be hesitant to liberalize substantially."

The main concern at present relates to identification of the issues and assessment of the benefits and costs, as well as the rights and obligations that may arise in case the provisions in the framework are defined one way or the other, he said.

Developed countries may have already had lower tariffs, but the non-tariff barriers they have erected end up nullifying our free access into their markets, Shri Nath said, adding that market access should not be restricted to tariffs but also include non-tariff barriers.

India has undertaken tariff reduction in a calibrated manner so as to minimize any negative effects, he said. "But I must emphasize that developing countries cannot be asked to, nor will they agree to, make commitments beyond their capacities or by disregarding their specific concerns which relate to alleviating poverty, promoting rural development, and safeguarding the livelihood of their people."

Shri Nath said the formula for tariff reduction should reflect the key features of the Doha mandate — special and differential treatment and less than full reciprocity.

India also wants flexibility in sectoral initiatives. In the seven sectors of fish products, leather, footwear, textiles, jewellery, electronic goods and auto components, there is the proposal to eliminate tariffs.

(*The Financial Express*, 27 October 2004)

India's Interests at WTO will be Protected: Nath

COMMERCE and Industry Minister Kamal Nath t said intensive negotiations on the framework WTO agreement were expected to begin from 15 November, well ahead of the next ministerial meeting scheduled for Hong Kong, 13-18 December 2005.

"The government is committed to consulting all stakeholders, including business, trade, industry and even non-government orga-

nizations," Shri Nath told reporters on the sidelines of seminar on the WTO framework organized by the UNCTAD.

Earlier, Shri Nath reiterated India's stand that during negotiations there could be no "trade-offs" between agriculture and other areas of the WTO. He also said the elimination of subsidies by developed countries "completely and fully, in all its guises" would have to precede their seeking market access from developing countries.

"There is no doubt as to what needs to be done first. It is the removal of subsidies. It is logical that market access can only succeed it, not precede it," he said.

Asserting that the Indian government was committed to robust domestic reform and progress in agriculture, Shri Nath said countries like India had been forced to adopt a protectionist policy in the absence of a level playing field.

Emphasising that here should be "effective and substantial" reduction in domestic support to the farm section in developed countries, Shri Nath said artificiality of prices was destroying the WTO's endeavour to create a level playing field in trade.

The Minister said India attached equal importance to market access commitments by developed countries to developing nations and cautioned that the former should not erect non-tariff barriers in place of tariffs to restrict market access.

Developing countries could not be asked to make commitments beyond their capacities, Shri Nath said, adding India should be given sufficient policy space and flexibilities in instruments to work for the upliftment of its large population. "It is essential that the formula reflects what we see as key features of the Doha mandate, namely special and differential treatment and less than full reciprocity," he said.

On non-agriculture market access, he said flexibilities for developing countries should be such that they address specific development related requirements.

"We are in a position for more comprehensive negotiations that could result in the creation of mechanism to make it possible for a more substantial addressing of sensitivities of individual countries,"he said.

(*Business Standard*, 27 October 2004)

India Rules Out Trade-Offs in WTO Talks

INDIA ruled out any trade-offs between agriculture and other areas of negotiations in the run-up to real agreements under the auspices of the WTO given the critical position agriculture holds in the country's economy in terms of livelihood concerns of millions of farmers.

Indicating this at the inaugural of the three-day consultation on the WTO Framework Agreement of July 2004, jointly organized by the UNCTAD, the Department of Commerce and the UK Government outfit DFID in New Delhi, the Union Commerce & Industry Minister Kamal Nath outlined India's approach in the post Framework WTO negotiations that are scheduled to commence shortly.

On agriculture, Shri Nath called for setting an early date for complete elimination of export subsidies in any form, without resorting to the tactic of backloading the commitments or creating loopholes in the guise of food aid concerns. He said the focus should be not just on market access into developing countries by getting them to lower tariffs, but also equal importance should be bestowed on market access commitments by developed countries to ensure wider distribution of benefits for all.

(*The Hindu Business Line*, 27 October 2004)

Cabinet to Okay Rs 300-cr Farm Infrastructure Proposals

THE Centre is set to clear subsidy-linked agriculture infrastructure psoposals worth almost Rs 300 crore in a Cabinet meeting.

The agri infrastructure proposals to be cleared in the meeting include a reform-linked agri-marketing, grading and standardization-sub-grading and standardization subsidy proposal involving an outlay of Rs 175 crore during Tenth Plan. This has

provision for a 25 per cent subsidy to entrepreneurs and 33.33 per cent subsidy to the North-Eastern States. However, the subsidy will be extended only to states that have made "requisite" changes in their APMC Acts. The second subsidy-linked project to boost rural agri infrastructure involves building of rural godowns. With an outlay of around Rs 115 crore, it envisages adding some 32 lakh tonnes of storage capacity and renovating 4 lakh tonnes of cooperative storage infrastructure. This will be in addition to the 104.92 lakh tonnes storage capacity infrastructure cleared for funding up to March 2004. Sources said the project would meet up to 20 per cent of a state's total capacity and will subsidise godowns with minimum capacity of 25 tonnes up to 10,000 tonnes.

(*The Economic Times*, 20 October 2004)

US Appeals WTO Ruling on Cotton Subsidies

THE US Government has appealed against a WTO ruling that its lavish programme of cotton subsidies broke trading rules.

The WTO's Appellate Body officially has up to three months to study Washington's objections to the verdict in a case brought by Brazil, although it often takes longer. In a letter to the WTO's Disputes Settlement Body (DSB), which had been due to approve the panel report condemning US cotton policy, the US took issue with all points raised in the decision.

"The US hereby notifies its decision to appeal to the Appellate Body certain issues of law covered ... and certain legal interpretations developed by the Panel in this dispute," the letter said.

It went on to list 14 issues and diplomats said that it contested every point where the panel found for Brazil. The ruling, initially sent to the two parties in April, upheld Brazil's contention that US policy seriously hurt Brazilian cotton producers.

Brazil successfully argued that Washington had exceeded agreed subsidy limits for cotton, leading to over-supply which in turn had contributed to depressing world prices.

It was the first time that a developing country had challenged the crop support programme of a big trade power.

(*www. Economic Times.Com*, 19 October 2004)

EU not Ready to Lift Sanctions against US

Lamy Welcomes US Decision to End Corporate Tax Subsidy Rule

THERE will be no early end to punitive European tariffs on US products despite a decision by the US Congress to end a corporate tax subsidy ruled illegal by the WTO, Mr. Pascal Lamy, the European Union's Chief Trade Negotiator, said in Brussels.

Despite welcoming this week's legislative olive branch, Mr Lamy said it was premature to expect Brussels to abandon the sanctions on some US products, imposed after the WTO ruled against the US tax scheme.

The bill provides about $137 billion of new tax breaks to business. The EU's continued concern over the bill is entangled with the dispute between Airbus and Boeing, the aircraft manufacturers, over government subsidies.

Mr Lamy said: "The fact is that Boeing is the number one or number two beneficiary of this (Foreign Sales Corporate Tax) system... There are a number of issues that are not that clear for instance, on the treatment of options for selling planes. Depending on our findings and the fact that the Boeing issue has surfaced, we will need to see what to do."

But he explicitly distanced himself from the decision this month to launch a WTO trade complaint against Boeing over aircraft subsidies that risks escalating into the largest dispute in the history of the WTO.

(*Business Standard*, 15 October 2004)

EU Rejects US Termination of Aircraft Subsidy Agreement

THE European Union (EU) accused the US on violating a trans-Atlantic pact on subsidies to aircraft makers and demanded consultations

before Washington gives any aid to Boeing Co.'s 7E7 project.

In a letter released in Brussels, the European Commission said it rejected a unilateral US move to terminate the pact since it was not backed by proper reasons, and the EU considered the agreement to be in force. "We have ... the feeling that this may be a way for them to escape from the disciplines in the 1992 agreement," spokeswoman Arancha Gonzalez told a news conference. "We also request that we hold consultations before they make any definitive decision as to the provision of subsidies to the Boeing 7E7," he added.

The latest escalation came after Washington and Brussels filed reciprocal complaints against each other's public subsidies to Airbus and Boeing with the WTO. The aircraft dispute, which erupted a month before the US presidential election, has raised trans-Atlantic tensions over a draft of trade issues.

"We don't think they have provided grounds for terminating the agreement and therefore we don't think it's a substantiated termination," Mr Gonzalez said. "The EU considers the abrogation invalid and consequently the agreement is still in force," he added. A senior US trade official said, the timing of the challenge had more to do with the prospect of European government subsidies for the launch of a new Airbus plane, the A350, which would rival Boeing's "Dreamliner" 7E7.

The Commission said Washington had provided no evidence of EU non-compliance with the 1992 pact and made only "groundless and unsubstantiated general allegations".

(*The Financial Express*, 9 October 2004)

US House OKs Huge Corp Tax Bill to End WTO Row

$140 bn in New Tax Breaks; Illegal Subsidies to Go

THE US House of Representatives approved a huge corporate tax bill aimed at ending a trade dispute with the EU while giving American manufacturers a new tax break. The House voted 280-141 for the US manufacturing to 32 per cent from the normal corporate rate of 35 per cent and ends a tax subsidy for exports that the WTO has said violates global trade rules.

The Bill is a compromise between the House and Senate, which is also expected to pass the measure. But it could face some delay from senators upser that a tobacco buy our for farmers did not also include Federal regulation of tobacco products.

The Bill includes about $140 billion in new tax breaks for businesses. But the cost of the provisions will be offset by repealing the illegal tax subsidies, closing corporate tax shelters and other revenue raising measures.

(*The Economic Times*, 9 October 2004)

Rich Nations Must Phase Out Farm Sops: Nath

DEVELOPED countries must remove their trade distorting agricultural subsidies completely before seeking agri market access in developing countries like India, according to Commerce and Industry Minister Kamal Nath.

The Minister said this while participating at an international conference on "Liberalization and the Future of Agricultural Policy" organized by the French Institute of International Relations in Paris. Signalling India's approach in the detailed negotiations for modalities following the conclusion of the WTO draft framework agreement of July in the current Doha Round, Mr Nath emphasised that for India agriculture would remain core factor in determining how quickly progress was made in the modalities negotiations at the WTO.

(*The Financial Express*, 9 October 2004)

Transatlantic Dogfight on Aircraft Subsidies

THE 2003 Cancun Ministerial of the WTO floundered in the face of the developed countries' stubborn refusal to prune their massive agricultural subsidies that distort the global grain market. If the subsidy on farm goods was the bone of contention between the developed and the developing countries, the very same issue — but this time, for aircraft

manufacturers of the US and the EU — has triggered a transatlantic skirmish that threatens to sour the traditional bonhomie between natural trading partners.

On 7 October, the US lodged a complaint at the WTO on the EU support to Airbus, a consortium of aircraft manufacturers in Europe. This has compelled the EU to request consultations with them US in the WTO on the massive subsidies granted to Boeing, the US aircraft manufacturing giant.

In the ensuing briefing to make each other's case stronger, the EU went for the jugular by stating that for many years, the US government has subsidised Boeing, mainly by disbursing R&D costs through NASA, the Departments of Defence and Commerce, and other government agencies. The EU alleged that since 1992 Boeing has absorbed around $23 billion of subsidies.

This, the EU said, is over and above the US government's grant to Boeing of around $200 million per year in export subsidies under the Extra-Territorial Income-Tax Exclusion Act (which succeeded the Foreign Sales Corporations legislation), despite a WTO ruling forbidding these subsidies as illegal.

According to the EU, the latest and most flagrant contravention is subsidies of about $3.2 billion — among others, in the form of tax reductions and exemptions, and infrastructure support — for the development and production of Boeing's 7E7, also known as "Dreamliner".

The European Commission appears to have piled up evidence of the US government's subsidies to Boeing, which if proved, would be violative of the WTO Agreement on Subsidies and Countervailing Measures. The EU further contends that the sops also violate the 1992 EU-US Agreement on Trade in Large Civil Aircraft, which regulates precisely the forms and level of government support the US and the EU provide to Boeing and Airbus respectively.

It is interesting to note that the US has refused to participate in the bilateral consultations stipulated by the 1992 agreement for more than two years. But further to a US request only a few weeks ago, the EU agreed to discuss the issue of a possible revision of the 1992 Agreement provided this could cover all forms of subsidies, including those used in the US, and that the US would bring any subsidies for the Boeing 7E7 in line with the 1992 Agreement.

When the plea for renegotiations of the 1992 Agreement was under way, however, the US requested WTO consultations on European support to Airbus, implying that the US was never particularly serious on renegotiation of the 1992 Agreement.

This mutual recrimination by trade majors using the WTO dispute settlement machinery for redress should be an eye-opener for all developing countries unable to dole out huge subsidies to hi-tech industries, leave alone to the deserving farm sector. And this apart, it is also a good opportunity to iron out asymmetries in the global trading system through the rule-based WTO.

(*The Hindu Business Line*, 8 October 2004)

US, EU Face Off over Airbus, Boeing Subsidies

THE US and the European Union took their fight over billions of dollars in subsidies for Airbus and Boeing to the WTO. Washington filed a case challenging European loans to help Airbus develop aircraft and terminated a 1992 Civil Aircraft Agreement covering government support for the two top aircraft manufacturers.

The 25-nation EU quickly filed a counter complaint against US support for Boeing, which over the past decade has lost its position as the world's largest civil aircraft manufacturer to its European rival.

The 1992 Agreement allows European governments to finance up to 33 per cent of Airbus' cost of developing new aircraft, including US$3.2 billion in loans for the new A380 superjumbo jet. Washington charges Airbus also has received about US$3.3 billion in other government assistance for that project, helping it overtake Boeing.

"Since its creation thirty-five years ago, some Europeans have justified subsidies to Airbus as necessary to support an 'infant' industry. If that rationalization were ever valid, its time has long passed," US Trade Representative Robert Zoellick said in a statement.

Airbus, which began as a consortium of French, German, Spanish and British companies, is now co-owned by European aerospace company EADS and Britain's BAE Systems.

In its counter complaint, the EU said Boeing has received some US$23 billion in US subsidies since 1992. That includes about US$3.2 billion in tax breaks from Washington state to persuade Boeing to base production of its 200-to-300-seater 7E7 airplane there, EU officials said.

The US complaint was "obviously an attempt to divert attention from Boeing's self-inflicted decline," European Union Trade Commissioner Pascal Lamy said in a statement.

"If this is the path the US has chosen, we accept the challenge, not least because it is high time to put an end to massive illegal US subsidies to Boeing which damage Airbus, in particular those for Boeing's new 7E7 programme," he said.

(*The Economic Times*, 8 October 2004)

Rs 300 cr Subsidy for Farm Exports Sought

THE Commerce and Industry Ministry has sought an allocation of Rs 250-300 crore for 2004-05 to provide subsidy under the foodgrain export policy.

The subsidy scheme, which would be compatible with the WTO guidelines, would be applicable only for rice exports this fiscal as the rabi season was long over.

"Our objective is to provide the subsidy to rice this fiscal and from the next fiscal extend the subsidy to wheat," the official said, adding that the allocation for the subsidy next year would then double to around Rs 600 crore.

The officials said concerns in some quarters over starting rice exports this fiscal had been addressed as the price of rice in the domestic market was nearly five-and-a-half times lower than in the international market.

"Rice stocks will go up further, bringing down the price. There is no threat to domestic availability of rice on account of exports, as exports will stop if domestic prices go up," the official said.

(*Business Standard*, 21 September 2004)

Is Pascal Lamy Laying A Trap?

EXPORTERS and trade negotiators – beware! Watch out for Pascal Lamy, the EU Trade Commissioner and chief negotiator in the current round of Doha negotiations. His aim is to rewrite the rules of global trade by advancing arguments that are normally the preserve of sociologists and cultural relativists. In short, he wants to shut out imports which violate the "collective preferences" of the EU.

The term "collective preferences" sounds innocuous, when compared to, say, "dumping" or "subsidies" Yet, it prompted the business community to declare itself "surprised and concerned" about the intensity of the discussion on this topic within the European Commission, the EU's trade arm.

"WTO rules", according to Mr Lamy, "do not impose uniform standars for products any more than they dicatate the conditions of production," provided "there is transparency and no discrimination, a country cannot be accused of protectionism just because it applies specific health, plant health or technical rules on access to its market."

The challenge, facing both developed and developing countries "is to design an open trading system that everyone accepts and that safeguards legitimate social choices," he said. Taking account of collective preferences "will influence the content of future negations," in his views.

Meanwhile, a special safeguard clause could help integrate collective preferences into WTO rules. A country invoking the clause would have to demonstrate that there really was a coherent underlying social demand, " Mr Lamiy said, and that "the measures adopted did not restrict trade more than other measures capable of satisfying the same demand." He said such a clause "would have to be accompanied by a compensation mechanism" that would "partially compensate the affected exporters" and "test the determination and strength of the collective preferences" of the country resorting to the clause.

(*The Financial Express*, 18 September 2004)

US Set to Challenge WTO Ruling on Cotton Subsidies

STUNG by an adverse WTO panel ruling in the cotton case, the US is bracing itself to appeal aspects of the panel report. A note to dispel what are termed as "myths" about support to American cotton farmers has already been circulated by the Office of the United States Trade Representative (USTR).

The US cotton programmes are widely believed to have caused a fall in cotton prices and hurt growers in other origins, especially those from developing nations such as in Africa.

When first released several months ago, the WTO's preliminary findings - the outcome a complaint filed by Brazil against the US - caused a furore across the world.

Essentially, the US is seeking to defend its position by saying that its programmes have not distorted trade, caused low prices and hurt foreign growers. Rather, they have operated as designed, supporting farmers' incomes while allowing them to react to market signals.

Rebutting the popular belief that the US support to cotton farmers resulted in low cotton prices, USTR is at pains to show that cotton prices have actually risen after introduction of Farm Bill 2002 despite alleged increase in US cotton support.

According to USTR, a high correlation between Chinese net import levels and price movements exists.

Denying that the support programmes have insulated US farmers from market price signals, the note goes on to state that American cotton farmers too, like their counterparts in the rest of the world, have reacted to market conditions.

It has been suggested that farmers in the US plant in the spring season based on what they expect the prices to be in the fall season. Futures market helps them discover forward prices and enables them make the planting decision, it is argued.

Policy-makers in the US have termed the WTO panel ruling as a "mixed verdict", suggesting admission of correctness in some of the adverse findings, which would of course be challenged while some aspects would be negotiated, rather than litigated.

It is, however, clear that the cotton case will exert no immediate impact on the US farm programmes as also on the global cotton economy.

Of course, there are some unanswered questions. It is a fact that world cotton prices have been low and ruling at levels detrimental to the economic interests of growers in developing countries.What are the contributory factors to low world prices? It is conceivable that a combination of factors has led to low prices. The question to be answered is whether the US cotton support programme is one of the contributory factors.

If yes, what is the extent of its contribution to low prices? Next, assuming that US cotton support programmes did not exist. Would global cotton prices have behaved any differently? Would they have risen more than they did since 2002?

Interestingly, USTR is at pains to demonstrate that the country's support programmes have in no way impacted world cotton prices. To what extent it would succeed in dispelling the so-called myths remains to be seen.

A striking paradox in the USTR report relates to the very rationale of having the cotton support programme. According to USTR, the support programme does not distort prices, does not help raise production, does not insulate US farmers from market conditions and that US farmers take their planting decision based on prices on the futures market.If all these are accepted as correct, it follows that the US cotton economy is almost wholly market-driven and that American cotton farmers are not dependent on Government support.

What, then, is the real purpose of the support programme and the utility of huge funds spent? Farmers who have for long years enjoyed payments for producing more are unlikely to cut down on production even if a system of decoupled payments is introduced.

The US has successfully defended its position in the matter of decoupled payment from the claim of serious prejudice. But how does one ascertain that decoupled payments do not distort prices and markets?

Looked at from another angle, there are loads of lessons for the developing countries to learn. The US is one of the most efficient producers of cotton and the position has been earned with the infusion of

large resources - financial, technological and human, over a period of time.

By itself, farm support programmes alone do not and cannot guarantee higher yield, larger area and bigger output.

Large investment is required in a whole range of services and infrastructure - delivery of inputs, scientific farm management, pre- and post-harvest practices, and not the least, rural infrastructure including warehousing and marketing facilities.

The sooner developing countries that produce cotton, including India, start putting their houses in order, the better.

(*The Hindu Business Line*, 16 September 2004)

Infam Opposes Cut in Rubber Export Subsidy

THE Indian Farmer's Movement (Infam) urged the Kerala Government to give financial incentives for the export of natural rubber, as the decision to halve the export subsidy would adversely affect rubber growers.

Infam said in a statement that since the State Government collects about Rs 500 crore every year from rubber farmers by way of taxes, it has an obligation to help them.

The State is levying a tax of about Rs 7 per kg of rubber from the farmers. Even if the State provides an incentive of Rs 4 per kg for 50,000 tonnes of rubber exports, it needs to fork out only Rs 20 crore, Infam pointed out.

The Central Government announced halving of rubber export subsidy for the current financial year. The new rates will be applicable for exports up to 50,000 tonnes.

Infam said the move will hurt the rubber farmers and it comes at a time when the Government is encouraging exports by announcing liberal export policies. It also protested the decision to lift port restrictions for imports of rubber into the country.

Removal of port restrictions for import of rubber will lead to the arrival of inferior quality of rubber into the country and also give rise to the situation where there will not be any data on quantity of exports, Infam said.

(*The Hindu Business Line*, 10 September 2004)

US Subsidies for Cotton Farmers Violate Rules, Says WTO

THE WTO judges ruled that the US subsidies worth $3 billion a year to cotton framers violate international rules because the aid overshoots agreed payment limits, upholding a complaint by Brazil.

The decision, if upheld on appeal at the Geneva-based WTO, would force the US to change its farm payment legislation and may prompt a series of similar cases from other developing countries. The loss may also force some US cotton farmers, who produced $5.6 billion of the fibre in 2003, to plant other crops.

The findings, a public confirmation of a confidential June report, increase pressure on the US, Japan, the EU and other rich nations to cut back on the $97 billion a year they spend subsidizing their farmers. WTO negotiators agreed on an outline for an accord cutting rich-country aid last month.

"We recommend that the US withdraw the prohibited subsidies without dealy," arbitrators wrote in a 377-page ruling published on the WTO's web site.

The WTO judges deemed the payments to 35,000 American cotton farmers unfair because they exceed caps the US agreed to a decade ago. Brazil's government estimates that its farmers have lost more than $600 million in sales because of the US aid.

Without the subsidies, US cotton production would have shrunk by nearly 30 per cent and world prices jumped by more than 12 per cent, according to the research done on behalf of the Brazilian government by Mr Daniel Sumner, a University of California at Davis economist.

"The facts do not show that US farm programmes have distorted trade and caused low cotton prices," the US Trade Representative, Mr Robert Zoellick, said in an e-mail, adding that the US will appeal "some aspects of the panel report."

The case was the first targeting domestic farm payments, that will delay any requirement for the US to comply with the ruling until the second half of next year.

West African nations including Chad, Mali, Burkina Faso and Benin, while not complainants in

the dispute, have said they may gain from the August WTO outline agreements after the US agreed to cut back market-distorting cotton payments.

Brazil argued that the legal protection for subsidies, known as the Peace Clause, had expired and wouldn't apply because US payments are higher than those paid in 1992, the reference year. The subsidies cost African nations more than $300 million between 2001 and 2002, Oxfam said in an e-mailed statement.

(*The Hindu Business Line*, 10 September, 2004)

WTO Raps EU Again over Sugar Sales

WTO has again declared some EU sugar exports illegal, dealing a new blow to the bloc's lavish system of farm subsidies.

In their final ruling in a dispute brought by Brazil, Australia and Thailand, WTO trade judges reiterated an initial verdict of early August that the 25-nation bloc had exceeded limits on the export of subsidised sugar.

"As expected, the ruling has not changed," said the source, which had access to the confidential verdict. The EU, which is already reviewing its highly expensive sugar regime, denies any wrongdoing and the bloc's Farm Chief, Mr Franz Fischler indicated that Brussels would appeal against the ruling.

The WTO decision had been widely expected because so-called final rulings rarely made changes. But if Brussels opts to fight on, then it could be at least a year the case concludes. If it loses an appeal, the bloc must reform its policy or face the threat of sanctions from those bringing the complaint.

It is the second time in recent months that the WTO has rebuffed the giants of world trade – the EU and the US – over their farm policies, with Washington fighting a guilty verdict in a cotton case, also brought by Brazil.

The results should strengthen the hand of developing countries, which are demanding swingeing cuts to such subsidy programmes as part of negotiations at the WTO on reforming global commerce, including agriculture, analysts say.

"Reform of these unfair and harmful farm payments is long overdue. Rich countries simply can't keep breaking the rules and expecting to get away with," said Mr Jo Leadbeater, Head of Oxfam International's EU advocacy office.

The WTO sugar ruling will not be made public for another month, but the contents has been widely leaked. According to sources familiar with the case, the judges upheld the view of Brazil, the world's largest sugar exporter, and its allies that surplus EU production – so-called 'c' – exported by the bloc was subsidised, despite a claim to the contrary by Brussels.

African, Caribbean and Pacific countries have expressed concern the ruling will deprive them of vital foreign earnings, but the WTO said there was nothing to stop Brussels continuing to buy the sugar.

(*The Hindu Business Line*, 9 September 2004)

"India to Push for Legal Sanctity of Geneva Proposals"

INDIA will consolidate its gains achieved in the framework agreement concluded in the WTO negotiations at Geneva by ensuring sanction of legal strength to the modalities negotiations coming up in end-2005 to make developed countries stick to their commitments.

Outlining the opportunities and pitfalls leading to the WTO's sixth ministerial conference at Hong Kong in December 2005, Shri R. Gopalan, Joint Secretary, Commerce Ministry, said that India is now working on the modalities of how it proposes to implement its commitments, ensuring that the developed countries stick to theirs. He was speaking at a meeting organized by the Confederation of Indian Industry.

It will push for ensuring the legal sanctity of the proposed modalities agreement framed by the WTO members.

The significance of the modalities is that it is a firm commitment of a country's plans to implement what it has agreed to in the framework agreement.

This would ensure that the gains achieved by the developing countries in the Geneva framework agreement are not lost. The agreement is itself not legally binding on the members, he said.

Between now and February 2005, detailed technical work will be needed to chart out the modalities before the start of the political process. "There is real hard work from September to December 2005," he said.

Once the modalities are finalized, 70 per cent of the job is done. However, the political changes across the globe will have to be kept in mind.

The framework agreement concluded at Geneva has helped protect the interests of developing countries, committing the developed countries to a time-bound plan for reducing subsidy and putting a ceiling on support to farmers, he said.

It is one of series of such programmes to brief the industry on the implications and to seek its suggestions.

Another area of concern is the non-tariff barrier in agriculture trade. There has been no mention of the barriers in the framework agreement at Geneva.

"We need to make sure that this is not overlooked. The ball is in our court. We have to play well, and understand the implications," he said.

Based on the experience at Doha, developing countries must be wary of developed countries pushing development issues to the background. India needs to be "more aggressive" in ensuring developed countries cut back on the domestic support. Similarly, export subsidies are also to be eliminated.

The finalization of the framework agreement at Geneva was a welcome breakthrough in that it restored the Doha negotiations back on the rails and dialogues would begin. The Geneva framework is a mark of India's strength in international negotiations and the increasing importance of developing countries.

They managed to bring to fore development concerns and concessional treatment for developing countries, which had not been on the priority list of developed countries.

(*The Hindu Business Line*, 27 August 2004)

WTO Farm Deal Thrashed Out

THE WTO struck a framework deal take forward the global trade talks stalled at the Cancun ministerial summit last year. The most important component of the hard-won deal was a consensual formula on reform of global farm trade, which comprised elimination of export subsidies, caps on rich nations' support for their farmers, and tariff cuts. The deal, a significant milestone in the history of WTO, bears out the world body's acquired ability to resolve seemingly irreconcilable differences amongst its 147 member countries, in true democratic spirit.

The Commerce and Industry Minister Kamal Nath said: "The framework adequately addresses all of India's concerns on agriculture. It provides for special treatment in case of our sensitive products and a special protection mechanism for restricting market access."

The deal, the Minister said, also requires rich countries to "substantially reduce" export subsidies and domestic support.

On the crucial question of an end date for elimination of export subsidies the Minister said, "we are still working on it."

The deal, that looked distant even at the end of the General Council meeting, was finally struck thanks to the active political guidance from the NG-5, a group of five key members: Australia, Brazil, the EU, India and the US.

The NG-5 had earlier worked out a compromise formula on agriculture, discord on which was the real stumbling block for reviving the stalled negotiations.

The US insistence on slowing down the pace of cutting subsidies (as reflected in the Friday's revised draft), from what was suggested in the formula, had threatened to derail the talks, but a settlement was laboriously reached thanks to the political guidance from the NG-5.

The success in Geneva would now restore momentum to the talks on the Doha Development Agenda, languished for months but hold out the promise of a multi-billion dollar boost to the world economy.

(*The Economic Times*, 1 August 2004)

WTO Rules US Cotton Subsidies Violate Trade Rules

THE WTO ruled that $3 billion in US cotton subsidies violate trade rules, upholding a preliminary decision in favour of Brazil from earlier this year, both governments said.

The Bush administration said it plans to appeal the ruling in the first ever trade case targeting domestic farm payments.

"US farm programmes were designed to be and are fully consistent with WTO rules," said Richard Mills, a spokesman for the US Trade Representative. "This litigation will take many months, and maybe years to resolve. The best way to address any distortions is through the WTO agriculture negotiations."

The ruling could increase pressure on the US, Japan, EU and other rich nations to cut back on the $97 billion a year they spend subsidising their farmers. The World Bank and other advocates for poor nations say that those payments depress global prices, making it harder for farmers in countries such as Burkina Faso, Guatemala or Bangladesh compete with their counterparts in rich nations.

"Brazil showed there's a limit to domestic subsidies," said Roberto Azevedo, a general coordinator for trade disputes at Brazil's Foreign Affairs Ministry. "It's valid for cotton and other commodities as well."

The decision, if upheld on appeal, would force the US to reopen its farm payment legislation and may prompt a series of such cases from other developing countries, said Dale Hathaway, a former US agriculture official.

"It should give the US additional incentive to get a comprehensive agreement" in the current round of global trade negotiations, Hathaway said in an interview.

Subsidies Without the Subsidies

US cotton production would have shrunk by nearly 30 per cent and world prices jumped by more than 12 per cent, according to the research done on behalf of the Brazilian government by Daniel Sumner, a University of California at Davis economist.

Brazil, which brought the complaint against the US, says the legal protection for subsidies, known as the Peace Clause, no longer applies because US payments are higher than those paid in 1992, the reference year.

The loss may force some US cotton farmers, who produced $5.6 billion of the fibre in 2003, to plant other crops.

"The cotton business will have a hard time surviving without subsidies at current prices," said John Rogers Brashier, a cotton farmer in Indianola, Mississippi, who produced 5,300 bales of cotton last year.

Brashier, who declined to disclose how much aid he receives, said he probably would plant more soybeans and corn if the cotton subsidies are eliminated. "We would definitely grow less cotton", he said.

Wake-Up Call

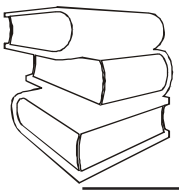
The WTO judges in their initial ruling backed Brazil's case, labeling the US payments to its 35,000 cotton farmers unfair because they exceed caps agreed to a decade ago. Brazil government estimates that its farmers have lost more than $600 million in sales because of the American cotton aid.

West African nations Chad, Mali, Burkina Faso and Benin, while not complainants in the dispute, have said US cotton subsidies also undercut their farmers' ability to compete on the world market. More than 10 million people in West Africa rely directly on cotton for their livelihood, says aid agency Oxfam.

This is "a wake-up call for all rich countries to change the way they've mismanaged and manipulated world trade rules for years in their own interests," said Phil Bloomer, head of Oxfam's Make Trade Fair campaign.

"We fully expect the US trade representative to challenge and appeal the findings and decision of this dispute panel," said Roger Haldenby, Vice President at Lubbock, Texas-based Plains Cotton Growers Inc., the biggest cotton patch in the world, covering 3.5 million acres. "The process is not over, it's really only just beginning."

(*The Hindu Business Line*, 20 June 2004)



BOOKS/ARTICLES NOTES

BOOKS

Anti-dumping and Countervailing Measures: **The Complete Reference** by R.K. Gupta, Response Books, New Delhi, 1996.

IN its opening remarks, the publication says that with the opening up of economies in many parts of the world and globalization of markets, one has to face competition not only from units within the country, but also from those set up elsewhere who can push their goods in the world markets at much lower prices. With the lowering of customs tariffs, and gradual removal of non-tariff barriers, observation of fair trading practices has assumed far greater importance. While the domestic industry in the importing country has to protect itself from dumped or subsidized imports, the exporters need to safeguard their interests against undue protective measures taken by the importing countries.

The Agreement on Subsidies and Countervailing Measures, it says, provides for levying of countervailing duty to offset any bounty or subsidy granted directly or indirectly on the manufacture, production or export of a product in the country of origin or exportation, including any special subsidy to the transportation of a particular product.

The book provides basic information that may be useful to the domestic industry, importers, exporters and government officials in initiating investigations against dumped or subsidized imports.

It has been presented in nine chapters. Chapter I discusses the role of major stakeholders in an anti-dumping or countervailing investigation. Chapter II deals with the ingredients of injury and the link that is necessary to be established between the dumped imports and injury before taking an anti-dumping action. Chapter III focuses on various procedural obligations on the part of the investigating authorities. These are meant to ensure that the authorities do not act arbitrarily and in a protectionist manner. Chapter IV covers the procedure followed by Indian authorities to investigate causes of imports dumped into India. Chapter V deals with various protective measures which may be imposed in the form of price undertaking, a provisional duty in the form of a bond or cash deposit and definitive duties. Chapter VI studies subsidies which mean a financial contribution or any form of income or price support by a government or public body which confers benefits. Chapter VII deals with a host of countervailing measures followed by the US, the EC and the Indian authorities. Chapter VIII explains the provisions regarding Judicial Review Consultation and Settlement of Disputes under the Agreement on Implementation of Article VI of GATT 1994 and Agreement on Subsidies and Countervailing Measures. Chapter IX briefly discusses some important cases. The Chapter also highlights a case relating to countervailing investigation against exports of iron metal castings from India by the US. It gives an insight into the functioning of the US countervailing systems.

The publication has also two revised editions, brought out in 1998 and 2003.

Safeguards, Countervailing & Anti-Dumping Measures: Against Imports & Exports by R.K. Gupta, Academy of Business Studies, New Delhi, April 1998.

IN its introductory remarks, the publication says that it is essentially about measures to protect domestic industry from injury caused by imports. It is written in the context of the WTO Agreement concluded on 1 January 1995 and exhaustively covers three of the most important protective measures, namely safe-guards, countervailing and anti-dumping measures.

The Agreement on Anti-dumping, the Agreement on Subsidies and Countervailing Measures, and the Agreement on Safeguards, it says,

all address to a situation where the domestic industry is injured due to imported goods which are either dumped, subsidized or are imported in increased quantities under certain conditions. These Agreements are, therefore, instruments in the hands of the governments to protect their domestic producers from unfair competition or from the impact of an unforeseen development.

The book discusses various aspects of the above-stated Agreements in detail in three sections. Section I deals with the Agreement on Safeguards, and Subsidies, Dumping and Injury, Procedures and other aspects of Anti-dumping and Countervailing Duties. It also discusses safeguard measures, the basic obligations undertaken by Members under GATT 1994 and the circumstances under which they can take emergency action beyond the commitments undertaken by them. Further, it discusses (i) protective measures that can be taken against dumped or subsidized imports; (ii) remedies against decisions of investigating authorities in the form of judicial review, consultations, and dispute settlement, and (iii) the provisions regarding consultation and dispute settlement in the WTO.

Section II is devoted entirely to anti-dumping, countervailing and safeguard cases. The concluding section contains the text of the three Agreements.

Anti Dumping and Anti Subsidy Measures: Answers to Frequently Asked Questions, Directorate General of Anti-Dumping & Allied Duties, Ministry of Commerce & Industry, Government of India, April 2001.

THE publication is a booklet which aims to bring in one place the issues and the clarifications relating to the fundamental concepts and procedural provisions of anti-dumping and other measures. India, it says, is firmly committed to the principle of free and fair trade among nations. While a major step has been taken by India towards establishment of free trade regime with the phasing out of Quantitative Restrictions on Imports, there is also a need to ensure fair trade. Depending upon the need, several anti-dumping, anti-subsidy, countervailing and safeguard measures have been invoked in the past. All these measures, it says, are in the nature of trade remedies, which the domestic industry could take advantage subject to the fulfilment of essential conditions and criteria as mandated under the law. The government has already put in place the requisite legal and institutional mechanism for administering these measures. However, various concepts and legal and operational aspects involved in these schemes need to be understood in the proper sense and in the right perspective.

Further, it says that under the existing WTO arrangement, and in terms of various provisions under the Customs Tariff Act of 1975 (as amended in 1995) and Rules framed thereunder, anti-dumping and allied measures constitute the legal framework, within which the domestic industry can seek necessary relief and protection against dumping of goods and articles by exporting companies and firms of any country from any part of the world. These measures have assumed a great deal of relevance in India in recent times in view of the scenario arising out of unfair trade practices adopted by some of our trading partners, especially in the post-QR phase.

The anti-dumping and allied measures, it says are complex legal disciplines which are often not within the easy comprehension of the trade and industry who are the users of these measures. To obviate this difficulty faced by large sections of the domestic industry, there is a need to explain the basic concepts, legal provisions and procedural aspects in clear and easy language for their benefit. This will facilitate the domestic industry to avail of these remedial measures in the wake of alleged dumping and of injury caused by unfair trade practices.

The booklet has been prepared in the form of a ready reckoner with the objective of disseminating information and generating public awareness on the subject of anti-dumping and allied measures. It provides a comprehensive explanation of the anti-dumping law and procedures in India.

WTO Anti-Dumping and Subsidy Agreements: A Practitioner's Guide to "Sunset" Reviews in Australia, Canada, the European Union, and the United States by Terence P. Stewart and Amy S. Dwyerm, Kluwer Law International, The Hague, 1998.

THE publication, at the outset, states that during the Uruguay Round of multilateral trade negotiations, member states agreed to establish a time limit for anti-dumping and countervailing duty measures. The new "sunset" provision requires member states

to allow a measure to expire after five years from its imposition. Some member states such as the European Union (EU), Canada, and Australia already had comparable sunset requirements in existing legislation and did not have to make out substantial changes to their domestic legislation to implement the new sunset requirement. Other member states such as the US were required to modify their domestic legislation to incorporate the new sunset requirements.

Finally, the book makes a comparison of the procedural requirements and substantive consideration in the sunset review systems.

Anti-Dumping and Countervailing Duties, General Agreement on Tariffs and Trade, Geneva, July 1958.

THE publication has been presented in two parts. Part I deals with problems arising from the application of anti-dumping and countervailing duties. Part II discusses the specific problems faced by the individual countries in the application of anti-dumping and countervailing duties.

The publication is intended to give the Contracting Parties a basis for further examination of the problems of anti-dumping and countervailing duties.

ARTICLES

Should Export Incentives Continue?
The Business Standard, 8 September 2004, p. 8.

THE article contains views of Shri Prabir Sengupta, Director, Indian Institute of Foreign Trade (IIFT) and Shri M.R. Ahmed, President, Federation of Indian Export Organizations (FIEO) on the subject of export incentives including export subsidy.

In the Indian context, Director, IIFT points out that the high transaction costs (estimated to be 18 per cent) and non-refundability of charges like state sales tax, octroi duties further impose additional costs for exporters. In the absence of a comprehensive value-added tax system, exporters, he says, have to bear the costs that are not automatically neutralized. These costs put an additional burden on Indian exporters.

Improved targeting of export subsidies along with the broad economic reforms, he says, have pushed up our export growth rate. The growth rate in dollar terms was around 10 per cent in the 1990s as against world growth rate of about 6 per cent.

A comprehensive exercise, he points out, was done earlier to prepare an optimum product-country mix that needs our special attention. The list needs to be fine-tuned.

According to one government estimate, he says, cases of export fraud or misuse of various incentive schemes detected during 2002-03 involved an amount of Rs 63 crore (Rs 630 million), which is less than 1 per cent of the total export during that year. There is, thus, a need for procedural simplification and a strong administrative machinery for enforcement. IT, he says, can play an important role in this regard. The EDI linkages between customs authorities, banks, ports, etc. will improve the efficacy of subsidies.

Further, he says that if subsidies are not WTO compatible, the same become actionable and the entire subsidy becomes counter-productive. This is an area that requires constant attention.

In his concluding remark, he says, that focused export subsidies will have to remain an important ingredient in an export strategy, particularly, when we have launched an ambitious foreign trade policy.

Shri M.R. Ahmed, President, FIEO while deliberating on the subject states that the only scheme providing export subsidy to Indian exporters was that which exempted export profits from income tax. And the scheme, he says, has been phased out from the current fiscal year.

To make our products competitive, he stresse the need to remove various bottlenecks such as higher electricity tariff, inflexible labour laws, unrebated state levies, poor infrastructure, etc. One of the alternatives, he says, could be to provide exemption to thrust sectors across the board rather than linking them to exports.

Some SAARC countries, he says, have given 100 per cent income tax exemption to textiles. Thus, the practice of giving export incentives is virtually universal, and India is no exception. The only question that needs to be addressed is how best to structure the export incentives to make them compatible with WTO

regulations while simultaneously achieving the objective of export promotion.

Agriculture Subsidy, WTO and the South
by Dr. A.C. Prabhakar, *India Quarterly*, Vol LIX, Nos. 3&4, July-Dec. 2003, New Delhi.

THE article makes a host of suggestions for the developing countries to safeguard their interests relating to agriculture. These are as under:

"Zero-tolerance" on Agricultural Subsidies

Developing countries should categorically make it clear that negotiations will move ahead only when the subsidies (under all boxes) are removed. The Agreement on Agriculture should wait till the subsidies in the West are grounded. Any agreement without the subsidies being removed will play havoc with developing countries' agriculture.

Restoration of Quantitative Restrictions (QRs)

Developing countries should demand restoration and special safeguard measures for those countries which did not follow the QR route. In fact, the removal of subsidies should be linked with the removal of quantitative restrictions. That alone will provide the necessary safeguard for developing countries' agriculture and food security.

Multilateral Agreement against Hunger

Among the new issues, developing countries need to strive for inclusion of a Multilateral Agreement against Hunger. This should be based on the guiding principle of the right to food and should form the basis for all future negotiations. Such a multilateral agreement would ensure that countries would have the right to take adequate safeguard measures if their commitment towards the WTO obligations leads to more hunger and poverty.

Abuse and Discretion: The Impact of Anti-Dumping and Countervailing Duty Proceedings on Brazilian Exports to the United States
by Aluisio de Limacampos and Adriana Vito, *Journal of World Trade*, Vol. 38, No. 1, February 2004, Kluwer Law International, Geneva.

AGAINST the backdrop of availability of 14 years of statistical data, the article evaluates the impacts of AD and CVD investigations on imports of targeted Brazilian products. It also contains a set of answers to various questions frequently asked by Brazilian companies threatened with AD and CVD investigations.

The import statistics cover the period from 1989 to 2002 and include 33 investigations (21 AD and 12 CVD) involving 21 Brazilian products. As more than 70 per cent of the investigations are targeted at steel products, the article makes a detailed analysis to study the impact of AD and CVD on the exports of the steel sector.

The article further says that the theoretical work developed so far explain the behaviour of exports when subjected to AD and CVD investigation proceedings. Finally, it evaluates losses for the Brazilian exports when duties are not levied and, when levied, the losses, it says, can be enormous.

Institutional and Substantive Reform of the Anti-Dumping and Subsidy Agreements—Lessons from the Israeli Experience by Arie Reich, *Journal of World Trade*, Vol. 37, No. 6, December 2003, Kluwer Law International, Geneva.

AT the outset, the article states that the Doha Declaration put anti-dumping and countervailing duty law back on the negotiating table, despite earlier opposition by the United States. Member States have submitted various proposals, about various amendments of the existing provisions of the Anti-Dumping and Subsidies Agreements in relation to several procedural and substantive issues. None of them, it says, has raised the possibility of regulating the institutional setting of the AD and CVD procedures within the Member States.

The article further suggests some improvements in the procedural regulation. One of the improvements recommended relates to mandatory adoption of the "Lesser Duty Rule".

In its concluding remarks, the article says that in view of the fact that anti-dumping and anti-subsidy procedures and measures are on the rise, and that more and more countries adopt such procedures based on the WTO Anti-Dumping and Subsidies Agreements, it is exceedingly important that these agreements are amended so as to minimize the harm to international trade caused by their use, while at the same time, preserving them as a type of safeguard measure, that may encourage continued multilateral trade liberalization.

The Singapore Law on Anti-Dumping and Countervailing Duties by H.S.U. Locknie, *Journal of World Trade*, February 1998, Vol. 32, No. 1, pp. 121-138.

THE article has been presented in four parts. Part I describes the salient features of the new Singapore Law on Anti-dumping and Countervailing Duties known as "The Countervailing and Anti-dumping Duties Act 1996". The Act came into effect from 1 November 1996. The legislation was enacted to bring Singapore's law in relation to countervailing duties, subsidies and anti-dumping into conformity with requirements of the WTO Agreement. The new rules and procedures laid down in the Act gives an added assurance and certainty to the local parties whenever an action is instituted. Part II deals with countervailing duties relating to subsidies. Parts III and IV discuss the main features of the Anti-dumping Act and various provisions which were adapted from Malaysia's Countervailing and Anti-dumping Act 1993.

Disciplining Subsidies within an EU-US Open Aviation Area by Richard Janda, *The Journal of World Investment & Trade,* Vol. 5, No. 4, August 2004, Geneva.

THE article makes an attempt to explore what sort of State aids regime can and should be included as part of an EU-US Open Aviation Area. Further, it identifies possible frameworks for disciplining subsidies within agreed Open Aviation Area. It proceeds on the assumption that the parties will not be able to adopt a full-blown subsidies code immediately and are likely to opt for a minimalist approach in a first-phase agreement. Nevertheless, the article seeks to track a path toward a more elaborate second-phase arrangement.

It has been presented in four parts. Part I reviews the sanctions that the EU and the United States could deploy unilaterally to address State aids. The very real prospect of unilateralism and a resulting trade war, it says, could undermine an Open Aviation Area and, in turn, becomes a principal rationale for disciplining State aids within the framework of an agreement. Part II examines governmental programmes that could attract retaliation. Part III proposes first-phase and second-phase subsidies frameworks for an Open Aviation Area, the former drawing principally on existing provisions in the US and EU bilateral agreements. Both proposals are on the side of minimizing institutional framework while seeking to reduce the possibility of unilateral measures either through the imposition of subsidies having adverse effects or through the adoption of countervailing measures.

The concluding part says that the issues concerning State aids can be addressed not only through provisions of an Open Aviation Area treaty that target them specifically but also by according a right of establishment and national treatment.

Sunset Reviews of Anti-Dumping and Countervailing Duty Measures: US Implementation of Uruguay Round Commitments by Terence P. Stewar and Amy S. Dawyer, *Journal of World Trade*, Vol. 32, No. 5, October 1998, pp. 101-136.

THE article provides a timely review of US sunset provisions and their compatibility with Uruguay Round commitments.

It has been presented in four sections. Section I gives a brief introduction of the passage of the General Agreement on Tariffs and Trade (GATT) Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations (Final Act) which included an Agreement on Implementation of Article VI of the GATT 1994 (Anti-dumping Agreement) and an Agreement on Subsidies and Countervailing Measures (Subsidies Agreement), both of which provided a five-year automatic sunset requirement.

Section II discusses the sunset provisions and other procedural requirements in the anti-dumping and subsidies agreements. Section III deals with the implementing legislation for sunset reviews. The concluding Section provides a summary of the significant provisions of these above-stated agreements.

When the Peace Ends: The Vulnerability of EC and US Agricultural Subsidies to WTO Legal Challenge by Richard, Steinberg and Tim, Josling, *Journal of International Economic Law*, June 2003, 6(2), pp. 369-417.

IN its opening remarks, the article says that Article 13 of the WTO Agreement on Agriculture, known as the "Peace Clause", precludes most WTO dispute settlement challenges against a country that is

complying with the Agreement's liberalization commitments – until 1 January 2004, when the Peace Clause comes to an end.

The article evaluates the strengths of the main legal theories likely to be used in challenging the EC and US agricultural subsidies after expiry of the Peace Clause, and employing economic techniques to apply the legal theories to economic data about agriculture trade. When the Peace Clause expires, many commodity-specific EC and US agricultural subsidies will be vulnerable to legal challenge under Article 6.3(a)-(c) and 6.4 of the WTO Agreement on Subsidies and Countervailing Measures. The remedy would require that such subsidies be withdrawn or that appropriate steps be taken to remove their adverse effects.

It has been presented in four parts. Part I evaluates the strength of alternative legal theories. It begins by analyzing the Peace Clause, identifies the WTO agreements that will apply to agricultural subsidies upon expiry of the Peace Clause, and setting forth principles for interpreting those agreements – particularly in case of conflict between them. It then analyzes six alternative legal theories upon which a challenge to EC and US agricultural subsidies might be contemplated.

Part II argues that the only way to give meaning to the demonstration of causation demanded by the relevant SCM Agreement provisions, particularly in the light of the remedy contemplated by Article 7.8, is to employ regression analysis or equilibrium models of the relationships.

Part III presents the results of quantitative analysis. The analysis demonstrates significant relationships between specific EC and US agricultural subsidies.

In its concluding remarks, the article says that agricultural subsidies will enhance the bargaining power of non-subsidizing countries, which may demand "payment" in the form of further subsidy reduction commitments in exchange for extending the Peace Clause.

Subsidy, Polluter Pays Principle and Financial
by Hyung-Jin, Kim, *Journal of World Trade*, December 2000 34(6), pp. 115-142.

IN its opening remarks, the article says that subsidies have raised many questions in environmental policy. While many governments have often utilized subsidies as an environmental policy tool, there are questions as to whether such subsidies may actually achieve their intended purpose. In addition, subsidies given for purposes other than environment sometimes prove to have adverse environmental effects. Subsidies are also regulated in international trade policy, and the regulation of subsidy in environmental policy has an essential link with international trade policy. In this respect, there is an observation that subsidies related with environmental policy may be one of the most difficult issues in international trade policy.

Traditionally, subsidies, it says, have been understood as financial assistance of the government to the private sector. Recently, however, there have been efforts to understand subsidies in a wider context and to include those that do not fall within the traditional sense of subsidies. For example, there have been arguments that cost savings from differences of environmental standards among countries should be regarded as "subsidies" and subject to countervailing duties.

The article discusses the role of the Polluter Pays Principle (PPP) of the Organization for Economic Co-operation and Development (OECD) in analyzing the relationship between subsidies at the domestic level and those in the international context.

The article makes an attempt to identify subsidies at the domestic level which include financial assistance of the government to the private sector. Financial assistance of the government to the private sector, it says, may be given in the form of both spending of government funds (such as government investment in industry, government loans at preferential interest rates, government guarantees of loans by a private lender, and forgiveness of government debt), and giving up of government revenues (such as tax concessions, incentives or exemptions, and duty drawbacks).

Subsidies in the international context indicate financial assistance among countries. They may be given either directly from one government to another government or indirectly through an international institution.

In its concluding remarks, the article says that when environmental taxes are applied, firms generating externalities are imposed with a price on

the pollution. This leads to a higher price of products produced by that firm and lower consumption of those products. On the other hand, in case of subsidies, firms are not imposed with a price on pollution; instead, they are given incentive in the reduction of pollution. This leads to a lower price of products and higher consumption of those products when compared with the case in which environmental taxes are imposed.

Export Subsidy Schemes Need to Wake Up to WTO Reality by Rajeev Ahuja, *The Financial Express*, 3 August 2001, p. 7, New Delhi.

AT the outset, the article says that the practice of giving export incentives is near universal, and India is no exception. However, not all incentives are not permitted under WTO Agreement. The Agreement on Subsidies and Countervailing Measures (SCM Agreement), which governs the conduct of member countries with respect to all subsidies (production and export) on non-agricultural goods (not services), clearly specifies what incentives constitute a subsidy and are hence subjected to disciplines of the SCM Agreement.

India, along with other low-income member countries (with per capita income of less than $1,000), is exempted from the prohibition on export subsidy, except for local content subsidy (i.e., subsidy that specifically encourages use of local goods over imported ones), which is prohibited even for countries like India. Additionally, if exports of a particular product from a developing country member become internationally competitive (if the share of its exports in total world trade exceeds 3.25 per cent), then the member country must withdraw all subsidies given to that particular group of products.

The need for export subsidy, it says, is sought to be justified on the grounds that Indian exporters are facing several impediments such as higher electricity tariffs, higher interest rates, unrefunded taxes at the state-level, inflexible labour laws, lack of physical infrastructure, inefficient systems and practices.

The Government of India gives several export incentives through the Finance Ministry, Commerce Ministry and the Reserve Bank of India, under various Acts. Some of these incentives are countervailable, while others are not. For example, the Export Promotion Capital Goods Scheme, which allows exporters to import capital goods at a concessional duty of 5 per cent, is countervailable under the SCM Agreement because the Agreement allows for refund/remission of duties only on inputs (and not on capital goods) used in export production. The same is true of the concession on import of capital goods given to units located in export processing zones (EPZs) or export-oriented units (EOUs) or other declared non-tariff areas. But Advance Licence (AL) and Duty Free Replenishment Certificate (DFRC) schemes are non-countervailable so long as the schemes do not lead to any excess remission/refund/suspension of duties/taxes than actually paid by the exporters.

Some of the Indian exporters who availed benefits under the Duty Entitlement Pass Book Scheme (DEPB) and the income tax exemption of export profits have been countervailed by a few importing countries.

Finally, the article says that many exporters feel that the WTO is forcing India to withdraw these schemes. As such, fiscal compulsions require that the current schemes be modified and rationalized.

Export Subsidies in the Regional Aircraft Sector: The Impact of Two WTO Panel Rulings against Canada and Brazil by Oliver Stehmann, *Journal of World Trade*, December 1999, pp.97-120, Geneva.

THE article provides findings of WTO Panel Rulings relating to export subsidies granted by Canada and Brazil to promote their aircraft industries.

Giving a brief background of their aircraft industries (Canada and Brazil), the article says that Bombardier and Embraer dominate the multi-billion world market for regional jet aircraft. Given their importance both as an earner of export revenue and as a national employer as well as being a symbol of national pride, the governments of Canada and Brazil have taken an active role in the restructuring of their "national champions". They have also used external trade policy rules to defend their national industry interest. For a long period of time, both governments have accused each other of unfairly subsidizing their respective aircraft industries, thereby distorting competition in the world market.

After having failed to find a compromise bilaterally, Canada initiated a World Trade Organization (WTO) dispute settlement procedure against Brazil on 18 June 1996. It accused Brazil of granting export subsidies to Embraer under its Proex programme. Export subsidies are prohibited under the Agreement on Subsidies and Countervailing Measures (ASCM). In a response, Brazil requested WTO consultations with the Government of Canada on 10 March 1997.

Both sides thereafter tried to find a mutually acceptable solution. Bilateral negotiations culminated in an agreement between the Heads of State to appoint two independent mediators in January 1998. The mediators issued a report offering recommendations to resolve the issue on 17 April 1998. Although both governments endorsed the Report, they could not agree on implementing its recommendations. As they failed to reach a compromise at the highest political level, on 10 July 1998, Brazil and Canada simultaneously requested the establishment of a Panel under the WTO.

The article further makes an analysis of the Panel's decision, as confirmed by the Appellate Body on 2 August 1999. The EC put forward that Brazil's position did not take into account that the ASCM actually distinguishes three kinds of subsidies: prohibited subsidies, actionable subsidies and non-actionable subsidies. Brazil's approach would even declare certain non-actionable subsidies to be prohibited.

In particular, the article points out that Brazil had not established a *prima facie* case that the debt financing activities of the EDC would constitute a "benefit" within the meaning of the ASCM.

Finally, the article studies impact of the two Panel reports on the aircraft industry. The Panel's reasoning, it says, will render it more difficult to grant support to export-oriented industry in the future. Moreover, by relying on the share of exports in total production when establishing whether a subsidy is an export subsidy, the Panel's ruling will affect smaller economies, in particular. An aircraft manufacturer located in Canada will see a higher share of its aircraft being sold to foreign customers than an aircraft manufacturer based in the United States. Applying the Panel's reasoning could render the same subsidy granted to the Canadian producer (prohibited) export subsidy, it would turn out to be actionable in the case of the US manufacturer.

Scrap Subsidy on Kerosene, Slash Foodgrain MSP: NIPFP by Subhomoy Bhattacharjee, *The Economic Times*, 9 November 2004, p. 8, New Delhi.

THE article makes a note of the main findings of a Study Report prepared by an Expert Group of National Institute of Public Finance and Policy (NIPFP), set up by the Ministry of Finance to make an indepth study on subsidies. The Report recommends scrapping of kerosene subsidy, scaling down the minimum support price on foodgrains and working out a new formula for urea pricing.

The Government, the Report points out, may be able to contain its overall bill on major subsidies at Rs 42,021 crore during the current fiscal, despite an increase in the petroleum subsidy bill. The NIPFP has projected the subsidy on kerosene and LPG at Rs 6,000 crore against the original budget estimate of Rs 3, 559 crore.

A lower food subsidy bill would offset the rise in petroleum subsidy. Food subsidy is projected to be around Rs 3,000 crore lower than the budget estimate of Rs 25,800 crore.

The Report has made out a case for scrapping kerosene subsidies, citing recommendations of other expert committees including the Expenditure Reforms Committee (ERC). According to it, kerosene subsidy merely sets a benchmark minimum price for the open market sale of the commodity, where almost the entire quantity is siphoned off from fair price shops.

The Report further says that there is no justification for having high minimum support prices for food grains. FCI, it says, should limit its purchases to a predetermined number of days after the harvest of crops, or set an upper limit on the quantity that it will buy.

On fertiliser subsidy, the Report has largely supported earlier studies to say that the Government must come up with an average cost-based pricing based on inputs used by fertiliser plants.

How the Expiry of the Peace Clause (Article 13 of the WTO Agreement on Agriculture) Might Alter Disciplines on Agricultural Subsidies by Chambovey, Didier, *Journal of World Trade*, 36(2), Arial, 2002, pp. 305-352, Geneva.

AT the outset, the article says that in the Uruguay Round of negotiations, sets of rules and commitments governing the use of subsidies were negotiated and laid down in the legal text: the WTO Agreement on Subsidies and Countervailing Measures hereinafter the URAA. These agreements were designed to establish two different orders to suit the special case of agriculture for instance, export subsidies on industrial products are flatly prohibited for developed countries.

The article says, that the Peace Clause is not the only relevant provision addressing the relationship between the URAA and the other WTO Agreements. But it was undoubtedly an important cornerstone in the final deal worked out by the major players at the Uruguay Round. This provision created a presumption that, if a party complied with its commitments on domestic support and export subsidies, such subsidies would not cause serious prejudice in the sense of Article XV(1) of the GATT.

Against this background, it goes without saying that whether or not the Peace Clause will be extended very much hinges on, how the ongoing negotiations will progress. This issue is directly related to the possibilities of contesting agricultural subsidies by resorting to the WTO Dispute Settlement System. Should the negotiations on agriculture be stalled or not proceed at a pace satisfying the exporters by the end of 2003, the Peace Clause would most probably expire at that point.

Further, the article says that the exposure of agricultural subsidies to WTO challenges varies greatly across the different support categories. Opting for Green Box support appears to be the best way to lessen the likelihood of violation or non-violation complaints based on the trade effects of a subsidy. Indeed, it might be difficult to establish by persuasive evidence the trade effects of subsidies that do not provide price support to producers and meet other relevant requirements listed in URAA. In contrast, support tied to production, prices or the disposal of goods in the third country markets, as may be the case of Amber Box, Blue Box or export subsidies are more likely to affect trade patterns and produce adverse effects within the meaning of SCM Agreement Articles 5 and 6. However, this does not mean that an adequately substantiated complaint can be easily lodged in any such occurrence.

Fisheries Subsidies, the WTO and the Pacific Island Tuna Fisheries by Roaman Gryberg & Martin Tsamenyi, *Journal of World Trade*, Vol. 32, No.6, December 1998, pp. 127-146.

IN its introductory remarks, the article says that one of the few sectors of international trade that has remained largely unaffected by the new disciplines created by the Uruguay Round negotiations and the creation of the World Trade Organization (WTO) has been the fisheries sector. This has been a sector of international trade of considerable importance, particularly for the island States of the Central and Western Pacific and it is from their perspective that the question of fisheries subsidies is analyzed. Despite the existence of general obligations under Articles I and III of the General Agreement on Tariffs and Trade (GATT) as well as lesser WTO obligations, there remains a lack of clarity as to which of the GATT/WTO disciplines in the area of subsidies apply to the fisheries.

The existence of very substantial subsidies offered by the major fishing nations will mean that the developing countries of the Pacific islands which are the source of 45 per cent of the world's tuna, along with other developing coastal States, will need to pay particular attention to the emerging consensus at the WTO, bring the fisheries sector subsidies under much stricter discipline.

The article argues that while there is no dispute that the substantial subsidies offered by developed countries to their fishing fleets has contributed to increased effort, the question remains unanswered whether this pressure on fish stocks would be greatly diminished in the longer term in the light of increasing populations, incomes and fish demand. It also argues here that an end to subsidies will only relieve pressure on fish stocks in the medium term as subsidies are largely symptomatic of the larger problem of diminishing returns in an open access fishery which is caused by rising global income and population operating on a fixed stock of marine resources. ●

DOCUMENTS

Report (2004) of the Committee on Subsidies and Countervailing Measures

I. Organization of the Work of the Committee

1. This Report covers the period since the Committee's last annual report (G/L/655), that is, 30 October 2003 to 4 November 2004 (hereinafter "the review period"). During the review period, the Committee held three regular meetings and two special meetings. The first regular meeting was held on 1 and 8 December 2003 (continuing the suspended regular meeting begun on 28 October 2003) (G/SCM/M/48); the next was held on 29 April 2004 (G/SCM/M/50) and the third was held on 4 November 2004 (G/SCM/M/52). Special meetings were held on: (i) 29 April 2004 (G/SCM/M/49); and (ii) 4 November 2004 (G/SCM/M/51). Pursuant to the Committee's decisions at its regular meeting in October 1998, the OECD and the ACP Group were invited on an *ad hoc* basis to attend these meetings.

2. As of the beginning of the review period, Ms. Olga Lozano (Colombia) was Chair and Mr. Naoshi Hirose (Japan) was Vice Chair. At its regular meeting in April 2004, the Committee elected Mr. Naoshi Hirose (Japan) as Chair of the Committee and agreed to suspend the item concerning election of Vice Chair. Upon the resumption of the item at its regular meeting on 4 November 2004, the Committee elected Mr. Mehmet Tan (Turkey) as Vice Chair.

II. Observership – International Intergovernmental Organizations

3. During the period of review, the requests of Comesa and the Gulf Organization for Industrial Consulting for observership in the Committee remained pending. These requests are the subject of ongoing consultations among Members.

III. Permanent Group of Experts

4. The Committee is required by Article 24.3 of the Agreement on Subsidies and Countervailing Measures ("SCM Agreement" or "Agreement") to establish a Permanent Group of Experts ("PGE"). The tasks assigned to the PGE by the Agreement are to provide assistance to a Panel, on request, with regard to whether a measure is a prohibited subsidy; to provide Members with confidential advisory opinions on the nature of any subsidy proposed to be introduced or currently maintained by that Member; and to provide the Committee with advisory opinions on the existence and nature of any subsidy. As of the beginning of the period under review, the members of the Permanent Group of Experts were: Prof. Okan Aktan; Dr. Marco Bronckers; Mr. Yuji Iwasawa; Mr. Hyung-Jin Kim; and Mr. Terence P. Stewart. Dr. Bronckers' term as a member of the PGE expired in the Spring of 2004. Mr. Asger Petersen was elected to replace Dr. Bronckers to the PGE, assuming the term until the Spring of 2009.

IV. Notification of Subsidies

5. *2003 new and full notifications*. In accordance with Article 25.1 of the Agreement and Article XVI:1 of GATT 1994, all Members of the Committee were required to submit a new and full notification of subsidies to the Committee by 30 June 2003. As of 4 November 2004, 42[1] WTO Members had notified subsidies pursuant to Article 25 of the Agreement and Article XVI of GATT 1994. In addition, 15 Members had notified that they maintain no subsidies notifiable pursuant to these provisions. These notifications may be found in document series

G/SCM/N/95/.... A table indicating the status of 2003 subsidy notifications is reproduced in Annex A to this Report.

6. Pursuant to the procedures agreed at its 8 May 2003 regular meeting, the Committee held two special meetings, on 29 April 2004 and 4 November 2004, to review the 2003 new and full notifications of: Antigua and Barbuda; Armenia; Australia; Barbados; Belize; Brazil; Bulgaria; Czech Republic; Canada; Chile; Colombia; Costa Rica; Croatia; Cuba; Dominica; Dominican Republic; El Salvador; European Communities; Fiji; Ghana; Grenada; Guatemala; Honduras; Hong Kong, China; Hungary; Iceland; Jamaica; Japan; Jordan; Korea; Liechtenstein; Macao, China; Madagascar; Mauritius; Morocco; Myanmar; New Zealand; Norway; Oman; Panama; Papua New Guinea; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines; Singapore; Slovenia; South Africa; Suriname; Thailand; Turkey; United States; Uruguay; and Zambia.

7. *Previous notifications*. Article 25.1 of the Agreement requires that updating notifications were to be submitted by 30 June 1999, and 30 June 2000, and that new and full notifications were to be submitted by 29 June 2001 and 30 June 1998. As of 4 November 2004, 62[2] WTO Members had submitted 2001 new and full notifications pursuant to Article 25 of the Agreement. These notifications may be found in document series G/SCM/N/71/…. At its regular meetings in April and November 2004, the Committee continued its review of 1999 and 2000 updating notifications, and 1998 new and full notifications. See Annex B to this Report for the status of the 2001 new and full notifications.

8. *Other notifications*. The United States presented a request to China pursuant to Article 25.8 of the Agreement. The United States sought information from China on the nature and extent of some programmes identified in its request. The request of the United States was circulated in document G/SCM/Q2/CHN/9. The statements of Members on this issue are reflected in the minutes of the meeting held on 4 November 2004 (G/SCM/M/52).

V. Working Party on Subsidy Notifications

9. The Working Party on Subsidy Notifications did not meet during the review period.

VI. Notification and Examination of Countervailing Duty Laws and/or Regulations

10. As of 4 November 2004, pursuant to Article 32.6 and in accordance with a decision by the Committee, 96 Members[3] had notified the Committee of their domestic countervailing duty legislation or made communications in this respect to the Committee (G/SCM/N/1 and Addenda). Thirty-seven Members had not, as yet, made notifications under Article 32.6 of the Agreement. A table indicating the status of these notifications is reproduced in Annex C to this Report.

11. During the review period, the Committee reviewed the notifications regarding countervailing duty legislation of the following Members: (at the April 2004 regular meeting) Jordan and South Africa; and (at the November 2004 regular meeting) Argentina; Canada; the European Communities; Japan; and Jordan. Written questions and answers regarding these notifications may be found in documents of the G/SCM/Q1/… series.

12. During the review period, pursuant to procedures adopted by the Committee at its joint special meeting with the Committee on Anti-Dumping Practices in April 1996, the Committee also had before it for further review the previously-reviewed legislative notification of China; Mexico; and Peru.

VII. Semi-annual Reports on Countervailing Actions

13. *Notifications for 1 July-31 December 2003*. As of 4 November 2004, 11 Members had notified countervailing actions taken during the period 1 July-31 December 2003. Forty-one Members had notified the Committee that they had not taken any countervailing duty action during this period. The remaining 79 Members had not submitted a notification. These semi-annual reports were circulated in document series G/SCM/N/106. The status of semi-annual reports is set out in Annex D to this Report.

14. *Notifications for 1 January-30 June 2004*. As of 4 November 2004, eight Members had notified countervailing actions taken during the period 1 January-30 June 2004. Forty-seven Members had notified the Committee that they had not taken any

countervailing action during this period. Seventy-eight Members had not submitted a notification. These semi-annual reports were circulated in document series G/SCM/N/113. The status of semi-annual reports is set out in Annex D to this Report.

15. A table summarizing notifications of new countervailing duty actions taken by Members during the period 1 July 2003 to 30 June 2004 and measures in force as of 30 June 2004 is reproduced in Annex E to this Report.

VIII. Reports on all Preliminary or Final Countervailing Duty Actions

16. Pursuant to Article 25.11 of the Agreement, Members are to report to the Committee without delay all preliminary and final countervailing actions taken. Guidelines for the information to be contained in these reports are set forth in G/SCM/3. As of 4 November 2004, reports of preliminary and final countervailing actions had been received during the review period from: Argentina, Australia, Canada, the European Communities, Japan, Mexico, New Zealand, the United States and Venezuela (G/SCM/N/105, and 107-112, 115-116 + Corr.1, 117-119). The Committee reviewed the notifications of preliminary and final actions at its regular meetings in April and November 2004.

IX. Transitional Review of China

17. In accordance with Paragraph 18 of the Protocol of Accession of the People's Republic of China to the WTO (WT/L/432), the Committee reviewed China's implementation of the Agreement on Subsidies and Countervailing Measures (G/SCM/M/52). The Committee agreed that its report to the Council for Trade in Goods would be prepared by the Chair on his own responsibility, and would take the form of a brief factual report, with references to the documents concerned, and attaching the portion of the minutes of the meeting which relate to the transitional review.

X. Constant Dollar Methodology for Graduation from Annex VII(b) of the Agreement

18. In paragraph 10.1 of the Doha Ministerial Decision on Implementation-Related Issues and Concerns ("Implementation Decision") (document WT/MIN(01)/17, para. 10.1) Ministers:

> "Agree[d] that Annex VII(b) to the Agreement on Subsidies and Countervailing Measures includes the Members that are listed therein until their GNP per capita reaches US$1,000 in constant 1990 dollars for three consecutive years. This decision will enter into effect upon the adoption by the Committee on Subsidies and Countervailing Measures of an appropriate methodology for calculating constant 1990 dollars. If, however, the Committee on Subsidies and Countervailing Measures does not reach a consensus agreement on an appropriate methodology by 1 January 2003, the methodology proposed by the Chairman of the Committee set forth in G/SCM/38, Appendix 2 shall be applied. A Member shall not leave Annex VII(b) so long as its GNP per capita in current dollars has not reached US$1,000 based upon the most recent data from the World Bank."

19. Pursuant to this paragraph, as of 1 January 2003, the methodology set forth in document G/SCM/38, Appendix 2, applies. As foreseen in paragraph 10.1 of the Implementation Decision and in application of the methodology in G/SCM/38, the Secretariat circulated updated calculations in document G/SCM/110/Add. 1.

XI. 2004 Revision of the Arrangement on Guidelines for Officially Supported Export Credits - Item Requested by Brazil

20. At the Committee's regular meeting on 29 April 2004, the delegate of Brazil addressed certain changes in the OECD *Arrangement on Guidelines for Officially Supported Export Credits* (the "*Arrangement*"). The following also took the floor under this item: Australia; Canada; Chile; Colombia; European Communities; the United States; and the OECD Secretariat. The minutes of the meeting (G/SCM/M/50) reflect the statements made.

XII. Article 27.4 Requests for Extension of the Transition Period for Export Subsidies and Reservations of Rights as Members Listed in Annex VII(b)

A. *Adoption of Decisions Granting Extensions For 2004 of The Transition Periods for the Elimination of Export Subsidies Under Article 27.4 of the agreement*

21. Pursuant to Article 27.4 of the Agreement, developing country Members subject to the eight-year transition period in Article 27.2(b) for the elimination of export subsidies (which period expired 31 December 2002), had the possibility, not later than 31 December 2001, to enter into consultations with the Committee to seek extension of this transition period, if those Members deemed it necessary to apply such subsidies beyond the eight-year period.

22. Paragraph 10.6 of Implementation Decision states:

> "Having regard to the particular situation of certain developing-country Members, directs the Committee on Subsidies and Countervailing Measures to extend the transition period, under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, for certain export subsidies provided by such Members, pursuant to the procedures set forth in document G/SCM/39. Furthermore, when considering a request for an extension of the transition period under the rubric of Article 27.4 of the Agreement on Subsidies and Countervailing Measures, and in order to avoid that Members at similar stages of development and having a similar order of magnitude of share in world trade are treated differently in terms of receiving such extensions for the same eligible programmes and the length of such extensions, directs the Committee to extend the transition period for those developing countries, after taking into account the relative competitiveness in relation to other developing-country Members who have requested extension of the transition period following the procedures set forth in document G/SCM/39."

23. It is recalled that during the 28 October 2003 session of its regular meeting, the Committee agreed to continue, for calendar year 2004, certain of the extensions originally granted by the Committee for calendar year 2003, but suspended its transparency and standstill review of extensions granted pursuant to the procedures in G/SCM/39 of a programme of Fiji (G/SCM/67) and a programme of Papua New Guinea (G/SCM/86), and its transparency and standstill review of extensions granted pursuant to the procedures in G/SCM/39 and paragraph 10.6 of the Implementation Decision of two programmes of Colombia (G/SCM/93-94).

24. It is also recalled that at the 1 and 8 December 2003 resumed session of the regular meeting, the Committee completed the transparency and standstill reviews of extensions granted pursuant to the procedures in G/SCM/39 of a programme of Fiji (G/SCM/67) and a programme of Papua New Guinea (G/SCM/86). The Committee then agreed to continue, for calendar year 2004, the extensions originally granted to these programmes by the Committee for calendar year 2003 (G/SCM/M/48). These extensions can be found in the following documents: Fiji (G/SCM/67/Add.1) and Papua New Guinea (G/SCM/86/Add.1). The Committee also completed the transparency and standstill reviews of the decisions pertaining to Colombia (G/SCM/93-94), pursuant to the procedures in G/SCM/39 and paragraph 10.6 of the Implementation Decision. The Committee also agreed to continue, for calendar year 2004, the extensions originally granted to these programmes by the Committee for calendar year 2003 (G/SCM/M/48). These extensions can be found in documents: Colombia (G/SCM/93/Add.1 and G/SCM/94/Add.1).

B. *Committee's Review of Transparency and Standstill Obligations in the Decisions in G/SCM/50-94 and Adds.1 and G/SCM/95-102 Relating to the Article 27.4 Process (Extension of the Transition Periods for the Elimination of Export Subsidies under Article 27.4 of the Agreement)*

25. At its 28 October 2003 regular meeting, the Committee agreed on the deadlines for the submission of notifications (30 June 2004) and questions (1 September 2004) and answers (6 October 2004) for the Committee's 2004 review of transparency and standstill obligations. Those notifications were circulated in document series G/SCM/N/114. Questions and answers were circulated in document series G/SCM/Q3.

26. At its November 2004 regular meeting, the Committee conducted a review of the transparency and standstill obligations contained in G/SCM/39 and in decisions in documents G/SCM/50-94 and Adds. 1 and G/SCM/95-102. The Committee completed the transparency and standstill reviews in relation to extensions granted on the basis of:

(Continued on page 49)

ANNEX A

2003 NEW AND FULL SUBSIDY NOTIFICATIONS (G/SCM/N/95/...)

Member		*Member*		*Member*		*Member*	
Albania	None	EC*	X	Indonesia	None	Panama	X
Angola	None	Austria	X	Israel	None	Papua New Guinea	X
Antigua & Barbuda	X	Belgium	X	Jamaica	X	Paraguay	None
Argentina	X	Denmark	X	Japan	X	Peru	None
Armenia	N	Finland	X	Jordan	X	Philippines	None
Australia	X	France	X	Kenya	None	Poland	None
Bahrain	None	Germany	X	Korea	X	Qatar	None
Bangladesh	None	Greece	X	Kuwait	None	Romania	None
Barbados	X	Ireland	X	Kyrgyz Republic	None	Rwanda	None
Belize	X	Italy	X	Latvia	None	St. Kitts & Nevis	X
Benin	None	Luxembourg	X	Lesotho	None	St. Lucia	X
Bolivia	None	Netherlands	X	Liechtenstein	N	St. Vincent & Grenadines	X
Botswana	None	Portugal	X	Lithuania	None	Senegal	None
Brazil	X	Spain	X	Macao, China	N	Sierra Leone	None
Brunei Darussalam	None	Sweden	X	Madagascar	N	Singapore	N
Bulgaria	X	United Kingdom	X	Malawi	None	Slovak Republic	None
Burkina Faso	None	Ecuador	None	Malaysia	None	Slovenia	X
Burundi	None	Egypt	None	Maldives	None	Solomon Islands	None
Cambodia[1]	n.a.	El Salvador	X	Mali	None	South Africa	N
Cameroon	None	Estonia	None	Malta	None	Sri Lanka	None
Canada	X	Fiji	X	Mauritania	None	Suriname	N
Central African Rep.	None	Former Yugoslav Rep. of Macedonia	None	Mauritius	X	Swaziland	None
Chad	None	Gabon	None	Mexico	None	Switzerland	X
Chile	X	Gambia	None	Moldova	None	Chinese Taipei	None
China	None	Georgia	None	Mongolia	N	Tanzania	None
Colombia	X	Ghana	N	Morocco	X	Thailand	X
Congo	None	Grenada	X	Mozambique	None	Togo	None
Congo, Democratic Republic of the	None	Guatemala	X	Myanmar	N	Trinidad & Tobago	None
Costa Rica	X	Guinea Bissau	None	Namibia	None	Tunisia	None
Côte d'Ivoire	None	Guinea, Rep. of	N	Nepal[2]	n.a.	Turkey	X
Croatia	X	Guyana	None	New Zealand	X	Uganda	None
Cuba	N	Haiti	None	Nicaragua	None	UAE	None
Cyprus	None	Honduras	X	Niger	None	United States	X
Czech Republic	X	Hong Kong, China	N	Nigeria	None	Uruguay	X
Djibouti	None	Hungary	X	Norway	X	Venezuela	None
Dominica	X	Iceland	X	Oman	N	Zambia	N
Dominican Rep.	X	India	None	Pakistan	None	Zimbabwe	None

"N" means that the Member has indicated that it maintains no notifiable subsidies.

"X" means that the Member notified subsidies.

"None" means that no notification was submitted.

"n.a." means that, at the time when the notification was due to be submitted, the status of WTO Member had not yet been acquired.

(*) At the time that the obligation to notify arose, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic, and Slovenia were not yet Members of the European Communities. Therefore, these Members are not listed under the EC entry in this Annex.

[1] Became a Member on 13 October 2004.

[2] Became a Member on 23 April 2004.

ANNEX B

2001 NEW AND FULL SUBSIDY NOTIFICATIONS (G/SCM/N/71/...)

Member		*Member*		*Member*		*Member*	
Albania	None	EC*	X	Indonesia	None	Panama	X
Angola	None	Austria	X	Israel	None	Papua New Guinea	X
Antigua & Barbuda	X	Belgium	X	Jamaica	X	Paraguay	N
Argentina	X	Denmark	X	Japan	X	Peru	None
Armenia[1]	n.a.	Finland	X	Jordan	X	Philippines	None
Australia	X	France	X	Kenya	None	Poland	None
Bahrain	None	Germany	X	Korea	X	Qatar	None
Bangladesh	None	Greece	X	Kuwait	None	Romania	None
Barbados	X	Ireland	X	Kyrgyz Republic	None	Rwanda	None
Belize	X	Italy	X	Latvia	X	St. Kitts & Nevis	X
Benin	None	Luxembourg	X	Lesotho	None	St. Lucia	X
Bolivia	X	Netherlands	X	Liechtenstein	N	St. Vincent & Grenadines	X
Botswana	N	Portugal	X	Lithuania	None	Senegal	None
Brazil	X	Spain	X	Macao, China	N	Sierra Leone	None
Brunei Darussalam	None	Sweden	X	Madagascar	None	Singapore	N
Bulgaria	X	United Kingdom	X	Malawi	X	Slovak Republic	None
Burkina Faso	None	Ecuador	None	Malaysia	None	Slovenia	X
Burundi	N	Egypt	None	Maldives	None	Solomon Islands	None
Cambodia[2]	n.a.	El Salvador	X	Mali	N	South Africa	None
Cameroon	None	Estonia	X	Malta	None	Sri Lanka	None
Canada	None	Fiji	X	Mauritania	None	Suriname	N
Central African Rep.	None	Former Yugoslav Rep. of Macedonia[4]	n.a.	Mauritius	X	Swaziland	None
Chad	None	Gabon	N	Mexico	None	Switzerland	X
Chile	X	Gambia	None	Moldova[5]	n.a.	Chinese Taipei	X
China[3]	n.a.	Georgia	None	Mongolia	N	Tanzania	None
Colombia	X	Ghana	N	Morocco	None	Thailand	X
Congo	None	Grenada	X	Mozambique	None	Togo	None
Congo, Democratic Rep. of the	None	Guatemala	X	Myanmar	X	Trinidad & Tobago	None
Costa Rica	X	Guinea Bissau	None	Namibia	N	Tunisia	X
Côte d'Ivoire	None	Guinea, Rep. of	None	Nepal[6]	n.a.	Turkey	X
Croatia	X	Guyana	None	New Zealand	X	Uganda	None
Cuba	N	Haiti	None	Nicaragua	None	UAE	None
Cyprus	None	Honduras	X	Niger	None	United States	X
Czech Republic	None	Hong Kong, China	N	Nigeria	None	Uruguay	X
Djibouti	None	Hungary	X	Norway	X	Venezuela	None
Dominica	X	Iceland	X	Oman	None	Zambia	N
Dominican Rep.	X	India	X	Pakistan	None	Zimbabwe	N

"N" means that the Member has indicated that it maintains no notifiable subsidies.

"X" means that the Member notified subsidies.

"None" means that no notification was submitted.

"n.a." means that, at the time when the notification was due to be submitted, the status of WTO Member had not yet been acquired

(*) At the time that the obligation to notify arose, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic, and Slovenia were not yet Members of the European Communities. Therefore, these Members are not listed under the EC entry in this Annex.

[1] Became a Member on 5 February 2003. [2] Became a Member on 13 October 2004. [3] Became a Member on 11 December 2001. [4] Became a Member on 4 April 2003. [5] Became a Member on 26 July 2001. [6] Became a Member on 23 April 2004.

ANNEX C

COUNTERVAILING DUTY LEGISLATION NOTIFICATIONS

Member/Observer	*Notification Provided*	*Member/Observer*	*Notification Provided*
Albania	None	Dominican Republic	G/SCM/N/1/DOM/2
Angola	None	Ecuador	G/SCM/N/1/ECU/2
Antigua and Barbuda	G/SCM/N/1/ATG/2	European Communities*	G/SCM/N/1/EEC/2 + Suppl.1, 2, 3, 4, 5 & 6
Argentina	G/SCM/N/1/ARG/1 + Suppl.1, 2, 3 & Suppl.3/Corr.1 + Suppl.4, 5, 6 & 7	Egypt	G/SCM/N/1/EGY/2/Rev.1
		El Salvador	G/SCM/N/1/SLV/2
Armenia	G/SCM/N/1/ARM/1	Estonia*	G/SCM/N/1/EST/1
Australia	G/SCM/N/1/AUS/2 + Suppl.1	Fiji	G/SCM/N/1/FJI/2
Bahrain	None	Former Yugoslav Rep. of Macedonia	None
Bangladesh	None		
Barbados	G/SCM/N/1/BRB/1	Gabon	None
Belize	None	Gambia	None
Benin	G/SCM/N/1/BEN/1	Georgia	G/SCM/N/1/GEO/1
Bolivia	G/SCM/N/1/BOL/1 + Suppl.1	Ghana	G/SCM/N/1/GHA/1
Botswana	None	Grenada	G/SCM/N/1/GRD/2
Brazil	G/SCM/N/1/BRA/2 + Suppl.1	Guatemala	G/SCM/N/1/GTM/2
Brunei Darussalam	G/SCM/N/1/BRN/1	Guinea Bissau	None
Bulgaria	G/SCM/N/1/BGR/1	Guinea, Rep. of	G/SCM/N/1/GIN/1
Burkina Faso	None	Guyana	None
Burundi	G/SCM/N/1/BUR/1	Haiti	G/SCM/N/1/HTI/1
Cambodia	None	Honduras	G/SCM/N/1/HND/2
Cameroon	None	Hong Kong, China	G/SCM/N/1/HKG/1
Canada	G/SCM/N/1/CAN/4	Hungary*	G/SCM/N/1/HUN/1
Central African Rep.	None	Iceland	G/SCM/N/1/ISL/1
Chad	G/SCM/N/1/TCD/1	India	G/SCM/N/1/IND/2 + Corr.1 + Suppl.1, 2 & 3
Chile	G/SCM/N/1/CHL/2		
China	G/SCM/N/1/CHN/1 + Suppl.1, 2 & 3	Indonesia	G/SCM/N/1/IDN/2 + Suppl.1
		Israel	G/SCM/N/1/ISR/2
Colombia	G/SCM/N/1/COL/1	Jamaica	G/SCM/N/1/JAM/2
Congo	None	Japan	G/SCM/N/1/JPN/2 + Corr.1 & 2 + Suppl.1, 2 , 3, 4 & Suppl.4/Corr.1
Congo, Democratic Rep. of the	None		
		Jordan	G/SCM/N/1/JOR/2 + Corr.1
Costa Rica	G/SCM/N/1/CRI/2	Kenya	G/SCM/N/1/KEN/1
Côte d'Ivoire	None	Korea	G/SCM/N/1/KOR/4
Croatia	G/SCM/N/1/HRV/1	Kuwait	None
Cuba	G/SCM/N/1/CUB/1 + Suppl.1	Kyrgyz Rep.	G/SCM/N/1/KGZ/1
Cyprus*	G/SCM/N/1/CYP/2	Latvia*	G/SCM/N/1/LVA/2
Czech Republic*	G/SCM/N/1/CZE/2	Lesotho	None
Djibouti	None	Liechtenstein	G/SCM/N/1/LIE/1
Dominica	G/SCM/N/1/DMA/1	Lithuania*	G/SCM/N/1/LTU/1

Member/Observer	*Notification Provided*
Macao, China	G/SCM/N/1/MAC/1
Madagascar	None
Malawi	G/SCM/N/1/MWI/1
Malaysia	G/SCM/N/1/MYS/1 + Add.1
Maldives	G/SCM/N/1/MDV/2
Mali	None
Malta*	G/SCM/N/1/MLT/1
Mauritania	None
Mauritius	G/SCM/N/1/MUS/2
Mexico	G/SCM/N/1/MEX/1 + Corr.1 + Suppl.1 & Suppl.2/Corr.1
Moldova	G/SCM/N/1/MDA/1
Mongolia	G/SCM/N/1/MNG/2
Morocco	G/SCM/N/1/MAR/2 + Rev.1 (French only)
Mozambique	None
Myanmar	G/SCM/N/1/MYN/1
Namibia	G/SCM/N/1/NAM/1
Nepal	None
New Zealand	G/SCM/N/1/NZL/2 + Suppl.1
Nicaragua	G/SCM/N/1/NIC/1 + Corr.1 + Suppl.1
Niger	None
Nigeria	None
Norway	G/SCM/N/1/NOR/3
Oman	G/SCM/N/1/OMN/1
Pakistan	G/SCM/N/1/PAK/2 + Suppl.1 & 2
Panama	G/SCM/N/1/PAN/1
Papua New Guinea	None
Paraguay	G/SCM/N/1/PRY/2 + Corr.1
Peru	G/SCM/N/1/PER/2
Philippines	G/SCM/N/1/PHL/2
Poland*	G/SCM/N/1/POL/2
Qatar	G/SCM/N/1/QAT/1
Romania	G/SCM/N/1/ROM/1
Rwanda	None
Saint Kitts & Nevis	None
Saint Lucia	G/SCM/N/1/LCA/1
Saint Vincent & Grenadines	None
Senegal	G/SCM/N/1/SEN/1
Sierra Leone	None
Singapore	G/SCM/N/1/SGP/2 + Suppl. 1
Slovak Republic*	G/SCM/N/1/SVK/1
Slovenia*	G/SCM/N/1/SVN/1
Solomon Islands	None
South Africa	G/SCM/N/1/ZAF/2
Sri Lanka	G/SCM/N/1/LKA/1
Suriname	G/SCM/N/1/SUR/1
Swaziland	None
Switzerland	G/SCM/N/1/CHE/1
Chinese Taipei	G/SCM/N/1/TPKM/1 + Corr.1
Tanzania	None
Thailand	G/SCM/N/1/THA/4 + Corr.1
Togo	None
Trinidad and Tobago	G/SCM/N/1/TTO/1 + Suppl. 1
Tunisia	G/SCM/N/1/TUN/2
Turkey	G/SCM/N/1/TUR/3 + Suppl.1
Uganda	G/SCM/N/1/UGA/2
UAE	G/SCM/N/1/ARE/1
United States	G/SCM/N/1/USA/1 + Corr.1 + Suppl.1, 2, 3, 4, 5 & 6
Uruguay	G/SCM/N/1/URY/1 + Suppl.1
Venezuela	G/SCM/N/1/VEN/1 + Suppl.1 & 2
Zambia	G/SCM/N/1/ZMB/1
Zimbabwe	G/SCM/N/1/ZWE/2 + Suppl.1

"None" means that no notification was submitted.

(*) This annual report includes a period when Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, the Slovak Republic, and Slovenia were not member-States of the European Communities (i.e. prior to 1 May 2004), as well as a period following the accession of these countries to the European Communities. Therefore, these Members' separate notifications are listed herein. See document G/SCM/N/1/EEC/2/Suppl.6 for updated information on the current status of laws and regulations of the above-referred countries.

ANNEX D

SEMI-ANNUAL REPORTS

Member	*1 July-31 December 2003*	*1 January-30 June 2004*
Albania	N	None
Angola	None	None
Antigua and Barbuda	None	None
Argentina	X	X
Armenia	N	N
Australia	X	X
Bahrain	N	N
Bangladesh	None	None
Barbados	N	None
Belize	None	None
Benin	None	None
Bolivia	N	N
Botswana	None	None
Brazil	X	N
Brunei Darussalam	N	None
Bulgaria	N	N
Burkina Faso	None	None
Burundi	None	None
Cambodia[1]	n.a.	n.a.
Cameroon	None	None
Canada	X	X
Central African Republic	None	None
Chad	None	None
Chile	N	N
China	None	None
Colombia	N	None
Congo	None	None
Congo, Democratic Republic of the	None	None
Costa Rica	X	X
Côte d'Ivoire	None	None
Croatia	N	N
Cuba	N	N
Cyprus[2]	None	N
Czech Republic[2]	N	N
Djibouti	None	None
Dominica	None	None
Dominican Republic	N	N
European Communities[3]	X	X
Ecuador	None	None
Egypt	N	N
El Salvador	N	N
Estonia[2]	N	N
Fiji	None	None
Former Yugoslav Republic of Macedonia	None	None
Gabon	None	None
Gambia	None	None
Georgia	N	None
Ghana	N	None
Grenada	None	None

Member	*1 July-31 December 2003*	*1 January-30 June 2004*
Guatemala	N	N
Guinea-Bissau	None	None
Guinea, Republic of	None	None
Guyana	None	None
Haiti	None	None
Honduras	N	N
Hong Kong, China	N	N
Hungary[2]	N	N
Iceland	N	None
India	N	N
Indonesia	N	N
Israel	None	None
Jamaica	N	None
Japan	N	None
Jordan	N	N
Kenya	None	None
Korea	N	N
Kuwait	None	None
Kyrgyz Republic	None	None
Latvia[2]	N	N
Lesotho	None	None
Liechtenstein	N	N
Lithuania[2]	N	N
Macao, China	N	None
Madagascar	None	N
Malawi	None	None
Malaysia	None	None
Maldives	None	None
Mali	None	None
Malta[2]	None	N
Mauritania	None	None
Mauritius	N	None
Mexico	X	X
Moldova	None	None
Mongolia	None	N
Morocco	N	N
Mozambique	None	None
Myanmar	N	None
Namibia	None	None
Nepal[4]	n.a.	None
New Zealand	X	N
Nicaragua	None	None
Niger	None	None
Nigeria	None	None
Norway	N	N
Oman	N	None
Pakistan	N	N
Panama	N	None
Papua New Guinea	None	None
Paraguay	N	None
Peru	N	N

Member	*1 July-31 December 2003*	*1 January-30 June 2004*
Philippines	N	N
Poland[2]	N	N
Qatar	None	None
Romania	N	N
Rwanda	None	None
Saint Kitts & Nevis	None	None
Saint Lucia	N	N
Saint Vincent & Grenadines	None	None
Senegal	None	None
Sierra Leone	None	None
Singapore	N	N
Slovak Republic[2]	N	N
Slovenia[2]	N	N
Solomon Islands	None	None
South Africa	N	N
Sri Lanka	None	None
Suriname	None	None
Swaziland	None	None
Switzerland	N	N
Chinese Taipei	None	None
Tanzania	None	None
Thailand	N	N
Togo	None	None
Trinidad and Tobago	N	N
Tunisia	N	None
Turkey	N	N
Uganda	None	None
UAE	None	None
United States	X	X
Uruguay	None	None
Venezuela	X	X
Zambia	None	None
Zimbabwe	None	None

X = Semi-annual report of actions taken submitted.

N = Report of no actions taken submitted.

n.a./not applicable = Obligation did not apply to Member for that period.

None = No report submitted.

[1] Became a Member on 13 October 2004.

[2] This report includes a period when these countries were not members of the European Communities, as well as a period following their accession to the EC. Therefore, these Members' separate notifications are listed herein, as well as the EC's notifications on their behalf. The EC notified, on behalf of these countries, that they had not taken any countervailing duty actions during the period 1 January – 30 April 2004 (G/SCM/N/113/EEC/Add.1). Between the date of their accession to the EC, *i.e.* 1 May 2004, and 30 June 2004, the European Communities included them in a separate notification on behalf of the European Communities as a whole (G/SCM/N/113/EEC).

[3] The European Communities is counted as one Member. As of 1 May 2004, the member-States of the EC are the following: Austria, Belgium, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, the Slovak Republic, Slovenia, Spain, Sweden and the United Kingdom.

[4] Became a Member on 23 April 2004.

ANNEX E

SUMMARY OF COUNTERVAILING DUTY ACTIONS AND MEASURES AS REPORTED IN DOCUMENTS G/SCM/N/113/... AND G/SCM/N/106/... (1 JULY 2003 - 30 JUNE 2004) AS OF 1 NOVEMBER 2004

Initiation		*Provisional Measures (negative preliminary determinations not included)*		*Definitive Duties*		*Undertakings*		*Measures in force on 30 June 2004 (definitive duties and undertakings)*
No.	*Countries involved*	*No.*	*Countries involved*	*No.*	*Countries involved*	*No.*	*Countries involved*	
	ARGENTINA							
0		0		0		0		3
	AUSTRALIA							
3	ITA (1) GRC (1) ESP (1)	0		0		0		3
	CANADA							
4	CHN (2) IND (1) CHT (1)	1	IND (1)	0		0		10
	COSTA RICA							
0		0		0		1	COL (1)	1
	EEC							
1	IND (1)	1	IND (1)	2	IND (1) KOR (1)	0		18
	MEXICO							
2	EEC (2)	1	EEC (1)	0		0		1
	NEW ZEALAND							
0		0		1	EEC (1)	0		1
	PERU							
0		0		0		0		1
	SOUTH AFRICA							
0		0		0		0		4
	UNITED STATES							
5	CAN (1) IND (3) THA (1)	1	IND (1)	3	CAN (1) IND (1) KOR (1)	0		57
	VENEZUELA							
0		0		1	EEC (1)	0		3

Committee on Subsidies and Countervailing Measures

Subsidies

NEW AND FULL NOTIFICATION PURSUANT TO ARTICLE XVI:1 OF THE GATT 1994 AND ARTICLE 25 OF THE AGREEMENT ON SUBSIDIES AND COUNTERVAILING MEASURES

INDIA

The following communication, dated 16 October 2001, has been received from the Permanent Mission of India.

Please refer to India's notification pursuant to Article XVI:1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures, as contained in document G/SCM/N/38/IND dated 10 May 1999. Pursuant to Article 25 of the Agreement on Subsidies and Countervailing Measures, the amendment to the above notification concerning Income Tax concession on export of goods from India is indicated below:

1. Nature and Extent of the Subsidy

(a) Background and Authority

This subsidy is provided under Sections 10A, 10B and 80 HHC of the Income Tax Act 1961, with a view to improving the foreign exchange reserves of the country.

(b) Incidence

With effect from the assessment year 2001-2002, manufacturing units in export processing zones, special economic zones and 100 per cent export oriented units are allowed 100 per cent deduction of profits and gains from export of articles/things or computer software. This deduction is available for a period of 10 consecutive assessment years in a graded manner. The deduction is granted with reference to the assessment year relevant to the previous year in which the undertaking begins to manufacture or produce articles or things or computer software. Thus an undertaking set up on or before 31 March 2000 shall be entitled to a deduction for a period of 10 years, that set up during the period 1 April 2000 to 31 March 2001 for a period of 9 years, that set up in 2001-2002 for a period of 8 years and so on. No deduction shall be allowed for the assessment year beginning on 1 April 2010 and subsequent years. This deduction can be availed subject to fulfilment of certain conditions specified in this regard.

A taxpayer, whether a trader or manufacturer is entitled to a deduction from the gross total income to a specified extent of the export profits. The percentage of deduction will be 80 per cent, 70 per cent, 50 per cent and 30 per cent for the assessment year 2001-2002, 2002-2003, 2003-2004 and 2004-2005 respectively. No deduction shall be allowed in respect of the assessment year beginning on 1 April 2005 and subsequent assessment years.

It may be noted that the assessment year is the year following the financial period, also called a previous year, in which income is earned.

(c) Amount of Subsidy

Data not available.

(d) Estimated Amount Per Unit

Not feasible. It varies from unit to unit depending upon its turnover and profitability.

2. Effect of Subsidy

(a) Estimated quantitative trade effect of the subsidy; and the reasons why it is considered that the subsidy will have these effects:

(i) The specified percentage of deduction of export profits is allowed for export of goods out of India to offset some comparative disadvantage against a number of local taxes and duties which are not being otherwise rebated;

(ii) For a previous representative year, which, where possible and meaningful, should be the latest period preceding the introduction of the subsidy or prceding the last major change in the subsidy.

This data is not available.

Agriculture to be the Core of WTO Negotiations on Modalities, Post-July Package, Says Kamal Nath

Market Access Only If Subsidies are Removed

Shri Kamal Nath, Union Minister of Commerce & Industry, Government of India, Addresses International Conference at French Institute of International Relations

AGRICULTURE will remain at the core of how swiftly progress is made in the detailed negotiations on modalities in the WTO Doha Round, in the post-July 2004 package phase, Shri Kamal Nath, Union Minister of Commerce & Industry, said at an International Conference on "Liberalization and the Future of Agricultural Policy", organized by the French Institute of International Relations (IFRI) in Paris. Emphasizing that mercantilist compulsions of corporatized agriculture should not drive the negotiations in the World Trade Organization (WTO), Shri Kamal Nath made it absolutely clear that developed countries must remove trade-distorting agricultural subsidies first and market access in developing countries would only follow the removal of such subsidies, not precede it.

In a hard hitting address before a distinguished international audience, Shri Kamal Nath said "Governments have more recently resolved at Geneva to uphold the legitimate food and livelihood security and rural development needs of developing countries in the agriculture negotiations. What we are confronting is a real life situation facing real persons desperate for recognition of the condition in which they live and the pressures on them from the subsidy-laden policies of other countries. Mercantilist compulsions of corporatized agriculture cannot drive these negotiations.

I have said so publicly before, and I say so again: the Indian farmer is not afraid of the farmer from a developed country. He is willing to compete with him. But he cannot compete with the Governments of the developed countries! In the entire negotiation on agriculture, the positions we have had to take, the strategies we have had to adopt are not because we are protectionist per se. We do not deny the developed world agricultural market access on a whim, or because we do not want to engage in trade. We have been forced to turn protectionist because we have no alternative; there is no level playing field. Agriculture sustains the daily lives of the majority of our people. Subsidized products flooding in from abroad would play havoc with the social fabric. Eliminate subsidies completely and fully, in all its guises, and we would not be hesitant to liberalize substantially. But we must be clear that this is not a chicken-and-egg situation. There is no doubt as to what needs to be done first – it is the removal of subsidies. It is logical that market access can only succeed this, not precede it."

Effective reduction in subsidies and non-tariff barriers in trade in agriculture by developed countries would increase world incomes and expand world trade far more than similar progress in any other area and there had to be a social consensus on this, Shri Kamal Nath said, adding that "it is no use making tariff reduction commitments on the one hand and erecting insurmountable non-tariff barriers on the other".

Reminding the participants of the Marrakesh Agreement of the Uruguay Round which said that multilateral rules were to be designed to ensure that "developing countries and especially the least developed among them, secure a share in the growth of international trade commensurate with the needs of their economic development", Shri Kamal Nath said that "central to our efforts must remain the prospect of a wider distribution of benefits for all peoples. Developed countries must effectively transfer technology, offer fair competition and generally support an enabling environment for developing societies to move ahead, to consolidate, and to move on again. It is important that the pursuit of liberalization in global agricultural policy must create and nurture essential conditions for stimulating economic growth in developing countries, alleviating poverty, and promoting their integration into the global comity, not just as equal

members, but as partners in progress and equals in prosperity".

The Minister emphasized that international policy on agriculture should not ignore the ground realities obtaining in three-fourths of the world. No doubt, there were difficulties and problems in all countries, including the developed countries. "But it is essential that the stark difference in the nature of the concerns in developed countries and those in developing countries be clearly understood and appreciated. This is a difference not merely of scale and magnitude, but a qualitative difference. Standard of living may be a valid concern for farmers in developed countries – in developing ones it is the very access to the next meal", the Minister said. "Developing countries need sufficient policy space and flexibilities in instruments to lift the large proportion of their populations employed in agriculture from their present level of backwardness. It is inconceivable for the developed countries to seek, and for the developing countries to offer, identity in treatments and commitments until all distortions in agriculture are removed", he added.

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(Continued from page 38)

(i) the procedures in G/SCM/39 in respect of the decisions in documents G/SCM/50-92 and Adds. 1; (ii) the procedures in G/SCM/39 and paragraph 10.6 of the Implementation Decision in respect of decisions in documents G/SCM/93-94 and Adds. 1; and (iii) Article 27.4 alone, in respect to the decisions in documents G/SCM/95-102.

27. At this same meeting, the Committee also agreed on the deadlines for the submission of notifications (30 June 2005) and questions (1 September 2005) and answers (6 October 2005) for the Committee's 2005 review of transparency and standstill obligations.

C. *Committee Decisions in Respect of Extensions for 2005 of Transition Periods for the Elimination of Export Subsidies under Article 27.4 of the Agreement*

28. During its November 2004 regular meeting, the Committee agreed to continue, for calendar year 2005, certain of the extensions previously granted by the Committee for calendar years 2003 and 2004. These continuations of the extensions were granted pursuant to the procedures in G/SCM/39 and can be found in the following documents: Antigua and Barbuda (G/SCM/50/Add.2-51/Add.2); Barbados (G/SCM/52/Add.2-56/Add.2); Belize (G/SCM/57/Add.2-60/Add.2); Costa Rica (G/SCM/61/Add.2-62/Add.2); Dominica (G/SCM/63/Add.2); Dominican Republic (G/SCM/64/Add.2); El Salvador (G/SCM/65/Add.2); Fiji (G/SCM/66/Add.2-68/Add.2); Grenada (G/SCM/69/Add.2-71/Add.2); Guatemala (G/SCM/72/Add.2-74/Add.2); Jamaica (G/SCM/75/Add.2-78/Add.2); Jordan (G/SCM/79/Add.2); Mauritius (G/SCM/80/Add.2-83/Add.2); Panama (G/SCM/84/Add.2-85/Add.2); Papua New Guinea (G/SCM/86/Add.2); St. Lucia (G/SCM/87/Add.2-89/Add.2); St. Kitts and Nevis (G/SCM/90/Add.2); St. Vincent and the Grenadines (G/SCM/91/Add.2); and Uruguay (G/SCM/92/Add.2).

XIII. Other Business

29. During the period of review, the following items were raised under "Other Business":

- Article 27.4 extensions of transition periods for the elimination of export subsidies: Reminder of agreed deadlines for submission of notifications and questions and answers for the Committee's review of transparency and standstill obligations in the decisions in (documents G/SCM/50-102 and 50/Add.1-94/Add.1) relating to the Article 27.4 process – Statement by the Chairperson.
- 2004 Revision of the Arrangement on Guidelines for Officially Supported Export Credits – Statement by the OECD Secretariat.
- South Africa's Motor Industry Development Programme – Statement by Australia.

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Negotiating Group on Rules

Proposals on Model Matching

COMMUNICATION FROM BRAZIL; CHILE; COLOMBIA; COSTA RICA; HONG KONG, CHINA; JAPAN, KOREA, REPUBLIC OF; NORWAY; SWITZERLAND; THE SEPARATE CUSTOMS TERRITORY OF TAIWAN, PENGHU, KINMEN AND MATSU; AND THAILAND

The following communication, dated 13 September 2004, is being circulated at the request of the Delegations of Brazil; Chile; Colombia; Costa Rica; Hong Kong, China; Japan; Korea, Republic of; Norway; Switzerland; the Separate Customs Territory of Taiwan Penghu, Kinmen and Matsu; and Thailand.

The submitting delegations have requested that this paper, which was submitted to the Rules Negotiating Group as an informal document (JOB(04)/124), also be circulated as a formal document.

I. Description of the Problems

Article 2.4 of the ADA requires that authorities make a "fair comparison" between export price and the normal value of the product under consideration. Authorities must ensure that a fair comparison is made at the same level of trade, with due allowance being made for differences that affect price comparability. However, the language of the current ADA is very general, and lacks specific disciplines. As a result, authorities often fail to make a fair comparison. This paper addresses the issue of model matching which is one of the interrelated issues of fair comparison.

Article 2.1 of the ADA states that a product is to be considered as "dumped" if the export price of the product is less than the comparable price, in the ordinary course of trade, for the like product when destined for consumption in the exporting country. Article 2.6 defines the "like product" as "a product which is identical, i.e. alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration".

When calculating the dumping margin, the exported products and the like product in the home market will usually be further sub-divided into models, and the comparison between the normal values and export prices will first be performed between corresponding models, as an interim step, and then aggregated in order to arrive at a dumping margin for the product as a whole. This sub-dividing into models is done in order to minimize the problems relating to comparability between the normal values and export prices. The methodology to identify models of the like products to be used for comparison with models of the exported products often is crucial to the outcome of the dumping margin calculation, and the determination of dumping. Yet respondents often have little or no input regarding the methodology.

The ADA, however, provides no guidance for identifying each model or determining which models are "closely resembling" models to be compared. In the absence of the guidance, authorities are free to arbitrarily identify each model and decide which models for the normal value, if any, "closely resemble" the exported model when there are no models of like products that are "identical" to a particular model of the exported products. This excessive discretion causes uncertainty for exporters. It also exposes authorities to possible WTO challenges by respondents. Both respondents and authorities would therefore benefit from clearer rules regarding model matching.

II. Elements of a Solution

Proposals:

1. Impose disciplines on authorities' selection of the characteristics to be used in identifying the "identical" and "most closely resembling" models; impose limits on products that may be deemed "Closely Resembling"

- Amend the ADA to require that, for purposes of identifying the "identical" and "most closely resembling" models ("model matching"), the authorities must use all characteristics that have a significant effect on the commercial value or the end use of the product. Moreover, the authorities must put priority on those characteristics which affect the product's commercial value or its end use more than the others.
- The classification of each model must be based on product codes used by the respondents in the course of business, or alternatively, on industry product standards used in the country of exportation, to the extent that such codes or standards reflect the commercial value or the end use of the product.
- The FANs will further discuss possible ways of imposing outer boundaries on the selection of models for normal value that may be deemed to closely resemble the exported models. One useful way to accomplish this could be to examine the difference in the per-unit costs of manufacture of the models.

2. Calculation of allowances for differences in physical characteristics

- Amend the ADA to require that, where there are no models for determining normal value that are identical to an export model, allowances for differences in physical characteristics for purposes of Article 2.4 shall be made based on the difference in the per-unit cost of manufacture between the exported model and the model used as the basis for normal value.

3. Require authorities to permit responding parties to comment on model matching

- Amend the ADA to require that, where a product under consideration consists of more than one model, responding parties be given adequate opportunities to make proposals on model matching, including model classification, that determine identical and most resembling models, and to respond to those proposed by the petitioners and the authorities.

Explanations:

Model matching methodologies determine the universe of models that authorities will use to calculate the "normal value" for a particular exported model. This can significantly affect the result of an anti-dumping investigation.

As discussed above, some authorities define "models" based on "product codes" arbitrarily without taking into account of the effect on the commercial value and the end use of the product. The codes are used to identify products that are "identical" or, if there are no "identicals", to establish which model among various models sold in home market (or third country) is most "closely resembling" the exported model under consideration. We believe, as discussed above, that the ADA should set forth rules both to guide authorities in the creation of the criteria for determining "identical" and most "closely resembling" products, but also to impose some objective limit on products that can be considered "closely resembling".

First, it would be useful to specify that the model matching must be based on all characteristics that have a significant effect on the commercial value or the end use, including the technical specifications of the product, and that the identification of each model must be based on product codes used by the exporters in the regular course of business or, alternatively, on industry product standards of the exporting country. The ASTM and DIN standards for steel are examples of such industry product standards. This would provide an objective and verifiable basis for constructing product codes. It also would make model matching more predictable for exporters.

Second, it is important to ensure that models are similar enough to provide a meaningful comparison. Again, model matching is highly case-specific, and it is not possible to devise a comprehensive definition of "closely resembling" that could apply to all cases. However, it is important to define the

"outer boundaries" of models that could be eligible for comparison. For example, because cost is an important factor in determining price, it does not seem appropriate for authorities to compare models that differ significantly in cost. A large-screen projection TV should not be compared with a portable small-screen model. The cost structures of these models would differ so much that no adjustment could adequately account for the resulting price differences. As discussed above, clearer rules regarding model matching would benefit responding parties as well as authorities.

We also are of the view that respondents should have opportunities to comment on model matching. *First,* as discussed, model matching is an issue of fundamental importance which can profoundly affect the dumping margin calculation. *Second,* respondents have expert knowledge of the products and product standards. Thus, respondents' input could be invaluable to authorities. Yet authorities often create product codes without significant input from respondents. Typically, the petitioner will propose the codes. Authorities often use these codes in the questionnaire, without giving responding parties an adequate opportunity to comment. Respondents usually find it impossible to convince authorities to change product codes after the questionnaire has been issued.

Because product codes are very case-specific, we are of the view that, although general rules regarding product codes (such as those set forth above) would be useful to provide necessary guidance for authorities in this matter, it is equally important that responding parties be given reasonable opportunities to propose product codes, and to comment on those proposed by the petitioner and the authorities.

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Subsidies and Countervailing Measures in WTO: ...

(Continued from page 8)

force of the WTO Agreement, and for those developing country Members referred to in Annex VII, the number in paragraph 10(a) shall be 3 per cent rather than 2 per cent. This provision shall apply from the date that the elimination of export subsidies is notified to the Committee, and for so long as export subsidies are not granted by the notifying developing country Member. This provision shall expire eight years from the date of entry into force of the WTO Agreement."

[3]For example, see the notification by USA (G/SCM/Q2/IND/8) dated 8 November 1999 and the reply by Government of India (G/SCM/Q2/IND/911) dated September 2000. Studies by Ahuja (2001) and Hoda and Ahuja (2003) of different export promotion schemes of the Government of IndiaI show that some of these schemes may constitute a subsidy.

[4]Source: WTO, International Trade Statistics 2002.

[5]Article VI of GATT 1994 authorizes the imposition of a specific anti-dumping duty on imports from a particular source, in cases where dumping causes injury to a domestic industry, or materially retards the establishment of a domestic industry.

[6]Stiglitz and Charlon use stronger language to denounce the use of WTO trade defense mechanisms as non-tariff measures by developed countries. They say: "*There are four important categories of non-tariff barriers: dumping duties, which are imposed when a country sells products below costs; countervailing duties, which can be imposed when a country subsidizes a commodity; safeguards, which can be imposed temporarily when a county faces a surge in imports; and restrictions to maintain food safety or avoid, say, an infestation of fruit flies. The advanced industrial countries have used all of these non-tariff barriers to restrict imports from developing countries when they have achieved a degree of competitiveness that allows them to enter their markets. Many of these measures are described as ensuring "fair trade," but from the perspective of developing countries they ensure "unfair trade." They are evidence of the hypocrisy of the North.* p. 18.

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