

Really Good Friends – Meeting of 3 December 2012

Plurilateral Initiative on Trade in Services

Submission by Switzerland:

Provisions on Disciplines on Export Subsidies

Objective

Switzerland proposes the following submission, dated 29 November 2012, containing provisions on Export Subsidies. Switzerland is of the opinion that because of the trade distortive objectives and impact of Export Subsidies, rules on such measures should be discussed with a high priority. Such provisions could form part of an Annex on Export Subsidies.

Proposed Provisions

Article 1

Scope

This Annex applies to subsidies, within the meaning of Article 2, which are, in law or in fact¹, whether solely or as one of several other conditions, contingent upon export performance (referred to in this Annex as “export subsidies”), including those illustrated in Annex I of the ASCM².

¹ This standard is met when the facts demonstrate that the granting of the subsidy, without having been made legally contingent upon export performance, is in fact tied to actual or anticipated exportation or export earnings. The mere fact that a subsidy is granted to enterprises which export shall not for that reason alone be considered to be an export subsidy within the meaning of this provision.

² WTO Agreement on Subsidies and Countervailing Measures (ASCM). Measures referred to in Annex I of the ASCM as not constituting export subsidies shall not be prohibited under this Annex on Export Subsidies.

Article 2

Definition

For the purpose of this Annex, a “subsidy” shall be deemed to exist if there is a measure by a Member:

- (a) in the form of a financial contribution, *i.e.*:
 - (i) a direct transfer of funds, potential direct transfers of funds or liabilities;
 - (ii) a government revenue that is otherwise due that is foregone or not collected;
 - (iii) goods or services other than general infrastructure that are provided, or purchases of services; or
- (b) in any form of income or price support, to any service supplier of that Member; and
- (c) a benefit is thereby conferred.

Article 3

Listing and transitional periods

1. Existing export subsidies maintained by a Member in sectors in which that Member has undertaken specific commitments shall be inscribed in a separate List to be attached to its Schedules of specific commitments.
2. The List must indicate, for each export subsidy, the date until which [or: the number of years after the entry into force of this Annex during which] that export subsidy shall continue to be applied by the Member (referred to in this Annex as “transitional period”).

Article 4

Standstill and progressive phase-out

1. A Member shall progressively phase out all the export subsidies inscribed in its List, unless an unlimited period is granted under Article 7. For that purpose, transitional periods inscribed shall not exceed [10] years.

2. From the date of entry into force of its Schedule, only those export subsidies that are inscribed therein by a Member may continue to be granted by that Member. Upon the expiration of the inscribed transitional period, the corresponding export subsidy shall no longer continue to be granted.

3. The export subsidies inscribed by a Member in its List shall be subject to negotiation with a view to eliminate export subsidies still in force or to reduce their transitional periods, taking into account the level of development of individual Members.

Article 5

New sectors

When a Member includes a new sector in its Schedule, the provisions of Articles 3 and 4 of this Annex shall apply to that sector as of the date of entry into force of the corresponding Schedule.

Article 6

Limited extension of a transitional period

1. In duly motivated cases, and upon decision by the [competent body], a transitional period may be extended for an additional period not exceeding [5] years, taking into account the level of development of individual Members.

2. A Member cannot request a limited extension in relation to a period that has already been extended once.

Article 7

Unlimited periods

1. In exceptional cases, and upon decision by the [competent body], an export subsidy may be inscribed for an unlimited period of time, taking into account the level of development of individual Members. This is without prejudice to the last sentence of Article 4.

2. The [competent body] shall undertake a review of all export subsidies inscribed for an unlimited period. The first such review shall take place no more than [15] years after the entry into force of this Annex. The [competent body] shall thereafter determine the date of any further review.

3. The [competent body] shall examine in a review whether the conditions which created the need for an unlimited period still prevail.

Article 8

Remedies

1. Whenever a Member has reason to believe that, after the inscribed transitional period has expired, an export subsidy is being granted or maintained by another Member in sectors in which that other Member has undertaken specific commitments, such Member may request consultations with that other Member.

2. Articles 4.2 to 4.12 of the Agreement on Subsidies and Countervailing Measures of the WTO shall apply, *mutatis mutandis*, for the procedures of such consultations.³

³ This approach may be substituted by the reproduction of the full corresponding text of the ASCM.