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Committee on Subsidies and Countervailing Measures

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SUBSIDIES

Replies to Questions from JAPAN¹, KOREA², the EUROPEAN COMMUNITY³, THAILAND⁴ and the UNITED STATES⁵ Regarding the Updating Notification of INDONESIA⁶

The following communication, dated 28 April 1997, has been received from the Permanent Mission of Indonesia.

Replies to Questions from Japan

Q. Tax-Holiday Scheme

Reportedly, Indonesia has determined to re-introduce the exemption of corporate income tax (Tax-Holiday Scheme) this July. In this connection, could Indonesia answer the following questions?

- *What measures constitute this scheme? (Please explain in detail.)*
- *Which industry will be designated as a beneficiary of this scheme?*
- *Will Indonesia notify this scheme to the SCM Committee? If so, under which Article of the SCM Agreement?*

Reply

In July 1996, the Government of Indonesia introduced a tax incentive scheme for qualified industries. The scheme constitutes corporate and dividend taxes paid by the Government for a specific period. The qualified industries will be designated as beneficiaries of the scheme. However, the provisions determining for what constitutes qualified industries are being prepared.

Indonesia schedules to notify the scheme to the SCM Committee as soon as it is completed.

¹G/SCM/Q2/IDN/3+ Rev.1, ²G/SCM/Q2/IDN/1, ³G/SCM/Q2/IDN/4 + G/SCM/Q2/IDN/6, ⁴G/SCM/Q2/IDN/2, ⁵G/SCM/Q2/IDN/5.

⁶G/SCM/N/16/IDN.

Replies to Questions from Korea

Q. Article 25 of the Agreement on Subsidies and Countervailing Measures prescribes Members to annually notify all specific subsidies, and the July 1995 Committee Decision requires Members to submit new and full notifications every three years (from 1995) and to submit updating notifications in the intervening years.

However, Indonesia submitted only updated information concerning subsidies maintained by its Government in July 1995.

Does Indonesia have any schedule to submit new and full notifications pursuant to the Agreement?

Reply

Indonesia schedules to submit new and full notifications pursuant to the Agreement as soon as they are completed.

Replies to Questions from the European Community

The present analysis constitutes the Community's request to Indonesia for clarification on the notified programmes and explanation of reasons why a number of measures have not been notified as required by Article 25.8 of the Subsidies Agreement. Indonesia is requested to respond at the forthcoming meeting of the Subsidies Committee to review notifications in accordance with Article 25.1.

Indonesia submitted on 30 June 1995 its notification of subsidy programmes to the WTO pursuant to Article XVI:1 GATT 1947 and Article 25 of the WTO Subsidies Agreement. In this respect, the European Communities would like to obtain clarification on a number of issues on the notified schemes as described below. Moreover, the Community obtained information on different subsidy schemes which were not notified to the WTO although their notification seemed to be required pursuant to Article 25.2 Subsidies Agreement. Furthermore, the Community would like Indonesia to comment for each specific programme how it will implement or is currently implementing its obligations under Article 27.4 Subsidies Agreement.

I. NOTIFIED SUBSIDY PROGRAMMES

Q.(a) Government Intervention for Rice Production

The Community considers that Indonesia did not provide a notification which complies with the questionnaire format. The Community requests Indonesia to provide the information as set out in the questionnaire format.

Could Indonesia clarify if there are any plans to phase out these subsidies?

Reply

With regard to Indonesian intervention for rice production, Indonesia submitted the latest subsidy notification on 30 June 1995 (document G/SCM/N/3/IDN, 19 July 1995) and the notification therefore was not yet made in accordance with the questionnaire format as adopted by the Committee on 21 July 1995. The objectives of the policy are to improve the very low standard of living of the farmers in the rural area and to promote self-sufficiency in rice production. Nevertheless, the intervention has been significantly reduced since 1992 which could be seen from our notifications.

II. SUBSIDY PROGRAMMES NOT NOTIFIED TO WTO

The Community examined the different policies of the Indonesian authorities with respect to incentives to the local industry. In this respect, a number of programmes are available in Indonesia and were not notified to the WTO.

Q.(a) Pennaman Model Asing Benefits (PMA)

Pursuant to the Foreign Capital Investment Law, foreign companies may invest and operate in Indonesia through a joint venture with an Indonesian partner for a maximum period of 30 years. These joint ventures are referred to in the legislation as PMA companies. The purpose of the PMA scheme is to attract foreign investment and develop export activity of Indonesia.

The establishment must be authorized by the President through the Indonesian Capital Investment Coordinating Board. The applicable legislation enumerates a number of conditions to be fulfilled such as minimum capital, activity, share holding etc.

After approval by the competent authorities the PMA company is eligible for a large number of benefits:

- *import duty exemption or reduction: 100 per cent exemption for main equipment, 50 per cent exemption for support equipment, 100 per cent exemption for spare-parts for main materials, 100 per cent exemption for raw materials not available locally (where the duty is less than 5 per cent, otherwise 50 per cent exemption and 100 per cent exemption for consumables.*
- *import duty exemption for export manufacturing: the administering authority will grant an exemption from import duty and surcharges on imported goods and materials and factory equipment for manufacturing export products. The export needs to be made within 12 months. If the export is not made within 12 months, the duty must be paid on 75 per cent.*
- *Import duty drawback: PMA companies which buy goods and materials locally may obtain a drawback of import duty paid by the importer. An application must be made to the competent authority.*
- *Import drawback for export manufacturing: manufacturers who export at least 65 per cent of their production may receive a drawback on imported goods and materials used in the production.*
- *Exemption from withholding tax imposed on imports: PMA companies may obtain an exemption from withholding tax on imported capital goods and raw materials for the remainder of the calendar year.*
- *Postponement of Value Added Tax: PMA companies may apply directly for VAT postponement on goods and materials falling within a masterlist.*

The Community requests a notification under Article 25.

Reply

The Government of Indonesia is in the process of preparing a notification and it will be submitted in accordance with agreed format to the Committee in due course.

Q.(b) Export Processing Zone

The Indonesian Government established within its territory a number of export processing zones. These zones contain companies producing for export purposes.

A company authorized to produce in an export processing zone is eligible for a number of benefits, namely the right to import raw materials and equipment required to manufacture the product without paying import duty and other government levies.

Q.(c) Bonded Zone Authority

The Bonded Zone Authority is a newly developed state-owned limited liability company with main responsibility for deregulating business activity within the Zone. A bonded zone can be defined as being within a customs area and can be used to manufacture imported goods without the prior imposition of duties and levies.

Imported goods which are re-exported are not subject to duties or state levies. These duties will be imposed if the goods are not exported but imported into the Indonesian customs area. The companies located in the bonded zone are required to export at least 85 per cent of their production. These companies are also eligible for a duty drawback on imports which are later exported. The benefits seem to be contingent upon export performance.

Therefore, the Community would like to know why these schemes were not notified to the WTO. The Community requests Indonesia to submit a notification under Article 25, and would like Indonesia to comment on the compatibility of each scheme with its obligations under the Subsidies Agreement, and to indicate whether there are any plans to phase out these subsidies.

Reply to (b) and (c)

The companies located in bonded zones are not required to export at least 85% of their products. The companies are allowed to import into Indonesian customs area at the maximum of 25% of the value of the product exported and subject to import duty and state levies. For those products which are not exported or not imported into the Indonesian customs areas are exempted from import duty and state levies in the similar treatment as those being exported. Therefore, the benefits are not contingent upon export performance.

Replies to Follow-up Questions from the European Community

Q.1. It is understood that companies in export processing zones in Indonesia can obtain duty exemptions on imported machinery and non-incorporated materials on condition that they export the final product. Since the above are not consumed in the production process, this goes beyond a drawback scheme and constitutes an export subsidy.

Can Indonesia confirm our understanding and notify the subsidy involved?

Reply

The exemption of import duty is applicable on the importation of capital goods and equipment for bonded zones, provided that the imported goods concerned form an integral part of the overall production process.

Q.2. Could Indonesia explain the difference between "export processing zones" and "bonded zones"?

Reply

Since 4 June 1996, there are no export processing zones in Indonesia except bonded zones.

Replies to Questions from Thailand

Subsidy programmes not notified to the WTO

Q.1. Please give details of Indonesia Export Processing Zones (EPZ) and Export-Oriented Production Entrepots (EPTE) according to the notification process.

Reply

According to Government Regulation No. 33 of 1996 dated 4 June 1996, Export Processing Zones (EPZ) and Oriented Production Entrepot (EPTE) are declared as Bonded Zones. Benefits provided in the Bonded Zones such as import duty and state levies exemption shall not be deemed to be a subsidy according to the Agreement on Subsidies and Countervailing Measures, therefore they are not notified.

Q.2. Does Indonesia maintain any export incentive scheme i.e. duty and tax concessions, during the notification period? If yes, please give details according to the notification format.

Reply

Yes, in the form of a drawback scheme. The new and full notifications in accordance with the agreed notification format will be submitted as soon as they are completed.

Replies to Questions from the United States

Section I: Notified Programmes

Q. Could Indonesia please provide the additional and/or more detailed information on the reported "Government Assistance for Rice Production" which was not included in its notification but which is specified by the notification requirements referenced above, i.e. the period covered by the notification; the objective and/or purpose of the subsidy; the background and authority for the subsidy; the form of the subsidy; how is the subsidy provided; duration of the subsidy and/or any other limits attached to it, including date of inception/commencement; and any statistical data permitting an assessment of the trade effects of the subsidy?

Reply

Indonesia submitted the latest subsidy notification on 30 June 1995 (document G/SCM/N/3/IDN, 19 July 1995) and the notification therefore was not yet made in accordance with the questionnaire format as adopted by the Committee on 21 July 1995. This information is under preparation.

Section II: Non-notified Programmes

Please provide information concerning the following programmes which were not included within Indonesia's notification, yet may meet the notification requirements of GATT 1994 and/or the SCM Agreement. If these programmes are somehow encompassed in Indonesia's notification, please explain. If not, please include information relevant to the elements requested in the notification format, or explain the basis on which Indonesia determined that each programme did not meet the notification requirements referenced above:

- A. *Import duty reductions on automotive parts and accessories and luxury sales tax concessions on finished vehicles contingent on meeting certain domestic content requirements.*

Reply

Please refer to Indonesia's update notification document G/SCM/N/16/IND, dated 13 January 1997 regarding notification pursuant to Article XVI.1 of the GATT 1994 and Article 25 of the Agreement on Subsidies and Countervailing Measures.

- B. *Information developed in the course of the 1994 Trade Policy Review of Indonesia indicates that there are certain policies in Indonesia which directly affect exports. These include:*

- Q. (1) Duty Drawback and Exemptions

Reply

The Government of Indonesia considers that there is no requirement to notify the duty drawback scheme.

- Q. (2) Export promotion and Assistance

Authority: National Agency of Export Development of the Ministry of Trade and the Export Support Board.

Reply

NAFED is a government agency designed to implement a trade promotion programme of Indonesian non oil and gas exports. Neither finance contribution nor subsidies, like grants, loans or equity infusion are provided by NAFED for exporters. In fact, in developing its activities, NAFED remains benefitting technical and financial assistance from international institutions such as ITC - UNCTAD/WHO as well as donor countries.

The Export Support Board provides technical assistance to small- and medium-sized companies.

Q. (3) Export Finance

Reply

Regarding Export Finance, 1994 Trade Policy Review of Indonesia has acknowledged that since 1993, interest rates charged for these facilities are no longer concessionary, the rate is set at commercial level using SIBOR plus a specific margin. The policy in this area is therefore consistent with the SCM Agreement.

Q. (4) Export Credit Guarantees and Insurance

Authority: PT ASEI

Reply

PT.ASEI activities cannot be considered to constitute an export subsidy. The company operates in the insurance environment on conventional commercial terms with no advantages gained in being a state enterprise.

Q.C. According to a report in the Economist (Sept. 3, 1994), the Government of Indonesia provided US\$185 million in subsidies to the state owned aircraft manufacturer IPTN.

Reply

The Government of Indonesia is in the process of determining the nature of the support provided to IPTN, notably US\$185 million, and as may be required, it will be notified.

D. The January 1995 Economist Intelligence Unit lists the following programmes or policies which appear to be specific subsidies within the meaning of the SCM Agreement:

Q. (1) Incentives to the oil industry announced by the government of Indonesia in January of 1994.

Reply

Before responding to this point, the Government of Indonesia would appreciate more information on the specific nature of the incentive mentioned.

Q. (2) Assistance to certain industries as provided for under Article 31A of the Indonesian Tax Law.

Reply

Article 31A of the Indonesian Tax Law provides tax incentives for qualified industries. The provisions determining for what constituted qualified industries is under preparation.

Q. (3) Incentives available for investment in remote regions (provinces of Irian Jaya, Moluccas, East Timor, East and West Nusatenggara, the four provinces of Sulawesi, all of Kalimantan, and Bengkulu and Jambi in Sumatra.)

Reply

The tax incentives granted to qualified industries as well as remote regions under Article 31A of the Indonesian Tax Law, take the form of:

- (a) Longer loss carry forward
- (b) Accelerated depreciation
- (c) Reduced rate of tax on dividends paid to non-residents.

Q. (4) Exemption from import duties and value added tax on materials and intermediate goods used to manufacture products for export markets.

Reply

Exemption from import duty refers to the duty drawback scheme. The value added tax is refunded on all intermediate goods used to manufacture products for the export market.