

ALLOCATION AND EXPENSING OF SUBSIDY BENEFITS

Communication from the United States

The following communication, dated 20 April 2006, is being circulated at the request of the Delegation of the United States.

The submitting delegation has requested that this paper, which was submitted to the Rules Negotiating Group as an informal document (JOB(06)/113), also be circulated as a formal document.

This paper follows up on the series of US papers (summarized in TN/RL/GEN/45, 3 June 2005) with respect to the allocation and expensing of subsidy benefits. The draft text is in the form of an annex to leave open for further discussion the issue of whether and, if so, how the allocation and expensing rules should be applied to proceedings under Parts II and III of the Agreement on Subsidies and Countervailing Measures in addition to proceedings under Part V. The purpose of the draft annex is to provide additional guidance as to the calculation of subsidy benefits once a measure has been found to be a subsidy and specific.

Annex X
Allocation and Expensing of Subsidy Benefits

x.1 With the exception of benefits from loans and similar debt instruments, subsidy benefits shall either be expensed in full in the year of receipt ("expensed") or allocated over a period of years ("allocated"). Expensed subsidies are deemed to benefit the recipient by the full amount of the benefit in the year in which they are expensed, whereas allocated subsidies are deemed to benefit the recipient throughout the allocation period. Loan subsidies, and similar subsidized debt instruments, are deemed to benefit the recipient throughout the period in which the loan or debt instrument remains outstanding.

x.2 Benefits from subsidies of the following types normally shall be expensed: direct tax exemptions and deductions; exemptions from and excessive rebates of indirect taxes or import duties; provision of goods and services for less than adequate remuneration; price support payments; discounts on electricity, water, and other utilities; freight subsidies; export promotion assistance; early retirement payments; worker assistance; worker training; and wage subsidies.

x.3 Benefits from subsidies of the following types normally shall be allocated: equity infusions; grants; plant closure assistance; debt forgiveness; coverage for an operating loss; debt-to-equity conversions; provision of non-general infrastructure; and provision of plant and equipment.

x.4 In determining whether a subsidy listed in x.2 is more appropriately allocated, or whether a subsidy listed in x.3 is more appropriately expensed, and in determining whether a subsidy of a type

not listed in either x.2 or x.3 should be allocated or expensed, the following non-exhaustive list of factors shall be considered:

- (i) whether the subsidy is non-recurring (*e.g.*, one-time, exceptional, requiring express government approval) or recurring¹;
- (ii) the purpose of the subsidy²; and
- (iii) the size of the subsidy.³

x.5 The allocation period for allocated subsidies normally should correspond to the average useful life of the depreciable, physical assets of the relevant industry or firm.

x.6 Any method for measuring the amount of allocated subsidy benefits at a particular point in the allocation period shall reflect a reasonable measure of the time value of money.

x.7 Any public notice issued pursuant to paragraph 3 of Article 22 shall include a full description and adequate explanation of the allocation and expensing methodologies used.

¹ The fact that a subsidy is non-recurring is indicative of allocation. The fact that a subsidy is recurring is indicative of expensing.

² For example, the fact that a subsidy is tied to the capital assets or structure of the recipient is indicative of allocation. The fact that a subsidy is tied to a firm's regular, ongoing production and sales activities (*e.g.*, wages) is indicative of expensing.

³ The fact that a subsidy is large is indicative of allocation. The fact that a subsidy is small is indicative of expensing.