

**QUESTIONS FROM KOREA ON THE UNITED STATES' PAPER
ON SUBSIDIES DISCIPLINES**

Submission from Korea

The following communication, dated 4 May 2003, has been received from the Permanent Mission of Korea.

Korea thanks the United States for its submission on "Subsidies Disciplines Requiring Clarification and Improvement" (TN/RL/W/78) and wishes to ask the following questions for clarification of meaning of the submission without prejudice to Korea's position on the subjects.

Prohibited Subsidies

The United States listed "dark amber" subsidies of Article 6.1 as the first candidates for the expansion of the category of prohibited subsidies - large domestic subsidies, subsidies to cover operating losses by a company, and direct forgiveness of debt. Is there any special reason for the omission of the subsidies to cover operation losses by an industry in Article 6.1(b)? Or, by the wording of "losses by a company", did the United States mean to cover both the losses by an industry in Article 6.1(b) and the losses by an enterprise in Article 6.1(c)?

Serious Prejudice

The United States stated that as a remedy after the finding of serious prejudice, "to remove the adverse effects" is too vague and impractical to implement in a straightforward and meaningful manner. Given that few WTO disputes have been brought regarding serious prejudice and that the remedy was seldom tested, how did the United States conclude that the remedy was impractical? Additionally, what remedies does the United States consider appropriate to cure other types of adverse effects, that is, injury to the domestic industry and nullification or impairment of benefits to other Members?

The United States continued and proposed to establish the withdrawal of the subsidy as the exclusive remedy for the serious prejudice. Does it believe that the meaning of withdrawal of subsidy is clear throughout the SCM Agreement? Could it compare its meanings in Articles 4.7, 7.8 and 19.1?

4.7 If the measure in question is found to be a prohibited subsidy, the panel shall recommend that the subsidizing Member withdraw the subsidy without delay. In this regard, the panel shall specify in its recommendation the time-period within which the measure must be withdrawn.

7.8 Where a panel report or an Appellate Body report is adopted in which it is determined that any subsidy has resulted in adverse effects to the interests of another Member within the meaning of Article 5, the Member granting or maintaining such subsidy shall take appropriate steps to remove the adverse effects or shall withdraw the subsidy.

19.1 If, after reasonable efforts have been made to complete consultations, a Member makes a final determination of the existence and amount of the subsidy and that, through the effects of the subsidy, the subsidized imports are causing injury, it may impose a countervailing duty in accordance with the provisions of this Article unless the subsidy or subsidies are withdrawn.

Natural Resource and Energy Pricing

The United States stated that dual pricing in natural resource and energy sectors might give unfair advantage to domestic producers, and that further clarification and improvement of the rules and remedies in this area are warranted. What is the view of the United States regarding the guidance of Annex I (d) on the dual pricing matter? If it is an insufficient rule, for example, due to the reason that Annex I applies only to the prohibited subsidy, what feature of the SCM Agreement would the United States like to see improved regarding natural resources and energy pricing? Does the United States consider that new rules particularly on natural resources and energy pricing are necessary, rather than approaching this matter from general point of view by studying the dual pricing?

Annex I (d) The provision by governments or their agencies either directly or indirectly through government-mandated schemes, of imported or domestic products or services for use in the production of exported goods, on terms or conditions more favourable than for provision of like or directly competitive products or services for use in the production of goods for domestic consumption, if (in the case of products) such terms or conditions are more favourable than those commercially available on world markets to their exporters.
