

CHAPTER 9

SUBSIDIES⁷¹

ARTICLE 9.1

Principles

The Parties recognise that subsidies may be granted by a Party when they are necessary to achieve public policy objectives. However, certain subsidies have the potential to distort the proper functioning of markets and undermine the benefits of trade liberalisation. In principle, subsidies should not be granted by a Party when it finds that they have or could have a significant negative effect on trade between the Parties.

ARTICLE 9.2

Relationship with the WTO Agreement

Nothing in this Chapter shall affect the rights and obligations of the Parties under Article VI of the GATT 1994, Article XV of GATS and the Agreement SCM Agreement.

ARTICLE 9.3

Definition and Scope

1. For the purposes of this Chapter, a “subsidy” means a measure related to trade which fulfils the conditions set out in Article 1.1 of the SCM Agreement, irrespective of whether the recipients of the subsidy deal in goods or services.
2. A subsidy is subject to this Chapter only if it is specific within the meaning of Article 2 of the SCM Agreement.
3. This Chapter does not apply to subsidies granted to enterprises entrusted by the government with the provision of services to the general public for public policy objectives. Such exceptions from the rules on subsidies shall be transparent and shall not go beyond their targeted public policy objectives.

⁷¹ Pursuant to Article 1.4 (Trade and Economic Relations Governed by this Agreement) of Chapter 1 (General Provisions), this Chapter shall not apply to Liechtenstein with respect to subsidies related to trade in goods.

4. This Chapter does not apply to subsidies granted to compensate the damage caused by natural disasters or other exceptional non-economic occurrences.
5. This Chapter does not apply to subsidies granted temporarily to respond to a national or global economic emergency.⁷² Such subsidies shall be targeted, economical, effective and efficient in order to remedy the identified temporary national or global economic emergency.
6. This Chapter applies only to specific subsidies of which the amount per beneficiary over a period of three years is above 450,000 Special Drawing Rights.
7. This Chapter does not apply to subsidies related to products covered by Annex 1 of the WTO Agreement on Agriculture and other subsidies covered by the WTO Agreement on Agriculture.
8. This Chapter does not apply to fisheries subsidies. The Parties share the objective of working jointly to develop a global, multilateral approach to the provision of subsidies to the fisheries sector, with the objective of prohibiting certain forms of fisheries subsidies which contribute to overfishing and overcapacity and eliminating subsidies that contribute to illegal, unreported and unregulated (IUU) fishing.
9. This Chapter does not apply to subsidies related to the audio-visual sector.

ARTICLE 9.4

Transparency

1. Every two years, each Party shall notify the other Parties of the following with respect to any subsidy granted or maintained:
 - (a) the legal basis of the subsidy;
 - (b) the form of the subsidy; and
 - (c) the amount of the subsidy or the amount budgeted for the subsidy.
2. If a Party makes publicly available on an official website the information specified in paragraph 1, the notification pursuant to paragraph 1 shall be deemed to have been made. Notifications provided to the WTO under Article 25.1 of the SCM Agreement are deemed to meet the requirement set out in paragraph 1.

⁷² For greater certainty, an emergency shall be understood as one that affects the whole economy of a Party.

ARTICLE 9.5

Consultations

1. If a Party considers that a subsidy granted by another Party negatively affects or may negatively affect its trade interests, it may express its concerns to that Party (the responding Party) in writing and request consultations on the matter. The responding Party shall accord full and sympathetic consideration to that request.
2. During consultations, a Party may seek additional information on a subsidy provided by the responding Party, including:
 - (a) its policy objective;
 - (b) its amount; and
 - (c) any measures taken to limit the potential distortive effect on trade.
3. The responding Party shall provide the requested information in writing no later than 60 days of the receipt of the request. If any requested information cannot be provided, that Party shall explain the absence of such information in its written response.
4. On the basis of the consultations, the responding Party shall endeavour to eliminate or minimise, as appropriate, any negative effects of the subsidy on the requesting Party's interests.

ARTICLE 9.6

Use of Subsidies

Each Party shall ensure that enterprises use subsidies only for the specific purpose for which the subsidies were granted.

ARTICLE 9.7

Confidentiality

When providing information under this Chapter, a Party is not required to disclose confidential information.

ARTICLE 9.8

Dispute Settlement

Article 9.5 (Consultations) of this Chapter shall not be subject to dispute settlement under Chapter 16 (Dispute Settlement).