Tackling Fossil Fuel Subsidies through Trade Agreements

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Definition, Size, Scope

- "A government intervention that supports the producers or consumers of fossil fuels"
- IEA (2016): **US$ 325 billion**
- OECD (2015): additional **US$ 160-200 billion**
- IMF (2015): **US$ 5,3 trillion**

Fossil-fuel Consumption Subsidies	Fossil-Fuel Production Subsidies
Fossil fuels exempt from social cost of externalities (non-internalized externalities).	
Fossil fuels sold below regional or international tax levels.	Government tax and regulation levels below regional or international levels.
Fossil fuels exempt from VAT, GST and carbon taxes	Government revenue forgone (reduced and exempt tax rates).
	Government provided or purchased goods and services (above or below market rates).
Fossil fuels sold below the cost of production, imports and international benchmark price to consumers	Direct transfers or potential direct transfers of funds to producers.
	Income or price support (above market rate prices for producers).

Sources: updated from GSI (2014)

Potential for “triple-lose” outcomes

- **Climate change:** FFSR could reduce emissions by 11% by 2020 (Merrill et al. 2015)
- **Sustainable development:**
  - Diversion of public funds from e.g. health and education;
  - FFS tend to be regressive (Coady et al. 2015)
- **Trade:** By affecting fossil fuel prices, FFS can have distorting impacts on trade and investment (Burniaux et al. 2011)

G20 commitment in September 2009:

“phase out and rationalise over the medium term inefficient fossil fuel subsidies”, a pledge echoed by the Asia Pacific Economic Cooperation (APEC) group.

Why (also) the WTO?

- Trade effects
- Wide membership
- Core role and experience in promoting subsidy reform
- Well-established dispute settlement mechanism, strong compliance and remedies
- Trade as an engine to promote sustainable development
    - Agreement Establishing the WTO; SDGs 17 and 12

But fossil fuel subsidies have evaded litigation

Political Factors

- Large multinationals may benefit from subsidies in multiple countries
- “Loss aversion” hypothesis
- Fear of retaliation?

Legal Factors

- WTO law “undercaptures” FFS compared to those for renewables
- **Prohibited subsidies:** Many examples of local content subsidies for RE (e.g. through FITs); less apparent for FFS
- **Actionable subsidies with adverse effects**:
  - Consumer subsidies generally non-specific
  - If specific (e.g. producer subsidies), adverse effects and causality are hard to prove

ASCM Case Studies

G20 Member	Measure	Recipients	ASCM Compatibility
US	Expensing of intangible drilling costs	Producers	**Inconclusive**: More information needed, including on possibility of prohibited subsidy, and adverse trade effects.
Indonesia	Compensation for below-market prices for fuels	Consumers	**Likely:** the measure appears to lack specificity.
Germany	Manufacturer privilege	Producers	**Inconclusive:** as above.
Mexico	Fuel tax credit for agriculture, forestry and fisheries	Consumers	**Likely:** as above.
Australia	Support to Queensland Rail's coal and freight services	Producers	**Inconclusive:** more information needed, including on possibility of prohibited subsidy, and adverse trade effects.

Five Ways Forward

- Technical assistance and capacity building
- Improved transparency
- Pledges and follow-up through reporting and review
- Political declaration
- Expansion of category of prohibited subsidies (with possible exemptions)

Conclusions

- While challenging, FFS litigation is not impossible
- Beyond litigation, WTO can act as a forum for negotiation but also policy/technical dialogue
- Options could be pioneered by one or several WTO Members, or through regional, mega-regional and plurilateral trade agreements
- Solutions need to avoid duplication of effort
- Any approach must take into account special circumstances of developing countries
- MC 11 offers an important opportunity to move this agenda forward

Thank you!

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