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
- IMF (2015): US$ 5.3 trillion

### Fossil-fuel Consumption Subsidies
- Fossil fuels exempt from social cost of externalities (non-internalized externalities).
- Fossil fuels sold below regional or international tax levels.
- Fossil fuels exempt from VAT, GST and carbon taxes
- Fossil fuels sold below the cost of production, imports and international benchmark price to consumers

### Fossil-Fuel Production Subsidies
- Government tax and regulation levels below regional or international levels.
- Government revenue forgone (reduced and exempt tax rates).
- Government provided or purchased goods and services (above or below market rates).
- 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)

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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
  o 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

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<td>Expensing of intangible drilling costs</td>
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<td><strong>Inconclusive</strong>: More information needed, including on possibility of prohibited subsidy, and adverse trade effects.</td>
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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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