

The Uruguay negotiations on subsidies and countervailing measures : past and future constraints

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WORKING PAPERS

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The Uruguay Negotiations on Subsidies and Countervailing Measures

Past and Future Constraints

Patrick A. Messerlin

Countervailing actions are likely to be a poor instrument for limiting subsidies for the same reason that antidumping actions are likely to be a successful way to support cartelization. To strengthen disciplines on countervailing measures would be meaningless without narrowing the definition of dumping and strengthening disciplines on antidumping procedures.

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Policy, Planning, and Research

WORKING PAPERS

International Trade

The Uruguay Round Negotiating Groups on countervailing and antidumping procedures share many common issues. This is not accidental, contends the author, but mirrors the way import-competing firms have become the driving force of antidumping and countervailing procedures set up under the Tokyo Round.

The cases initiated since 1980 by the United States and the European Community illustrate what Tumlir has called the "tempting accommodation" in lawmaking: ill-defined (economically and politically ambiguous) laws producing "do-something" regulations with unexpected long-term effects. The result in this case is a fundamental imbalance in the use of the antidumping and subsidy codes. U.S. and EC firms have increasingly used countervailing and antidumping procedures as a protectionist tool against the same few industries.

Countervailing actions are likely to be a poor instrument for limiting subsidies for economic reasons inherent in the profit-maximizing behavior of the complaining firms — not necessarily because of poorly designed provisions in the code. Economic forces impose limits on what can be expected from a subsidy code. For the same reason, antidumping actions are likely to be a successful way to support cartelization.

For many economists, first-best policies rely on self-disciplines on subsidies. This goal is politically difficult to achieve. The price paid to get wider support for stricter disciplines on subsidies seems to be to tolerate countervailing procedures and impose strong disciplines on their use.

However, to strengthen disciplines on countervailing measures would be meaningless without narrowing the currently pervasive definition of dumping and strengthening disciplines on antidumping procedures. This is related to the fact that U.S. and EC firms have increasingly used antidumping procedures as a substitute for countervailing actions.

The author underlines the importance of disciplines in antidumping procedures by noting the links between antidumping, safeguard procedures, and the Multifibre Arrangement.

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by
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Table of Contents

I. Introduction 1

1. The Emergence of the Import-Competing Firms as GATT Actors 3

2. Sector-Specific Cases and Substitutable Procedures 8

3. The Impact of Profit-Maximization on the Use of the Codes 13

4. The Framework for the Negotiations 18

Conclusion 24

Bibliography 27

Tables 28

Annex 35

This paper was presented at the workshop on "Subsidies and Countervailing Measures: Critical Issues Faced in the Uruguay Round" held in Montreux, Switzerland on February 13-14, 1989.

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The World Bank

March 15, 1989

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Summary

This paper starts by noting that two Uruguay Round Negotiating Groups --the one in charge of countervailing procedures and the one in charge of antidumping procedures-- have many common issues.

First, it shows that such a similarity is not accidental, but mirrors the way import-competing firms are using antidumping and countervailing procedures they have been able to capture since the Tokyo Round. This capture is the logical consequence of a fundamental imbalance in both the Tokyo Antidumping and Subsidy Codes which have allowed the devolution to the import-competing firms of some basic rights states usually exert in trade policy.

Second, the paper looks at the US and EC countervailing and antidumping cases initiated since 1980 and shows how firms have used these rights for targeting the same few industries with the two procedures. More importantly for the Uruguay Round negotiators, the EC and US firms have increasingly used antidumping procedures as a substitute to countervailing actions.

Third, it shows that countervailing actions are a poor instrument for limiting subsidies because of economic reasons inherent to the profit-maximization behavior of the complaining firms, not necessarily because of badly designed provisions in the Code. This result is crucial because it shows there are limits imposed by economic forces on what can be expected from a Subsidy Code. The same economic argument shows why antidumping actions are likely to be a successful means to support cartelization.

Lastly, the paper looks at alternatives to the present dominant role of import-competing firms. The concept of "actionability" may lead to more direct intervention of states in GATT disciplines. However, the Uruguay Round cannot escape the need to reexamine the role of firms in the antidumping and countervailing procedures. The firms' ability to substitute between antidumping and countervailing procedures has an important consequence for the negotiators; the crucial balance to be addressed is not the balance between disciplines on subsidies and disciplines on countervailing procedures, but the balance between disciplines on subsidies and disciplines on antidumping procedures.

The conclusion of the paper underlines the central role of the disciplines in antidumping procedures by noting the links between antidumping, MFA and safeguard procedures.

Introduction

The Punta del Este Declaration set up two different Negotiating Groups for handling the Uruguay Round negotiations on "unfair" practices, i.e., dumping and subsidizing. The Group on MTN Agreements and Arrangements (hereafter the Antidumping Group) deals with antidumping, public procurement and custom valuation issues. Subsidies and countervailing measures are discussed in an ad hoc Negotiating Group (hereafter the Subsidy Group). The Punta del Este decision was motivated by the willingness to keep a balance between disciplines on subsidies and rules on countervailing measures. It was also feared that the negotiations on these topics were full of conflict --as they were during the Tokyo Round [Winham, 1986]-- and it seemed wise to isolate them from other topics. 1/

However during the past two years of negotiations, deep links between issues tackled by the two Groups have relentlessly emerged. Early in the negotiations, the interpretation and application of Article 14:5 of the "Subsidy Code" was put on the agenda of the Antidumping Group. In the same Group, the first substantive communication --by Korea in May 1987-- concerned a list of existing procedures to be strengthened; a few months later, half of them were agreed as common to both Groups. In the Subsidy Group, the US communication introduced the concept of "industrial targeting" which echoes

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1/ The two last years of negotiations may have added another rationale. Trade negotiators may perceive coalitions easier to forge and sustain when dealing with narrowly defined topics than when they face broad issues. As a result, they may believe it useful to keep negotiations on antidumping issues apart from negotiations on subsidy disciplines and countervailing rules.

the issues of "repeated" and "input" dumping as a form of subsidizing. 1/ In the same Subsidy Group, the Swiss and US communications aimed at restricting the range of industrial policies while in the Antidumping Group the Korean and Japanese communications underlined the recent use of antidumping actions as an industrial policy tool: to impose antidumping duties based on the long-run necessity of maintaining at least one domestic producer in the importing country is a motive close to the classical "infant-industry" argument for subsidizing. 2/

This paper argues such a convergence of issues is not accidental. but mirrors the way one crucial actor --the import-competing firm-- is using the antidumping and countervailing procedures it has been able to capture since the Tokyo Round. This capture is the logical consequence of a fundamental imbalance in both the Tokyo Antidumping and Subsidy Codes; unlike the rest of the GATT framework, the two Codes did not simply set up rules, but they have allowed the devolution to the import-competing firms of some basic rights states usually exert in trade policy.

Firms have used these rights for establishing their supremacy in both procedures, as shown by the EC and US cases initiated since 1980. EC and US firms have increasingly used antidumping procedures as a substitute for countervailing actions, targeting the same few industries with the two instruments. The dominant role of firms moved by profit-maximization explains

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1/ Dumping can be a pure price discrimination practice. It can also be a cross-subsidizing practice. The sales of a good in a market can be subsidized by profits from the sales of the same good in another market or from the sales of another good.

2/ The argument of a long-run necessity for a domestic firm has been explicitly mentioned in several EC cases.

two crucial characteristics of the procedures; countervailing actions are likely to be a poor instrument for limiting subsidies, and antidumping actions are likely to be a successful mean for cartelization.

The current negotiations are looking for alternatives to the dominant role of import-competing firms. The concept of "actionability" may lead to more direct intervention of the States in GATT disciplines. However, the Uruguay Round cannot escape the necessity of reexamining the role of firms. The substitutability set up by the firms between antidumping and countervailing procedures has a decisive consequence for the negotiators. The crucial balance to be envisaged is not so much the balance between disciplines on subsidies and disciplines on countervailing procedures, but the balance between disciplines on subsidies and disciplines on antidumping procedures and, subsequently, on safeguards.

Section 1. The emergence of the import-competing firms as GATT actors

Both GATT Codes grant the right of lodging antidumping and countervailing cases to import-competing firms which have become the quasi-exclusive instigators of the cases. Once combined with the right of lodging, two other rights granted by the GATT Codes to domestic firms establish them as the driving force of the procedures.

A crucial power devolution: the right of lodging

Contracting Parties --governments-- are the only actors mentioned by GATT Articles VI and XVI. Nevertheless, Article 2:1 of the Subsidy Code and Article 5:1 of the Antidumping Code both specify that "investigations shall be normally initiated upon a written request by or on behalf of the industry affected." The cases initiated since 1980 show that public authorities have

de facto devolved the right of lodging complaints to domestic firms; import-competing firms have virtually lodged all the EC and US complaints. There are only three or four cases --out of more than 700-- in which public authorities --including EC Member States-- have played a role at the lodging stage. 1/ The other major administered protection instruments do not exhibit the same character. Half of the cases initiated under US Section 301 since 1985 and most of the cases under EC Regulation 288 were initiated by public authorities without private petitioners.

That the right of lodging complaints by import-competing firms has emerged as the predominant right in both antidumping and countervailing procedures can be explained by two different reasons.

In the case of dumping, the reason comes from logic. GATT does not provide an opinion --negative or positive-- on dumping practices per se as shown by the laconic wording of Article VI:1: "The Contracting Parties recognize that dumping [...] is to be condemned if it causes or threatens material injury." To devolve the right of lodging complaints to import-competing firms is a logical consequence of this opinion. Who can better know the harm done by dumping --if any-- than the firms facing it? That public authorities should not lodge antidumping complaints is a logical corollary.

1/ Few figures on lodged complaints that the US and EC authorities have not initiated are available. For instance, according to de Clerq [1988], one half of all the complaints lodged in the EC have not been initiated. These figures are difficult to interpret without a precise definition of what are "complaints not initiated." They also require a careful assessment of the reasons --formal or substantive, related to the EC authorities or to the EC firms-- for not initiating and --more importantly-- of the effects. In particular, were the complaints not initiated followed by renewed --and successful-- efforts to bring up similar cases?

In the case of a subsidy, the reason comes from political feasibility. GATT Articles VI and XVI underline that subsidies may be beneficial for the subsidizing country and therefore should not be banned. 1/ Only subsidies affecting trade should be prohibited or limited. In the late 1970s, subsidies became subject to increasing agnosticism. However, this agnosticism faced a political inertia in some Industrialized Countries which discouraged any major progress on public disciplines on subsidies in the GATT framework. 2/ The "Illustrative list" of prohibited subsidies in the Tokyo Code mirrors this inertia. It has a very limited content. It does not include the bulk of subsidies granted by the Industrialized Countries to traded goods, i.e., agricultural subsidies and export credits on manufactured goods. The first ones are authorized since they concern primary products. The second ones are covered by the OECD "Consensus" which allows abundant subsidies. 3/

The only way the Tokyo negotiators could solve the conflict between skepticism and inertia was to involve firms. Import-competing firms, allegedly better judges of the adverse effect of subsidies, were thus given the right of lodging complaints. In other words, they were given the role of "benevolent watchdogs" of unfair subsidizing. That public authorities do not lodge complaints in countervailing procedures follows the inability to get disciplines on subsidies, at the international and national level.

1/ This attitude mirrors economic ideas of the late 1940s: to subsidize was quite fashionable among Industrialized Countries facing "reconstruction."

2/ Article 14 of the Subsidy Code imposes no effective limit on subsidizing by Developing Countries.

3/ "Illustrative List," paragraph k, second line.

Import-competing firms: the driving force in domestic procedures

Both Codes grant two other rights to import-competing firms which --once combined with the right to lodge complaints-- give import-competing firms a dominant role in existing procedures.

With the right to be compensated for the injury caused by dumping or subsidizing, import-competing firms benefit from skewed procedures. The bias of the Tokyo Code in favor of import-competing firms is well known. Import-competing firms are granted the right to be compensated for the injury from dumping or subsidizing, while other domestic interests are only granted the right "to present all evidence they consider useful." 1/ The right of ... users or consumers to be "compensated" --by not imposing a duty-- for the injury caused by an antidumping or countervailing duty is ignored by the Codes, as underlined by Finger [1988].

The "compensation" right is conditioned on "material" injury. This conditionality has led to the introduction of a third right in the Codes --the "confidentiality" clause-- which specifies that "any information which is by nature confidential [...] shall not be disclosed without specific permission of the party submitting it." 2/ The confidentiality clause is guaranteed to any involved party. However, it has a biased impact.

First, it de facto protects import-competing firms more than any other party. For instance, only non-confidential versions of the complaints are available to defendant foreign firms. That dumping margins claimed by

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1/ Articles 6:1 (Antidumping Code) and 2:5 (Subsidy Code).

2/ Articles 6:3 (Antidumping Code) and 2:6 (Subsidy Code). The possibility of disclosing information (Articles 6:4 and 2:7) is rarely used.

complaining firms -available for 1980-82 EC cases-- represent 1.7 times the dumping margins later found by the authorities suggests that the "sufficient evidence" required by the Codes for initiating a case is not always there. Similarly, information on "material" injury requires crucial data from import-competing firms to demonstrate the causal link between dumping or subsidizing and the injury. The confidentiality clause weakens the capacity to check this information and the contradictory in-depth analysis of the causal link. 1/

Second, the "confidentiality" clause inhibits possible actions from public authorities other than the offices in charge of investigating antidumping and countervailing cases. For instance, it prohibits antitrust authorities from assessing the impact of possible antidumping and countervailing measures on competition in domestic markets.

That the views of foreign firms or domestic institutions cannot balance the views of import-competing firms puts antidumping and countervailing offices in an extremely difficult situation. These offices have to resist constant pressures coming from domestic firms which choose cases to present their requests for protection in the most efficient way and progressively expand the scope of the procedures. As a result, it is not surprising that there is a growing belief these offices are progressively captured by the import-competing firms. For instance, Blinder [1988] has criticized the US International Trade Commission approach "...that may protect the inefficient under the guise of fair trade" and Hindley [1988] has shown

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1/ It may be argued that confidentiality works in both ways. For instance, complainants have virtually no access to data on which dumping margins are based. However, price data are much easier to collect by import-competing firms than data on injury done to domestic firms by foreign firms.

how the methods of computing dumping and injury in the EC cases against Japanese products are biased in a systematic way against foreign exporters.

To sum, import-competing firms have been able to retain a de facto exclusive initiative in choosing cases. This tactical advantage --once joined to the benefits of unbalanced procedures-- has given import-competing firms considerable leverage on the procedures.

Section 2. Sector-specific cases and substitutable procedures

This Section describes how firms have used this leverage during 1980-87. First, antidumping and countervailing procedures are generally perceived as economy-wide instruments. The cases initiated by the EC and the US since 1980 do not corroborate this view; they target a narrow range of industries and have a strong sector-specific impact.

Second, the two procedures are also perceived as independent of each other. However, the cases initiated show a significant overlap between antidumping and countervailing actions, both in the EC and the US. More evidence suggests that import-competing firms tend to use antidumping procedures as a substitute to countervailing actions.

Antidumping and countervailing cases are sector-specific

Table 1 shows the breakdown by industry of all the EC and US antidumping and countervailing cases initiated between 1980 and 1987. In both countries, one industry --steel in the US, chemicals in the EC-- represents more than 40% of all cases initiated. In both the US and EC, only three industries represent two thirds of all cases: steel, chemicals and machinery. The breakdown by countries targeted shows a high concentration by industry in "Atlantic" cases --EC cases initiated against US exporters and vice versa--

and in the US, antidumping and countervailing cases against exports coming from NICs. 1/

Case numbers that do not take into account the trade occurring between countries can be misleading. Exposure ratios --the ratio of the percentage of cases initiated against a country to the share of the imports from this country-- give a better indication of how a country can be targeted more by cases than another country. Table 1 shows that exports from Non-Market Economies and from the non-Asian NICs are the relatively favored targets of both EC and US procedures. 2/ Exports from Japan and the Asian NICs share the same situation for cases initiated by the EC; the EC exports share the same situation for cases initiated by the US.

Table 1.A shows that the US firms have adopted different attitudes in their use of countervailing procedures against EC and non-Asian exports. On the one hand, the US countervailing actions against exports from the non-Asian NICs show the lowest level of sector-specificity. This does not look contradictory with US firms acting as "benevolent watchdogs" against unfair subsidizing since non-Asian NICs spread subsidies to all non-traditional industries. However, it does not explain why the "watchdogs" do not

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1/ The role of exchange rate variations is not clear. How can macroeconomic shocks effect industries with a strong differentiated impact, if one remembers that final determinations are based on fixed costs, i.e., make the procedures sensitive to capital intensities and depreciation rates of capital? Existing available evidence is contradictory. The US cases tend to favor some form of relation [Balassa, 1988] while the EC cases do not [Messerlin, 1989]. All this does not mean that exchange rates do not introduce biases in the computations of dumping or subsidy margins.

2/ Non-Asian NICs are: Argentina, Brazil, Chile, Mexico, Venezuela, Israel, Portugal, Spain, Turkey and Yugoslavia. Asian NICs are: Hong Kong, Korea, Malaysia, Singapore, Thailand and Taiwan, China.

concentrate their actions on the highest subsidized sectors. Nogues [1988] has shown that subsidy rates on exports from Argentina and Mexico facing US countervailing actions have varied from 0.9% to 104.6%.

On the other hand, the US countervailing actions against EC exports do not match the most important EC subsidies, with the sole exception of steel. 1/ There are few US countervailing actions against EC exports in agricultural products, textiles and apparel, paper and printing, chemicals, machinery and transport equipment; all EC industries benefiting from substantial subsidies. 2/ This attitude is definitely not consistent with "benevolent watchdog" behavior.

As US firms are unlikely to have two different behaviors --one for the exports from non-Asian NICs and one for the exports from the EC-- the "benevolent watchdog" behavior does not fit available evidence.

Antidumping and countervailing procedures are substitutable

A careful examination --at the most disaggregated level-- of the goods under antidumping and countervailing actions suggests a substantial overlap of antidumping and countervailing complaints. Table 2 concentrates on US countervailing cases, the only ones to be sufficiently numerous to offer a good comparison. 3/ Almost half of the cases target exactly the same goods

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1/ This lack of countervailing actions cannot be explained by a lack of lobbying since all the concerned US industries are well organized. Note the EC steel industry was subject to many US antidumping actions as well.

2/ For evidence on the breakdown of subsidies by sector in some EC countries, see Juttenmeier [1987] and Messerlin [1988].

3/ The EC situation seems even stronger, if less conclusive; most of the very few EC countervailing cases were initiated jointly with antidumping cases.

and countries as US antidumping cases. About one third of the countervailing cases extend the antidumping cases by targeting new countries or by stretching the definition of the targeted goods. The vast majority of countervailing actions --roughly 80%-- were initiated at the same time (i.e., within one month) as the corresponding antidumping actions; 10% were initiated after the similar antidumping actions and 10% before. 1/

The observed overlap suggests that complaining firms used one of the two procedures for double checking and/or harassment, not for its intrinsic features. That raises two questions.

First, is there a procedure emerging as the preferred one? Table 3 suggests the antidumping procedure. 2/ The ratio of the countervailing cases relatively to the antidumping cases has been declining since 1984. Interestingly, this decline is more marked when the steel and chemical cases are excluded, i.e., when the overlap between countervailing and antidumping actions is less.

Second, why is the countervailing procedure progressively deserted by domestic firms for antidumping actions? A first explanation could be the decrease of subsidies granted. However, there is no strong evidence of a substantial decline of subsidies. New subsidies granted by Treasuries may have declined, but the size of the beneficiaries has declined too. Moreover, most of the past subsidies are loans now to be repaid. There is growing

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1/ One might argue that the results depend upon the steel cases, by far the most numerous. However, to exclude the steel cases does not change the overall picture; there are still more common cases than totally different ones although the magnitude of the overlap is reduced.

2/ Again, the very few EC countervailing cases suggest the same result.

evidence that beneficiaries are not reimbursing the loans when due, even when the subsidized firms have become "profitable." 1/ The absence of reimbursement could be interpreted as a subsidy under countervailing procedures. 2/

If not caused by the decline of subsidies, the relative decline in the use of the countervailing procedure might be related to an intrinsic feature of the procedure, namely the injury clause -- the benefit of which is only granted by US law to countries committed to phase out subsidy programs. Countervailing actions without an injury test would increase, while actions subject to the test would decrease. However, Table 3 shows no dissimilar evolution for the two types of countervailing actions.

If neither caused by the subsidy evolution nor by any intrinsic feature, the decline of countervailing actions must be related to the relative facility and efficiency with which countervailing and antidumping procedures can be used.

This conclusion has a crucial impact on the current negotiations. It implies that the decisions of the Subsidy Group concerning changes in countervailing rules affect the decisions the Antidumping Group will take for antidumping rules, and vice-versa. Antidumping and countervailing procedures

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1/ In the EC, the problem is particularly acute in automobile and steel, even when the new unanimous consent rule --in steel-- that GATT wording would call a "revolving list of prohibited subsidies" increases the lobbying power of some --mostly German-- firms and governments against subsidies.

2/ According to some authors [Spencer, 1988], the economic impact of subsidies not reimbursed is nil if capital markets are perfect.

are competitors for meeting the same demand for selective protection. 1/ To strengthen countervailing rules will reduce the number of countervailing cases, but it may well increase the number of antidumping actions.

Section 3. The impact of profit-maximization on the use of the Codes

Countervailing procedures are perceived as a poor instrument to limit subsidizing. This perception is supported by Section 2 which shows that US countervailing actions are not concentrated on EC exports, the most subsidized (with the exception of steel). A narrower but striking example is given by the aircraft industry. Since 1980, there was no countervailing action by Boeing against the Airbus program. By contrast, there were two US countervailing actions --or threat of-- against Brazilian producers of smaller aircrafts.

The Tokyo Subsidy Code is usually held responsible for the poor results of countervailing actions. This Section shows that there is a more profound cause --profit-maximization-- which can explain why countervailing actions are a poor instrument to limit subsidies. This result is important because it shows there are limits --imposed by economic forces-- on what can be expected from improvements of the Countervailing Code.

1/ An aspect of the competition is the relative costs; how costly are they for public authorities and how much should lobbies invest in them? The less costly procedure may be the antidumping one since it does not require a commitment from the public authorities --in terms of investigation and measure-- as strong as the countervailing procedure. However, state intervention may be less costly for cases initiated by an industrialized country against a developing country. As a result, countervailing actions against developing countries may be more likely.

The Section also provides some evidence on two closely related matters. First, profit-maximization also explains why import-competing firms are induced to use antidumping procedures as a means for cartelization. Second, there is a serious risk that Article VI may play a role similar to the MultiFibre Arrangement in textiles, i.e., the legal basis relieving a few industries from general GATT rules.

Countervailing procedures: a poor instrument for limiting subsidies

The decline of countervailing actions suggests that firms are not "benevolent watchdogs" against subsidies. Economic theory suggests they are profit-maximizers. As a result, one should expect that import-competing firms will be induced to limit foreign subsidies by lodging countervailing actions if and only if these procedures increase their profits, including rents. The most likely scenario for domestic firms is not necessarily the elimination of foreign subsidies; a better alternative could be to capture a portion of foreign subsidies by colluding with foreign firms. In such cases, import-competing firms will not lodge countervailing actions but will look to means for collusion.

A good illustration can be provided by the aircraft industry. The choice Boeing might face is not only between a situation with a subsidized Airbus and a situation with no-subsidies-and-no-Airbus. It can be between a no-subsidy-no-Airbus situation and a situation where Boeing could indirectly benefit from the Airbus subsidies through market sharing and collusion. A joint monopoly with Airbus is better for Boeing if the costs in monopoly rents lost by Boeing --because of the survival of a subsidized Airbus-- are more than compensated by the indirect benefits Boeing can get from the subsidies granted to Airbus. For instance, it may occur that the subsidized demand for

Airbus increases the number of engines to be produced and --if there are scale economies large enough-- lowers the cost of engines for both Airbus and Boeing. 1/ In other words, a crucial determinant for lodging complaints is the possibility of sharing subsidies.

This explanation gives results which are consistent with the evidence provided in Section 2. Profit-maximizing firms are more likely to lodge complaints against small subsidy programs --such as those existing in developing countries-- because it is unlikely they can draw substantial indirect benefits from such programs. For instance, the US cut-flower growers have little to gain from collusion with foreign producers who do not receive massive subsidies. Their best alternative is to eliminate foreign competitors from the US markets by lodging countervailing actions. By contrast, import-competing firms are more likely not to lodge complaints against large programs --as those existing in industrialized countries-- susceptible to provide substantial spill-over effects.

Antidumping: domestic cartelization and world-wide actions

Since antidumping actions are substitutes for countervailing actions, their economic impact deserves some attention. There is a growing evidence showing that antidumping actions have been widely used as a means for price collusion in both domestic and possibly world markets.

Using the 1980-85 EC cases as an illustration, Table 4 shows the instrumental role of antidumping actions in the enforcement of domestic

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1/ For details, see Annex. In the Boeing-Airbus case, more factors can play a role. First, planes are a substantial part of the costs of airline companies which are then induced to lobby against duties. Second, Airbus may threaten to retaliate against Boeing's countervailing action by lodging an antidumping action. Third, Boeing may use Airbus subsidies to get subsidies. None of these factors contradict the above reasoning.

cartelization. 1/ Antidumping measures are accompanied by two significant price effects due to the massive reduction --40% three years after the year of initiation-- of imported quantities. First, the prices charged by the EC import-competing firms are stabilized after declining before the initiation of the cases. Second, the prices charged by "dumping" exporters have substantially increased, relatively to both intra-EC prices and prices charged by "nondumping" exporters. Prusa [1988] provides evidence which --although still very partial-- suggests similar results for US cases.

Countervailing and antidumping actions may lead to worldwide actions because cases dealing with the same products may be initiated in various Contracting Parties enforcing both GATT Codes. The possibility of such a "domino" effect is supported by anecdotal evidence. For instance, half of the 39 Mexican cases initiated since the introduction of the Mexican antidumping law concern goods closely related to those subject to countervailing and antidumping cases in the EC and the US.

Table 5 presents more systematic evidence on chemical products, the only ones to be sufficiently numerous in the four countries --the EC, US, Korea and Mexico-- considered. Only nine of the 78 products investigated in the four countries were subject to an action in more than one country. But these products represent one fourth --59 of 220-- of the corresponding cases,

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1/ Antidumping measures also generate large trade diversion effects, particularly when LDC and NIC exports are affected. Moreover, rents created by antidumping protection granted under the form of quantitative restraints accrue to foreign firms. These rents are substantial for exporters from Industrialized Countries, less important for LDC and NIC exporters [Messerlin, 1989].

i.e., products times countries involved. 1/ One may wonder why developing country firms would participate in worldwide market agreements since they may lack the size and motives of doing it. It is simply because some of these firms are subsidiaries of US or EC firms. For instance, Mexican antidumping cases may involve the subsidiaries of US and EC firms on both the complaining or defending sides of the cases.

The long term danger of the current use of Article VI

Does the "domino" effect mean that the current use of Article VI --if perpetuated long enough-- may serve as a legal basis for relieving few industries from the general GATT rules, as the MultiFibre Arrangement did for textiles and apparel?

The few major industries using antidumping and countervailing actions can be classified into two groups. First, there are industries benefiting from other protectionist instruments; voluntary export restraints for steel and some electronics (VCRs, TVs), quantitative restrictions for textiles and apparel. For these industries, antidumping and countervailing actions have helped to introduce --and later to monitor-- more secure nontariff barriers. For instance, almost all US and EC antidumping cases against steelmakers operating in market economies were closed by reference to a "voluntary agreement" signed or to be signed by their government with the US and EC [van Bael, 1979]. The current use of Article VI strongly reinforces protectionist measures already in place.

1/ The countries most frequently targeted by cases originating in two different countries are China --twice-- East Germany, Romania, the Soviet Union (all by the EC and US), and Japan (by the EC and Korea).

Second, there are the industries using antidumping actions as a main tool of protection; the chemical, abrasives, and --to a lesser extent-- electronic industries (informatics). Antidumping cases in these industries constitute the bulk of protection. There are virtually no nontariff barriers on US imports of all these products (SITC 266, 275, 51, 56 and 59) and few of them on EC imports of "chemical materials and products, n.e.s." (SITC 59). 1/

The trade of this second group of industries can be considered trade "managed" by antidumping and countervailing procedures. It cannot be adequately measured by trade coverage ratios because the frequency and concentration of the cases suggest these measures have a wider effect than the narrowly defined trade coverages suggest. Total trade in chemicals and abrasives represents 8% of the world trade in manufactures: this figure may be compared to the world trade covered by the steel VERs and quotas, around 6%, and by the MFA, 5% in apparel and 7% in textiles. A capture of Article VI by some industries would definitely not be a minor change in the international trade environment.

Section 4. The framework for the negotiations

This Section examines two questions. Does the approach of the Montreal Ministerial Meeting recognize that profit-maximizing firms cannot be the panacea for limiting subsidies and does it offer alternatives? Does it take into account the substitutability between antidumping and countervailing procedures?

1/ In 1986, EC imports affected by nontariff barriers represented less than 6% of total imports in the mentioned SITCs, except for SITC 59 where they represented about 14%. Corresponding figures for the US imports are less than about 2% for the mentioned SITCs. Source: UNCTAD Data Base.

The answer to the first question is yes; the answer to the second is no. The Section shows that the substitutability between the two procedures may undermine any strengthening of countervailing rules undertaken without a full consideration of what will be done in the new Antidumping Code. A less pervasive definition of dumping is necessary. Stricter disciplines on antidumping procedures are a necessary part of a genuine balance between disciplines on subsidies and disciplines on countermeasure rules.

"Actionability" vs "countervailability"

The Montreal Meeting framework for negotiations has been seen as a reshuffle --or worse a complication-- of the inoperative Tokyo Round taxonomy. Such an interpretation focuses on the introduction of the three "baskets" of subsidies defined by the legal effects attached to them, as suggested by the Swiss-Colombian communication: prohibited subsidies which could be subject to unilateral countermeasures without the legal requirement of material injury, "actionable" subsidies which could be countervailed if they cause material injury, and "non-actionable" subsidies which could not be countervailed, even if they cause negative effects to trading partners. 1/

However, such a pessimistic interpretation of the framework misses a point which may lead to substantial improvements, i.e., the distinction between "actionability" and "countervailability." 2/ As the Round has

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1/ The first and last baskets of subsidies would be in exclusive lists, the second category in an "illustrative" list. All the lists would be produced by international negotiations. However, the Swiss-Colombian proposal specifies that negotiations on the lists should be guided by the criteria of the subsidy's impact on trade.

2/ The distinction is mentioned at the level of the definition of the subsidies --they can be "countervailable or otherwise actionable" or "noncountervailable, non-actionable"-- and at the remedy level --"countervailing duties" are distinct from "countermeasures"-- as well.

progressed, negotiators are more and more using the world "actionable" to refer to state action. As countervailing duties --and to a lesser extent "countervailability"-- refer to actions led by firms, the increased emphasis on the distinction suggests that the Montreal framework would no longer consider the firms as the exclusive instrument for limiting subsidies. This new approach --if confirmed-- could bring two positive corollaries.

First, the new Code would focus on self-disciplines for subsidies as the two major communications available before the Montreal Meeting --the Swiss-Colombian and the US-- did focus, although for different motives. The US proposal supports self-discipline because it is an economically sound behavior. The Swiss-Colombian communication considers self-discipline more as a consequence of the increasing retaliatory powers trade partners could have against prohibited or "actionable" subsidies. 1/

Second, both proposals expand the scope of prohibitions by forsaking traditional GATT distinctions between various types of subsidies --subsidies on primary vs nonprimary products, export vs domestic subsidies-- and by suggesting similar treatment for all of them. 2/ This new approach is particularly noticeable vis-a-vis the subsidies granted by developing countries. Although built in such a way that there is flexibility, the

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1/ To rely too much on this second approach --more based on political than economic reasons-- presents the obvious risk to trigger trade disputes.

2/ In addition to the current prohibition of export subsidies, the US approach suggests to prohibit domestic subsidies affecting either when they exceed a specified size or amount or when they are granted to relatively export-oriented industries. Such "high" subsidies would be deemed to give rise to a right of compensation under GATT.

proposed rules to be applied to developing countries are identical to the rules proposed for industrialized countries.

Though promising, the concept of "actionability" may create rule consistency problems and generate awkward situations. In the three "baskets" system, prohibited subsidies are prohibited presumably because they are considered more systematically harmful to trade than actionable or countervailable subsidies. However, prohibited subsidies may not trigger retaliatory actions because importing countries may consider it beneficial to import cheaper subsidized goods. As a result, prohibited subsidies not subject to retaliatory actions may coexist with nonprohibited subsidies subject to countermeasures or countervailable duties.

"Actionability" will not necessarily ease international relations. Not all importing countries will necessarily decide to retaliate against a prohibited subsidy and not all importing countries will necessarily decide to take a countermeasure against an actionable subsidy. Such diverging decisions may mirror either different levels of subsidy and injury in importing countries or differing trade policies for the same level of subsidy and injury. This variance may generate trade disputes between importing countries taking action and the exporting country, since the latter can argue that its subsidy is not so harmful since other countries do not retaliate. Or it may may result in pressures by countervailing-importing countries on noncountervailing-importing countries. 1/

1/ Along the same lines, the distinction between "countervailing duties" and countermeasures is likely to create problems. Would countervailing duties by some importing countries trigger countermeasures by other importing countries, or vice-versa?

More disciplines on subsidies require more disciplines on antidumping procedures

The Montreal Ministerial Meeting made no mention of a balance between dumping and subsidy issues. So far, no delegation seems to have paid much attention to the substitution between antidumping and countervailing procedures. This issue involves problems related to the definitions of subsidizing and dumping as well as to procedural mechanisms per se. What follows will focus on the definitional problems.

One of the innovations of the Uruguay Round is the introduction of "non-actionable" subsidies, a category of subsidies crucial for easing the assent --from developing countries-- to strengthen disciplines on public aid. However, the ease of substituting antidumping for countervailing procedures can make this "non-actionability" clause void.

Subsidies are likely to introduce price differences between overseas domestic prices and export prices of the goods. This can be because of the characteristics of the subsidy, as in the case of export subsidies. It can also be because of the characteristics of the subsidy recipients; subsidies are mainly granted to large firms which are more inclined to practice price discrimination. Lastly, it can be because of the products concerned; product differentiation increases the chances to link price discrimination and subsidies. 1/ A good illustration of the intricate relationship between subsidies and dumping is given by the cases initiated against exports from Non-Market Economies. Since 1980, the EC has used only its antidumping

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1/ For instance, R&D subsidies aimed at developing new products may lead to price differentials if the technologically advanced goods are exported while the less advanced "like-products" are sold in domestic markets.

procedure against East-European exports; the US have initiated thirty antidumping cases, but only four countervailing cases, against exports from such countries.

Because they are likely to introduce or to be combined with price discrimination practices, subsidies can easily trigger antidumping actions, even if countervailing actions and countermeasures are prohibited, i.e., even for "non-actionable" subsidies.

The pervasiveness of the current definition of dumping increases the chances to introduce antidumping actions against subsidized exports. Dumping is supposed to be a self-defining concept; it exists each time the domestic price of a good is higher than its export price. However, following GATT Article VI, the Tokyo Antidumping Code has promoted an extensive notion of dumping. Article 2:4 does consider the possibility of dumping when there is no strictly comparable domestic price, i.e., in cases "when there are no sales [...] in the ordinary course of trade in the domestic market of the exporting country or when [...] such sales do not permit a proper comparison." In these circumstances, Article 2:4 authorizes the use of proxies for overseas prices --"constructed values"-- to be compared with export prices.

"Constructed values" based on Article 2:4 introduce a crucial link between the definitions of subsidizing and dumping. They present dumping more as a subsidy between "like-products" than as a pure price discrimination between identical goods. Complaints based on Article 2:4 can target any price or cost difference related to some kind of "industrial targeting", whether it is privately financed --as in "pure" antidumping cases-- or publicly financed --as in "disguised" countervailing cases. Consistency between GATT texts then imposes a choice. To ban private cross-subsidization in the Uruguay

Antidumping Code by maintaining Article 2:4 logically implies a ban of public cross-subsidization in the Uruguay Subsidy Code. This represents a considerable enlargement of the definition of subsidies. For instance, industrial targeting should be included in the list of prohibited aid. Conversely, if one decides not to introduce industrial targeting in the Uruguay Subsidy Code, that would require restrictions be imposed on the current Article 2:4 provisions in the Uruguay Antidumping Code.

Conclusion

The Tokyo Antidumping and Subsidy Codes have made import-competing firms the driving force of antidumping and countervailing procedures. The cases initiated since 1980 suggest that both Codes illustrate what Tumlir [1984] has called the "tempting accommodation" in lawmaking; ill-defined laws often produce "do-something" regulations with unexpected effects in the long run. 1/ The Tokyo Antidumping and Subsidy Codes are in many respects ill defined, economically and politically ambiguous.

For many economists, first-best policies rely on self-disciplines on subsidies. This goal is politically difficult to achieve. The price to be paid to get a wider support for stricter disciplines on subsidies seems to be to tolerate countervailing procedures and to impose strong disciplines on

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1/ The Tumlir reference is even more compelling with this excerpt by which a "Supreme" Court --namely the European Court of Justice-- limited the scope of its own review because of "complexity": "In considering these arguments where the EC Council or the Commission is required to appraise complex economic situations (as in antidumping proceedings), the Court limits its review of such an appraisal to verifying whether the relevant procedural rules have been complied with,..." Joint Cases 277 and 300/85. This position is similar to the Carolene case in US law.

their use. This paper shows that to strenghthen disciplines on countervailing procedures is meaningless without narrowing the currently pervasive definition of dumping and strengthening disciplines on antidumping procedures. This result is consistent with an economically sound approach which perceives dumping more as a form of competition than anything else and antidumping measures more as a form of protection than anything else.

It is now time to relax one assumption imposed on the paper. So far, the paper has considered the only two procedures embodied in existing Codes. It has ignored two crucial links, one between antidumping and MFA procedures and one between antidumping and safeguard procedures.

Antidumping actions initiated since 1980 have intensively used two concepts --"cumulation" and "price undercutting"-- also basic ingredients in MFA procedures. 1/ Interestingly enough, there is a recent increase in antidumping cases in textile and apparel and no legal rules seem to prohibit adding up MFA restrictions and antidumping measures. Any stricter use of these concepts in post-Uruguay antidumping procedures is likely to have an impact on the future of the MFA.

Antidumping actions are de facto the most selective instrument one can imagine: complaints and measures can be --and are-- designed by product, by country and by firm. No safeguard procedure will never achieve such a refinement in selectivity. Henderson [1988] has underlined the increasing extent of discrimination between countries in the recent years. To strenghthen antidumping procedures will inevitably create pressures for

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1/ I am grateful to R. Blackhurst for having suggested this relation. For details on the concepts, see Messerlin 1989b.

relaxing safeguard procedures. Two questions deserve some attention. How stricter should be the disciplines on antidumping procedures to trigger some attempts to ease safeguards? Is it any different to "recognize" grey measures through antidumping actions or through an agreement on safeguards? Our answer to the second question is that it does make a difference because the "recognition" of grey measures under antidumping measures is likely to be much easier and extensive than under an agreement on safeguards. Our guess for the first question is that the current antidumping procedures are so much "superior" --from the plaintiff's point of view-- to safeguard actions that there is room for a massive strenghthening of the disciplines on antidumping procedures before triggering pressures on safeguards.

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Table 1.A. Breakdown of US countervailing cases by industry, 1980-1987

ISIC	Description	Cases initiated [a]								Cases with non-negative outcomes [b]							
		Total	EC	Japan	OICs [c]	ANICs [d]	ONICs [e]	LDCs [f]	NMEs [g]	Total	EC	Japan	OICs [c]	ANICs [d]	ONICs [e]	LDCs [f]	NMEs [g]
111	Agriculture [h]	5.1	2.6		4.4	2.7	5.3	16.2		6.9	3.3		6.1	4.8	5.7	23.1	
290	Mining & quarrying																
311/2	Food products	7.1	8.7		17.8		3.5	8.1		9.9	14.8		21.2		4.6	11.5	
313	Beverages	1.4	4.3														
321/2	Textiles & apparel	8.5				16.2	7.9	40.5		10.3				14.3	10.3	46.2	
324	Footwear	0.8			8.9		1.8	2.7		0.9					2.3		
331	Wood products	1.1								0.4			3.0				
341	Paper products	0.6					1.8			0.4					1.1		
351/2	Chemicals	7.1	10.4				8.8	2.7	50.0	8.6	18.0				9.2		33.3
354	Petroleum & coal																
355	Rubber products	0.6			2.2		0.9			0.4					1.1		
356	Plastic products																
361	Pottery & china	0.3					0.9			0.4					1.1		
362	Glass products	1.4	1.7				2.6			0.9					2.3		
369	Non-metal products	1.7	0.9				3.5	2.7		1.7					3.4	3.8	
371	Iron & steel	55.4	62.6	50.0	57.8	62.2	56.1	21.6	50.0	51.1	59.0	50.0	60.6	57.1	50.6	15.4	66.7
372	Non-ferrous metals	1.7	1.7		4.4		1.8			2.1	1.6		6.1		2.3		
381	Metal products	3.4	0.9	50.0	2.2	10.8	3.5	2.7		4.3	1.6	50.0	3.0	14.3	4.6		
382	Nonelec. machinery	2.0	3.5		2.2	2.7	0.9			1.3	1.6			4.8	1.1		
383	Electr'l machinery																
384	Transport	1.4	1.7			5.4	0.9			0.4				4.8			
385	Scientific equip.																
390	Other industries	0.6	0.9					2.7									
	Total [%]	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Total number of cases	354	115	2	45	37	114	37	4	233	61	2	33	21	87	26	3
	Herfindahl coefficients	0.33	0.42	0.50	0.38	0.43	0.34	0.25	0.50	0.30	0.40	0.50	0.42	0.37	0.29	0.31	0.56
	Exposure ratios [i]	1.0	1.7	0.0	0.5	0.8	2.9	1.0	1.7	1.0	1.4	0.0	0.6	0.7	3.3	1.1	2.0

Sources: US Federal Register. Own computations.

Notes : [a] All cases.
[b] All final outcomes (affirmative, suspended, terminated ...), except negative outcomes.
[c] OICs: Other Industrialized Countries, i.e., OECD Countries, except the EC and Japan.
[d] ANICs: Asian New-Industrialized Countries, i.e., Hong-Kong, Korea, Malysia, Singapore, Taiwan, Thailand.
[e] ONICs: Argentina, Brazil, Chile, Mexico, Venezuela, Israel, Portugal, Spain, Turkey, Yugoslavia.
[f] LDCs: Developing Countries, including P.R. of China.
[g] NMEs: Non-Market Economies, excluding P.R. of China.
[g] Including livestock and flower cases.
[h] Ratio of the share in cases with respect to the share in imports.

P.A. Messerlin, Montreux, 12 January 1989

Table 1.8. Breakdown of US antidumping cases by industry, 1980-1987

ISIC	Description	Cases initiated [a]								Cases with non-negative outcomes [b]							
		Total	EC	Japan	OICs [c]	ANICs [d]	ONICs [e]	LDCs [f]	NMEs [g]	Total	EC	Japan	OICs [c]	ANICs [d]	ONICs [e]	LDCs [f]	NMEs [g]
111	Agriculture [h]	3.0			6.4		2.8	22.6		3.4			7.1		3.8	25.0	
290	Mining & quarrying	0.2			2.1												
311/2	Food products	2.0			8.5		2.8	6.5		1.1			3.6		1.9	5.0	
313	Beverages	1.2	3.9														
321/2	Textiles & apparel	1.5		7.0		2.0		6.5		1.5		6.9				10.0	
324	Footwear																
331	Wood products																
341	Paper products	1.0			2.1	4.0	1.4			0.7				6.7			
351/2	Chemicals	11.4	10.1	12.6	8.5	4.0	12.5	16.1	16.7	10.1	10.8	13.8	7.1		9.6	15.0	16.0
354	Petroleum & coal	0.7			2.1			3.2	3.3	0.7						5.0	4.0
355	Rubber products	1.5	2.3	2.3	2.1	2.0				0.4	1.2						
356	Plastic products	0.5	1.6							0.4	1.2						
361	Pottery & china																
362	Glass products	2.2	4.7	2.3	2.1		1.4			2.2	4.8	3.4			1.9		
369	Non-metal products	3.0	3.1	4.7	2.1	2.0	4.2	3.2									
371	Iron & steel	54.0	62.0	27.9	46.8	48.0	68.1	29.0	70.0	61.0	73.5	31.0	57.1	56.7	73.1	25.0	68.0
372	Non-ferrous metals	4.2	6.2	4.7	8.5	2.0	2.8			5.2	6.0	6.9	14.3	3.3	3.8		
381	Metal products	3.5	1.6	4.7		12.0	2.8	6.5		3.4		3.4		16.7	3.8	5.0	
382	Nonelec. machinery	3.7	3.9	7.0	6.4		1.4	3.2	6.7	3.4	1.2	6.9	7.1		1.9	5.0	8.0
383	Electr'l machinery	4.2		20.9	2.1	14.0				4.9		27.6	3.6	13.3			
384	Transport	1.2				8.0			3.3	0.7				3.3			4.0
385	Scientific equip.																
390	Other industries	0.7	0.8			2.0		3.2		0.7	1.2					5.0	
	Total [%]	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Total number of cases	402	129	43	47	50	72	31	30	267	83	29	28	30	52	20	25
	Herfindahl coefficients	0.31	0.41	0.17	0.25	0.28	0.48	0.18	0.52	0.39	0.56	0.21	0.37	0.37	0.55	0.17	0.50
	Exposure ratios [i]	1.0	1.6	0.5	0.5	1.0	1.6	0.7	11.4	1.0	1.1	0.3	0.3	0.6	1.2	0.5	9.5

Sources: US Federal Register. Own computations.

Notes : [a] All cases, except Court Remands.
[b] All final outcomes (affirmative, suspended, terminated ...), except negative outcomes.
[c] OICs: Other Industrialized Countries, i.e., OECD Countries, except the EC and Japan.
[d] ANICs: Asian New-Industrialized Countries, i.e., Hong-Kong, Korea, Malysia, Singapore, Taiwan, Thailand.
[e] ONICs: Argentina, Brazil, Chile, Mexico, Venezuela, Israel, Portugal, Spain, Turkey, Yugoslavia.
[f] LDCs: Developing Countries, including P.R. of China.
[g] NMEs: Non-Market Economies, excluding P.R. of China.
[g] Including livestock and flower cases.
[h] Ratio of the share in cases with respect to the share in imports.

P.A. Messerlin, Montreux, 12 January 1989

Table 1.C. Breakdown of EC antidumping cases by industry, 1980-1987

ISIC	Description	Cases initiated [a]								Cases with non-negative outcomes [b]							
		Total	US	Japan	OICs [c]	ANICs [d]	ONICs [e]	LDCs [f]	NMEs [g]	Total	US	Japan	OICs [c]	ANICs [d]	ONICs [e]	LDCs [f]	NMEs [g]
111	Agriculture [h]																
290	Mining & quarrying	1.0						12.0		1.5						15.8	
311/2	Food products	1.3			13.6			4.0		2.0			20.0			5.3	
313	Beverages																
321/2	Textiles & apparel	3.5	10.7	3.7		8.7	3.9		1.8	3.0	10.0	7.1			2.3		2.4
324	Footwear	0.3			4.2					0.5			6.7				
331	Wood products	6.4	3.6		9.1	17.4	7.8		6.3	4.0			6.7	40.0	9.1		1.2
341	Paper products	1.3	3.6		4.5		2.6			0.5					2.3		
351/2	Chemicals	41.5	78.6	18.5	22.7	17.4	35.1	52.0	48.6	46.5	90.0	28.6	20.0	40.0	29.5	57.9	50.6
354	Petroleum & coal																
355	Rubber products																
356	Plastic products																
361	Pottery & china	0.6							1.8	1.0							2.4
362	Glass products	4.2			4.5		2.6		9.0	6.5			6.7		4.5		12.0
369	Non-metal products	2.6					5.2		3.6	1.5					2.3		2.4
371	Iron & steel	11.2			27.3		26.0	16.0	4.5	15.0			40.0		38.6	15.8	4.8
372	Non-ferrous metals	3.8	3.6	3.7	9.1		2.6	8.0	3.6	0.5							1.2
381	Metal products	2.6		3.7		8.7	5.2	4.0		1.0					4.5		
382	Nonelec. machinery	9.3		40.7		21.7	5.2		8.1	9.0		50.0		20.0	4.5		9.6
383	Electr'l machinery	5.8		25.9	4.5	26.1	1.3		2.7	2.0		7.1					3.6
384	Transport	0.3					1.3			0.5					2.3		
385	Scientific equip.	1.6		3.7					3.6	2.5		7.1					4.8
390	Other industries	2					1.3	4.0	6.3	2.5						5.3	4.8
	Total [%]	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
	Total number of cases	313	28	27	22	23	77	25	111	200	20	14	15	5	44	19	83
	Herfindahl coefficients	0.21	0.63	0.27	0.17	0.19	0.21	0.32	0.27	0.26	0.82	0.35	0.25	0.36	0.25	0.39	0.29
	Exposure ratios [d]	1.0	0.5	1.0	0.3	1.1	1.7	0.5	4.4	1.0	0.5	0.8	0.3	0.5	1.5	0.5	5.1

Sources: EC Official Journal. Own computations.

Notes : [a] All new cases (no reviews).
[b] All final outcomes (affirmative, suspended, terminated ...), except negative outcomes.
[c] OICs: Other Industrialized Countries, i.e., OECD Countries, except the EC and Japan.
[d] ANICs: Asian New-Industrialized Countries, i.e., Hong-Kong, Korea, Malysia, Singapore, Taiwan, Thailand.
[e] ONICs: Argentina, Brazil, Chile, Mexico, Venezuela, Israel, Portugal, Spain, Turkey, Yugoslavia.
[f] LDCs: Developing Countries, including P.R. of China.
[g] NMEs: Non-Market Economies, excluding P.R. of China.
[g] Including livestock and flower cases.
[h] Ratio of the share in cases with respect to the share in imports.

P.A. Messerlin, Montreux, 12 January 1989

Table 2. The close substitution of US antidumping and countervailing cases, 1980-87

Countervailing cases and Antidumping cases dealing with the ...	Cases		Breakdown by countries						
	Number	[%]	EC	Japan	OICs	ANICs	ONICs	LDCs	NMEs
All industries									
1. same products and countries	154	43.5	55		15	15	55	11	3
2. same products but other countries	54	15.3	10		14	14	8	7	1
3. same countries but close products	63	17.8	32		7		22	2	
4. other products and countries	83	23.4	18	2	9	8	29	17	
All cases	354	100.0	115	2	45	37	114	37	4
Iron and steel [a]									
1. same products and countries	103	52.6	43		9	9	38	3	1
2. same products but other countries	41	20.9	8		11	14	3	4	1
3. same countries but close products	47	24.0	21		4		21	1	
4. other products and countries	5	2.6		1	2		2		
All cases	196	100.0	72	1	26	23	64	8	2
All industries, iron and steel excluded									
1. same products and countries	51	32.3	12		6	6	17	8	2
2. same products but other countries	13	8.2	2		3		5	3	
3. same countries but close products	16	10.1	11		3		1	1	
4. other products and countries	78	49.4	18	1	7	8	27	17	
All cases	158	100.0	43	1	19	14	50	29	2
All industries with non-negative outcomes [b]									
categories 1 to 3 (number of cases)	173	74.2	51		28	16	60	15	3
category 4 (number of cases)	60	25.8	10	2	5	5	27	11	
All cases	233	100.0	61	2	33	21	87	26	3
categories 1 to 3 (in % of all cases)	63.8		52.6		77.8	55.2	70.6	75.0	75.0
category 4 (in % of all cases)	72.3		[illegible]	100.0	55.6	62.5	93.1	64.7	
All cases	65.8		55.0	100.0	73.3	56.8	76.3	70.3	75.0

Source: US Federal Register. Own computations.
Notes : [a] Iron and steel: ISIC 371.
[b] All cases (affirmative, suspended, terminated,...), except negative.

P.A. Messerlin, Montreux, 12 January 1989

Table 3. Evolution of the US antidumping and countervailing cases, 1980-87

	1980	1981	1982	1983	1984	1985	1986	1987	All years
All cases									
Antidumping cases	49	15	64	47	74	66	70	17	402
Countervailing cases	14	23	157	28	56	40	28	8	354
ratio [%] [a]	28.6	153.3	245.3	59.6	75.7	60.6	40.0	47.1	88.1
All cases, steel excluded									
Antidumping cases	14	8	14	31	20	29	54	15	185
Countervailing cases	12	17	38	18	30	18	22	3	158
ratio [%] [a]	85.7	212.5	271.4	58.1	150.0	62.1	40.7	20.0	85.4
All cases, steel & chemical excluded									
Antidumping cases	6	7	10	20	15	25	46	10	139
Countervailing cases	12	7	32	18	26	16	19	3	133
ratio [%] [a]	200.0	100.0	320.0	90.0	173.3	64.0	41.3	30.0	95.7
All cases, for non-beneficiaries of the injury test in CVDs [b]									
Antidumping cases	4	2	5	10	34	24	19	0	98
Countervailing cases	4	4	27	14	23	11	7	4	94
ratio [%] [a]	100.0	200.0	540.0	140.0	67.6	45.8	36.8	---	95.9

Source: Federal Register. Own computations.

Notes : [a] Countervailing cases as a percentage of antidumping cases.

[b] Concerned non-beneficiaries: Argentina, Australia*, China, Colombia, Costa-Rica, Czecoslovakia, Ecuador, East-Germany, India*, Iran, Israel*, Mexico*, New-Zealand*, Peru, Philipines*, Poland, Portugal*, South Africa, Singapore, Spain*, Thailand, Trinidad & Tobago, USSR and Yugoslavia. Countries followed by a "*" have benefited from the injury clause in countervailing cases at one point of the time between 1980 and 1987.

P.A. Messerlin, Montreux, 12 January 1989

Table 4. The use of antidumping measures: the EC case, 1980-1985

	Initiation year								
	t-3	t-2	t-1	t	t+1	t+2	t+3	t+4	t+5
A. The evolution of the traded quantities									
The decline in "dumped" imports									
"Dumped" imports [a]	70.1	80.7	96.6	100.0	82.3	72.3	64.1	61.5	49.2
The trade diversion effect									
Intra-EC trade [b]	112.6	108.7	102.0	100.0	108.9	113.4	116.1	120.7	124.0
Extra-EC imports [c]	122.8	119.1	110.9	100.0	119.4	134.6	136.5	148.4	198.6
B. The evolution of the prices [d]									
The "foreign rent" effect									
"Dumped" prices	106.7	104.2	104.2	100.0	106.6	111.6	114.5	117.3	124.4
"Non-dumped" prices	110.0	99.9	97.1	100.0	104.0	102.2	105.1	102.8	100.7
The "price maintenance" effect									
Intra-EC prices	104.5	103.0	100.8	100.0	100.8	101.7	100.3	97.4	99.9
C. Share of "dumped" imports in total extra-EC imports [a]:									
all Countries	42.7	45.4	49.4	49.3	44.5	40.1	38.4	32.3	26.5
Industrialized Ctries	52.3	53.8	59.1	60.7	52.4	48.5	41.8	29.2	25.0
Developing Countries	20.5	23.5	28.0	26.8	16.9	22.3	20.8	[e]	[e]
Newly-Ind'd Countries	28.8	30.6	28.6	29.9	25.0	18.0	10.9	[e]	[e]
Non-Market Economies	38.1	40.4	42.3	39.3	36.7	31.8	30.9	28.9	15.2

Source : Messerlin [1989].

Notes : [a] all cases, including cases terminated by no dumping/no injury.
[b] quantities traded between the 10 Member States.
[c] imported quantities coming from "non-dumping" countries.
[d] unit values --in constant ECUs-- of the "dumped" imports.
[e] no sufficient number of cases.

P.A. Messerlin, Montreux, 12 January 1989

Table 5. Common cases (EC, Korea, Mexico and US) in the chemical industry, 1980-87

Products	Initiating country	Procedure[a]	Year	Defending country	Outcome [b]
acrylonitrile	Eur. Com.	AD	1982	U.S.A.	Neg
acrylonitrile	U.S.A.	AD	1987	Japan	Aff
barium chloride	Eur. Com.	AD	1982	East Germany	Aff
barium chloride	Eur. Com.	AD	1982	China	Aff
barium chloride	U.S.A.	AD	1983	China	Aff
choline chloride	U.S.A.	AD	1983	EC-Un.Kingdom	Neg
choline chloride	U.S.A.	AD	1983	Canada	Aff
choline chloride	Eur. Com.	AD	1983	Romania	Ter
choline chloride	Eur. Com.	AD	1983	East Germany	Ter
corundum, artificial	Eur. Com.	AD	1983	Czecoslovakia	Ter
corundum, artificial	Eur. Com.	AD	1983	Yugoslavia	Neg
corundum, artificial	Eur. Com.	AD	1983	China	Ter
corundum, artificial	Eur. Com.	AD	1983	Spain	Neg
corundum, artificial	Eur. Com.	AD	1983	U.S.S.R.	p.Ter
corundum, artificial	Eur. Com.	AD	1983	Hungary	p.Ter
corundum, artificial	Eur. Com.	AD	1983	Poland	Ter
corundum, artificial	Mexico	AD	1987	Brazil	
dicumyl, peroxide	Eur. Com.	AD	1983	Japan	Aff-Ter
dicumyl, peroxide	Korea	AD	1986	Japan	
dicumyl, peroxide	Korea	AD	1986	Chile	
polypropylene, film	Eur. Com.	AD	1981	Japan	Ter
polypropylene, film	U.S.A.	CVD	1982	Mexico	
potassium	U.S.A.	AD	1980	Canada	
potassium	U.S.A.	AD	1984	U.S.S.R.	Neg
potassium	U.S.A.	CVD	1984	Spain	
potassium	U.S.A.	CVD	1984	Israel	
potassium	U.S.A.	AD	1984	East Germany	Ter
potassium	U.S.A.	AD	1984	Israel	Neg
potassium	U.S.A.	CVD	1984	U.S.S.R.	
potassium	U.S.A.	AD	1984	Spain	Ter
potassium	U.S.A.	CVD	1984	East Germany	
potassium	Mexico	AD	1987	EC-Germany	
potassium	Mexico	AD	1987	U.S.A.	
potassium	U.S.A.	AD	1987	Canada	Sus
potassium	Mexico	AD	1987	EC-Belgium	
potassium, permanganate	U.S.A.	CVD	1982	Spain	
potassium, permanganate	U.S.A.	AD	1983	Spain	Aff
potassium, permanganate	U.S.A.	AD	1983	China	Aff
potassium, permanganate	Eur. Com.	AD	1986	China	Aff-Ter
potassium, permanganate	Eur. Com.	AD	1986	Czecoslovakia	Ter
potassium, permanganate	Eur. Com.	AD	1986	East Germany	Ter
urea	Eur. Com.	AD	1986	Romania	
urea	U.S.A.	AD	1986	Romania	Aff
urea	U.S.A.	AD	1986	East Germany	Aff
urea	Eur. Com.	AD	1986	Venezuela	
urea	U.S.A.	AD	1986	U.S.S.R.	Aff
urea	Eur. Com.	AD	1986	Austria	
urea	Eur. Com.	AD	1986	Trinidad	Ter
urea	Eur. Com.	AD	1986	Libya	Aff
urea	Eur. Com.	AD	1986	East Germany	Ter
urea	Eur. Com.	AD	1986	Saudi Arabia	Aff
urea	Eur. Com.	AD	1986	Czecoslovakia	Ter
urea	Eur. Com.	AD	1986	Hungary	
urea	Eur. Com.	AD	1986	Yugoslavia	Ter
urea	Eur. Com.	AD	1986	U.S.S.R.	Ter
urea	Eur. Com.	AD	1986	Malaysia	
urea	Eur. Com.	AD	1986	U.S.A.	
urea	Eur. Com.	AD	1986	Kuwait	Ter
urea, UAN	Eur. Com.	AD	1980	U.S.A.	Aff-Ter

Sources: EC Official Journal, Mexican Diario Oficial, US Federal Register; GATT documents for Korea.

Notes : [a] AD: antidumping procedure; CVD: countervailing procedure.
[b] Aff: affirmative, Neg: negative, Ter: terminated (various measures), p.Ter: partially terminated, Sus: suspended.

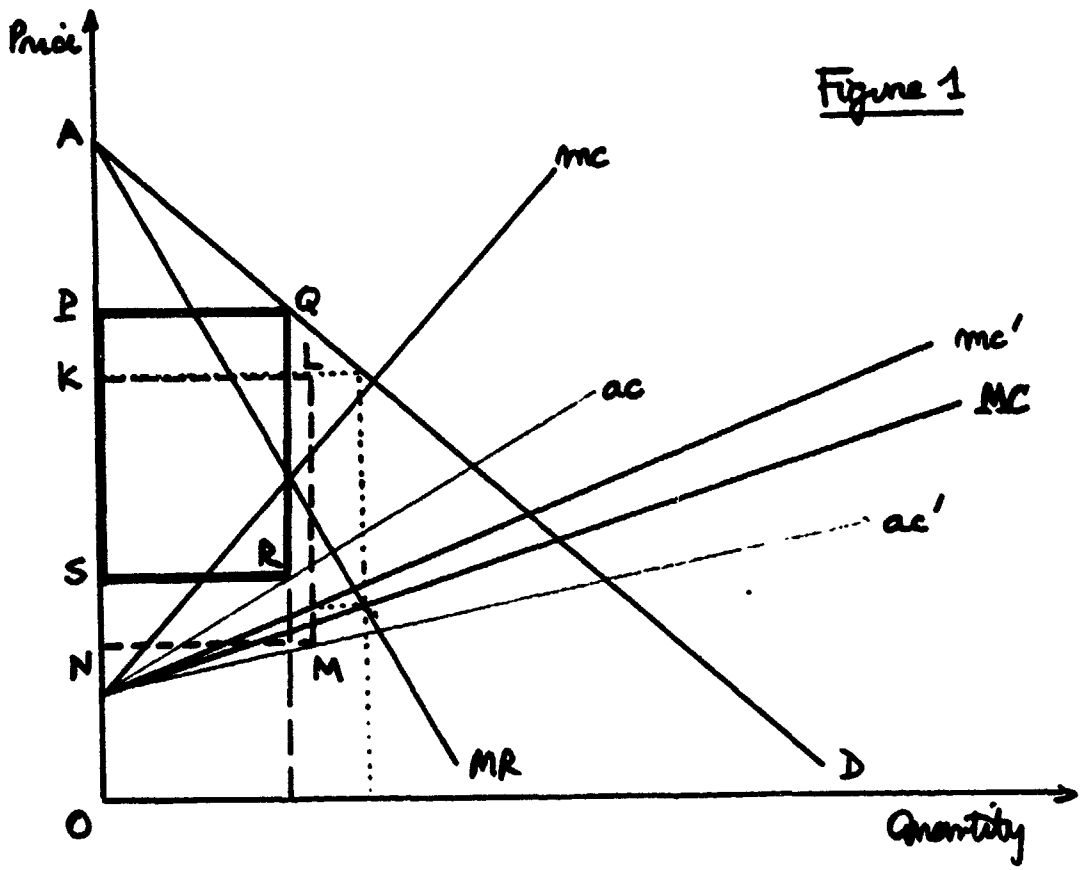
Annex

Figure 1 illustrates gains from collusion if there are spillover effects due to subsidies.

Before the creation of Airbus, the curve mc is the marginal cost of Boeing and, P the corresponding monopoly price charged by Boeing. The corresponding Boeing profit is illustrated by PQRS, with ac the average cost.

Let us assume that the existence of Airbus --due to subsidies-- allow scale economies in producing some parts, for instance engines. With the same initial fixed cost, the marginal cost for the whole industry is now shown by MC and the price charged by the cartel Boeing-Airbus is illustrated by K. The marginal cost for Boeing alone is mc' mirroring the decrease in input prices and the corresponding total profit of Boeing is illustrated by KLMN, with ac' the corresponding average cost for Boeing.

KLMN can be smaller or larger than PQRS. In the last case, Boeing has no incentive to lodge a countervailing action. It is induced to work out an agreement with Airbus in order to agree on the collusive price K.



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