
WTO PUBLIC FORUM

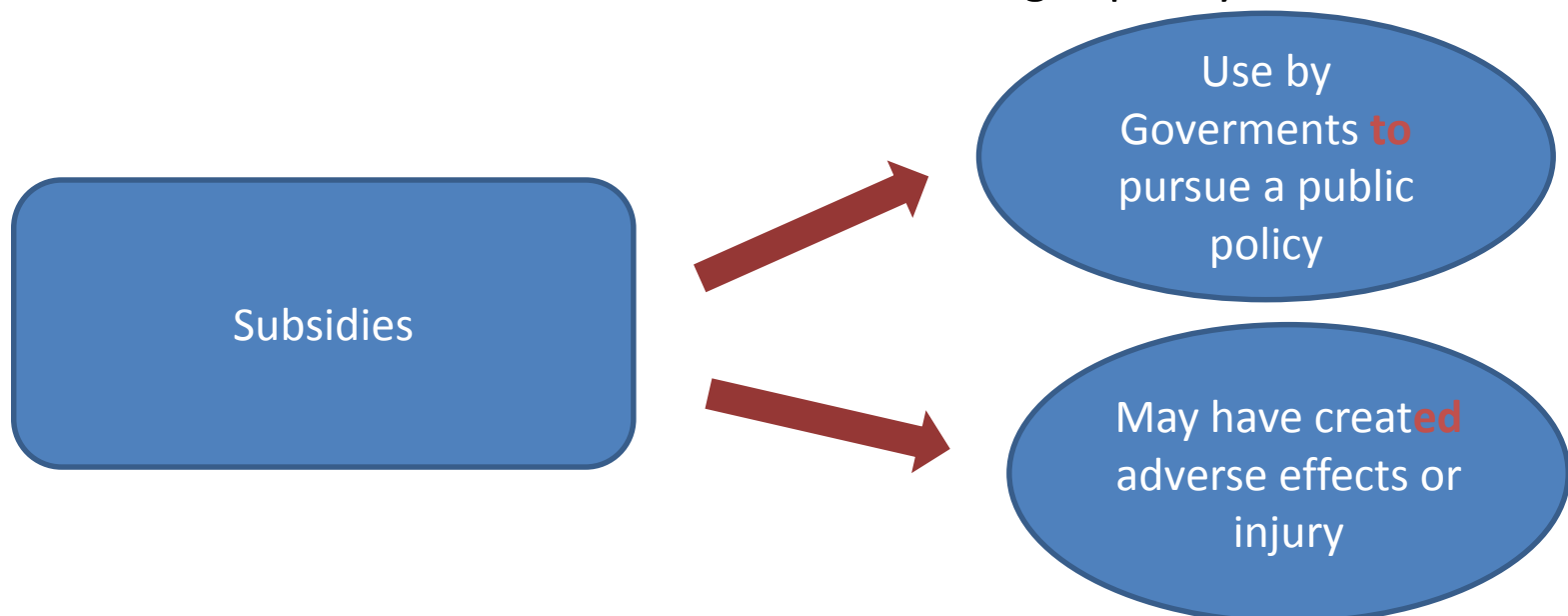
“MAKE THE PLAYING FIELD LEVEL AGAIN”

Orlando Pérez Gárate
Director General de Reglas de Comercio Internacional
Secretaría de Economía



Subsidies

- a) Subject to a complex set of rules.
- b) Sensitive issue in international trade.
- c) Industries have claimed distortive effects on trade in goods and services.
- d) Distortive effects such as excess in steel making capacity



WTO Agreement on Subsidies and Countervailing Measures

- a) Subject to a complex set of rules:
- Definition of a Subsidy
 - Specificity
 - Prohibited subsidies
 - Actionable Subsidies
 - Injury
 - Nullification
Impairment
 - Serious Prejudice
 - Adverse effects

and



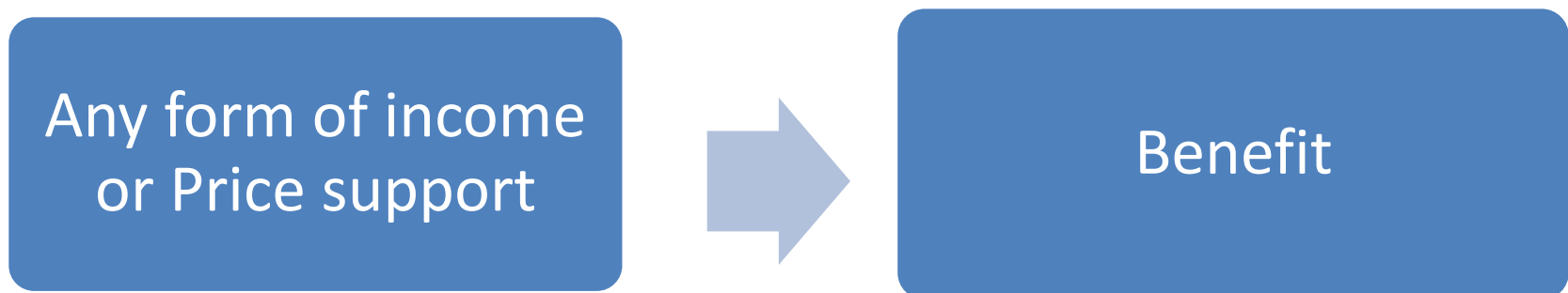
Agreement on Subsidies and Countervailing Measures (ASCM)

a) Subject to a complex set of rules:

- Definition of a Subsidy Article 1.1. a(1) + (b) ASCM



- Definition of Subsidy Article 1.1. a(2) + (b) ASCM



Concerns at the international level

OCDE 85th Steel Committee – September 2018

Steel subsidies are harmful to the global steel market: – They decrease the efficiency of the steel market as a whole, as they maintain some inefficient firms in the market and cause other more productive firms to leave – They impede a level-playing field, thus creating international trade frictions which can jeopardise free trade and have spill-over effects on other sectors

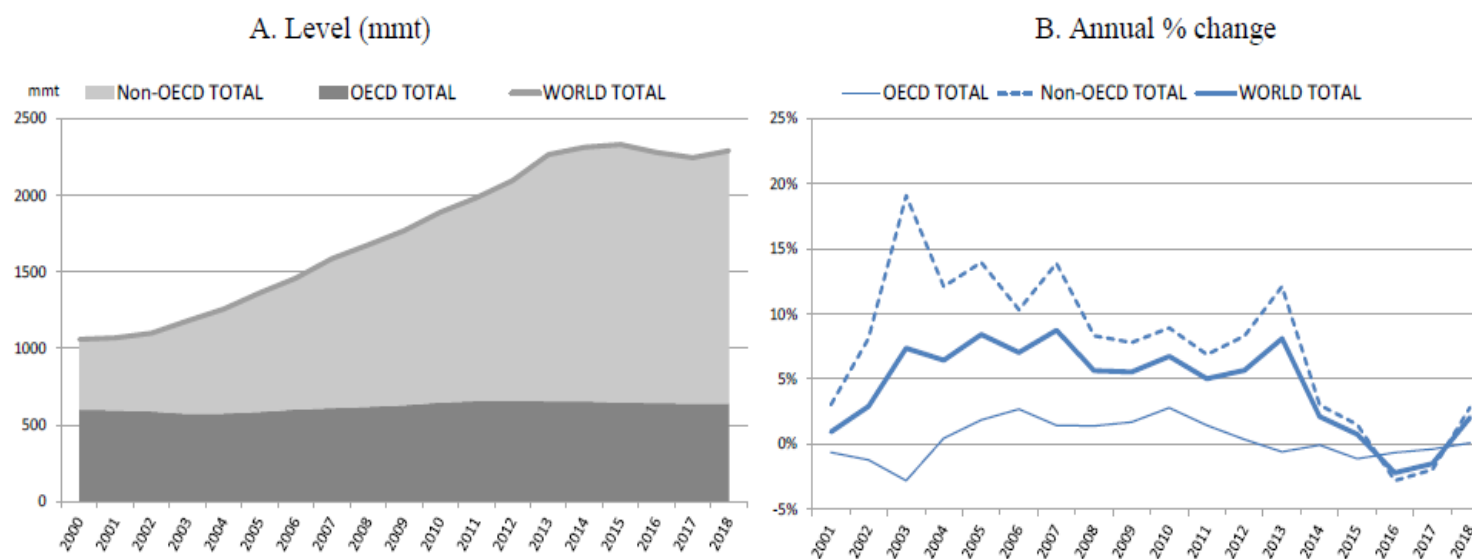


Chairman's Statement:
"Excess capacity remains the key challenge for the global steel industry. The Committee reiterated the need to swiftly remove market-distorting policies that contribute thereto, and held a thorough exchange of views regarding the on-going work on subsidies."

Subsidies – potential effects – Excess capacity

OECD SC – *“Subsidies that are aimed at an increase of steel production capacity or are linked to production output should be immediately removed”*

Figure 1. Evolution of crude steelmaking capacity in OECD and non-OECD economies



Note: Capacity data reflects information available to June 2018.

Source: OECD

LIST OF SUBSIDIES

OECD Steel Committee

There is list of government support measures targeted by OECD like subsidies provided directly (and in many cases indirectly) :

Subsidies

- Cash grants, awards and cost refunds
- Preferential loans, debt instruments placements, guarantees, and other transfer liabilities
- Equity infusions and debt-to-equity conversions
- Debt forgiveness or restructuring
- Tax benefits and administrative fees
- Government approach to mergers and acquisitions



LIST OF SUBSIDIES

OECD Steel Committee

There is list of government support measures targeted by OECD like subsidies provided directly (and in many cases indirectly) :

Subsidies

- Input support
- Government provision of goods and services that should usually be paid by companies themselves
- Export subsidies
- Government procurement
- Local content requirements
- Lack of enforcement of regulation: property rights or bankruptcy law
- Policy measures not in line with market principles in areas like investment and competition.

G20 Leaders 2016

Subsidies and other types of government support can cause market distortions and contribute to the problem of excess capacity, requiring urgent attention. In particular, the market function should be enhanced, adjustment encouraged, and such market-distorting subsidies and other types of support by governments and related entities should be removed.



GFSEC G20 – Ministers - Berlin 2017

In order to ensure that the steel market operates under market principles, governments and government-related entities should refrain from providing market-distorting subsidies and other types of support measures to steel producers. These include subsidies and other government support measures that sustain uneconomic steel plants, encourage investment in new steelmaking capacity which otherwise would not be built, facilitate exports of steel products, or otherwise distort competition by contributing to excess capacity.

Concerns at **the** international level

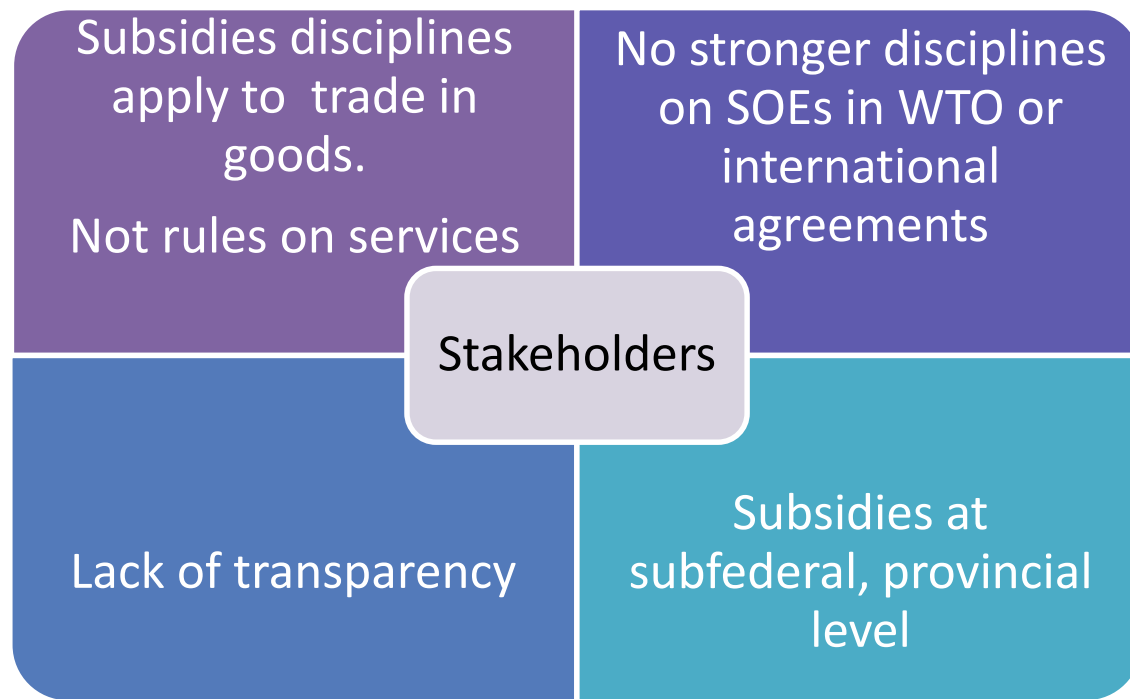
SCM WTO Committee – Communication by Canada, EU, US, Mexico and Japan G/SCM/W/575

“...In what areas are current Agreement on Subsidies and Countervailing Measures (Subsidies Agreement) disciplines incomplete or inadequate to address these practices?”

“...amending Article 3 of the Subsidies Agreement to consider certain below-market financing by government-related entities as prohibited subsidies. The types of financing targeted are: (a) direct transfer of funds to cover operating losses; (b) forgiveness of debt (taking into account bankruptcy laws or other insolvency proceedings); (c) loans to enterprises that are uncreditworthy; and (d) debt-for-equity swaps that are not on commercial terms. “



Concerns by stakeholders



Governments must ensure national industries compete on equal conditions with industries benefitted by subsidies, programs or support policies.

CPTPP

- Provisions on SOEs
 - Definition on SOEs
 - Commercial consideration
 - Non discrimination on its purchase or sale of a good or service
 - Not cause adverse effects to the interests of another Party through the use of “non-commercial assistance (NCA)” that it provides, either directly or indirectly, to any of its state-owned enterprises:
 - Production and sale of good
 - The supply of a service by an SOE (Mode 1)
 - Supply a service through a covered investment (Mode 3)
 - Stronger transparency provisions

USMCA (NAFTA 2.0)

- Provisions on SOEs
 - Definition on SOEs, **direct/indirect control, minority ownership.**
 - Commercial consideration
 - Non discrimination on its purchase or sale of a good or service
 - **Prohibition of three types of “NCA”. (i) loans or guarantees of loans given to a SOE is uncreditworthy, (ii) in circumstances in which the beneficiary is insolvent, or is in risk of insolvency, of (iii) without a credible restructuring plan for a reasonable period.**
 - Not cause adverse effects to the interests of another Party through the use of “non-commercial assistance” (CPTPP discipline)
 - **Stronger transparency provisions (including for debt for equity swaps).**
 - **Future negotiation for the application of the Chapter at the subfederal level.**

MUCHAS GRACIAS

Orlando Pérez Gárate

Director General de Reglas de Comercio Internacional

Secretaría de Economía

orlando.perez@economia.gob.mx