

government policymakers, is the ITA determination of subsidy. The composite definition of countervailable subsidy, gleaned from administrative determinations, judicial interpretations, and Congressional amendments, tells foreign governments what the U.S. considers to be an unfair government practice. Unfortunately, the U.S. definition has become so broad in recent years that virtually no government policy — with the probable exception of universally available tax advantages or social benefits — is immune from potential attack. Recent judicial pronouncements and Congressional amendments attacking the specificity test illustrate that there may be even more tinkering with an already broad definition. At present, protectionist forces are lobbying Congress to change U.S. law to countervail even generally available foreign domestic programs with no trade-distorting effects. When U.S. administrative, judicial, and legislative authorities can decree any form of government involvement in the economy countervailable, what is at risk is the sovereignty of a foreign government. The U.S. countervailing duty law constitutes a unique and aggressive interpretation of the GATT Subsidies Code. With its domestic countervailing duty laws, the United States seeks to impose discipline on the internal subsidy practices of foreign governments.

President Reagan has announced that he intends to increase enforcement of other unfair trade measures in the contingent protection arsenal. He has shown a reluctance lately to use the escape clause to impose quotas, to enter into voluntary export restraint agreements with foreign governments, or to provide adjustment assistance to domestic industries. Instead, he has indicated a preference to use Section 301 of the Trade Act of 1974 to open up new markets for U.S. exporters.³³ A new emphasis also is being placed on Section 337 of the Tariff Act of 1930, which allows entries of merchandise to be automatically refused at the border where the goods are tainted with an unfair trade practice such as patent, trademark, copyright, and antitrust law infringement.