

Rodney de C. Grey has criticized the concept of injury in the GATT as having "little if any economic content." He argues that,

this defect in the international system has been reinforced by the fact that in importing countries, particularly in the United States, injury as a concept has been taken into domestic trade relations law primarily as a legal, not economic, concept. As a practical matter, this has tended to buttress the restrictive and protective effect of the system of contingency measures.¹²

In recent cases, determination of the existence of a subsidy has been a more significant issue. The GATT Subsidies Code and U.S. law recognize basically two categories of subsidies. The first consists of export subsidies that are prohibited by the Code except on certain primary products. The second category consists of domestic production subsidies that may be granted to encourage regional development, alleviate unemployment, provide assistance for worker retraining, promote research and development, or facilitate adjustment and restructuring of an industry.

Export subsidies are benefits provided by a foreign government contingent upon export performance or benefits that operate and are intended to stimulate export sales. Annex A to the GATT Subsidies Code — specifically incorporated into U.S. law — lists some examples:

- o provision by governments of direct subsidies to a firm or industry contingent upon export performance;
- o currency retention schemes or any similar practices that involve a bonus on exports;
- o full or partial exemptions, remission, or deferral specifically related to exports, or direct taxes or social welfare charges paid or payable by industrial or commercial enterprises;