

## **X. SUBSIDIES AND COUNTERVAILING MEASURES**

### **A. OVERVIEW OF THE AGREEMENT**

The Uruguay Round negotiations resulted in several substantial changes to the agreement on subsidies and countervailing duties. Perhaps the most far-reaching of these changes is that, for the first time, the Agreement on Subsidies and Countervailing Measures includes a definition of the term subsidy. In addition, three categories of subsidies have been established: prohibited, actionable and non-actionable.

The prohibited category includes those subsidies contingent on either export performance or the use of domestic over imported goods, and has been expanded to cover non-primary products.

The actionable category stipulates that no member of this agreement should cause, through the use of subsidies, trade effects such as injury to the domestic industry of another member, nullification or impairment of benefits accruing to other members (in particular benefits of tariff concessions), serious prejudice to the interests of another member. The explicit recognition of the "serious prejudice" concept imposes greater constraint on a nation's ability to subsidize its domestic industry.

Non-actionable subsidies are completely "carved out" or exempt from the countervail and serious prejudice rules, provided that the prescribed criteria are satisfied. Included in the non-actionable category is a carve-out for: 1) industrial research and precompetitive development activities; and 2) adapting existing facilities to new environmental regulations. Nonetheless, where non-actionable subsidies are believed to cause serious adverse effects, provision exists for resolving such concerns.

In addition, the new agreement also provides an enhanced enforcement mechanism. For each of the three forms of subsidy, there is now a prescribed means of resolving disputes that arise from the subsidy's existence and impact on any other member's domestic industry. There are also improved rules governing the use of countervail. These improved rules recognize that the unilateral use of countervail measures can lead to distortions in international markets.

### **B. POTENTIAL ENVIRONMENTAL IMPLICATIONS**

An enhanced level of discipline on all subsidies should result in a more efficient allocation of resources and, therefore, less waste. In addition, the new rules on dispute-settlement procedures have been strengthened and streamlined, providing greater certainty in the application of new disciplines. As such, the new subsidies