

REMEDIES FOR EXPORT SUBSIDIES IN THE CONTEXT OF ARTICLE 4 OF THE SCM AGREEMENT: RETHINKING SOME PERSISTENT ISSUES

Tsai-yu Lin^{*}

ABSTRACT

The per se prohibited nature of export subsidies has justified faster and special dispute settlement procedures found in Article 4 of the SCM Agreement. The persistent problems of export subsidies remedies posed by WTO jurisprudence deserve continuous attention. From the perspective of efficacy, this paper does not view that the modification of subsidy should be included as an alternative remedy. For the purpose of exploring the remedy for one-time grant paid, adding the “reimbursement clause” to contractual arrangements providing the subsidy or requiring the partial repayment of “ongoing benefit” of the one-off subsidy merits further discussions. As well, the introduction of punitive countermeasures may induce more compliance. Additionally, this paper suggests that more submissions on clarification or the points of resolution should be advanced by Members under the Doha Round before a reform is likely to be truly realized in the future.

^{*} Professor, Department of International Business, Soochow University; LL.B., National Chengchi University (Taiwan); LL.M., Edinburgh University (U.K.); Ph.D., National Chengchi University (Taiwan). The preliminary draft of this article was presented for the “2007 International Conference on Policy and Laws of Asia and WTO Rules and Practices of Dispute Settlement Mechanism” held at the Asian Center for WTO and International Health Law and Policy, College of Law, National Taiwan University, Taipei, Taiwan, March 11, 2007. The author can be reached at kry.tylin@msa.hinet.net.