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GOOD FOR THE ECONOMY - BAD FOR TRADE?

THE EFFECTS OF EU AND US ECONOMIC STIMULI ON INTERNATIONAL TRADE AND COMPETITION

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Table of contents

Executive Summary

- The economic stimulus packages passed by major industrialised countries contain subsidies and buy-local clauses that have the potential to seriously distort competition and thus harm international trade.
- Within the European Union, state guarantees and subsidised loans for large strategic companies (especially in the automobile industry) are a source of particular tension among the member states. The proliferation of "cash-for-clunkers" schemes demonstrates that no country wants to fall behind in providing public aid to its struggling companies.
- In the US too the auto industry is the target of many stimulus measures. The billions being allocated in official aid for domestic manufacturers and suppliers could easily have a negative effect on foreign manufacturers. The 'Buy American' clause is highly problematic; in some cases it is a major hindrance to the participation of international manufacturers and suppliers in US government investment projects intended to stimulate the economy.
- Although the World Trade Organization (WTO) has extensive rules regarding tariffs, it offers few options for contesting protectionist subsidies and procurement conditions that favour domestic suppliers. Within the Single European Market, the European Commission has established strict competition rules that are clearly exceeding the powers of the WTO to control government assistance. However, during the financial crisis, these rules were loosened due to increasing pressures by some EU member states.
- To weather the present crisis, a policy of open markets and respect for the rules of fair competition will be essential. The best cure for a downturn is not protectionism but free trade. Worthwhile actions include strengthening the European Commission, improving the global framework of rules and bringing the Doha Round of the WTO to a successful conclusion. This would be the sort of global stimulus package that does not involve any trade distortions.

Introduction

For months, politicians and academics alike have warned against a surge in protectionist measures as a consequence of the current economic and financial crisis. Fortunately, thanks to the vigilance of both the international community and the World Trade Organisation (WTO), so far the crisis has not led to the kind of protectionist backlash last seen during the Great Depression of the 1930s. The G-20 Heads of Government have repeatedly stressed their commitment to open markets and resoundingly rejected protectionism as a strategy for weathering the crisis. Even more importantly, the WTO sets strict limits on increasing tariffs, the most direct form of protectionism. In addition, the WTO has already published two reports on trade policy measures in response to the financial crisis and has closely monitored its member states (WTO 2009 a, b). But this is no reason for complacency, as protectionism can take many forms: In addition to import duties, countries can use a variety of instruments in order to shield their domestic economy from foreign competition, including anti-dumping and countervailing measures or codes and standards for environmental and health protection. Even though these are legitimate instruments in and of themselves, they can easily be misused for the protection of the domestic market.

It is domestic subsidies, however, that pose the gravest threat to international trade and competition. When the crisis hit the real economy, numerous rescue packages were devised to assist embattled industries and companies in order to protect jobs at home. Rescue measures certainly have their place, and indeed, stimulus packages are urgently needed to stabilise consumption and investment and help dangerously weakened economies recover. In this sense, national rescue measures also benefit international trade. After all, exports and imports collapsed mainly because of the fall in global demand: the OECD forecasts global trade to shrink by 13.2% in 2009 (see OECD 2009). When domestic consumption is boosted through tax relief, direct and indirect subsidies and discounts, this increases demand not only for domestic products but for imported goods as well. Furthermore, most domestic programmes do not exclude foreign companies, offering them a chance to participate and helping them to develop new markets. Global trade also stands to benefit from an increase in official trade finance. In the wake of the financial and economic crisis, private banks and insurers, conscious of their large liabilities, have become much more risk-averse, tightening their credit terms. The WTO estimates that the financing gap could be as much as $100 billion (more than 70 billion euros) (Auboin 2009). Export credit insurance offered, for example, by the German 'Hermes' or the American Export Import Bank, have helped to close some of that gap.

Yet subsidies are not always good for world trade because they carry some of the same risks as tariffs. Foremost, they are prone to discriminate against foreign companies and products. Huge discrepancies in the size of the countries' stimulus – some cannot afford even a modest rescue package – could lead to considerable trade distortions worldwide. Sector-specific and firm-specific direct subsidies are potentially the most trade distortive. In addition, they also risk causing retaliatory measures by trade partners. There is yet another danger: If the assistance is not tied to specific conditions, or if the authorities fail to enforce them, companies may lose the incentive to take the necessary restructuring steps. As a result, overcapacity may become chronic, while the much needed reforms are delayed or abandoned outright. This, too, could have negative effects on trade. However, stimulus measures are particularly alarming when assistance is tied to buy-local clauses in an attempt to prevent tax payer's money from flowing to other countries and benefiting foreign competitors. Many countries fear that foreign trade partners, rather than setting up their own domestic stimulus programme, may attempt to 'free-ride' on others'.

Developing countries are among the harshest critics of the billions being invested in fiscal stimuli, knowing how slim their chances are of keeping up in an international subsidy race. These countries make significantly less use of subsidies than industrialised countries. The World Bank found a total of 47 protective trade provisions between October 2008 and February 2009. Industrialised countries relied exclusively on subsidies, whereas developing countries made greater use of import duties (49% of all measures) (Gamberoni and Newfarmer 2009). India, for example, has argued that the greatest danger to world trade was thus not an increase in duties, but rather competition-distorting subsidies. In this regard, much of the criticism is aimed at the United States and some member states of the European Union (EU).

Stimulating the EU-economies: the litmus test for the single market

As of 2009, a total of 394 billion euros has been allocated to economic stimulus measures in the EU. This is roughly 3% of the gross domestic product of the EU. Of this, 115.3 billion euros (0.87% of the Union's GDP) has been put toward tax relief and spending programmes, while the remainder has gone towards the provision of additional credit and related measures (Saha and von Weizsäcker 2009). In addition to the measures introduced by the individual member states, this includes EU funds that are, for example, allocated as support from the European Investment Bank.

The member states have set up highly individualised programmes. Many of the included

components are entirely acceptable in terms of trade and competition such as broad-based tax relief, increased social welfare spending or investment in the education system. However, some countries are also taking measures aimed at specific industries and companies, and it is these that fraught with potential to distort trade and competition and create tensions within the EU. Thus, the economically weaker EU states in Eastern Europe have already voiced their concern that the subsidy programmes of the more affluent countries may put them at a disadvantage. Recently, in Belgium and Great Britain, fears arose over the prospect that German rescue plans for the General Motors (GM) subsidiary Opel might leave the GM subsidiaries in those countries at a disadvantage. In general, the strict rules on government aid within the Single European Market impose strict limits on national subsidy practices that could distort competition. In addition, at the informal Brussels summit meeting on 1 March 2009, European leaders strengthened their commitment to the single market and took a clear stand against stimuli that are out of step with the EU's guidelines or the principle of free competition (Council of the EU 2009). Nonetheless, in the course of the attempts to tackle the crisis, the subsidy rules have been repeatedly put to the test, with the result that in December 2008 the European Commission temporarily relaxed the rules until the end of 2010. During this time, direct state aid to companies does not require approval if it totals less than 500,000 euros per case (previously 200,000 euros). The rules were also relaxed for state support of corporate financing, like, for example, the provision of low-interest loans and subsidised fees for state loan guarantees. By the end of April 2009, ten countries had taken advantage of the more lax rules in 24 separate cases (European Commission 2009b).

In its second stimulus package, for example, the Federal Republic of Germany beefed up an existing 15 billion euro credit programme for small and medium sized enterprises and reinforced it with state guarantees. The resulting fund, with 115 billion euros in its coffers, accepts applications even from large companies, in any industry, on condition that they are 'victims' of the crisis and were performing well before the financial crisis hit the economy in mid-2008 (Federal Government of Germany 2009). The German Monopolies Commission judged the possible effects of this measure on competition as 'worrisome' (Monopolies Commission 2009). Following a report to the Committee on Economics and Technology of the German Federal Government, by mid-June 2009, loan applications for a total of 6.4 billion euros had been received, of which 1.2 billion were affirmed until June 2009. In addition, 17 companies have applied for large guarantees (of more than 300 million euros each) totalling more than 7 billion euros. In this regard the German government recently decided to grant its car manufacturer Opel a 4.5 billion in state guarantees, which will replace an interim loan of 1.5 billion euros once Magna takes over the company. This decision was highly controversial as Opel's financial distress was clearly not solely a consequence of the credit crunch brought

on by the financial crisis. Chancellor Merkel eventually justified the rescue of Opel by pointing at the mismanagement of its US parent company, GM. Besides Opel, a number of high-profile German companies have either made inquiries or already filed applications for subsidised credit or state guarantees, including Porsche, BMW, the construction giant Hochtief, the computer chip manufacturer Infineon and the Wadan shipyards (Der Spiegel 2009). A look at the history of these companies, however, raises questions regarding the causes of the financial challenges facing these companies: In many cases, strategic misjudgements and financial difficulties preceded the current financial crisis. In this regard the German government rightly rejected a bid by the retailer Arcandor in June 2009. Nonetheless, other countries view the German guarantee programme with suspicion, seeing it as a potential industrial policy tool for rescuing economically and strategically important companies comparable to the French tradition (Financial Times 2009). In the end, the actual effect that this will have on international competition and trade remains to be seen and will largely depend on the degree to which the measures are concentrated on individual (large) companies and sectors.

France has used its crisis response to even further strengthen the industrial sector and to continue to pursue its traditional industrial policy. In November 2008, the government set up a 20-billion-euro strategic investment fund (FSI). The state intends to use FSI to become a stake holder of strategic companies that are having difficulty acquiring new loans. Thus, the French state now holds a 2.35% stake in automotive parts supplier Valeo, and the fund recently acquired an 8% stake in the computer chip company Gemalto, thereby becoming its largest shareholder. The government has also indicated its interest in the strategically important biotechnology industry.

Across Europe, it is the automotive industry that has, so far, benefited the most from state aid. In addition to Opel, Renault and Peugeot-Citroën received a total of 6 billion euros in subsidised loans. Earlier, the Swedish manufacturers Saab and Volvo received billions in state guarantees. In addition to low-interest loans and guarantees, many European governments have used another major policy tool to aid their auto manufacturers by following Germany's example of the vehicle scrapping or "cash-for-clunkers" scheme ('*Abwrackprämie*'). According to the European Automobile Manufacturers Association, by June 2009 a dozen EU countries have offered car owners a subsidy to trade an older car for a newer, more fuel efficient one. The size of the incentive varies widely from country to country (from 1,000 euros in France, Portugal and Slovakia, to 2,500 euros in Germany, to even 3,000 euros in Italy), as does the planned overall size of the programmes and the age of the cars that qualify as wrecks (between 9 and 15 years). Oftentimes the premium is linked to maximum carbon dioxide emission requirements (ACEA 2009).

In Germany, this subsidy programme has had a significant effect: In May 2009, there was a 40% year-over-year jump in new car registrations. But the cash-for-clunkers scheme has not favoured German auto manufacturers exclusively; as much as 40% of the new registrations in May were imported cars, primarily French (Renault), Czech (Skoda), Italian (Fiat and Alfa Romeo), and Korean (Hyundai and Kia) models. Sales of mini and small cars received the biggest boost, almost doubling their share of new car registrations. By contrast, manufacturers of more expensive, larger and more expensive automobiles such as Audi, BMW, Mercedes and Land Rover saw their sales drop dramatically (Federal Motor Transport Authority 2009).

Although the boost to sales of smaller cars has been felt across borders, benefiting foreign and not just domestic manufacturers, cash-for-clunkers incentives are selective and take different forms, thus adversely affecting competition: The payment may have a crowding-out effect on other industries, lowering their sales as households spend on new cars, cutting spending on other consumption. Even worse, as leading German business research institutes have warned, the automobile market becomes distorted, affecting (international) automobile and automotive supplier trade (Joint Economic Forecast project group 2009). These effects on competition are rooted in the fact that manufacturers of smaller cars benefit much more than do those of larger vehicles. The increasing popularity of such schemes points to a subsidy race: Concerned about losing a competitive edge for their domestic automobile industry or the sales sector, more and more countries are introducing the subsidy. The goal of reducing carbon dioxide emissions took a back seat long ago.

Some countries are also trying to tailor the stimulus measures explicitly to the advantage of their domestic industry. Such is the case, for example, in France, Spain and Italy (EUbusiness.com 2009). In this context, President Sarkozy's announcement that French automobile companies will receive public assistance only on condition that no jobs are transferred outside France created a stir and was condemned as yet another attack on the principle of the Single European Market. Eastern European countries, where car manufacturing has become well-established, were particularly vehement in their criticism of the plan. The debate about the cash-for-clunkers vouchers in Germany took on similar tones. The fact that the tax-financed voucher had a disproportionately large stimulus effect on sales of foreign-manufactured cars is inconsistent with the plan's original intent. This unintended side effect was unfortunately perceived by the public as a "flaw" in the programme (Handelsblatt 2009a).

Within the EU, the European Commission has more latitude for action to prevent stimulus measures that have a protectionist character or distort protection than does the WTO at the

global level. Nonetheless, as the case of the automobile industry shows, even the EU is not immune to the danger of subsidy battles. There are also aspects leaving doubt about the European Commission's commitment to fair conditions for competition and global trade: It recently reintroduced export subsidies on a series of dairy products in order to compensate struggling domestic producers for declining demand and falling (world market) prices. In 2007, the EU had abandoned these subsidies on a non-committal basis. The reintroduction of the subsidy was especially denounced by developing countries and the Cairns Group, states with comparatively low farm subsidies (ICTSD 2009).

Stimulus packages on trial: the United States

In the *American Recovery and Reinvestment Act* of 2009 (ARRA), the US put in place a stimulus package valued at $787 billion (some 556 billion euros). Of that, $287 billion (approx. 202 billion euros) are intended for tax rebates, while the remaining 500 billion dollars (some 353 billion euros) are for investments in areas such as infrastructure, health and education as well as energy efficiency. For 2009 alone, the planned measures make up the equivalent of 219.8 billion euros, roughly 2% of the U.S. gross domestic product (GDP) (Saha and von Weizsäcker 2009). According to a Congressional Budget Office forecast, the package could boost economic growth by up to 3.8% this year. Over the two following years, it is expected to create or save 3.6 million jobs. Given the depth of the recession in the US – the IMF is forecasting that GDP will shrink by 2.8% in 2009 and that unemployment will rise to 9% - no one is questioning the need for the stimulus. Furthermore, its benefits also extend to foreign companies in the form of, for example, increased demand for renewable technologies ($23 billion, or 16.8 billion euros, are to be invested in energy, and a further $30 billion or 21.9 billion euros in renewable energy).

Yet some aspects of the government's assistance programme are a reason for concern. The protectionist impulse can – as in the EU – be seen clearly in the rescue efforts for US car manufacturers. Both the Bush and the Obama administrations have pumped billions in assistance into the struggling industry. Following the aid to the manufacturers GM and Chrysler, who received a 17.4 billion dollar (12.7 billion euro) bailout from the US government in December 2008, parts suppliers are now also getting assistance. On 19 March the White House Auto Industry Task Force issued loan guarantees totalling $5 billion (3.7 billion euros) for a rescue package intended to prevent the collapse of automotive suppliers in the US. The government's conditions for this assistance stipulate that the guarantees cover only auto parts going to the domestic auto industry (United States 2009b).

Now the US Congress is moving on its own 'cash-for-clunkers' scheme, by which the Obama administration hopes not only to stimulate growth in the auto sector but also, and more importantly, to promote a switch to more fuel efficient models. On 9 June, the House of Representatives passed legislation with a vote of 198-119 that would authorize $4 billion (2.9 billion euros) for a one-year auto trade-in programme. The bill, which was originally introduced as an amendment to the climate change bill (HR 2454) being considered in the House and which President Obama has supported in concept, has already received $1 billion in appropriations funding (Congressional Quarterly 2009).

Such a scheme will not necessarily discriminate against foreign auto manufacturers. Despite initial concerns, it will include models from other countries, primarily Canada and Mexico, but also Europe, Korea and Japan. Democrats in Congress, particularly those from the auto industry heartland, Michigan, had initially proposed that the subsidy should apply only to cars manufactured in the US, or at least offer different amounts for domestic and foreign models. However, House lawmakers rejected this proposal. Nonetheless, even without such outright discrimination, competition and trade distortions may arise, especially as the conditions have been designed to boost demand for larger vehicles such as pickups, despite the fact that such an incentive runs counter to the original goal of reducing carbon dioxide emissions. This is because the size of the vouchers offered for scrapping an old vehicle and purchasing a new one depends on the size of the vehicle: small passenger vehicles have to show a fuel economy improvement of at least four miles per gallon (MPG) to qualify for the $3,500 voucher, while an improvement of 10 MPG in fuel efficiency is necessary for a $4,500 voucher. Light trucks, on the other hand, need to only show a two MPG improvement in fuel efficiency to qualify for the $3,500 voucher. Heavy trucks qualify with an improvement of just one MPG, while commercial trucks are not required to show any improvement at all, as long as the vehicle being scrapped was built before 2002 (See United States 2009a).

The 'Buy American' clause in the US stimulus package is yet another source of controversy. According to section 1605 of the ARRA, all public building and work projects must use only American-manufactured iron, steel and manufactured goods. The clause does, however, have a proviso attached, requiring its application to be consistent with U.S. obligations under international agreements. Thus, goods from countries that have signed the WTO's plurilateral Agreement on Government Procurement (GPA) are granted an exception. Likewise, countries that have signed bilateral trade agreements with the US (e.g., Canada and Mexico) are not affected by the 'Buy American' clause. Other exceptions may be granted on a case-by-case basis if it can be shown that domestically manufactured goods are not available, or are of insufficient quality, or if the use of domestic materials would increase costs by more than 25%.

The clause, therefore, especially affects those countries that are not GPA signatories and do not have a trade agreement with the US, which includes many developing countries and some of the emerging economies, like China and Brazil. Accordingly, Brazil has already threatened to bring the 'Buy American' clause before the WTO's Dispute Settlement Body. But the clause may also impact signatories of the GPA as the agreement leaves considerable latitude. For example, the US has an exemption for mass transit and highway projects (Annex 2, note 5). As a consequence, the 'Buy American' clause in those sectors cannot be contested before the WTO. In addition, the GPA is not applied uniformly at the different federal levels (national, state and local) in the member countries. In the US it applies only to 37 out of 50 states, and each state defines the scope of the agreement for itself. Accordingly, there are exceptions for the acquisition of mass transit vehicles in New York, for paper, ships and fuel in Washington and for beef in South Dakota (Germany Trade and Invest 2009; WTO 2009 c).

Uncertainty remains, even though the US administration cleared up some of the ambiguities when it defined the terms 'manufactured goods' and 'produced in the US' in such a way that the clause applies only to goods that are actually consumed in construction (as opposed to goods that are merely employed, such as tools and other equipment). Likewise, materials used for manufacturing may include parts or components that have been produced outside the country. But iron and steel goods must be manufactured in the US (Executive Office of the President 2009).

The full ramifications of the clause for international trade are hard to gauge. It is clear that foreign suppliers will be hampered in their attempts to take advantage of the ARRA economic stimulus package. But the clause can also be harmful to the US economy. One area in which problems are already coming to light is the extension of the broadband infrastructure. This is because so many electronic and electrical components are manufactured outside the US. Industry representatives and the Consumer Electronics Association issued warnings about the negative effects on the broadband infrastructure project as well as the risk of retaliatory measures from other countries if foreign suppliers were locked out of the US market. They called on the National Telecommunication and Information Administration to create a public interest waiver (DIHK/BDI 2009, 3).

Finally, ARRA extended the provisions of the 1941 Berry Amendment concerning textile purchases by the military and security of supplies in the event of war. In the future not only the Department of Defense but also the Transportation Security Administration will only purchase US-manufactured textiles (Kissell Amendment). The domestic textile industry welcomed this

measure, which they had been calling for a long time, in anticipation of a hefty boost in demand that in the past has benefited foreign suppliers (Industrial Fabrics Association 2009). The Berry Amendment stands contrary to the GPA, but can be declared to be of relevance for national security, which would make it a legitimate exemption under the WTO.

In addition to the "Buy American" clause, other forms of trade protectionism being pursued by American policymakers have led to trade controversies, most recently with the EU. In May 2009, the U.S. government re-introduced subsidies, after a more than five-year hiatus, for a series of dairy exports as a further attempt to help American exporters hurt by declining global prices and volumes as well as shrinking market shares. After being criticized for their decisions, American policymakers responded that they were merely reacting to the January 2009 decision by EU trade officials to reactivate subsidies for several dairy products, including butter, cheese and milk powder. Such steps taken by the US have been criticized by a group of 19 major agricultural exporting countries as a further impediment to relaunching the Doha talks (Reuters 2009).

Gray zones in protectionism: the limits of international rules

In comparison to tariffs, subsidies are regulated less rigorously under the WTO. While the WTO Agreement on Subsidies and Countervailing Measures forbids subsidies that demonstrably distort trade and privilege domestic goods over imports, the ban applies only to grants and subsidies that do not apply in the same way to all (foreign and domestic) companies, but are targeted at a specific company or group of companies ('specific subsidies', article 2). For example, Annex I of the agreement provides an 'illustrative list' of illegal subsidies that affect exports, including transport and freight schemes involving a bonus on exports, exemptions from tax and social welfare contributions, export credit guarantee or insurance programmes at premium rates that are not self-financing in the long term, as well as schemes to grant export credits at conditions more favourable than those that prevail on international capital markets. On the other hand, the WTO provides no recourse against broadly-based programmes of government guarantees and subsidised credit conditions that are available to companies across sectors and industries such as the current stimulus packages.

What's more, the WTO is limited in enforcing compliance because of the numerous loopholes that can be invoked to justify subsidies under its rules. Examples include declaring state aid as promotion of research and development, measures for the protection of the environment or assistance to economically disadvantaged regions. Thus, many of the aid provisions in the

stimulus packages, including those concerning assistance to the auto industry, can be declared a necessity for research and development or to protect against climate change and thus made WTO compatible. For example, under article XX of the General Agreement on Tariffs and Trade (GATT) national provisions are justified wherever deemed necessary for the protection of public morals, human, animal, plant life or health, and natural resources as well as relating to the importations or exportations of gold or silver (see Global Subsidies Initiative 2009; WTO 2009 d). Likewise, GATT article XXI provides a loophole for stimulus measures if deemed important for national security. The Kissell Amendment, for example, could fall under this exemption. How difficult it is to enforce anti-subsidy rules under the WTO is also illustrated by the small number of countervailing measures – in particular in comparison to anti-dumping measures: While in 2008 alone, 138 antidumping measures were notified at the WTO, only 11 countervailing measures were employed to level the playing field by WTO members countries (WTO 2009 e, f).

The GPA is particularly open to interpretation. The agreement (signed on a voluntary basis by WTO member states) has only 13 signatories (including the EU) and 23 observers. It is intended to open public procurement to international competition and to ensure that there is no discrimination against suppliers from other signatory states. However, the numerous exemptions granted under the GPA can be – and, as the example of the US shows, are in fact – used to give domestic suppliers an advantage in the implementation of stimulus packages.

In any case, it is far from certain that, in practice, adequate use is being made of the existing instruments to prevent discriminatory trade policy within the WTO framework. Unfair trade practices can be prosecuted only if a member state files a formal compliant at the WTO and a dispute settlement panel finds a breech with WTO rules. However, governments – in industrialised countries in particular – might be deterred using the WTO's dispute settlement procedure for fear of exposing themselves to retaliatory action. The result could be an unspoken consensus on at least a temporary acceptance of subsidies that distort trade and competition and of protectionist strategies. Whether this proves to be a realistic scenario will depend at least partly on the efforts of emerging and developing countries, who have already expressed their grave concern about the proliferation of subsidy politics (see TWN 2009). One indicator of the fragility of the unspoken consensus could be the number of countervailing duties, which are directed against foreign subsidies. The number of countervailing investigations grew from 11 in 2007 to 14 in 2008, and the number of implemented measures jumped from 2 to 11 during that same year. The US, the EU and Canada have made particularly frequent use of countervailing measures, which are often directed against China and India. However, as in the case of antidumping measures, this could be at least in part a

form of hidden protectionism. It possibly also explains the striking absence of countervailing measures between the EU and the US (WTO 2009 g).

The European Commission has much broader powers than the WTO to keep subsidies and protectionism at bay within the European Single Market. The provisions of international trade law and the corresponding WTO agreements on subsidies and government procurement certainly also apply within the EU. But the EU's rules have a greater scope and are more binding than those of international trade law. As the guardian of the treaties, the EU Commission monitors state assistance within the single market with the objective of preventing national governments from taking unilateral action, impeding escalating subsidies and ensuring fair conditions for competition.

The protection of fair competition has always been a central precondition for EU member states to accept economic integration. State assistance is subject to general reporting and authorisation requirements so that it can be examined for possible distorting effects on competition, which would justify a refusal. But even the EU's relatively strong framework contains loopholes. Exemptions are granted for research and development and for environmentally friendly technologies, which member states are increasingly invoking to help out the automobile industry. And, as the example of the cash-for-clunkers scheme and company-specific subsidies to the auto industry show, the EU's strict competition rules cannot entirely prevent a subsidy race. At least, the Commission has defined a framework within which the stimulus measures must remain, including special conditions applying to state aid to the auto industry (European Commission 2009a). It has also repeatedly stressed the importance of complying with the rules in force, turning down, for example, President Sarkozy's idea of tying state assistance to the automobile industry to national manufacturing conditions. On the occasion of the planned state guarantees for the German car manufacturer Opel, the Commission even convened talks in Brussels in order to prevent adverse consequences for the Belgian and British GM subsidiaries. Both, the words and deeds of the European Commission have thus been instrumental in preventing what could have been a major escalation of conflict among the tightly knit economies of Europe. The task now is to reinforce the European Commission in its legal functions to also prevent trade distorting effects of its member states' policies on world competition and trade.

Less subsidies, more market access!

Official stimulus programmes are fraught with the danger of trade distortions by creating unequal conditions of competition. The more the crisis spreads to the real economy, the greater the temptation will be to protect the domestic economy or provide unfair advantages. The need for vigilance in preventing a resurgent protectionism thus extends far beyond the question of higher customs duties and should include more intense scrutiny of the national measures taken to boost the economy and their ramifications for distortions to trade and competition. The relative lack of available means to move against subsidies in international trade and competition law, compared with possible avenues to contest import duties, makes the situation much more pressing.

A policy of open markets and respect for the rules of fair play will be essential to weather the present crisis; the best cure for a downturn is not protectionism but free trade. The countries of the G-20 should therefore stick to their final communiqué at the London Summit, in which they pledged to do whatever is necessary to 'promote global trade and investment and reject protectionism' (G20 2009). One way of keeping that promise would be to bring the Doha Round of the WTO to a successful conclusion, as a kind of global stimulus package that does not involve any trade distortions. Clearly, this is no easy task, as the Doha Round is centred on the elimination of agricultural subsidies and improving market access for industrial goods. However, it would send an important message about free trade, and it would prove that the WTO is capable of acting in times of crisis. For one thing is clear: if an escalation of the subsidy race is to be avoided during the course of the crisis, vigorous and determined institutions and frameworks are more important than ever.

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References

ACEA (European Automobile Manufacturers Association) 2009. *Vehicle Scrapping Schemes in the European Union*. 19 May 2009. Available at http://www.acea.be/images/uploads/files/20090529_Scrapping_schemes.pdf (last accessed 17 June 2009).

Auboin, Marc. 2009. Restoring Trade Finance: What the G20 Can Do. In Richard Baldwin and Simon Evenett, eds., *What World Leaders Must Do to Halt the Spread of Protectionism*. London: VoxEU.org/Centre for Economic Policy Research (CEPR).

Congressional Quarterly Weekly. 2009. *Vehicle Trade-In Bill Has Dual Goals: Fuel Efficiency, Aid to Auto Industry*. 13 June.

DIHK/BDI. 2009. *Washington News*, no. 20. 28 May.

EUbusiness.com. 2009. *EU Car Sector Drives into Protectionism Row*. 11 March. Available at http://www.eubusiness.com/news-eu/1235146629.52/?searchterm=protectionist (last accessed 17 June 2009).

European Commission. 2009a. *Responding to the Crisis in the European Automotive Industry*. Communication from the Commission, Com(2009) 104 final. Brussels, 25 February.

European Commission. 2009b. *State Aid Scoreboard – Spring 2009 Update – Special Edition on State Aid Interventions in the Current Financial and Economic Crisis*. Communication of the Commission COM(2009) 164. Brussels, 8 April.

Cuoncil of the EU 2009, *Czech Presidency: Mirek Topolánek: „European Solidarity is unthinkable without national Responsibility"*, Press Release, 1 March 2009. Available at http://www.eu2009.cz/en/news-and-documents/news/mirek-topolanek:-_european-solidarity-is-unthinkable-without-national-responsibility_-10855/. (last accessed 17 June 2009).

Executive Office of the President. 2009. *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*. 3 April. Available at www.whitehouse.gov/omb/assets/memoranda_fy2009/m09-15.pdf. (last accessed 17 June 2009).

FAZ. 2009b. *Fordchef fordert Staatshilfen für Firmenwagen.* Frankfurter Allgemeine Zeitung, 4 May.

Federal Government of Germany. 2009. *Konjunkturpaket II: Die Krise meistern*. 27 January. Available at http://www.bundesregierung.de/nn_209372/Content/DE/Artikel/2009/01/2009-01-27-zweites-konjunkturpaket.html (last accessed 17 June 2009).

Federal Motor Transport Authority. 2009. *Fahrzeugzulassungen im Mai 2009* (Vehicles registered in May 2009). Press release no. 12/2009. Available at http://www.kba.de/cln_015/nn_330190/DE/Presse/PressemitteilungenStatistiken/Fahrzeugzulassungen/n__05__09__pm__text.html (last accessed 17 June 2009).

Financial Times. 2009. *Berlin Starts to Mimic French Industry Policy*. Financial Times, 27 May. Available at http://www.ft.com/cms/s/0/211ce090-4a4a-11de-8e7e-00144feabdc0,s01=1.html?nclick_check=1 (last accessed 17 June 2009).

G20 Finance Ministers and Central Bank Governors Communiqué. March 14, 2009, South Lodge, United King-dom. Available at http://www.g20.utoronto.ca/2009/2009-fin-communique090314.html (last accessed 22 June 2009).

Gamberoni, Elisa, and Richard Newfarmer. 2009. *Trade Protection: Incipient but Worrisome Trends*. Washington, DC, March.

Germany Trade and Invest. 2009. *'Buy American' auf dem Vormarsch*. 11 March. Available at http://www.gtai.de/DE/Content/__SharedDocs/Links-Einzeldokumente-Datenbanken/fachdokument.html?fIdent=MKT200903108004 (last accessed 17 June 2009).

Global Subsidies Initiative. 2009. *Will Government Bailouts Lead to Trade Wars?* Available at http://www.globalsubsidies.org/en/subsidy-watch/analysis/will-government-bailouts-lead-trade-wars (last accessed 17 June 2009).

Handelsblatt. 2009a. *Die Abwrackprämie*. *Handelsblatt*, 12 March.
ICTDS. 2009. *EU Dairy Export Subsidies Draw Fire from Cairns Group*, Bridges Weekly Trade News Digest, Volume 13, Number 3, 28 January 2009 (last accessed 17 June 2009).
Industrial Fabrics Association. 2009. *Kissel Amendment to Protect Domestic Textile & Apparel sector*. 7 February. Available at http://www.fibre2fashion.com/news/apparel-clothing-policy-news/newsdetails.aspx?news_id=68865&page=1 (last accessed 17 June 2009).

Joint Economic Forecast Project Group. 2009. *In the Maelstrom of World Recession: Joint Economic Forecast Spring 2009*. 23 April. Available at http://www.cesifo-group.de/portal/page/portal/ifoHome/a-winfo/d2kprog/20kproggd (last accessed 17 June 2009).

Monopolies Commission. 2009a. *Stellungnahme zum Finanzmarktstabilisierungsgesetz und zum zweiten Konjunkturpaket*. Press Release, 22 January. Available at http://www.monopolkommission.de/presse.html (last accessed 17 June 2009).

OECD. 2009. *OECD Economic Outlook: March 2009 Intermediate Report*. Paris: OECD.
Saha, David, and Jakob von Weizsäcker. 2009. *Estimating the Size of the European Stimulus Packages for 2009: An Update*. Brussels: Bruegel. Available at http://www.bruegel.org/uploads/tx_btbbreugel/pc_simulus_300409.pdf (last accessed 17 June 2009).

Der Spiegel. 2009. *Wahlkampf der Firmenretter*. *Der Spiegel*, no. 21, 18 May.
Reuters. 2009. *EU Defends Dairy Export Subsidies in Trade Row*. 18 June. Available at http://www.flex-news-food.com/pages/24135/Dairy/European-Union/eu-defends-dairy-export-subsidies-trade-row.html (last accessed 18 June 2009).

Third World Network (TWN). 2009. *Concerns over Protectionism, North's Stimulus Packages*. SUNS No. 6637. 11 February. Available at http://www.twnside.org.sg/title2/wto.info/2009/twninfo20090211.htm (last accessed 17 June 2009).

United States. 2009a. Committee on Energy and Commerce. *Fact Sheet: Cash for Clunkers*. 5 May. Available at http://energycommerce.house.gov/Press_111/20090505/cashforclunkers.pdf (last accessed 17 June 2009).

United States. 2009b. Treasury Department. *Treasury Announces Auto Supplier Support Program: Program Will Aid Critical Sector of American Economy*. 19 March. Available at http://www.treasury.gov/press/releases/tg64.htm (last accessed 17 June 2009).

WTO. 2009 a. *Report to the TPRB from the Director General on the Financial and Economic Crises and Trade-related Developments*, JOB(09)/2, 23.01.2009.

WTO. 2009 b. *Report to the TPRB from the Director-General on the Financial and Economic Crisis and Trade-Related Developments*. JOB(09)/30, 26.03.2009.

WTO. 2009 c. *Government Procurement: The Plurilateral Agreement on Government Procurement (GPA). Appendices and Annexes to the GPA.* Available at http://www.wto.org/english/tratop_E/gproc_e/appendices_e.htm#us (last accessed 22 June 2009).

WTO. 2009 d. *WTO Legal Texts.* Available at http://www.wto.org/english/docs_e/legal_e/legal_e.htm#goods (last accessed 22 June 2009).

WTO. 2009 e. *Anti-dumping.* Available at http://www.wto.org/english/tratop_e/adp_e/adp_e.htm (last accessed 22 June 2009).

WTO. 2009 f. *Subsidies and Countervailing Measures*. Available at http://www.wto.org/english/tratop_e/scm_e/scm_e.htm (last accessed 22 June 2009).

WTO. 2009 g. *Subsidies and countervailing measures.* Available at http://www.wto.org/english/tratop_e/scm_e/scm_e.htm (last accessed 17 June 2009).

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