



**University of
Zurich^{UZH}**

Law Institute

Renewable Energy: Subsidies and Taxes as Distortion?

Prof. Dr. Rolf H. Weber

Chair for International Business Law,

University of Zurich

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International trade law v. environmental law

Energy (electricity as good)

WTO-Law: applicable disciplines

Tensions with environmental law



Subsidization of renewable energy

Notion of subsidies

Elements of subsidies

- Subsidizing entity
- Financial contribution
- Benefit analysis
- Out-of-country benchmarks



Canada – Feed-in Tariff (FIT) Case

Facts

National treatment

Assessment of subsidies' elements

- Subsidizing entity
- Financial contribution
- Benefit analysis
- Out-of-country benchmarks



Critical review of FIT Case

Definition of relevant markets

Creation or correction of markets

Undetermined (open) assessment



Expectable developments

Pending cases

- Limitation of subsidies?
- Creative interpretation of WTO-Law?

EU Court of Justice

- Swedish support scheme
- Restriction of cross-border trade





Taxes and renewable energy

Notion of taxes

National treatment

- Likeness test
- Normative benchmark

Actionable subsidies



Justification of trade distortion

Art. XX GATT

- Justification reasons
- Overarching principles

Application on subsidies / taxes

- Lex specialis problem
- Balancing test

EU Court of Justice: justification reasons





Outlook

Available guidelines from Canada - FIT case

Increased openness for environmental requirements

Negotiations on Environmental Goods Agreement