Previous chapters of this book have exposed the difficulty of solving the subsidy/countervail issue on a bilateral and multilateral level. Struggles at GATT have been long and intense. Canada and the US have not been able to reach agreement despite their relatively similar economic and political systems. This section reflects upon the framework which has had the most success in addressing the issue - the European Union. Consideration will first be given to how the EU deals with the subsidization issue and then an effort will be made to explain why they have succeeded where others have failed.

Government subsidization within the member states of the EU is referred to as *state aids* and its effects are dealt with under the rubric of competition policy. In most countries, competition policy is designed to protect consumers from unfair business practices of monopolies and oligopolies. Large firms may try to fix prices, carve up market shares among a cartel, prevent the entry of other firms, or engage in mergers and takeovers to cement domination of a particular market. Monitoring firm activity and screening mergers induces governments to take steps to ensure that the market remains competitive and functions in a more efficient manner. Unlike competition policy in the United States which is confined to anti-trust considerations (Comanor, 1990), the EU’s interests also extend to government support for firms.

The European Economic Community (EEC) integrated provisions on subsidy measures into its founding treaty in a manner similar to its neofunctionalist predecessor the European Coal and Steel Community (ECSC). The ECSC was the first major integrative institution in Western Europe with supranational elements and was part of Jean Monnet’s plan for an incremental path to European union (Monnet, 1978: 288–335; Schmitt, 1962). In an attempt to create a common market for coal and steel the ECSC forbade state assistance in any form whatsoever. Despite this bold declaration special arrangements allowing for subsidies were made for Belgium and Italy because of the weak state of their coal industries (Diebold, 1959: 194–222). Belgium, suffering from high unemployment, heavily dependent on coal production and riven by ethnic and religious rivalry between its less and more efficient
coal producing regions, insisted upon support measures if it was to join the common market.

The ECSC went beyond approving domestic subsidies to taxing efficient producers in West Germany and the Netherlands to distribute its own subsidies to Belgian and Italian coal pits. From 1953 to 1957 the High Authority (similar to the EU’s Commission) transferred $48.4 million to Belgium and $6.5 million to Italy (Diebold: 1959: 204). In Belgium these funds were matched by the national government. The ECSC had some success in eliminating export subsidies for coal and by 1958 the High Authority subsidies ceased. This left the Belgian and Italian governments to take up the shortfall. The High Authority was forced to retreat from its original stance of not permitting any subsidies to an acknowledgement that some national subsidies would be required in the weaker coal producing regions. 2

The rules governing the EU procedures for state aids were set out in articles 92, 93 and 94 of the Treaty of Rome. The Treaty of Rome, signed in 1957, founded the European Community and serves as its constitution. Article 92:1 stipulates that any aid given by a ‘Member State or through State resources in any from whatsoever’ is incompatible with the common market when it favours some undertaking or goods production in such a manner as to distort trade between member states. Emphasis is placed on ensuring fair competition within the Community. This echoes passages in Articles 2 and 3 of the Treaty of Rome which state that competition in the common market should not be distorted so that European growth and standard of living can be increased.

Similar to the earlier discussion of GATT’s operation, the Treaty of Rome outlines a number of exceptions to its prohibitions. Yet, these exceptions have been interpreted fairly strictly. Determining exceptions is a delicate balancing act where the goal of economic efficiency may be outweighed by other Community objectives such as regional development or social harmony (Mathijsen, 1975: 187). The first clause of Article 92:1 stipulates that competition policy applies ‘Save as otherwise provided in this Treaty.’ In operational terms this means the fields of security, agriculture and some transportation matters. 3 Article 92:2 sets out a number of state aids that are compatible with the common market. These include broadly based aid of a social character, assistance in the wake of natural disasters or exceptional circumstances and aid given to compensate some parts of West Germany disadvantaged by division following the Second World War.

Article 92:3 sets out state aids that may be considered compatible