INTERFACE BETWEEN ANTIDUMPING AND COMPETITION LAW: A CRITICAL ANALYSIS

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Abstract

Competition and antidumping laws come from the same family tree but the two diverge widely. This paper shall attempt to discuss area of divergence and convergence between anti-dumping and competition law on conceptual, legal and economic stand points.

The scope of the present paper extends to the finding of interface between Antidumping and competition laws. For this purpose it will go into intricacies of both antidumping and competition law domain. And further it will also take into account certain allied topics relating to it having economics or other connotations.

Introduction

The laws relating to antidumping and competition protection has a common origin but they diverge into two entirely different category of legal structures. They have common origin in the sense that they both aims to protect market from unfair trade practices which hampers competition in the market however they both proceeds on different conceptual tracks. Antidumping concerns only with trade and commerce on international level and proceeds on the objective to protect the interest of the domestic producers against the predatory practices of the foreign producers. Whereas competition laws are mostly incorporated under domestic jurisprudence and aims to protect interest of the general public by strengthening healthy competition in the market which has the potential to bring best quality products to consumers at cheaper price.

Antidumping and competition law diverges on both legal and economic grounds. On the point of law antidumping allows such practices which are prohibited under competition laws such as

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price undertakings[1] and quantitative trade restrictions. And on the same time punishes certain kinds of price differentiation that are justifiable under the competition laws.

Nevertheless, they also share some commonality. As it has been said that competition law and antidumping law comes from the same family tree, the two diverge widely. In the modern era, while competition law concentrated on the pursuit of economic efficiency, addressing problems associated with concentrated economic power, antidumping law was intended to create a politically popular form of contingent protection that bears little, if any, connection to the prevention of monopoly. The political constituency for antidumping law is not an antimonopoly constituency, but one for the protection of industries facing weak markets or long term decline.[2]

This paper shall attempt to discuss area of divergence and convergence between anti-dumping and competition law on conceptual, legal and economic stand points.

Interface between Antidumping and Competition Law

The interface between antidumping and competition laws in the context of globalisation of markets can be contested on two levels i.e. on the philosophical or conceptual level and secondly on empirical level.

The study of the interface between antidumping and competition law on the face of globalised market raises many issues which includes political, economic, legal and institutional issues at the both domestic and international level.

Different opinions are still being expressed about the exact ramification of the debate relating to interface between antidumping and competition law and feasibility of substituting anti-competition law by international competition law.

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1 Article 8 of Agreement on Implementation of Article VI of the GATT 1994 (The Anti-Dumping Agreement) contains rules on the offering and acceptance of price undertakings. (price undertaking is that Undertaking by an exporter to raise the export price of the product to avoid the possibility of an anti-dumping duty) – WTO Glossary.

2 See AO Sykes (1998), "Antidumping and Antitrust: What Problems Does Each Address?", in RZ Lawrence (ed.), Brookings Trade Forum: 1998 (Washington, DC: Brookings Institution);

However, the issue is highly politicised and therefore it comes as no surprise that government in many countries, while recognising the long term benefits of competition policy enforcement are still reluctant to agree to a uniform international competition law.

1. At Conceptual Level

Basis and Purpose

The demand for effective competition law has not come from the armchair economist and policy maker but from the consumers themselves. The competition law has been framed from taking in view wider consumer welfare. And by further buttressing the age old saying that consumer is the king of market. It's the consumer around which market revolves rather than around entrepreneur.

The competition law under domestic jurisprudence has been included primarily for bringing more competition in the market so that market growth can be properly ensured and anti-competitive activities can be effectively tackled.

If we take the example of India, competition law was the result of effective policy changes on the part of the government which realised that MRTP Act is no more viable in the present day economy and its need major revamping. The common minimum programme of Government of India provides, "It will not support the emergence any monopoly that only restrict competition. All regulatory institutions will be strengthened to ensure that competition is free and fair. These institutions will be run professionally."[3] [4]

Interface between antidumping and competition laws in the area of objective can be understood as follows. The objective with which antidumping laws are incorporated varies from country to country however if we take the examples of antidumping regulations at international or WTO level than it would be crystal clear that antidumping laws are incorporated under multilateral

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[3] Text of "NATIONAL COMMON MINIMUM PROGRAMME OF THE GOVERNMENT OF INDIA, May 2004" at Page no.16.

[4] See also the Preamble of Indian Competition Act 2002 which enunciates, "An Act to provide, keeping in view of the economic development of the country, for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto."

trade negotiation to remedy the situation of injury to the domestic industry due to dumping across all the subject countries.

Thus antidumping laws primarily aim at remedying the injury to the domestic industry due to dumping and to address predatory practises. However, they are indifferent to the question of public welfare or consumer welfare.

And in regard to objectives of competition law, they also vary from country to country depending upon the domestic jurisprudence. As has been observed:
"Even within a particular national system, the goals of competition law may evolve and transmogrify, often depending on the state of industrialization of the economy, the strength of the political democracy, the power of the judiciary and of bureaucrats, and the exposure of domestic firms to global competition."[5]

Nonetheless, a generalised standard of objective which is omnipresent in all domestic jurisprudence can be looked into. The objective with which competition law is incorporated is protection and promotion of competition in the market and consumer welfare.

On the same line the Indian Competition Act, 2002 aims at preventing practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade.[6]

Similarly competition legislation in other countries like USA and South Africa specifically mention 'economic efficiency' as an objective of their respective competition related laws. Also, countries like the EC, Australia and South Africa have tried to address the issue of 'public welfare' through their competition laws by specifically mentioning promotion of welfare of employees or producers or both as one of the objectives. The EC law on competition seeks to achieve an additional objective of 'economic integration', which is absent in rest other countries.

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5 Fox Eleanor M., "Anti-trust Law on a Global Scale: Race up, down and sideways", Public Law and Legal Theory Working Paper Series, Working Paper 3, New York University School of Law, December, 1999.

6 Preamble to Competition Act, 2002, "An Act to provide, keeping in view of the economic development of the country, for the establishment of a Commission to prevent practices having adverse effect on competition, to promote and sustain competition in markets, to protect the interests of consumers and to ensure freedom of trade carried on by other participants in markets, in India, and for matters connected therewith or incidental thereto."

Economic efficiency argument

On the argument of economic efficacy antidumping and competition law deeply varies from each other. Antidumping laws are indifferent to the question of economic efficacy whereas, competition law aims at promoting economic efficiency by sustaining competition in the market. The major goal of competition law is to allow firms to take advantage of business opportunities and to make sure that through the competition process the actual working of decentralised markets will foster static and dynamic economic efficiency to the fullest possible extent given the regulatory environment of these markets.[7]

On the other hand the basis of antidumping law lies in the protection of domestic producers and it is less concerned with economic efficiency. The reduce role of economic efficiency in anti dumping is illustrated by economist taking in to account two fundamental form of dumping i.e. dumping by international price discrimination[8] and dumping by pricing below cost.[9].

In pricing below cost is the conventional type of dumping under which a foreign firm sells a product in an export market at a price less than the firm's domestic cost.

As a remedial measure anti-dumping and countervailing duties are imposed on the both the category of dumping so as to bring the prices of the dumped good at par with domestic price and thus doing away with the dumping effect. Such measures of combating antidumping are taken with the object of preventing "predatory practises" by foreign firms.

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7 For further details on the goals of competition law policy vis –a-vis economic efficiency see also "the Objectives of Competition Policy ", Proceeding of the European Competition Law Annual 1997, European University Institute, Hart Publishing, Oxford 1998 as mentioned in Yang-Ching Chao and others "INTERNATIONAL AND COMPARATIVE COMPETITION LAW AND POLICIES" Wolters kluwer | Kluwer Law international Publication 2008 at pg 36-37.

8 International Price discrimination is the form of dumping under which a foreign firm sells the same product in different nation market at different prices depending upon the level of competition in them i.e. its Charges higher rate in less competitive market and vise versa. For further discussion on the subject see, Giancarlo Corsett, "Macroeconomics of International Price Discrimination" University of Rome III, Yale University and CEPR July 2002.

9 For further discussion on the topic see, Raj Bhala, "International Trade Law : Theory and Practice" (Second edition) Lexis Publishing. Chapter No. 13.

*"*Predatory practises*"* is anti competitive business practise whereby a firm reduces the price of its product below the costs in an attempt to eliminate a rival or in order to discourage potential entry into some market. Such a price reduction might squeeze a rival's profit margin squeeze a rival's profit margin and might even tend to put a competitor out of business and thus hegemonies the market and prevalent prices.

However, it is ironical to note that this economic justification for antidumping law is not supported by empirical evidence. There are few, if any, documented examples of successful predatory dumping.[10]

Accordingly, as there is no practical justification of predatory practices which is the foundation for anti-dumping argument there is no justification for the antidumping law and question of it economic efficiency for the domestic market.

Economic Efficiency and Competition law

Unlike antidumping laws, competition law aims at promoting and sustaining competition in the market rather than protecting domestic producers. Competition law is viewed as the prime mechanism for promoting economic efficiency.

For understanding how competition law promotes competition in the market it would be necessary to looks in to neoclassical microeconomic theory in relation to competition[11].

Concept of market and competition in the market under neoclassical microeconomic theory is based on following premises which tells about the role of competition in promoting market efficiency in the market. These are:

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10 See *'The Economic Effects of Anti-dumping Law",* United States International Trade Commission, Washington D.C,1995 as mentioned in Martin Taylor "International Competition Law A New Dimension for the WTO?" Cambridge University press 1st Edition 2006 pg 265.

11 Neoclassical economics is an approach to economics which focuses on the determination of prices, outputs, and income distributions in markets through interplay between supply and demand, which aims at maximization of utility by income-constrained individuals and of profits by cost-constrained firms employing available information and factors of production. (Antonietta Campus (1987), "marginal economics", *The New Palgrave: A Dictionary of Economics*, v. 3, p. 323.) Neoclassical economic thoughts are brain child of economists like Thorstein Veblen and Alfred Marshall in 1900.

- The resources available in the economy are scare and scanty. Further, market allocates these scarce resources between competing end users through series of transactions to those who value them most.
- Since these resources are scare is it required that there should be optimum utilisation of available resources. And such optimum utilisation of the available resources will lead to economic efficiency.
- Market power is anathema to competition processes. Concentration of market power hinders competition in the market.
- Competition law regulates market power in order to promote competition, thereby enhances economic efficiency and increasing social welfare.[12][13]

Competition law by controlling market power works as a statutory mechanism to preserve and promote market competition and prevent the excessive aggregation of market control in few hands. Accordingly because of competitive market structure there are end numbers of market players[14] and through the inter play of market forces[15] following effects happens:

- Market apply scare resources to such producers which use the least resources i.e. those producers who can use resources at optimum level, and
- It allocates consumption to those consumers that value the product the most.

Optimum utilisation of scare resources by both consumer and producers in competitive market leads to economic efficiency. Thus, competition law by protecting competition in the market helps in promoting economic efficiency unlike anti-dumping laws which are indifferent to economic efficiency arguments and sometime even works against it.

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12 See Martin Taylor "International Competition Law- A New Dimension for the WTO?" Cambridge University press 1sr Edition 2006 pg 8-9.

13 For further discussion on the topic see, Paul Krugman and M. O. Harper, "International *economic theory and policy*" 2nd Edition Harper Collins Publishers Chapter 06 Economics Of Scale Imperfect Competition And International Trade and Chapter 08 The International Trade Policy.

14 Here, *market player* means buyer and sellers; inter play between them in for of demand and supply defines the market equilibrium.

15 Here, *market forces* connoted demand and supply.

Distributive Justice and fairness

The anti-dumping law justify the prohibition of dumping on a wide variety of grounds which are both economic and social in nature. In area of social justification of anti-dumping laws comes the question of distributional justice.

Distributive justice concerns the nature of a socially just allocation of rewards in a society. A society in which incidental inequalities in outcome do not arise would be considered a society guided by the principles of distributive justice. This distributional justice objective of anti-dumping law is usually associated with the international power imbalances between the firms of different nations.

These power imbalances are relevant to trade law as when a firm takes advantage of these power imbalances, trade imbalances, trade-distorting effects may arise. Anti-dumping law is therefore justified as offsetting such trade-distorting effects by enabling government to impose anti dumping duties.[16]

However, in the area of distributional justice anti-dumping law badly fails, if empirical evidences are taken into account.

Originally antidumping laws were incorporated under international regime with the aim of bringing distributional justice and to do away with the market imbalances amongst nations. The purpose was to save domestic industries of developing and under developed countries from the predatory practises of the foreign firms of highly industrialised nations of the world. But ironically, antidumping law has been most frequently applied by the most advanced industrialised nations and often to protect some of the world's most powerful firms.

Between 1980 and 1990 the United States, Australia, Canada, and the European Union were responsible for bringing 95% of all antidumping cases worldwide.[17] That figure dropped to 80% between 1985 and 1992, suggesting an increase in other countries' use of antidumping law as a weapon. Unsurprisingly,

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16 Supra note no.13 at page 228.

17 *See* Bryan T.Johnson, *A Guide to Antidumping Laws: America's Unfair Trade Practice,*BACKGROUNDER (Heritage Foundation), July 21, 1992, at 1, 4-5.

the Economist printed in 1988 that "[a]nti-dumping suits are emerging as the chemical weapons of the world's trade wars."[18]

Case study of USA in regard to the use of antidumping law shall be useful for the purpose of substantiating the above arguments. In the 1980s the United States began to utilize antidumping law as its weapon of choice. Only eighty-four U.S. antidumping orders, applicable to exporters from twenty-three countries, were in effect in 1980. These orders affected just 131 categories of merchandise in the Harmonized Tariff Schedule (HTS), or 3.43% of U.S. imports. By 1990 there were 197 orders applicable to exporters from forty-two countries. These orders affected 219 categories of merchandise in the HTS, or 9.59% of U.S. imports. In addition, the U.S. Department of Commerce (DOC) found dumping in over 90% of all antidumping petitions filed during this period. Between 1985 and 1992 the DOC terminated only 2% of all U.S. antidumping cases because of a lack of dumping. Similarly, the U.S. International Trade Commission (ITC) found that injury existed in just under 60% of all cases.[19]

Thus, it shows that though antidumping laws were incorporated under GATT with the intention of safeguarding the interest of the weaker member countries of WTO and for securing distribution justice between developed and under developed countries but it has been more often than not used by giant industrial economies. And accordingly it fails on distributional justice argument.

As with anti dumping laws, competition law also do not contribute to distributive justice. The principles of competition law only promote and protect competition in the market. And it prohibits all actions with have appreciable adverse impact on competition in the market.

Competition law gives more scope to the unhindered free play between market forces of demand and supply however, it remain indifferent to the question of distributive justice in the society i.e. the principles of competition law don't deals with the matter relating to equal distribution of economic power in the society.

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18 "*The Anti-Dumping Dodge" ECONOMIST*. Sept. 10. 1988. at 77. As quoted in Bhala Raj, "Rethinking Antidumping Laws" (1995); Faculty Publications;Paper 842.http://scholarship.law.wm.edu/facpubs/842 (HeinOnline -- 29 Geo. Wash. J. Int'l L. & Econ. 1 1995-1996).

19 Bhala Raj, "Rethinking Antidumping Laws" (1995); Faculty Publications;Paper 842.http://scholarship.law.wm.edu/facpubs/842 (HeinOnline -- 29 Geo. Wash. J. Int'l L. & Econ. 1 1995-1996)at pg:04.

A limitation of the competition law is its lack of emphasis on distribution justice of wealth in the society. Competition law has little, if anything to say about distribution of economic power.[20]

Nonetheless, competition law though on limited scale seeks to lessen power imbalances between firms to ensure that all firms have an equal opportunity to compete on their merits. Competition law also prevents producers from using certain business practices to capture markets. Thus, though on limited scale competition law seeks to bring about distribution justice in society.

2. Empirical Level: Conflicts & Over lapses

Objective

As has been discussed earlier, the prime area of difference which exist between antidumping and competition law is in term of the goal which respective law seeks to achieve. Antidumping law concern only with the protection of domestic producers against the predatory practices of the foreign industrialist. Whereas, the main purpose of competition law is to protect the interest of general public by protecting healthy competition in the market and prohibiting any action which hampers competition.

More specifically competition law prohibits such price discrimination which adversely affects competition in markets; even if that implies that some competitors may be harmed in the process. On the other hand antidumping law while addressing 'price discrimination' does not take into account competition concerns and its stated goal is to protect "domestic industry" and in fact ends up as an instrument to protect competitors. Thus it seems to be in direct conflict with Competition Law.

As Commissioner of International Trade Commission (ITC) Janet Nuzum and David Rohr comments on of the ITC studies on adverse impact of antidumping laws on US economy,

> "it must be remembered that the purpose of the antidumping and countervailing duty laws is not to protect consumers, but rather to protect producers. Inevitably, some cost is associated with this purpose. However, unlike the antitrust laws, which are designed to protect consumer interests, the function of the

[20] Mark J. Davison, "The Legal Protection of Databases" first edition 2003 Cambridge University Press at page no.48.

> AD/CVD laws is, indeed, to protect firms and workers engaged in production activities in the United States. So it should not come as a surprise that the economic benefits of the remedies accrue to producers, and the economic costs accrue to consumers."(ITC, 1995, pp. VIII-IX)[21]

In a communication to the World Trade Organization (WTO), the U.S. Government presented the same argument under a more sophisticated format: "Contrary to the assumptions of some economists, the antidumping rules are not intended as a remedy for the predatory pricing practices of firms or as a remedy for any other private anti-competitive practices typically condemned by competition laws. Rather, the antidumping rules are a trade remedy which WTO Members have agreed is necessary to the maintenance of the multilateral trading system. Without this and other trade remedies, there could have been no agreement on broader GATT and later WTO packages of market-opening agreements, especially given imperfections which remain in the multilateral trading system." (U.S. Government, 1998, p. 2)[22]

Thus, antidumping in international trade arena is seen as the necessary evil for the maintenance of an open trading system among nations. And it is indifferent from any consideration as to competition in the market.

Price discrimination

Unlike anti-dumping law, price discrimination is not per se illegal under competition law. Only that price discrimination which has appreciable adverse impact on competition in the market is prohibited. Under competition law such price discrimination is usually referred to as 'unfair' or 'discriminatory' pricing and a particular instance of 'price discrimination' does not (per se) attract sanctions if it can be shown that it is adopted to meet competition and does not affect the conditions of competition in an adverse manner.

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21 José Tavares de Araujo Jr.,"Legal and Economic Interfaces Between Antidumping and Competition Policy" Dec 2001.

22 Ibid.

However, under anti-dumping law price discrimination[23] in form of lowing price of the good below is normal price is illegal per se and it could entail anti-dumping duties. In international trade dumping is said to occur when the sale of products for export is at "prices lower than those charged to domestic buyers, taking into account the conditions and terms of sale." The phenomenon of dumping takes place when a firm sells a product abroad at a price, which is below its fair value. According to Article VI, GATT 1994, a product is said to be dumped when its export price is less than its normal value, that is, less than the sale of a like product in the domestic market.

International Competition Law as a substitute of Antidumping Laws

The provisions relating to Anti- dumping laws are conceder as the most ironical provision of WTO which are legally permitted but it have significant adverse effects on international trade and healthy competition. Michael Finger's view that "antidumping is a trouble-making diplomacy, stupid economics and unprincipled law". [24]

Anti-dumping has become an area which has led to more disputes and actions under the DSB than any other. Since 1995 average of about 100 cases are filed annually with the Dispute settlement Body of WTO. More than 3,500 anti-dumping investigations have been launched since WTO came into being in 1995. Anti-dumping initiations rose from 157 in 1995 to 366 in 2001, then after a period of substantial decline rose to 208 in 2008 from 163 in 2007. Although anti-dumping was traditionally used primarily by developed countries, developing countries such as India, South Africa, Argentina and China now account for the majority of anti-dumping actions.[25]

Political tension stems from debate over the recent rise in anti-dumping suits. The WTO saw a record high of 328 suits in 2001, sparking concern that while negotiations dismantle transparent

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[23] For further discussion on price discrimination see -Giancarlo Corsetti,"Macroeconomics of International Price Discrimination" University of Rome III, Yale University and CEPR July 2002.

[24] Finger, J. M. (1993), "The Origins and Evolution of Antidumping Regulations," in J. M. Finger (ed.) Antidumping: How It Works and Who Gets Hurt, University of Michigan Press.

[25] See Anti-Dumping Statistics at Anti-dumping Publishing House http://www.antidumpingpublishing.com as on Feb 2012.

and stable tariff barriers, members are substituting discriminatory, unpredictable anti-dumping suits.[26]

The framework of anti-dumping law has been provided under Article VI of GATT, 1947 which provides,
"The contracting parties recognize that dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is to be condemned if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry…"

On the basis of Article VI of GATT, 1947 only the whole international legal regime relating to Anti-dumping has been formulated.

However, from the very beginning the concept of antidumping has been criticised and opposed as the neo-protectionist measure which has a tendency to frustrate the very mandate of multilateral trade negotiations. And further as we have learned in other part of this paper that anti-dumping law fails on the arguments of economic efficiency and consumer welfare.

Because of these reasons there has been demand at international level that antidumping law should be repealed and it should be replaced with international competition law. Feasibility of replacing antidumping law with international competition is discussed below.

Need for International Competition Law under WTO framework

The need for substitution of antidumping laws by international competition law primarily arises because of two reasons.

Firstly, because of the flaws with which antidumping laws suffers. And the advantages which competition law have over anti-dumping laws. As has been discussed earlier competition laws shifts the focus from protection of the domestic firms to the protection of the consumer and producer welfare. It aims at creating market efficiency in the market so as to crate healthy competition in the market.

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[26] "Anti-Dumping Summary" Global Trade Negotiation: Centre for International Trade development at Harvard University.Jan 2003.

Given the perceived advantage of competition law over anti-dumping law, policy makers in some nations have advocated the reform of anti-dumping law and its abolition and replacement with the international competition law.[27]

Second reason is the globalisation of the international economy. Globalization has posed multiple challenges to antidumping laws which are seen as the neo-protectionist barrier.[28]It strife to challenge the status quo of anti-dumping rules which are not at all in consonance with the wider mandate of WTO though it has been expressly provided under it.[29]Thus globalisation as an obligation under WTO mandates the member nations to be more open to market forces and must allow free play of competition in the market from both domestic and foreign players.

Accordingly, it's more in consonance with spirit of WTO/GATT to incorporate competition law as a substitute to antidumping law.

Conclusion

Thus, antidumping law and competition law both has its common origin and comes from the same family tree but they diverge widely into two different streams of legislative structure. Antidumping laws are based on the premises of economic nationalism which subscribe to the policy that domestic entrepreneur has to be safeguarded against foreign players.

However, competition law is in complete contrast to antidumping and it aims not at safeguarding any group of entrepreneurs but it aims at perpetuating healthy competition in the market by prohibiting any action which has an appreciable adverse impact on competition in the market.

Further as we have seen in the discussion above, on comparative analysis of competition law and antidumping it is apparent that

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27 For detailed discussion on the topic see, Martin Taylor "International Competition Law- A New Dimension for the WTO?" Cambridge University press 1sr Edition 2006.

28 For further discussion on this aspect see, Bhala Raj: "Rethinking Antidumping Law" College of William & Mary Law School Scholarship Repository Faculty Publications 1995; HeinOnline -- 29 Geo. Wash. J. Int'l L. & Econ. 1 1995-1996; at pg: 22.
POWELL, GoLDSTEIN, FRAZER & MuRPHY, BACKGROUND MATERIALS ON GATTANTIDUMPING ISSUES, tab A, at 17 (June 1994) (on file with *The George Washington Journal of International Law and Economics).*

29 See, Article VI of GATT, 1947.

antidumping law fails badly on both the counts of economic efficiency and distributional justice. And thus competition law has an upper hand in relation to antidumping.

Finally, because of the established flaws of the antidumping law and the perceived advantage of competition law over it, international competition law could well be a substitute of antidumping legislation. Moreover, because of the WTO obligations it is also politically expedient to replace antidumping with international competition law.
However since the issue is highly politicised it's still a humongous task to abolish antidumping laws no matter nations are well versed about the advantages of competition law. And no matter many nations have incorporated competition law as the part of domestic legislation nonetheless at international arena its adoption is not an easy exercise.

International reform of antidumping laws would require strong bipartisan support, particularly from European Union and the US which are particularly against the idea of such reforms.[30]Till now abolition of antidumping law and its substitution with competition law has been secured at only regional level. Best example is of Australia-New Zealand Closer Economic Relations Trade Agreement (CER)[31] which has incorporated expressly competition law principles.

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