

The Reform of Anti-Dumping in the Context of International Competition

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Abstract

The changing economies has extended the traditional GATT market-access focus on border measures to world competition in the Post-Uruguay Round. While the theoretical rationale for anti-dumping has always been weak, anti-dumping as a second-best policy instrument currently creates a large number of distortions.

The WTO Anti-Dumping Agreement made anti-dumping somewhat less protectionist. However, concern about the anti-competitive nature of anti-dumping and its potential to lead to significant protectionist bias remains untouched. This suggests that it might be fruitful to attempt to link anti-dumping and competition policies. The proposals include replacing anti-dumping with a regime of international competition law; applying anti-trust principles to refining anti-dumping application; obtaining agreement that allegations of dumping will be first investigated by the anti-trust authorities of the exporter's home country through the principle of positive comity; invoking a WTO-dispute settlement mechanism and returning the tariff negotiation mechanism. All of these proposals will inevitably encounter some practical difficulties. This paper argues that the best option at the current stage, is to encourage members of the WTO to forcefully enforce the WTO's Anti-Dumping Agreement provisions regarding competition factors in the dispute settlement discipline.

Key Words: anti-dumping/competition policy, WTO Anti-Dumping Agreement