

## Executive Summary

With a view to encouraging further discussion and debate, this Paper reviews a number of issues related to the appropriateness of an antidumping regime, particularly within a free trade area, as an instrument for disciplining cross-border, corporate pricing behaviour. The benchmark chosen to address the economic adequacy of this regime is that of market power and the resulting capacity of private sector firms to engage in predatory pricing. While recognizing that antidumping is deeply entrenched in the U.S.'s trade policy and political psyche, the Paper briefly outlines (through the lens of economic efficiency) the principal deficiencies of current antidumping practice and provides several suggestions as to the technical issues that an antidumping reform process might be able to address over time.

The Paper recognizes that there is a case to be made for relying more on respective national competition (antitrust) regimes, including the development of some common, internationally binding guidelines, to govern corporate behaviour, at least within the North American free trade context. It also recognizes that some observers have raised concerns about the perceived lack of certainty that the case-by-case antitrust approach now common internationally might create. The Paper suggests that analysts should focus this discussion on identifying which regime is more likely to lead to the greater number of false findings of "unfair" competition, and thus be more trade and investment distorting.

But the second half of the Paper does not focus primarily on whether competition policy should eventually replace antidumping regimes. Rather, it explores the antidumping-antitrust linkage from another angle: can we avoid eventual international rule-making on competition policy even if we want to? The Paper outlines several hypothetical examples of how competition policy regimes (with no treaty-based disciplines to sustain them) could be distorted if captured by import protectionists facing tighter rules governing the use of antidumping. This argues for developing, over time, a number of binding international guidelines to ensure that such a hi-jacking does not occur further down the road. With a view to encouraging further research, the Paper also presents a tentative list of such binding criteria that could guide the enforcement of competition policy within the free trade area in a manner that respects the complex nature of competitive markets, while reducing the uncertainties in that policy of which some recent critics have complained.

The Paper concludes with a brief discussion on the gradually changing dynamic in the U.S. that could increase the prospects for antidumping reform over time: the gradually growing dependence of the U.S. market on international trade and the