which export prices are maintained at levels higher than the domestic price, and the related issue of export cartels. His judgement is "that the present focus of anti-dumping legislation is, from an economic welfare point of view, misplaced. The diversion-of-business test applied in anti-dumping proceedings attacks free trade principles without offering any compensating advantages to domestic consumers. At the same time the historical origins of anti-dumping legislation, which are rooted in allegations of predatory behaviour, have been lost in an overriding concern with 'the mere shift in business between competitors'."[34] Dale goes on to remind us of Viner's prophetic assessment in 1955: "Maybe it (the anti-dumping system) is getting into the hands now of men who do have ideas, and these ideas may be protectionist. If such is the case, what they can do with that dumping law will make the escape clause look like small potatoes. They can, if they wish, raise the effective tariff barriers more than all the negotiation in Geneva will be able to achieve in the other direction."[35]

Grey has been sharply criticized by Professor Stegemann of Queen's University for too readily assimilating anti-dumping to anti-trust.[36] He refers to Grey's "assertion that anti-dumping legislation is an extension into the international arena of principles expressed nationally by statutes restricting price discrimination". Grey's treatment of this issue is very brief; he merely asserts that "anti-dumping legislation is in a broad sense a counterpart in commercial policy to legislation penalizing price discrimination in domestic commerce."[37] In a later study Grey noted the views discussed above of U.S. writers such as Metzger and Ehrenhaft, and stated: "Here is a major issue which will need to be examined internationally and, more importantly, nationally. . . .A thorough examination of this issue would perhaps lead in due course to additional provisions in the Anti-dumping Agreement".[38]

Professor Slayton is another Canadian writer on anti-dumping, but from a legal and procedural point of view, rather than from an economic or trade policy point of view. In his study for the Canadian Law Reform Commission Slayton argued that "The anti-dumping system is arguably irrational and inefficient. It is arguably irrational because the protection afforded Canadian industry depends, not just on injury experienced by the industry or on prices in Canada, but on prices in a foreign market; and because the protection given one Canadian industry will often be at the expense of another."[39]

Stegemann has been carrying out a detailed study of the Canadian anti-dumping system. His two most important essays are his paper in the Cornell International Law Journal, which is a case study aimed at identifying the costs a particular group of anti-dumping proceedings, and his paper on consumer interests in the implementation of anti-dumping policy, prepared for the OECD Symposium of Consumer Policy and International Trade in 1984. In the first of these two papers he demonstrated that an anti-dumping duty imposes certain costs on the country levying the duty (as is surely the case with all import duties). However, he noted one of the real difficulties that exist in carrying out empirical work in this area is that "data on alternative costs of importation, which would have applied in the absence of anti-dumping action, is not available."[40] The more recent study of consumer interests in anti-dumping policy is a useful review of the literature (largely American) and concludes by urging that the consumer interest should be taken into account by administrative tribunals assessing the impact of dumping, such as the Canadian Anti-dumping Tribunal (now the Canadian Import Tribunal).