who later became, during the Tokyo Round, the senior official responsible in the U.S. Treasury for the administration of Treasury responsibilities under the anti-dumping and countervailing duty provisions, after examining the differences between anti-trust law and anti-dumping law, concluded that "Orderly competition is the proven stimulus to increased productivity. . . .But the two statutes (anti-dumping, countervail) here considered, as presently drafted and administered, often seem to face in a direction contrary to this country's basic economic policy. Insofar as they are so oriented, they derogate from the national interest. The relative desuetude of these provisions in recent years does not justify their retention as the potential hatchets of rear guard protectionism."[19]

Many of the key articles in this growing debate are noted in the OECD report Competition and Trade Policies/Their Interaction, issued in 1984 and in the study by Klaus Stegemann presented to the OECD Symposium on Consumer Policy and International Trade in November 1984.[20] Writers from outside the U.S., e.g. Dale, Slayton, Grey, Stegemann, have also identified the conflict in policy; however, it is certainly the case that the argument has been most fully developed by U.S. critics of U.S. anti-dumping law.

It would appear that the issue began to come to the forefront of discussion during the extensive public examination of trade policy in the U.S. leading up to the Trade Act of 1974, the mandate for U.S. negotiators in the Tokyo Round. That examination concluded the detailed study of trade policy options conducted by the Williams Committee,[21] and a number of non-governmental studies. The discussion in the period up to the end of 1974 also reflected the increased interest in anti-dumping policy generated by increased use of these provisions before and during the Kennedy Round (1963-67)and the controversy, largely conducted in the hearings before the Senate Finance Committee, as to the implications for U.S. anti-dumping system of the obligations set out in the Kennedy Round Anti-dumping Code.[22]

An important statement of the argument that anti-dumping policy was in conflict with U.S. anti-trust policy was the report of the anti-trust section of the American Bar Association in 1974.[23] The majority took the view that vigorous use of the U.S. anti-dumping provisions would be in contradiction with anti-trust policy, and that the anti-dumping laws should be administered in a manner more fully consistent with the anti-trust laws. This report was the subject of a careful analysis by a leading U.S. anti-trust lawyer, Harvey M. Applebaum. He thought that the majority view in the report "may possibly overstate and oversimplify the issue".[24] And he pointed out that "the importer can often comply relatively easily with a dumping finding where the United States is his prime market, simply by lowering the home market price. For this and other reasons, imports in many industries, have continued to be strong and vigorous despite the imposition of a dumping finding. Indeed, in cases in which imports may be injuring U.S. industry by use of practices that violate the anti-trust laws, the anti-dumping may be a comparatively ineffective weapon to employ." (Emphasis added.) As Applebaum noted, it is often the case that the option of complying with the anti-dumping finding by lowering the home market price is an option available if the U.S. market is the major market of the producer, "as is frequently applicable, for example, in cases involving imports from Canada". This important comment suggests that the costs imposed by an anti-dumping duty on the domestic economy, for a country such as the United