First, current practice does not adequately take into account domestic market distortions when determining injury caused by dumped imports. A high degree of concentration that characterizes a local industry (as in a recent case involving the B.C. beer market) reduces price competition and inflates the level of the anti-dumping duty that might be required to redress the "injury".

Second, current trade remedy practice has not been able to resolve satisfactorily frequent cases of "technical dumping" (the great majority of dumping investigations initiated). This involves imports that are sold at less than the home market price (or a related value constructed with some flexibility by government regulators in the import market) in order:

- to compete with a cut-priced domestic product seeking to increase local market share, or as part of loss-leader marketing involving other products; or
- to introduce a new, directly competitive product (e.g., through pricing aimed at presenting a high technology good in a market, while recouping costs through the full life of the product).[37]

If an exporter prices his product in the import market in order to carry out these normal competitive practices, he can nonetheless run afoul of the importing country's anti-dumping regime. This is bad economics and bad public policy.

How can we respond to the issues and pressures just outlined? Observers have highlighted two broad approaches: a full-fledged shift from an anti-dumping regime to one based on competition policy; or the incremental, but still significant reform of anti-dumping procedures to reflect key insights from competition policy.

Competition law addresses domestic geographic price discrimination by suppliers who use different pricing practices in different regional markets to lessen competition through the subsidization of sales in one region from receipts earned in another. In practice, such geographic discrimination rarely occurs domestically. The same issue in a cross-border context is sometimes called "strategic dumping".[38]

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[37] The pricing of semiconductors raises additional problems related to rapidly falling production costs combined with a short product cycle pointing to aggressive pricing to recuperate overall costs through high volume, low margin sales before the next generation appears - see OECD, Globalisation of Industrial Activities, p. 157.

[38] See OECD, "Economic Effects", pp.7-8.