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Article — Digitized Version

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Intereconomics

Suggested Citation: Nicolaides, Phedon (1994) : Trade and competition policies in an increasingly integrated world economy, Intereconomics, ISSN 0020-5346, Nomos Verlagsgesellschaft, Baden-Baden, Vol. 29, Iss. 2, pp. 84-91,
<https://doi.org/10.1007/BF02928148>

This Version is available at:

<https://hdl.handle.net/10419/140444>

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Phedon Nicolaides*

Trade and Competition Policies in an Increasingly Integrated World Economy

The traditional boundaries between trade policy and competition policy are becoming fuzzier and less valid because firms increasingly compete at the same time in many different markets and in different ways. The following article examines a number of policy areas in which trade policy has significant effects on competition, and competition policy has significant effects on trade. It concludes that new ways of multilateral cooperation are necessary if trade and competition policies are to complement rather than contradict each other.

Economic policy in the major industrial countries during the last couple of decades is characterised by several paradoxes. While in most countries there was a withdrawal of the state from managing national markets (e.g. deregulation, privatisation), there was also increasing intervention in external trade. At the same time those who favour more protectionist trade policies claim that some countries have been far too liberal for far too long.

Yet another paradox is that despite the warnings that are often made by the OECD, GATT and other international institutions about the dangers from the recent resurgence of protectionism, trade has been growing at a rate that is more than double the rate of growth of most industrial economies. Of course, trade could have expanded faster had there been no barriers against imports. Although undoubtedly trade barriers segment the world economy, it is almost certain that during the 1980s border barriers were not as protective as intended, the reason being that during the 1980s there was also an unprecedented increase in foreign direct investment, which can further stimulate trade or partly substitute for it and thus circumvent border restrictions. However, even direct investment cannot avoid non-border, discriminatory regulations.

Yet another pair of conflicting policy shifts was that at the same time that protectionist attitudes were on the

increase, GATT members also launched the Uruguay Round with the explicit purpose of counteracting protectionist pressure, drafting new multilateral disciplines for sectors such as agriculture and services and strengthening existing disciplines on trade instruments such as anti-dumping.

These apparent paradoxes or policy inconsistencies are not unexplainable. They are symptomatic of the perception that existing multilateral rules have not been effective in opening up foreign markets and removing distortions to trade. That is why some countries have decided to act unilaterally. Such unilateral measures have also been motivated by the belief that trade is decisively influenced by domestic policies that fall outside the scope of existing multilateral rules.

It is indeed difficult to define the domain of trade policy. It is safer and more accurate to describe trade policy as having expanded beyond its traditional boundaries. The question which arises is not how it should be defined but how it should relate to other policies. This paper examines its relationship with competition policy. Looking at this relationship from the perspective of competition policy, the same question arises as well. Competition authorities also have to consider the implications of the increasing number and diversity of links between national economies (e.g. trade, direct and portfolio investment, technology transfers, cross-border corporate alliances, etc.). And, of course, if competition in national markets is increasingly influenced by factors in other markets, competition policy in one market may have significant effects in others.

We have now come full circle. Traditional definitions have lost their meaning as the interaction between "external" and "internal" policies deepens. This raises

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another question. Do we have the policy means or instruments to cope with the increasing number and complexity of links between economies? Or do policy-makers tend to address today's economic problems with yesterday's instruments? If the answer to the latter question is yes, it follows that existing multilateral rules do not reflect today's business conditions. Accordingly, a benign interpretation of the unilateral action mentioned above is that it has not been intended to undermine multilateral rules but to supplement rules which cannot adequately cope with the changes in the world economy. Irrespective of whether such interpretation is correct or not, the fact remains that trade measures and competition measures affect each other, sometimes strengthening but also sometimes weakening each other. Once this interaction is recognized, the issue that needs to be addressed by fora like the OECD and GATT is how to use trade and competition policies as instruments to break down barriers and remove distortions to international competition.¹

As a first step in exploring that issue, this article examines six areas in which trade policy has significant effects on competition and competition policy has significant effects on trade. Those six policy areas are not necessarily the most important or the most problematic. They are used to illustrate both the complexity of the issue at hand and the broad similarities of potential solutions. It is not possible here to examine either problems or solutions in any detail. The aim is only to highlight an approach of how we might begin to assess the issue in a more systematic way.

Ever Fuzzier Boundaries

There are at least three different ways of defining trade and competition policies. None of them is absolute and all of them are slowly becoming obsolete. The first definition is geographic: trade policy is responsible for external transactions, while competition policy is responsible for internal transactions. A variation to that definition looks at the intended effects of the rules: trade policy is concerned about the allocation of resources (or the conditions of competition) between markets, while competition policy is concerned about the allocation of resources (or the conditions of competition) within markets.

The second definition focuses on instruments: trade policy uses measures applied at the border, while competition policy uses measures applied within national markets. A variation of this definition is that the instruments

of trade policy directly relate to products while the instruments of competition policy directly relate to firms.

Finally, the third definition emphasizes differences in whom the rules address: trade policy mainly addresses or refers to governments and their actions, while competition policy addresses or refers to firms and their practices.

There is no need to belabour the point that none of the three definitions and their variants are watertight. The traditional boundaries between the two policies are becoming fuzzier and less valid because firms compete at the same time in many different markets and in different ways. They compete against each other within markets but they may also compete from different markets. Even in a world in which no country had any trade barriers and all countries had the same domestic competition policies, international competition could still be skewed by other policies that could make production in some locations less expensive than in others (e.g. favourable fiscal treatment; lax labour regulations etc.) The firms that produced in those locations would have a competitive advantage over others.²

Such a competitive advantage would be created even if policies were completely non-discriminatory. The distortions to international competition are far greater when (a) policies are discriminatory or the access of products and/or firms into foreign markets is restricted and (b) there exist other market imperfections (e.g. economies of scale, oligopolies) which further strengthen any advantages conferred by public policy.

Therefore the allocation of resources between markets is affected by both discriminatory policies (e.g. trade barriers, specific subsidies) and non-discriminatory policies (e.g. general incentives to capital investment). Measures that make a location attractive for production are not confined only to those traditionally thought to be within the purview of trade policy and, as mentioned above, they do not have to be discriminatory. For example, the availability of export subsidies would make production in a given location attractive, *ceteris paribus*, but so would policies that tolerate too much cooperation between companies. It follows that competition policy also has an influence on trade. Similarly, the existence or absence of the possibility of trade (i.e. the possibility of market entry) influences competition in individual markets. Again, measures that inhibit market entry are not necessarily those that are administered at the border. For example,

¹ The OECD has made several studies on the relationship between trade and competition policies. See, for example, OECD: Competition and Trade Policies: Their Interaction, Paris 1984.

² This argument merely implies that resources will move from one location to another and from one industry to another. Note, however, that a new equilibrium will emerge at which no firm would have any net advantage over the others because wages will be bid upwards and the exchange rate of the country with a surplus in its balance of payments will appreciate.

technical regulations can have both an entry-prohibiting effect and a competition-discouraging effect.

To put it simply, policies aiming to improve the international allocation of resources and to ensure fairness in international competition have to look at both measures that have a bearing on the attractiveness of different locations (i.e. "locational policies") and measures that influence the conditions of market access (i.e. "access policies"). The measures or practices that will be examined below have a locational dimension or an access dimension (some have both).

A well-known principle of economic policy management is that optimum intervention is achieved when the instruments used cover exactly the intended target area, activity or practice. Since the conditions of trade affect domestic competition and the conditions of competition affect trade and since no instrument of either policy has a coverage that spans both of them, optimum intervention in the economy to correct market distortions with an international dimension almost certainly would require a mix of instruments from both policies.

The increasing globalisation of national economies is making an anachronism of the traditional segregation of policy instruments into those belonging to trade policy and those belonging to competition policy, each of which has a different orientation. In a world of global companies and in an age of increasing economic interdependence, effective and efficient policy-making to tackle international problems requires, among other things, closer coordination of trade and competition policies within economies and between economies. In the following, it will be suggested that distortions to international competition partly stem from poor coordination between the two policies.

Anti-dumping

One type of trade measure with an impact on competition is anti-dumping regulations. "Dumping, by which products of one country are introduced into the commerce of another country at less than the normal value of the products, is ... condemned if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry." This is an excerpt from the first paragraph of Article VI of GATT. Notice that the Article does not prohibit dumping. It only allows importing countries to take counter-action when dumping causes or threatens to cause material injury to an import-competing industry.

But why should a country prevent injury from imports? By definition, if foreign firms are more efficient and their

products are cheaper, imports are bound to cause injury. The injury caused by dumping is considered unacceptable because the cheapness of imports is thought not to be the result of real efficiency. There is already a large literature on the issue of whether dumping is the outcome of "artificial" efficiency. The main conclusion reached in that literature is that firms may dump for a variety of reasons, without intending to be predatory or without intending to take advantage of barriers that protect their home market. Firms, for example, may willingly sell at low prices if by doing so they can off-load stock that dates quickly or they can cover their variable costs in periods of slack demand.

The recent spate of record corporate losses announced in a number of industrialised countries suggests that domestic firms can normally sell at a loss without falling foul of the law while foreign firms run the risk of being penalised for dumping. Domestic firms with little market power may also vary prices across regional markets. Foreign firms may not do that, even if regional price variations are a normal occurrence. Hence, one of the main problems with the current anti-dumping regulations is that they effectively prohibit foreign firms from doing what would otherwise be a normal practice within national markets.

Another problem is that the definition of "normal value" has little, if any, economic meaning. Since there is also a large literature on this point, suffice it to say that anti-dumping regulations treat foreign firms as if they have an investment horizon of six months or a year. This is because they are expected to cover all their costs, both variable and fixed, and to earn a relatively high rate of return at all times (e.g. profit rate of 8%-15%). The arbitrariness of this approach is immediately evident when considering that on average real returns on investment hardly exceed 4%-5%.³

One may think that these problems are not really significant because the rules catch only those large foreign firms that cause (or threaten) material injury to domestic industries. Since imports, by definition, displace domestic import-competing products (in expanding markets they displace potential sales) some injury must necessarily occur. What then is the difference between material injury and *de minimis* injury? Judging from actual anti-dumping decisions, *de minimis* is very small indeed, hardly exceeding more than one or two percentage points of, say, lost market share. A foreign firm that has been found dumping cannot hope to defend itself by arguing that it sold cheaply in order to be able to survive a period of cut-throat competition.

In conclusion, current anti-dumping regulations which are intended to restore fairness in trade also affect many other international transactions which would not normally

be regarded as unfair or would not be found to have been motivated by predatory intent. Anti-dumping measures may have been used to shield cosy oligopolies from foreign competition. Anti-dumping regulations also have an anti-competitive element when foreign firms are not allowed to compete as vigorously as domestic firms. Foreign firms cannot sell at a loss or vary their prices regionally, their pricing is judged against a benchmark of little business relevance and their attempts to wrench market share from their competitors are regarded as being injurious to the importing country's industry.

Trade-managing Arrangements

Trade-managing arrangements are a further type of trade measure with an impact on competition. During the 1970s and 1980s new forms of intervention in trade emerged, such as "voluntary export restraints" (VERs), "orderly marketing arrangements" (OMAs) and "voluntary import expansion" (VIE). VERs and OMAs are intended to preserve the status quo (i.e. protect traditional markets) while VIEs apparently aim to overcome foreign structural barriers and open up new markets. For this reason they are invariably accompanied by specific market-share targets. One never knows whether such targets are the minimum expected share to be held by foreign firms or whether it will degenerate into a long-term arrangement of a fixed nature. It is also unknown how products from different countries are treated.

Indeed one of the main problems with voluntary arrangements is that they are opaque. This means that their effects cannot be precisely quantified and evaluated by third parties. Their lack of transparency is one of the more plausible explanations for their existence. Other explanations highlight constraints imposed by GATT's safeguard clause, which requires that exporters are compensated, and by the general GATT prohibition of selective restrictions on fairly traded imports.

It is well understood that VERs are particularly detrimental to the welfare of the importing country because they function like quantitative restrictions and because they result in a loss of tariff revenue. OMAs tend to freeze sales and/or prices. In addition, both VERs and OMAs suppress competition because (a) they reduce incentives for efficiency or innovation (since market shares or prices are inflexible) and (b) make it difficult for potential new competitors to enter the market.

Because of their opaqueness, the indirect effects of all three types of arrangements on competition are less well

understood. But precisely because they are opaque they are more likely to be vulnerable to abuse. There are at least three reasons why official arrangements can be captured by private interests intending to subvert competition.

First, officially sanctioned meetings between companies provide the perfect cover for additional agreements which need not be known to governments. Second, any form of collusion has to be enforced. The fact that import-competing firms have the support of their government in their demands for protectionism is a persuasive factor inducing self-discipline among domestic and foreign firms. Third, officially sanctioned arrangements also provide the monitoring mechanisms which are the other essential factor for the preservation of cartels. Once such monitoring is in place it may be used for purposes other than those approved by governments.

Rumours about international cartels surface in newspapers with periodic frequency. As long as governments provide channels for the conclusion of private market-sharing agreements, we will probably never know whether those rumours are unfounded or whether they reflect something more serious. It is, however, disingenuous for governments to claim that they do not sanction cartels. They provide the weapon, hard-pressed companies have the motive, so someone is bound to make an attempt to "kill" competition somewhere.

Vertical Agreements

What is the optimum size of a firm is a question that has been taxing economists for a long time. We have not yet found the answer (probably we never will) but what is now well understood is that as firms grow, managerial diseconomies begin to settle in and incentives for efficiency, productivity, etc. soon lose their edge. As a result, groups of assets larger than a certain size are more effectively managed as independent entities. The relations between such independent entities either horizontally (between competitors) or vertically (between clients) are then determined by the competitive forces of the market. Competition will weed out those whose products are more expensive or of lower quality.

The market can best perform this function when products have standardised features which are well-known to all market participants. When, however, technology changes fast, making products ever more complicated, and when the performance of a final product very much depends on customised components, it also makes sense for independent firms to cooperate. In this context, cooperation improves the flow of information about the needs and requirements of both users and suppliers.

Cooperation may extend beyond the improved

³ Cf. E. Davis and J. Kay: *Assessing Corporate Performance*, in: *Business Strategy Review*, 1990, Vol. 1 (2); and E. Davis, S. Flanders and J. Star: *Who Are the World's Most Successful Companies?*, in: *Business Strategy Review*, 1991, Vol. 2 (2).

exchange of information. It may also involve voluntary acceptance of legally binding obligations, especially when the exchanged information is proprietary (e.g. through licensing), when the activities of the user affect the public image or reputation of the supplier (e.g. through franchising, exclusive dealerships), when long investment commitments are required under conditions of uncertain return (e.g. through cross-share holdings) or when what is exchanged is not legally definable (e.g. through controlling holdings intended to transfer better managerial techniques). Such vertical agreements are an example of a competition measure with an impact on trade.

There are many variations to these vertical arrangements all of which share at least one core feature: that dealing at arm's length in the market results in a performance by the firms involved which is inferior to that achieved by closer and preferential relations with each other. At the same time that they forgo the competition of the open market and its benefits, they also exclude other firms in the market. Indeed closer relations necessarily imply exclusionary relations. The problem for competition policy is to distinguish when the benefits of these corporate relationships are outweighed by the costs of reduced competition.

A country which has a more permissive regime for such vertical agreements than other countries becomes both a more attractive location for production and a more difficult market to enter. The problem of restricted access to distribution networks, which has received a lot of attention lately, is a consequence of vertical integration. Another aspect which also has trade implications is the tendency of component manufacturers to give priority to closely related firms. If the latter are of the same nationality, this practice stimulates exports from one country because manufacturers based in other countries would be at a disadvantage.

Once it is recognized that vertical agreements influence trade, the question is whether they should also be considered as impediments to imports or unfair promotion of exports. The question is easier to answer when a local distributor or supplier has substantial market power. Then there is both a competition and a trade problem which could be solved by a stricter application of the relevant competition rules. It is not so easy, however, to say what should be done when national rules confer a locational advantage which results in increased exports. If in this case vertical integration does not subvert competition, perhaps the appropriate response could be for other countries and firms to imitate foreign business practices which are apparently more effective (e.g. the Japanese "just-in-time" manufacturing technique normally requires close relations between component suppliers and

assemblers). There is no a priori reason why such a reaction would result in a negative-sum game. In general, diversity in national business practices and business regulations should be tolerated, if not encouraged, whenever there is no danger of negative-sum games where everyone becomes worse off.

Horizontal Agreements

As explained above, in certain situations vertical cooperation is more effective than market competition in promoting technological innovation and in improving product quality and marketing. The same considerations also apply to horizontal cooperation. In certain situations firms producing the same product may be able to raise their efficiency or the quality of their products if they cooperate, for example, in conducting basic research, training workers or developing new technical standards. Benefits from such activities cannot normally be completely internalised by any single firm. Hence, it makes sense for firms to coordinate their efforts and share the costs.

In general, vertical agreements are looked upon more favourably than horizontal agreements. When there are many suppliers and users, vertical agreements are unlikely to cause any significant restriction to competition. By contrast, horizontal arrangements are more likely to have a negative effect on competition. An agreement to reduce output, raise prices or apportion markets is clearly anti-competitive, with no remedial effects, for example, in terms of better products. Even when horizontal agreements are explicitly confined to cooperation on research or standards there may be indirect ways of signalling intentions on prices or output (horizontal agreements on prices or output are generally the most strictly prohibited forms of cooperation).

Like vertical agreements, horizontal agreements also affect trade. As in competition, some forms of horizontal agreements have a more direct and pronounced effect on trade. Export and import cartels are the more obvious examples of trade-distorting cooperation. Needless to say that cross-border agreements whose purpose it is to apportion markets also distort trade.

But, in general, horizontal agreements which are truly intended to increase, for example, R&D effort only indirectly affect trade (because exports may expand after the development of new marketable technologies). This is because the objective of horizontal agreements, and the reason why they are permitted, is to improve the conditions in which firms operate and which prevent them from appropriating the benefits of their efforts.

Therefore, in general there should be no objection to

agreements that aim to raise production efficiency or accelerate technological innovation. If they succeed in their objectives they may strengthen locational advantages conferred by the competition regime of a country. But then other countries should imitate this instead of seeking to ban it. Furthermore, such agreements should be open to all firms irrespective of their nationality. Given that the main objective of horizontal cooperation is to improve the business environment, foreign firms which want to participate and contribute accordingly should not be excluded. In these circumstances exclusion on the basis of nationality is suspect.

Government Intervention

Trade is distorted not only by restrictions and regulations that impede market access, but also by subsidies or taxes that confer locational advantages or disadvantages. In theory, subsidies or state aids are transfers (actual or potential) or other measures that confer a benefit on the recipient firm. In practice, it is not so easy to distinguish a subsidy (because the net effects of government action may be ambiguous), let alone determine whether a subsidy is justified or not. The two extremes of absolutely no government support of industry and of automatic intervention are without any foundation in mainstream economics. Therefore, the crux of the problem is to decide when subsidies are market-correcting and when they are market-distorting.

There is, however, an additional complication. State aids that correct distortions in one market may influence trade and competition between markets. How far such trade may be influenced is a question that GATT has grappled with for quite some time. GATT's solution to this problem has been to make a distinction between export subsidies and other, domestic subsidies. Article XVI urges member countries to recognize that their subsidies may damage the interests of their partners and to limit them accordingly. The Article uses stronger language in

requiring member countries to avoid export subsidies and to cease subsidisation when it reduces export prices to a level lower than domestic prices (there is an exception for primary products).

Action under Article XVI has to follow the established procedure of consultation, conciliation and dispute settlement, which is in future to be replaced by the new procedures agreed in the Uruguay Round. In this way, unauthorised retaliation is not allowed. By contrast, unilateral action that does not require prior GATT approval is provided by Article VI on anti-dumping and countervailing duties. Article VI represents GATT's other solution to the trade-distorting effects of subsidies and it is not limited to export subsidies. Any form of subsidisation that has the potential of causing injury is countervailable. In this way importing countries can respond to other countries' domestic subsidies that give an unfair advantage to their exports.

In fact GATT also affords remedies to exports that are disadvantaged by another country's domestic subsidies. For example, entry into a foreign market may be made more difficult when local producers receive public assistance. Remedies to such obstacles are provided by Article XXIII on nullification or impairment. Nullification or impairment of a country's rights occurs when another country's practice or measure (a) violates a GATT specific provision or (b) adversely affects anticipated rights under the Agreement. Hence, when trade liberalisation leads a country to expect that its share of a foreign market will increase to a certain level but as a result of the other country's subsidies market share stagnates or contracts, the exporting country can ask GATT to adjudicate. It would appear, therefore, that GATT has all the means necessary to deal with all kinds of trade-distorting subsidies. Actual experience would suggest otherwise.

First, all three Articles use benchmarks which may be difficult to quantify in practice (i.e. normal value, lower export prices and impaired benefits). Second, the

Peter Behrens (Ed.)

EEC Competition Rules in National Courts

Les règles de concurrence de la CEE devant les tribunaux nationaux

Part One: United Kingdom and Italy / Première Partie: Royaume Uni et l'Italie

The competition rules of the EEC are directly applicable in the Member States. Therefore, the national courts play an important role in the implementation of European competition law. The editor of this volume has initiated a research project which will analyse the national case law. This volume contains the national reports from the United Kingdom and Italy. Further national reports will follow.

The project is designed to make the national case law accessible to lawyers practicing in the field of European competition law. The Community organs get an overview over the implementation of Community law in Member States. Those interested in research find the materials for further comparative studies.

The authors are competition law experts from the different Member States. The editor is Professor of Law at the University of Hamburg and Member of the Board of Directors of the Institut für Integrationsforschung of the Stiftung EUROPA-KOLLEG Hamburg.

1992, 315 p., paperback, 88,- DM, 620,- sFr, ISBN 3-7890-2709-X
(Schriften des Europa Kollegs Hamburg zur Integrationsforschung, Bd. 1)



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countervailing provisions of Article VI suffer from the same defects as its anti-dumping provisions. Third, in a world where new technologies are continually being developed and competitiveness depends on technological leadership there may be no unambiguous way to say how potential benefits are impaired by subsidies so that it may not be possible to activate Article XXIII. Fourth, because GATT does not prohibit domestic subsidies but instead allows counter or offsetting action there are interminable arguments about the exact size of the advantage afforded by subsidies and the size of the permitted counter measures. Fifth, retaliation has to be authorised by GATT whose dispute-settlement procedures can be blocked by any of the parties to a dispute. It is not surprising, therefore, that the large countries prefer instead to resort to Article VI (to counter export-boosting subsidies) and extra-GATT means of applying pressure on other countries (to counter import-suppressing subsidies).

In principle, the problem of state aids could have been more simply tackled by a prohibition of subsidies that are given to selected companies and have the potential to distort either trade or competition. Indeed, the Uruguay Round reform of GATT's subsidy code takes a step toward that approach. It envisages a three-tier classification of subsidies according to which certain subsidies are permissible (e.g. for R&D), some are actionable (i.e. may be countervailed if they harm others' commercial interests) and some are completely prohibited (e.g. those that directly stimulate exports). But to make this approach work effectively it is probably necessary to put in place an extensive monitoring system such as that of the European Community to ensure compliance with the rules. And even within the EC, the Commission still has difficulty catching all the subsidies given to favoured national firms. Moreover, it has to be recognized that even a system like that of the EC would not necessarily prohibit general subsidies that make a location more attractive for production (e.g. state-funded training of workers). At least this kind of general subsidy is not prone to subvert competition between firms. The implications of these problems are further explored below.

Government Regulations

As already mentioned, the existence of market imperfections may justify corrective government action. The problem is that one country's market-correcting regulations may be another's trade barriers. There is no doubt that when a regulation discriminates against foreign products or firms it is just another barrier to trade or investment. Therefore, in the following we concentrate on those regulations that are at first glance non-discriminatory. These regulations generally fall into two

categories: those that affect products and those that affect firms.

Technical standards (voluntary) or regulations (mandatory) are a good example of what frequently inhibits market entry, which is supposed to take place on a supposedly non-discriminatory basis. Many, if not the vast majority, of standards are indeed intended to be non-discriminatory. They affect trade simply because they are different. They may, for example, require higher quality. But not all differences aim to secure a higher level of quality. When equivalent product specifications are not accepted, foreign products may be disadvantaged even unintentionally. The same applies to equivalent certification procedures.

Moreover, standards or regulations may de facto discriminate when they specify processes which can be more easily performed by domestic firms or when they specify the use of inputs which are more easily available to domestic firms. Even in this case, however, it may not be possible to state categorically that such regulations are unjustified (e.g. regulations for the prevention of electromagnetic interference may put less sophisticated foreign manufacturers at a competitive disadvantage).

Bearing these considerations in mind, it is not easy to devise precise rules to prevent technical regulations from becoming an impediment to trade. Again this implies that apart from a general rule prohibiting discriminatory regulations, distortions to trade may have to be tackled not through rules but through closer multilateral cooperation which could, for example, establish procedures for the definition of common technical standards or the mutual recognition of equivalent national standards. This approach is explored further below.

The other category of regulations that affect the international allocation of resources are those that regulate entry of firms into different markets. Entry is usually regulated when it is thought that due to market imperfections consumers may not get the products or services that have the quality they expect. Entry is also regulated when it is believed that the market concerned is of special social or strategic importance. For the purposes of this paper social or strategic concerns are ignored.

In some sectors entry may be legally impossible because the market is controlled by a single state-owned company or a few private firms with special monopoly rights granted by the state (e.g. telecommunications, transport). In this case there is little that either trade or competition policy can do. Market access will remain restricted until countries ask why it is necessary to award such exclusive rights. In most OECD countries it is increasingly recognized that exclusive rights are neither

the only, nor the most efficient, way of supplying services to the general public and the economy at large.

When market entry is in principle legally possible, it can still be made difficult by authorisation procedures which are unnecessarily onerous on new firms. Such procedures may range from opaque administrative decisions to fairly transparent but excessive certification requirements. Authorisation can be made considerably easier by recognition of the authorisation that foreign firms may already have in their home markets.

Entry may also be impeded by the practices of incumbent firms. It is here that entry can be facilitated by more effective use of competition rules. In most countries regulated industries are usually partially or wholly exempted from the disciplines of competition policy, although recent policy changes towards deregulation and privatisation have circumscribed those exemptions. In regulated industries, however, the legal possibility of entry may be of little value if the dominant incumbent is allowed to use predatory tactics to scare away potential new competitors.

Outlook and Conclusion

Now that the countries which used to have centrally-planned economies are supposed to learn the virtues of the market system, there is little excuse for other countries not to accept the full discipline of the market. Indeed, a first and important step towards making trade policy more competitive and competition policy more pro-trade is to give more leeway to the market to determine the international allocation of resources. This simply means removal of remaining barriers to trade and market access.

In some cases, of course, there are no overt barriers to be removed. For example, neither anti-dumping regulations, nor certain exemptions to normal competition rules (e.g. import cartels) are barriers per se. Their anti-trade or anti-competitive effect could be reduced by better coordination between trade and competition authorities. If such coordination is to achieve its objective it should aim to expand the factors taken into account by either trade or competition authorities. More specifically, it should ask whether a particular measure is liable to distort trade or competition. The role of existing measures and procedures should be evaluated critically. Is it necessary, for example, to take anti-dumping action against small exporters?

While countries can unilaterally improve internal policy coordination, it is also clear that for at least two reasons additional multilateral cooperation is indispensable. First, it is difficult to devise general and meaningful rules concerning non-discriminatory regulations that inhibit

market access. For example, problems caused by differing technical regulations require closer cooperation on the setting of new standards. Second, it is also difficult to define general rules on policies that determine a country's locational advantage. It is not easy, for example, to draw the line between prohibited and permitted subsidies (apart from saying that trade or competition should not be distorted).

As economic interdependence increases and links between countries multiply, it is contradictory for countries to complain of the problems caused by the domestic policies of their partners without being willing to accept tougher and more extensive multilateral disciplines.

To improve the efficiency of the international allocation of resources it is imperative to ensure that trade and competition policies complement rather than contradict each other. This note has suggested that trade policy, in addition to its obvious commercial effects, has an influence on competition within countries. And competition policy, in addition to its domestic effects, has an influence on trade between countries. The international allocation of resources is inextricably affected by both.

As a result, optimum policies cannot be designed by considering each in isolation of the other. Improved policy coordination can be achieved both by institutional changes and by broadening the range of factors taken into account by the various agencies. The purpose of such coordination would be to reduce the anti-competition and anti-trade distortions caused by trade and competition policies respectively.

To achieve that objective, further unilateral and multilateral action is needed. For example, OECD members should consider ways of bringing their anti-dumping regulations to today's business reality, stop supporting public or private arrangements that rig the market, and enforce their competition rules even if the apparent effect is an increase in imports. Because these changes would probably have an adverse effect on domestic import-competing industries, it is probably politically expedient to try to implement them through coordinated multilateral action.

It is certainly economically expedient to find new ways of multilateral cooperation if other domestic policies are also to be prevented from distorting the international allocation of resources. The view that domestic policies are non-negotiable is too doctrinaire and divorced from economic reality. Because this kind of cooperation would have to proceed on a case-by-case basis, it is likely to be slow and protracted. It may, therefore, be necessary to start by reinforcing existing multilateral institutions or building new ones.