Economic globalization and international competition - institutional responses.

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Abstract:

Economic globalization brings forms of global governance. Multilateral economic institutions, such as the IMF and the WTO, emerged as mechanisms of regulation of international markets. Countries decide to abide the rules emanated from transnational institutions in order to tackle externalities derived from otherwise unregulated market transactions in international trade and finance. For developing countries, the adoption of rules from the abovementioned institutions is believed to enhance institutional learning, hence, contributing to economic development.

Contrary to what occurred with trade and finance, there was no headway on a global institutional framework to regulate international competition. Yet, global firm strategies in the area of production and services may have effects on international and domestic competition, for example: cartels with transboundary effects, agreements to exclude foreign competitors, abuse of dominant positions, mergers between companies in different countries, vertical markets integration in regional trade blocks, among others. There is a trend toward "globalization anticompetitive practices".

This paper discusses with this apparent contradiction, that is: the rise of antitrust aspects in the global economy was not matched by an international institutional response. First, it discusses some stylized facts regarding the relation between economic globalization and competition, focusing on trade issues. Second, it discusses the theoretical foundations of trade and competition policies, emphasizing the political economy of antidumping, a policy where trade and competition interrelates. The third section suggests that, despite the lack of a formal international regimes, there has been institutional convergence in competition policies among countries; based on "order without formal law" and "competition advocacy".

KEYWORDS: globalization, trade, antitrust, institutions
JEL CLASSIFICATION: F55, F68, L4

Summary

Introduction

Antitrust policy is instrumental to a more efficient and innovative economy, to preserve the economic welfare of a society and to encourage a fairer income distribution. In a competitive economy, consumers have a variety of products at lowest prices, higher production and employment levels; resources are used efficiently and innovation thrives. Antitrust is a public policy that aims to prevent and prosecute actions that may limit or impair competition, as well as inhibit the exercise of market power by economic actors.[1]

Trade policy is a set of measures and actions that determine the degree of economic integration of a country with foreign markets, the depth of negotiated trade agreements, as well as the main instruments applied to trading partners. Among these instruments: import taxes or tariffs, quotas and non-tariff barriers, trade defense measures, export subsidies. From an economic point of view, trade policy may influence domestic activity, employment and productivity levels to the extent that it opens domestic sectors to international markets. Trade policy increases the level of exposure of national firms and economic sectors to imports and it may spur investment and firm entry, thus, it has an impact on the domestic competition.

[1] Competition policies can be understood as broad public policies aimed at increasing the overall competition environment in the economy, for instance, privatization, de-regulation, investment or trade openness. Antitrust policy, by its turn, relates to specific policies and legislation to curb "market power" of monopolies and oligopolies. The term is more frequently used in the United States, as a reference to the Sherman Act that enact the U.S. antitrust legislation in 1890. In this essay, both terms are treated as synonyms, although there is this subtle conceptual difference.

This essay focuses on the relationship between economic globalization – especially trade[2] - and competition in world markets. Recent phenomena and processes of the international economy have increased the interface between trade and competition. From a historical point of view, trade liberalization policies - understood as reducing tariff and non-tariff barriers- were part of structural reforms in the economies of many countries in the last decades of the 20th century. Conversely, these reforms sought to decrease the weight of public and private monopolies and oligopolies in several economic sectors, by means of, for example, privatization and de-regulation. Both policies are complementary, since are intended to increase efficiency in the economy. However, trade liberalization is a necessary but not sufficient condition for improving the domestic competitive environment, which requires an institutional structure, consisting of a legal framework and a competition/antitrust authority.

The capture of public policy by private interests is a phenomenon typical of traditional market democracies also present in emerging markets economies, with less solid institutions. In this sense, trade policy is often characterized by the action of interest groups, influencing governments to print a *mercantilist logic*, that is, to increase exports and to reduce imports. Such a position, although consistent with interests of domestic producers, by enhancing market power of domestic monopoles and oligopolies, may reduce domestic economic efficiency and consumer welfare. Besides, policies favoring exports, for example, when increasing the market power of exporting firms, may be detrimental to trade partner's internal markets. These contradictions are present - especially - in a policy that aims to protect domestic competition with claims of *fair trade* - antidumping. In short, this essay aims to debate political economy aspects of trade and antitrust policies in order to remark the lack of transnational institutional convergence in competition in global markets.

This work is organized as follows. Section 02 debates economic globalization and competition, relating to the governance of international trade relations. It discusses the lack of progress in negotiations about competition in the multilateral trade agenda, *vis-à-vis* changes in the productive processes of transnational corporations - a phenomenon also known as "integration of global production chains".

Section 03 examines the constructs of trade and competition, according to economic theory. Emphasis is given to the fact that the theory of comparative advantage has, typically, an international character; whereas economic efficiency and welfare are designed to a domestic context. Globalization and dynamic aspects of trade policies add further complexity and change the logic of these theoretical traditions. This section discusses further the political economy of antidumping, a policy characterized by an apparent contradiction between competition and trade theories.

Section 04, discusses that, despite the absence of a multilateral/international regulatory framework and the political economy aspects of trade and competition, there is a trend toward "informal" convergence in the governance of competition issues. This convergence is based on "soft law", "order without law" and "networking". This section also discusses "competition advocacy', where policy makers attempt to apply competition precepts, based on the best practices of international organizations, without a formal binding. The next section concludes.

[2] This work emphasizes the trade related aspects of economic globalization, leaving financial aspects for future studies.

2 – Economic Globalization and Competition.

2.1 - Globalization and governance.

Globalization forces led to deeper economic interdependence among countries. National economies became so closely intertwined that the traditional dichotomy between domestic and foreign/international economic policies became less significant. As consequence, globalization reinforced the tension between rules addressed in international agreements, such as multilateral trade agreements, and domestic policies[3]. This paper emphasizes the economic and political aspects of globalization; therefore, a definition that fit is: “set of economic and political structures and processes deriving from the changing nature of the goods and assets that comprise the base of international political economy” (Cerny 1995).

The liberalization of trade and investment, the financial regulatory reforms and the rapid technological developments contributed to the process of globalization. These developments have changed fundamentally the conditions of competition. Markets have become more open and interconnected, increasingly transcending national borders. Thus, these trends also changed the characteristics of trade restrictions: previously levied by national governments, these restrictions are increasingly imposed on and by firms, as their role in global markets rise (Büthe 2015, Amaral 2013).

Both by the growth in trade flows of tangible goods, as for the integration of financial markets and for the expansion of direct investments among countries, economic globalization intensified the interdependence between national economies and international markets. Thus, there is a tendency toward a weakening of the capacity of national governments to carry on autonomous policies and there is a natural shift toward transnational forms of governance[4]. Contradictory as it may appear, economic globalization did not lead to the maturing of transnational forms of governance in *competition* issues, which took place in international trade and finance.

Some methodological issues are necessary at this point. First, it is important to conceptualize "governance": it can be defined as the manner in which power is exercised in the management of economic and social resources. In short, "governance" qualifies the use of political authority. Therefore, when one refers to an international political economy system set up in the second half of the 20th century – also known as the Breton Woods order – a group of the institutions were created to allow the *governance* of that system. Institutions such as the International Monetary Fund (IMF), the Bank of International Settlements (BIS), the World Bank, the General Agreement on Trade and Tariffs (GATT), latter turned into the World Trade Organization (WTO),

[3]Although the concept of "globalization" is somewhat wear out due to overuse or imprecise conceptualization, it is a concrete and multi-dimensional phenomenon. The economic is the most widespread and discussed aspect of globalization, but it is not the only one. There are many references in the literature: for earlier, but still valid, evaluations about economic and political globalization, respectively, see Rodrik (1997) and Cerny (1995).

[4] Bardhan (2006) provide a recent discussion about economic globalization, this author discusses, with detail, the blurring of domestic and international economic policymaking and the effects of the international economic order in the welfare state policies of nations.

among others, provide the means to the management of the political and economic system[5].

Hence, economic interdependence – derived from the integration of markets and the expansion of trade and financial flows – brought about forms of global economic governance. In this context, multilateral economic institutions, such as the ones quoted above, emerged and consolidated as mechanisms of regulation of international markets and created minimum rules of coexistence between countries. The literature of international political economy (IPE), also known as "open economy politics", discusses the rationale behind the upsurge of these forms of global governance (Lake 2009)[6]. Broadly speaking, these institutions were designed to tackle negative externalities derived from unregulated international economic relations, such as financial flows, or domestic (protectionist) trade policies, that could weaken the international order itself. In finance, for example, it is recognized the necessity of addressing short run financial flows, that can undermine policies of monetary and fiscal stabilization by domestic authorities.

Although mechanisms of "international governance" were instrumental to tackle the effects of economic globalization, a second methodological point should be made: the *direction of causality*. This is a recurrent problem in social sciences. Hence, it can be argued that it was not economic globalization that triggered forms of global governance; but the institutions of global governance and the political economy system that made possible the expansion of trade flows and capital mobility. It is difficult to untangle the direction of causality; this paper suggests that economic globalization and the institutional responses go together[7]. The aim of this essay is to discuss the absence of an institutional framework in global competition issues that exist in other international economic aspects, such as international finance and trade relations.

In this sense, trade has experienced a significant advance in the construction of multilateral rules among countries, leading to a significant reduction in import tariff – through successive rounds of GATT negotiations - and other trade related agreements, such as on services (General Agreement on Services – GATS) and on intellectual property (Trade Related Intellectual Protection –TRIPS), set up at the conclusion of the Uruguay Round, that established the WTO. In global competition, however, despite attempts, there was virtually no advance. A more structured and formal effort within the multilateral framework was attempted when member countries launched a working group on the interaction between trade and competition policy (WGTCP) on the WTO Ministerial Conference in Singapore in 1996. This project failed, however, amid the

[5] For an overview of these concepts, especially, applied to international institutions, Drezner (2007), Part 01. The literature of International Political Economy discusses the expansion of "international regimes" a set of rules aimed at improving forms of international governance in several , not only economic, issues.

[6] Kahler and Lake (2003) provide an earlier discussion of governance in the world economy. Several authors in that edition discuss transnational regulatory governance in issues ranging from finance to intellectual property rights, health and corporate accounting standards. There is a void regarding the competition aspects of globalization in this literature, though.

[7] Robert Franzese Jr. (2006) elaborate on multicausality, context-conditionality and endogeneity applied to comparative political economy, the conclusions can be extended to the international context, where relations among variables can be even more complex.

difficulty to the advancing of the Doha round itself (Hufbauer and Kim, 2008). The recent agreement closed in Bali did not encompass the discipline of competition[8].

It is worth mentioning that, in parallel with the multilateral trade liberalization processes, regional forms of economic integration also liberalized trade flows among country members. There are several regional integration experiences since the 1950s, creating free trade areas, customs unions and common markets. However, only the European experience evolved to an economic integration mechanism that embarked several disciplines, culminating into a full monetary and economic union. Hence, the European integration project erected institutions aimed at regulating markets. At the level of full economic integration, member countries seek to adopt a common regulatory framework in order to expedite economic convergence and also to tackle the negative externalities associated with the membership of countries with different levels of development and domestic governance. Therefore, the European integration project, since earlier stages, created a common competition policy regime, complementary to the national systems, where there was one, in order to curb market power of European firms. A common competition regime was instrumental to the advancement of European values in the regulation of markets and towards a single market. The institutional convergence among contracting countries in a regional agreement is also a phenomenon of globalization[9].

2.2 Globalization, value chains and competition.

Several characteristics of the global economy, especially, those related to the productive dynamics of firms, have importance for competition issues. For instance, the trend towards vertical productive integration through global value chains, which, among other characteristics, splits the assembling line of a single product among different countries. The reduction in tariffs for inputs and intermediaries enabled firms to fragment their production lines in various locations in order to explore the comparative advantages of different countries and to add value in each production stage (Aldonas 2013). These productive chains are organized in regional setting in which a country takes the lead in terms of supplying factors of production such as "capital", high skilled labor and/or high-end technologies, whereas other countries provide low-technology inputs or low skilled labor. The fragmentation of production chains was facilitated by preferential trade agreements (PTA). The empirical assessment of Estevadeordal *et al* (2013) indicates the importance of a PTA dummy as an explanatory variable for the foreign value added from country *j* in the exports of country *i* – the measure to gauge the integration of value chains. However, the authors suggest that the existence of PTAs is not a requirement for integrated global chains, as they report that the Asian companies were able to create value chains, ahead of formal economic and commercial agreements among countries. Proximity and infrastructure costs also are important determinants in this process.

[8] For a recent account on the WTO meetings in Bali, Evennet and Jara (2013). The lack of headway regarding competition regimes at the WTO is puzzling when one considers that the doomed 1947/49 Havana Charter for an International Trade Organization (ITO), which created the GATT, included rules concerning anticompetitive business practices already 50 years ago. At that time, there was no consensus regarding competition enforcement rules in the world economy, just like now. Hufbauer and Kim (2008).

[9] Warlouzet (2010) describe the institutional history of the creation of a common European competition policy. Manganelli *et al.* (2010), by their turn, analyze the institutional characteristics of this policy, especially, regarding the relation with regulatory policy.

Real economic integration carried out by firms jump ahead governmental treaties. Yet, institutional convergence is necessary and it is enforced due to productive requirements, for instance, in terms of production standards. Hence, a set of informal, non-bidding rules emerged and, them, were systematized by industrial codes. These rules may allow transactions among firms, but, to the extent that the codes set up exclusionary techniques, they may also become a form of protectionism or anticompetitive practice. Standards in production and operation of goods in electronics industries is described in Utton (2006) as a source divergence between (competition) authorities of the U.S., Europe and Japan.

Another characteristic of globalization is the increase of foreign direct investments (FDI) and in the number of subsidiaries of transnational companies. Companies have global strategies, pursuing national comparative advantages and seeking new markets. In this process, companies acquire assets and, as the reduction of tariffs on inputs goes on, there is an incentive to allocate productive plants in different countries. Consequently, there was an increase in the number of international mergers and acquisitions (*M&A*). These movements can be accompanied by abuse of dominant position and monopolization in markets were the assets were purchased. Additionally, the greater control over productive inputs due to vertical integration in the value chains, for instance, can foreclose markets to competitors (Sekkat, 2006). Therefore, the opening to foreign investment, one of the premises of the liberalizing reforms, does not exclude the possibility of anti-competitive practices by private companies or even by governments

The liberalization of world tariffs in the tradable sector will not improve world welfare in the presence of imperfect competition market structures in the distribution of domestic markets. According to Wooton and François (2008), the degree of market power exercised by distribution sectors can serve as an effective import barrier, according to their empirical exercise involving 22 OECD countries vis-à-vis 69 trading partners. They mention the example of textiles and apparel in which the rents due to the increase of trade in the last decades may have been partially captured by large retail chains. Hence, a GATS based agreements may boost trade only if addresses the issue of competition. For these reasons, Francois and Horn (2008) discuss the issue of antitrust in open economies and how the lack of multilateral institutional framework in this discipline can be a true setback to world liberalization. I shall discuss these ideas in the next section.

In a nutshell, companies are promoting global strategies in production and services, seeking comparative advantages of different countries, setting up production standards, relocating productive factors and entering new markets through increased direct investments and subsidiaries. These international movements can have effects on competition, for example: cartels beyond national borders, agreements to exclude foreign competitors, abuse of dominant position, mergers between companies in different countries, vertical markets foreclosure in regional trade blocks, among others. Despite such phenomena, contrary to what occurred in the sphere of international trade, there was little advance of a legal framework for international competition in multilateral and regional agreements, with the exception of the European Union. Briefly, it is worth stressing that the process of economic integration brought about by the expansion of trade and foreign direct investment did not prevent the upsurge anticompetitive practices.

2.3 - Incentives and political economy in competition policy

Trade policy is international in nature and deals with the incentives and barriers imposed by national governments to foreign trade and investment. Due to the characteristics of trade policy, liberalization advanced in the diplomatic/trade negotiations among nations on the basis "mercantilist" interests, that is, trade surpluses and the accumulation of foreign exchange is positive, while trade deficits are bad for the domestic economy[10]. To offset the mercantilist bias, the various negotiating rounds ensured mutual “markets access" among trading partners, hence, the principle of "reciprocity" is a cornerstone in the GATT/WTO system. These principles set the tone to the domestic incentives to join the agreements: in a practical sense, exporting groups supplying to world markets would benefit from “market access” and “reciprocity”; compensating for the possible losses from groups competing with imports from partners that were granted reciprocal benefits. Hence, trade liberalization created important political economy incentives, toward integration with the international economy. Free trade is beneficial to sectors with relative comparative advantage, it improves national income and welfare, thus, further enhancing the process. Therefore, domestic exporting interests were instrumental to advance international trade agreements.

Competition policy, in contrast, deals with measures to curb market power, due to the action of private firms in monopolistic or oligopolistic industrial structures, which may or may not have international consequences. Despite the existence of private anti-competitive practices perpetrated by firms on an international scale, the degree of convergence regarding this discipline among countries was much weaker than the traditional trade issues. In the recent round of WTO negotiations (Doha Round), this degree was inexistent, culminating with the leaving behind of the multilateral discussions about competition rules. What are the possible explanations to this stalemate? Competition policy originally is "domestic" in nature, referring mainly to the national economic (consumer) welfare, within the jurisdiction of a country. This type of regulation, ultimately, includes foreign firms and, in fact, economic globalization increased the cases of anti-competitive behavior with international effects. Antitrust domestic authorities have faced cases that go beyond their domestic borders. Both the U.S. and the E.U. competition authorities have already condemned anticompetitive practices with effect in its territory, regardless where the restrictive conduct was first perpetrated. In the control of market structures, the same approach has been adopted. This is called *extraterritoriality*[11]. Therefore, competition policy has been imposed by national legislations, according to the enforcement ability and the incentive of each country, without any adjustment and/or effective international control. From a legal point of view, this may cause conflicts regarding the sovereignty over the extraterritorial application of national legislation, but as it shall be seem in the fourth section, there is a trend toward institutional convergence even in the absence of a formal multilateral agreement.

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[10] Adam Smith proved this is a fallacy – such policies are not applicable to modern economic management, as “*bullion”* accumulation caused inflation in surplus countries. Viner (1948) discusses mercantilism.

[11] Extraterritoriality refers to the argument made by some countries (particularly the United States) so that their antitrust laws are applied in their jurisdiction even if the alleged misbehavior occurred in another jurisdiction (Utton 2006, chapter 03). Sokol (2011) also discusses extraterritorially in the (lack) international institutional context.

Summing up, due to political economy interests, the maintenance of a good competitive environment tend to be diffuse, in comparison to trade policy, which addresses localized interest groups. Although competition can be considered a "public good", as it generates non-rival and non-exclusive benefits to all participants in a market, there is no well-defined group willing to do push (*lobby*) for antitrust policy whereas there is in trade policy – where exporting and/or import-competition groups stand out[12].

The incentives for the institutional framework of competition policy are peculiar to each country. The perception about the need for a good competitive environment – as well as the importance given to the antitrust law *vis-à-vis* other public policies tends to vary. Even assuming that countries value competition in the economic order, in general, there are choices in economic policies, depending on the stage of economic development and maturity of the economy, as well as of political and institutional domestic factors (Weymouth 2015). Additionally, the relation between trade policy and competition policies involve other policy spheres that add complexity to that balance. A common conflict regards industrial policy – for example, credit incentive or preference margins – which can favor domestic oligopolistic groups' vis-à-vis international competitors[13]. Kowalski et al (2013), for example, discuss the role of state-owned enterprises in trade policy, and the extent of their influence in domestic competition environment as well as in exporting markets. It is known that many SOEs operate in an imperfect competition market structures.

In contrast, the effects of anti-competitive practices of global suppliers and international private companies on domestic markets, as suggested by Wooton and François (2008), due to monopolization, could harm economic development. Therefore, the lack of the appropriate means to combat such practices may impose significant costs to developing countries. Hence, not to equip the country with an effective competition policy in order to protect domestic actors, and to promote selective investment and industrial policies, can turn out into a flawed strategy and undermine the domestic economy, as it may make life easier for monopolistic and oligopolistic foreign companies operating in the country. The point to be emphasized is that each country and society has its political option to contemplate competition, but given a globalized economy the lack of doing so may hamper economic development in least advanced countries. (Tojo 2002).

In short, trade liberalization, by itself, is not capable of sustaining a good competitive environment. Each country should weigh the feasibility of choosing a more or less restrictive competition policy to tackle the challenges of the global economy. Economic globalization has added new complexities, that is, imperfect competition, rather than perfect competition, is *increasingly* the rule in international trade. Next section, the different between the conceptual aspects of international trade and competition are revised to sort out this relation.

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[12] Olson (1969) explained how the *logic of collective action* behind interest groups influences domestic policy agendas. This theory has long been applied to trade policy (since, Magee et. all 1982), though it has been less tested in competition policy context.

[13] Another OECD work (2008) emphasizes the possible complementarities between competition, investment and foreign trade policies (Bartók and Miroudot 2008). This theme will be addressed later.

03 – Conceptual connections and theories of international trade and competition in global markets.

Fox and Ordover's (1995: 10, *apud* Utton 2006) recognize that "antitrust policy relies on less secure and transparent economic foundations than the traditional international trade theory that influenced the processes of trade liberalization in the past four decades". Yet, both policies are based on the assumptions of neoclassical economic theory, by which markets create optimal allocation of scarce resources (production factors), bringing greater economic efficiency and social welfare. Both trade and competition policies acknowledge the primacy of competition as instrumental to achieve these goals (efficiency and welfare). The perfect competition model, however, can hardly explain what is seem both at international and domestic markets in the modern economy. Contemporary economic order is characterized by *imperfect competition* – that is, oligopolistic, monopolistic and monopolistic competition market structures.

Therefore, institutional responses were devised to tackle market failures arising from protectionist policies at international markets as well as from market power in domestic markets. The problem happens because market power (*imperfect competition*) is increasingly a part of international economic arena and they might not be properly addressed either by domestic antitrust institutions or by current international trade treaties. This section will revise economic theory behind trade and competition policies suggesting a possible institutional theory explanation to get around the current stalemate, which will be further discussed in the next section.

3.1 - Trade, comparative advantage and international institutions

The theory of international trade is based on the concept of *comparative advantage*: countries have mutual benefits to specialize in what they are more capable to produce, then, engage in international exchanges. Therefore, there is an efficient allocation of resources and the returns from the productive factors (capital and labor) are maximized, not only in the domestic, but also at the global level. The comparative advantage model assumes *perfect competition*, that is, given the free flow of goods in international markets, prices will equal marginal cost, and supply and demand will be in equilibrium. Additionally, the *Heckscher-Ohlin* (*H-O*) model indicates that domestic sectors with comparative advantage - those that use more intensively the abundant production factor in the country - will benefit from free trade and integration with world markets. Hence, such industries become competitive exporters, accruing more revenue and improving national income, thus, creating additional incentives to trade liberalization. Conversely, with trade openness, industries using intensively the scarce resource of the country compete with imported goods. However, since they may be less competitive than foreign rivals, even at the domestic markets, these sectors will experience revenue loss due to import competition and will oppose trade liberalization. Therefore, trade policies might be an outcome of a political economy game played domestically.

There might be a decrease in economic welfare in the presence of domestic tariffs - or their equivalents - here understood as the difference between the domestic and international price of a product. The classical analysis indicate that import taxes benefit the domestic producers and the government to the detriment of consumer. A negative net welfare effect ensues if the loss of consumer surplus is not compensated by the

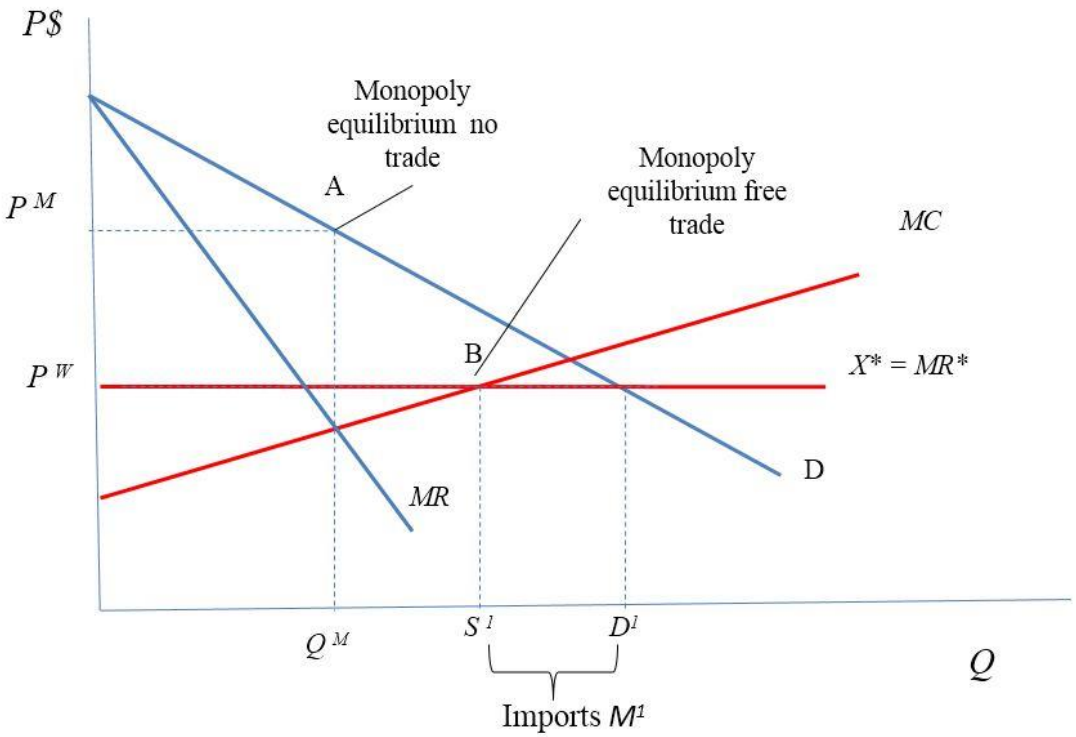
increase in producer surplus and government revenue after protection[14]. Normative judgments follow from these findings, i.e. can be disadvantageous for a country to artificially protect an industry with world markets.

This situation of welfare loss is more detrimental when domestic producers are concentrated. Inefficiency will be greater, because the protected sector can exercise monopoly profits. According to Schmalensee (1989), all things equal, the ratio between imports and domestic consumption tends to be negatively correlated with profitability of domestic sellers, especially if concentration is high. Despite the possible loss of domestic income, as long as import-competing sectors are able to influence polices, they may be able to pass protectionist measures.

Figure 01 describe how a domestic monopolist may experience constrained market power due to free trade. With the absence of trade, a domestic monopolist sets marginal revenue (*MR*) equal to marginal cost (*MC*) and maximize profits at point A, charging price P^M and supplying quantity Q^M. Under free trade with fixed world prices at P^w, the domestic monopolist firm faces competition from other countries' exports X^*. The domestic firm cannot raise prices above P^w, otherwise it would lose customers to imports, hence, X^* is also the demand curve *D* of the domestic monopolist. Since world prices are given, marginal revenue MR^* equals demand *D* and profits are maximized at point *B*, where marginal revenue MR^* equals marginal costs *MC*. The domestic firm supplies S_1 and consumers demand D_1. The difference, $M_1=D_1-S_1$, are the imports. The domestic monopolist sets its prices at marginal costs and the same equilibrium of free trade - under perfect competition - ensues.

[14] Krugman (1989) and Sacher (2005) shows that there are differences when the protection is set up as a quota instead of a tariff; due to monopole power, the former has a more pronounced impact on welfare, while, as long as, there is free entry, the later may be less harmful. The analysis is more complex when, in addition to tariffs, trade defense mechanisms, such as antidumping, are applied by domestic monopolists.

Figure 01



Source: Feenstra and Taylor 2011

Moreover, protectionist measures may create negative externalities causing a decrease in global welfare. The shrink of trade flows associated with periods of slump in the global economy is a fact, such as the outcome of the Financial Crash in the 1930s, which created a situation of "*race to the bottom"*: by increasing tariff walls, countries pursued *mercantilist* policies and attempted to keep foreign reserves. These measures decreased world trade and postponed the upturn of the international economy. The global financial crisis of 2008 also brought about severe slump and protectionist measures but the drop in trade flows was considerably smaller due to the international institutions that attempted to mitigate the effects of the crisis (Evenett 2010). Domestic protectionist measures were addressed by formal institutions that were able to create forms of international governance, thus avoiding "*race to the bottom*" policies. The liberal institutionalist IPE literature discusses the creation of such institutions since the end of World War II: from an institutional perspective, multilateral trade agreements were designed to avoid a domestic protectionist backlash and to enhance global welfare. Much of the literature is concerned with *endogenous* sources of protection; hence, international agreements – by committing domestic support toward trade liberalization – tied the hands of policymakers and avoided the return of restrictive policies. The Bretton Woods institutions were instrumental to advance a liberal ideology and to tackle domestic protectionist pressures.

As simple as the *perfect competition* model might be, it provided a powerful justification to the liberalization of world trade and to limit domestic market power. Therefore, despite domestic protectionist pressures in period of crises, the strong headway in trade liberalization in the last decades of the past century relied on the conceptual clarity of international trade models. The tariff reduction movement was particularly strong in primary or agricultural products, in which international markets approach perfect competition more often.

3.2 - Antitrust economics and imperfect competition in global markets

The economics of antitrust policy is straightforward – the aim is to protect a competitive economic environment, to avoid market power, inefficiency and to increase consumer and general welfare. The main purpose of competition policy is to ensure a more efficient allocation of resources, even if this eventually induces greater market concentration and temporary monopolistic profits. The temporary consent for monopolistic rents is an exception – as in the case of patents - which must be carefully weighed against the argument of efficiency. Another landmark of antitrust economics is to ensure "free entry" to curb such market power of incumbent firms.

At this point, it is important to remark the difference between *productive* and *allocative* efficiency. The first relates to a decrease in the unit cost of production of firms and/or industries, for instance, due to some sort of cost saving technological improvement. Allocative efficiency is a more theoretical concept referring to the general welfare of the society as a whole – a *Pareto Superior* outcome is one that makes at least one person better off and makes no one worse off (Hovenkamp 2005). Antitrust policy is concerned with both sources of economic efficiency. There is always an attempt to strike a balance between consumer's interests and economic efficiency. On the domestic market, such assessment depends on the overall analysis of the domestic antitrust agency, which may adopt a more stringent approach regarding concentration, may emphasize consumer´s interest *vis-à-vis* producer or may use efficiency prerogatives. On the international market, these decisions, with the lack of multilateral competition institutions, are more difficult.

Three dimensions raise the concern of antitrust authorities and justify the intervention in economic structures in order to reduce the risk of market power: collusion, mergers and abuse of dominant position. All these aspects are capable of causing an inefficient static balance, in which any monopolist, or group of companies, in the case of collusion, offers fewer products at higher prices. In a globalized economy, in all three aspects, operations of foreign companies abroad are likely to affect competition in other country's markets. Therefore, it is justified that national competition authorities worry about international aspects of antitrust.

In theory, the original purpose of competition policy is to stimulate economic efficiency through the best possible allocation of resources. Additionally, competition policy can be seen in the context of other economic policies, such as industrial, investment, privatization and trade. An OECD (2008) study recognizes the complementarity of these various public policies. It suggests that specific objectives could be achieved while maintaining an open and competitive environment. Broadly, the report emphasizes the role of governments in providing the correct incentives to facilitate adjustment to the process of economic globalization – which tends to increase competitive pressures - seeking synergies in policies to promote economic growth. Not only in via reduction of barriers to entry, but also in the context of market failures (externalities) where pro-competitive policies can focus on specific distortions. Overall, the report says that industrial and investment policies are not inconsistent with competition policy, provided that caution is exercised.

However, there are potential inconsistencies and tensions that emerged from recent developments in those policies. A more recent study from the same OECD (2013) discusses the role of state owned enterprises (SOEs) in international trade: many of

them are domestic monopoles which expand their market power to foreign markets. They are particularly important in the production of (industrial) commodities – such as chemicals and minerals. Competition distortion may also arise in international markets – such as international cartels – due to the role of these SOEs (Hoekman and Martin 2012).

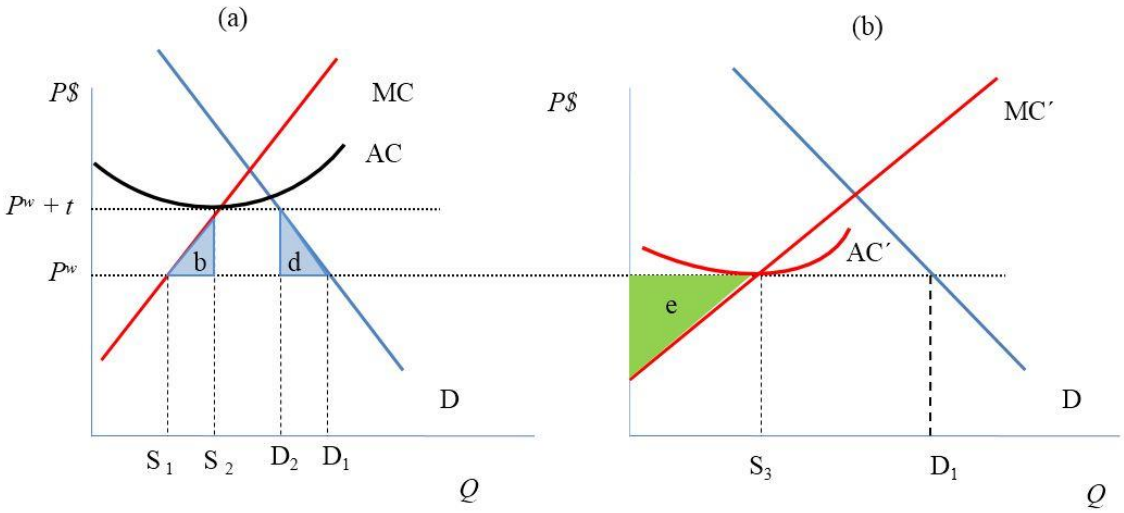
Empirical evidence suggests that the removal of the entry regulations and other barriers to competition created by governments — e.g., trade restrictions — may enhance efficiency for the domestic economy. Kee and Hoekman (2007) conclude that the antitrust legislation, by itself, has a negative impact on prices in excess of the costs (*mark-up*); meanwhile, imports and lower *barriers to entry* have greater and statistically more significant effect on the reduction of mark-ups. Hoekman and Holmes (2003) discuss that trade liberalization — the primary mandate of the WTO — possibly would have more direct effect on competition than the application of antitrust. Of note, the authors consider that trade snf investment liberalization and deregulation of *barriers to entry* imply less costs - in terms administrative capacity - to developing countries, since the use of scarce expertise to create an antitrust authority is not required. The literature on economic liberalization conveys concern about how governmental interventions may harm domestic competitive environment through regulations, granting of state and private monopolies, tariff and non-tariff measures etc. This limitation to competition is expressed, not only by way of trade distorting practices (Abbott and Singham 2013), but also due to regulations that grant, for example, special benefits to domestic firms in public procurement (Anderson and Kovacic 2009).

Meanwhile, economic models that support trade liberalization and the relation between competition and international trade policies are not easily applied to economic sectors characterized by *imperfect competition*, with economies of scale, which require dynamic allocation of investments to provide economic returns. Henceforth, "Strategic Trade Theory" adds elements of industrial organization to international trade, in the direction that concentrated industries (oligopolies and monopolies) can, in some cases, promote economic efficiencies when perfect competition would not fit in. Therefore, the contemporary situation in the world trade is not easily analyzed by the traditional comparative advantage theory nor by traditional antitrust theory (Krugman 1989). This dynamic aspect of international trade has been present in cases of mergers involving companies with high economies of scale and with pronounced learning curves for the maturating of investments in research and technology (R&D). The merger between Boeing and McDonnell Douglas is paradigmatic and had divergent interpretations from the competition authorities of the United States and European Union (Utton 2006). In industries with high economic of scale, whose markets do not encompass many participants, only a minority of companies will thrive. Thus, "*first mover advantage*" policies: trade protection - or any other policy that increases market power domestically – will help such companies in international markets. This process may increase national welfare in the long run, but hamper competition domestically and, principally, abroad. François and Horn (2008), for instance, model how "*beggar-thy-neighbor*" competition policy – that is the lax application of antitrust – can benefit domestic exporting firms.

Figure 02 depicts a situation of "infant industry protection". In panel (a), at present time, the domestic firm would produce at S_1, the quantity where marginal cost equals the world price ($MC=P^w$). Since P^w is below the average costs curve (AC) producing at S_1 would cause economic losses and the domestic firm would be forced to shut down –

probably because it had not achieved economies of scale similar to the international industry. A trade tariff or a domestic subsidy increases the price from P^w to P^w+t, allowing the firm to reach output at S_2, at the point where average costs are minimized, and survive, with a net welfare loss of ($b+d$), supported by the government and by the domestic tax payer. In panel (b), in the future, the subsidy allows the average cost curve to drop to (AC'), due to a *learning* process. The domestic firm may reach output S_3 at world price P^w, even without tariff protection or subsidy, and generate producer surplus e. Such a situation may allow the domestic firm that received domestic incentives to gain international markets. The domestic welfare will be positive if $e > b+d$. The world welfare, however, may be positive or negative, depending on the possible loss of market share of foreign companies, which must be weighed against the possible benefits for foreign consumers.

Figure 02



Source: Feenstra and Taylor 2011

There is an additional justification for domestic government intervention, as it can create "positive externalities" to other domestic sectors due to, for example, productive diversification[15]. Upon capturing foreign markets, this process leads to higher profits for the firms of the exporting country. A change in the domestic demand of the importing country toward more competitive international supply ensues, causing a loss of domestic market share by domestic and producing an opposite effect in the importing country, i.e. a reduction in the scale of production and profitability of its firms.

On the international market, this process of domestic support may harm competition and be considered anticompetitive by antitrust authorities of other countries. For instance, in the case of mergers between international firms that have received subsidies and domestic protection. These firms may capture markets abroad and create conditions for abuse of dominant position. These policies may spur antidumping appeals by trade

[15]According to Bown and McCoullogh (2013), the potential benefits of economies of scale can be external or internal to firms. Internal economies of scale can be derived from high fixed costs of production. Whereas, external economies of scale can stem from *learning-by-doing*: when the best techniques of production of a firm can be quickly transmitted to other producers in the case of, for example, workers changing firms. Even when best techniques are protected by patents or trade secrets, the competing firms generally benefit in some measure because the innovative companies cannot capture exclusively all the benefits of the technological breakthrough (*positive externalities*).

partners at the WTO. Meanwhile, due to the lack of a multilateral international antitrust framework, the competitive aspects of such policies may be discussed only on a bilateral basis, or the domestic antitrust agencies will address such mergers/conducts according to their national rules (*extraterritoriality*)

In short, despite the common conceptual background of international trade and antitrust policies (neoclassical economics), there is a lack of institutional convergence toward transnational forms of regulation of anticompetitive practices. The imperfect competition characteristics of international markets, in which governments act in favor of domestic companies, as well as the monopoly power of firms in foreign markets, highlights the conflict among these policies. Antitrust agencies act in their domestic jurisdictions concerning the action of firms in overseas markets. Hence, trade and competition policies are not substitutes and may sometimes contradict each other. The lack of transnational institutional responses for the globalization of anticompetitive practices is a *puzzle*. In other areas of international economic relations (tariffs, investments, financial flows, etc.) there were such responses. Before discussing some alternative institutional explanations for the lack of such convergence, I will briefly discuss the case of antidumping, a policy mechanism that relates to both trade and competition.

3.3 - The case of antidumping policy.

Antidumping policy can be seen as a contentious application of competition principles to a problem of international trade. The Austrian economist Gotfried Harbeler, in a 1936 book, "Theory of International Trade", mentions that the dumping is the "son" of the relationship between monopoly and protection, applied to a trade policy context. Hence, antidumping would be a mechanism used by domestic authorities to curb the market power of a foreign monopolist exporter. This idea is controversial.

According to economic analysis, on the possibility of exporting, a domestic monopolist will make extensive use of an importing tariff to maintain the marginal cost equal to the marginal revenue in the domestic market and, then, export at a world price that equalizes marginal cost. When the domestic consumers have no access to imports, and are constrained by the tariffs, the monopolist maximizes its profits setting marginal cost equal to marginal revenue in both markets. The price will be lower in the market with more elastic demand, that is, in foreign markets where there is greater competition. Consumers in foreign markets will tend to respond to a price increase, decreasing their demand and migrating to another supplier. In the domestic market, meanwhile, due to inelastic demand, this does not occur, and the firm may charge monopoly prices (Ponfret 1992)

Dumping, therefore, involves a strategy of price differentiation of a domestic monopoly in international markets. Therefore, the domestic monopolist, by charging higher at the domestic market, may eliminate competition in foreign markets, allowing to increase prices in the medium term. In this way, the domestic market power would be extended to the international market. This can be described as the *predatory dumping*. Therefore, for the dumping to ripe, it is necessary that the company to be protected and monopolized or, at least, operating at a protected and concentrated market structure at home (Willig 1998).

Antidumping (AD) is an attempt of trade defense enforcement to a problem of international trade. Given that a domestic monopolist extends its market power abroad, charging lower prices in order to wipe out competition in the importing markets, it would be reasonable to counteract an *unfair trade practice* with a measure that would restore the competitiveness of domestic producers' vis-à-vis *dumped* imports (Abbott and Singham 2013). An antidumping tax charged on the *dumped* imports would allow domestic producers to compete on fairer grounds.

This initial goal, however, has been distorted to the extent that domestic monopolists and oligopolies become frequent users of this measure. From the point of view of the petitioner of the AD, it is indifferent if the exporter is a domestic monopolist, meanwhile, in theory; this fact affects the ability of the exporter to price discriminate. An example is that AD claims have been requested against several origins – even if the firms are monopolists at their market, they are not at the international market.

Additionally, the AD is a complement of actions of *Voluntary Export Restrains* (VER), a collusive behavior of domestic and international firms - allowed by governments -, which virtually divide markets due to the commitment of competitors to eschew penetrating each other´s domestic markets. In the absence of a VER, there is a strategic incentive to petition for an AD. In an oligopolistic international market, AD measures in several markets resemble a combined strategy to avoid competition. Even if a single firm takes an isolated behavior (*free-rider*) and does not petition for an AD in its domestic jurisdiction, several ADs distort the structure of the international markets, turning it less competitive and favoring the eventual domestic monopoly/oligopoly. In the limit, the result will be higher prices in international markets, since all countries have imposed the measure. Hence, oligopolistic market structures increase the likelihood of overall ADs (Vandenbussche and Zanardi 2011).

Despite the initial motivation, trade defense authorities do not analyze the structural aspects of international markets. Trade authorities just deliberate on the effects of the imports on the domestic firms and the relationship between *dumping* and *injury*. The action against an alleged international misconduct should be levied only if a causal link between the dumping, the increased imports and an economic injury suffered by the domestic industry is accurately proved. In the practice of commercial defense, hard evidence of damage may take the form of depressed or falling prices of production and/or s drop in the revenues of the domestic producers, among others. However, such situations are perfectly compatible with the practice of the international economy. The discussion of damage is one of the more complex aspects of the antidumping legislation, subject to criticism from economists and jurists, and it has spurred demands for reforms in the antidumping legislation by supporters of free trade (Bolton 2011). From an economic point of view, there is no unfair trade. If a country is able to sell certain products at lower prices, it is because of comparative advantages, except in the situation of *predatory dumping*.

In light of the complexities of the global economy discussed in other sections, not only it is difficult to define if the dumping occurs, but also if the supposed damage is derived from that. See the example of a multinational company that produces components and assemble the final product in the domestic market. If the components are sold abroad at a price greater than the price paid in the domestic market by the final assembling plant, is this dumping? Would it be possible for domestic subsidiaries of foreign firms to seek

antidumping protection against imports of foreign subsidiaries of domestic firms? These are examples that happen in the contemporary economy, on the basis of the productive fragmentation processes.

Economic literature has suggested that the main motivators of antidumping relate to political economy pressures, and this policy decrease competition, causing loss of economic efficiency and welfare in the markets that apply the measure (Gawande, Krishna and Olarreaga 2009, Bloningen and Prusa 2001). The AD - designed to avoid monopolization in domestic markets – ends up increasing market power of domestic producers and may even favor the collusion among international competitors. (Niels and ten Kate 2006).There are several market competition effects of AD measures. Firstly, just like any other form of protection, such as tariffs, the AD tends to reduce the number of active firms in domestic markets and, therefore, tends to decrease the elasticity of demand faced by them. Even if the firms do not adopt collusive behavior, there is an increase in the "mark-up" (price in excess of costs) in the short term, i.e. the economic profit appropriated by the protected firms will be greater. Secondly, as the antidumping can increase the cost of imported inputs, it can provide the means for a more efficient competitor to eliminate a less competitive rival in the domestic market. This outcome does not necessarily decrease welfare if the remaining firms are efficient, however, there is a problem if the AD is aimed at an imported input that is produced domestically only by the petitioning firm/firms. Hence, this is similar to the industrial organization concept of "*increasing of rivals costs* "–, which occurs when a dominant firm is able to limit the supply of rivals of a strategic input (Khaled 2006; Bown and McCoullogh 2013). Next, as the antidumping is intended for specific exporters in specific locations, it provides the appropriate means to monitor tacit collusive arrangements. Finally, in the long run, AD and other forms of protection may provide incentives to foreign exporters to relocate its production by means of direct investment in the importing country. This is not necessarily bad. Even if the AD does not produce negative effects on welfare– a matter of empirical observation – there is a strong intervention in the market equilibrium.

In fact, empirical evidence not only found little damage to domestic industries, but it increasingly indicates economic welfare losses associated with AD. This mechanism would limit the efficiency of markets, curbing foreign competition and facilitating collusion. Besides, it is common in several jurisdictions around the world, including Brazil, products/markets that were involved both with antidumping and antitrust issues. Examples cited by Bown and McCoulogh (2013) are the hydrochloric polyvinyl (PVC) and low density polyethylene, industrial chemical commodities produced domestically by few producers which have recently petitioned for AD investigations against foreign competitors, whereas industrial chemicals market structure has undergone changes due to the recent oil boom, which increased revenues, investments and mergers among companies[16]. Furthermore, the literature mentions the effect of AD investigations on the probability of collusive agreements: domestic and international firms tend to divide the markets and to promote an overall decrease of competition. The already mentioned voluntary export restraint agreements (VER) is a result of this movement.

In short, one can say the AD is a policy that, though covered by a WTO agreement and present in the legal framework of several countries, probably lessens competition in

[16] As business cycles change market may experience re-structuring in ownership. It is about to be seem the effects on the petrochemicals, for example, of the recent drop oil prices in world markets.

domestic markets rather than promotes it. From an institutional point of view, it is a puzzle why AD reached minimal convergence and was contemplated in an multilateral treaty, whereas international antitrust is far from any, even though competition is underscored in sounder economic concepts than trade defense. Next section, I will the institutional path of global antitrust and conclude.

Section 04 – Institutional responses to competition in international markets.

Institutional economics, or institutional analysis on a broader sense, wishes to untangle the causal mechanisms of a given economic problem or outcome, emphasizing the micro-macro relations between individuals and society. Institutions are set of socially imposed constraints on individuals, shaping habits, cognitive experiences and references. Great emphasis is given by the actions and reasoning of agents – here understood as unit of analysis, such as countries and firms - under a set of social constrained environment. Therefore, institutional economics comprises the concept of "social embeddedness", that is, socially constructed explanations for economic and market relations. *Embeddedness* means that economic behavior of actors is surrounded by social relations, which will influence decision making and the final shape of institutions. (Granovetter 1998).

Institutions of economic governance are mechanisms to help to govern *common goods* (Ostrom 1990). An open and liberal international economic order can be considered a common good because, in addition to be non-rival and non-exclusive, it maximizes global welfare. Protectionist policies may create negative externalities and undermine that order. Hence, institutions that regulate and limit those policies may bring stability to the system and preserve the order. As seem, international trade institutions help to tame domestic interest groups that favor protectionism. In competition issues, this challenge is still ahead. Pagano (2011) discusses the complexity of institutions and the difficulty of implementing institutional changes in a context of interlocking complementarities, that is, stable and resilient institutional formats. His analogy with biology shows that "protectionism" and "subsidies" are common in nature and in institutional settings. According to Pagano, historical specificity matters because 'past institutional choices open up some paths and foreclose others for future institutional development' (Ostrom, 1990: 202).

Interlocked domestic institutions that protect national producers, to the detriment of the domestic and foreign competition environment, are difficult to change. Supporting national producers in industrial policies, may reduce competition abroad and decrease global welfare. Globalization adds complexities to this process, as even transnational firms may act unilaterally taking advantage of domestic restrictive competition environments. Competition policy is embedded in a complex system, as it relates to cultural and social specificities of market transactions within countries, long ingrained in domestic institutional settings.

The former two sections emphasized neoclassical economic and political economy explanations for the issues of globalization and competition. Rather than criticizing mainstream economics and political economy, the approach of this section counts on institutional analysis to describe the different institutional path of antitrust issues in global markets. Given this background, what might be the institutional path for transnational competition rules?

An important avenue for explanation regards the private provision of collective goods triggering co-operation among members in a given society that is engaged in market transactions. The approach of *rules versus laws* was discussed by Ellickson (1990). In that sense, within an international society, countries, antitrust authorities and private parties might gather to decide on minimal rules without a formal biding legislation and an authority imposing them.

The lack of formal multilateral framework to tackle competition challenges in global markets has brought about forms of alternative governance. Instead of formal bidding rules of international organizations, which often involve sanctions against deviant members – in international agreement´s parlance "teeth" - , *soft law* is an alternative to the *hard law*. This framework was possible due the emergence of an international competition community, which discusses antitrust issues and recommends policy directives.

The "*soft law*" collaborative approach adds up to the bilateral agenda in antitrust issues, that once was believed to be able to provide the basic framework for a multilateral agenda in competition affairs[17]

Therefore, institutions such as the United Nations Conference on Trade and Development (UNCTAD) the already mentioned OECD, and even a "Breton Woods" institution, such as the World Bank, among others, developed directives in competition policy. These rules are discussed and agreed between academics and epistemological communities and proposed as broad guidelines to countries in order to provide them with minimum standards. Technical papers and studies on specific issue areas of competition enforcement help to spread such knowledge. (Sokol 2011).

The OECD, for example, lays down a series of guidelines in order to ensure competition concerns in the framework broad public policies– the Competition Assessment Toolkit (CAT) – suggesting their adoption by members and non-members countries (OECD 2011). These guidelines relate to several policy issues, but are especially targeted toward regulatory policies, such as energy, telecommunications, where governmental intervention can create more or less competitive market structures. Conversely, the OECD also developed indicators of domestic regulatory governance that measure and compare how market oriented is the economic structure of countries.

There has been an increase in the number of countries with competition legislations and authorities. The OECD (Alemani *et al* 2013) also attempts to gauge the overall effectiveness of the antitrust law, as well as the autonomy of the domestic antitrust authorities, with a series of indicators built with questionnaires answered by the authorities themselves. The OECD also proposes peer reviewed assessments of antitrust authorities and legislation that circulate among member and non-member countries in order to evaluate the overall shape of competition institutions. In short, although there is no supranational body of antitrust practices, there is a process of institutional maturing

[17] Having said that, U.S. (Department of Justice and Federal Trade Commission) and European authorities (DG competition) have long established transatlantic ties in competition issues. (Evenett et al 2000). Yet, as the authors remarked, knowledge intensive industries mergers and conducts still cause divergence among these partners. It is a challenge be tackled how to address competition issues in the current transatlantic trade discussions.

of domestic competition authorities, which, due to the presence of a transnational networking of discussions, is advancing a set of minimal rules.

One of the ideas these informal groups are advancing is “competition advocacy”.

As suggested in the introduction of this text, trade liberalization is a necessary but not sufficient condition for the establishment of a domestic competitive environment, which requires a legal framework and a specific authority to enforce the law. Especially, in an international context in which the multilateral trade liberalization at the WTO is stalled and countries refuse to discuss competition issues in that organization, the domestic capacity to enforce antitrust is necessary. In addition to that, international financial crises have increased governmental interventions, with notable effects on competition environment. Thus, discussions about promoting competition in the domestic environment have taken the form of "*competition advocacy*", and were encouraged by international bodies such as the OECD and the recent International Competition Network (ICN). The ICN defines competition advocacy as "actions taken by the competition authority related to the promotion of a competitive environment in the economic activities, through mechanisms unrelated to the legal mandate of competition law enforcement (non-enforcement), mainly through its relationship with other government entities in order to increase public awareness of the benefits of competition”[18].

The rationale for "competition advocacy" is: the working of some bureaucracies may favor interest groups and have distorting competition effects, hence, it would be a mission for the antitrust authorities to advise other governmental agencies on the risks associated with this. Evenett (2006) discusses the importance of competition advocacy, but, based on the economic theory of regulation, he is skeptical about the ability antitrust authorities in this area, taking into account the inherent tendency of the government activity to be captured by private interests. Despite this restriction, it is acknowledged the importance of *competition advocacy*, which should not be an exclusive function of the antitrust authority, but part of the construction of public policies.

Hence, competition advocacy is one of these issue specific areas of antitrust institutions which has reached a minimal consensus, due to the work of an international community. Cartels, in the intersection of trade and competition, are another example.

4.1 - The example of Cartels

Economic globalization and the productive integration, despite potential productive efficiency effects, may be detrimental to competition across borders due to incentives for anticompetitive practice and collusive behavior among firms. Nonetheless, the international consequences of anti-competitive behavior are not new: international cartels were ubiquitous since the 19th century up to the period between World Wars, when most European economies operated with various cartelized sectors. In addition to acting in domestic markets, they channeled their production to foreign markets. Export cartels motivated the adoption of anti-dumping legislation in many countries (Faria 2013; Martinez 2010).

[18] International Competition Network (ICN). http://www.internationalcompetitionnetwork.org/ (accessed 08/25/2015)

According to a "mercantilist" view of the economy, cartels with international operation, when hosted in just one country, may generate economic benefits to that particular country to the extent that international consumer income is transferred to the domestic cartelized producers. Countries that are net exporters in the sectors that are more easily cartelized have incentives to pursue *beggar-thy-neighbor* competition policies (François and Horn 2008). The problem is amplified when firms from different countries create international cartels in a given product. (Hoekman and Martin 2012). Despite the absence of formal international agreements, domestic and international cartels have been addressed on a networking and co-operative basis, gathering domestic antitrust agencies and interested parts, under the auspices of ICN[19]. Hence, the institutional format that addresses "cartels" is an example of how "soft laws" and "cooperation", on a very specific issue, can get around transaction costs and "negative externalities" derived from wrongdoings of firms[20].

5 - **Conclusion**

This essay discussed the relationship between international trade and competition in global markets. From a theoretical perspective, both are based on neoclassical economics, which identifies *competition* as an element for maximizing welfare and efficiency in markets. Contemporary international economy developments, such as economic and productive globalization that integrated national economies and firms, created the incentives to the creation of a regulatory framework in international trade. However, this did happen in competition affairs, which are following a distinctive institutional trajectory, based on *soft law* and networking.

Productive globalization also created a series of international practices capable of affecting the competitive environment in markets, in spite of the trade expansion that was encouraged by the in international institutions, such as the WTO. The integration of productive chains and the internationalization of firms had impacts on the conditions of competition in domestic markets, so that antitrust agencies need to be attentive to these phenomena. Especially in antidumping, it is visible the relationship between market power and the practice of international trade. Furthermore, the intersection of the two policies also is particularly important with the advent of imperfect competition structures in international markets. Imperfect competition may create different equilibria, sometimes characterized by concentration, and due to dynamic effects, it may also enhance domestic welfare, but not necessarily improve global efficiency. The political economy analysis also shows that supporting domestic firms in global markets can have a conflicting effects in global competition and welfare.

Therefore, relying on cooperation and networking in global antitrust issues, does not exclude from the analysis the driving forces of anticompetitive behavior, that is, market

[19] http://www.internationalcompetitionnetwork.org/uploads/cartel%20wg/icn_chapter_on_international_cooperation_and_information_sharing.pdf (accessed 09/01/2015).

[20] Recent examples of cooperation among national authorities involve the alleged transnational cartel in the São Paulo´s metro system, which gathered several transport companies, belonging to multinational conglomerates from Spain, France, Germany, and Korea, among others. Brazilian – the antitrust enforcement agency CADE – and foreign authorities joined forces to investigate and prosecute these companies. This cooperation advanced even considering that these firms operates in high-scale and high-end markets. Many of them have thrived due to governmental support – in terms of subsidies, tax breaks and public procurement contracts- in their countries of origin. Hence this is a good example on how cooperation in antitrust issues may arise, even when involving imperfect competition markets.

power and, even, political power. In fact, in the aftermath of the 2008 financial crisis, it is increasingly obvious that political power, and not only market power, should be at the core of antitrust analysis (Ayal 2013). Hence, for the researcher dealing with competition policy, the technical approach (be it legal or economic), which has been improved and made possible due to the gathering of expertise from networking and co-operation, may be combined with an institutional and political economy methodology that considers the resilience of domestic institutions and interest groups actions and how this have an impact on antitrust.

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