

# **THE POLITICAL ECONOMY OF INTERNATIONAL ANTITRUST HARMONIZATION**

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## *ABSTRACT*

This essay opposes substantive international antitrust harmonization, even if limited to core competition standards. An international lawmaking regime creates high agency costs because it is less subject to democratic control than domestic regimes. It also imposes costs by discouraging beneficial change, as any international regime once in place will be difficult to change. Its long-run costs are particularly problematic in world that is not static. As information costs, transportation costs, and trade restrictions decline, it is likely that the appropriate scope of the optimal antitrust regime will narrow as market processes become better correctives to market imperfections than government intervention. The lock-in costs of an international regime thus are particularly high in a world in which the pace of change is ever faster

An antidiscrimination regime rather than substantive harmonization can address any antitrust laws that discriminate against foreign producer and consumer interests. The antidiscrimination model has advantages over substantive harmonization, because formulating and applying antidiscrimination rules have fewer agency costs than formulating and applying substantive rules. Moreover, the antidiscrimination model permits continued innovation and change in substantive rules, thus facilitating continued debate about the optimal content of antitrust regulation. The World Trade Organization has developed precedent to ferret out discriminatory regulations and thus provides a ready made framework for the antidiscrimination model in international competition law.