

“RESPONSE TO BOOK REVIEW”

There are a number of assertions in Mr. Easton's review¹ of my book on anti-dumping policy² which could, I believe, be misleading to readers and which, therefore, merit further comment.

Most importantly, Mr. Easton takes me to task for concluding that predatory pricing rather than dumping may be a problem in international trade, and then offers the suggestion that I should “prepare a sequel volume demonstrating, within the context of consumer welfare, that predation is not a serious international trade problem either.”³ To say the least, I find this a surprising criticism as one of the main conclusions of my study is that “predatory pricing in international trade cannot properly be regarded as a real-world problem demanding remedial legislation.”⁴ This view is supported by an extensive theoretical discussion of pricing behaviour in both the domestic and international contexts, drawing also on the mass of documentation on individual anti-dumping investigations that has accumulated since the Second World War. What emerges from this discussion is that, whereas anti-dumping legislation has its origins in the alleged threat or predatory dumping, attempted predation can seldom if ever represent rational commercial behaviour for which reason, presumably, there are few instances of predatory pricing in domestic markets and still fewer in international trade. Mr. Easton therefore attributes to me a conclusion which is the direct opposite of the one at which I arrive.

Mr. Easton also objects to my using a welfare economics “frame of reference”⁵ for assessing the legitimacy of anti-dumping actions. I do not know whether he has in mind some other, more appropriate economics frame of reference or whether he believes that anti-dumping laws should not be subject to any form of economic appraisal. In any event, Mr. Easton's further comment that a welfare economics approach preordains an adverse conclusion about the effects of anti-dumping action is directly contradicted by his own argument in support of such action: that dumping, by providing temporarily cheap imports, confers transient benefits on consumers that are more than offset by the resulting disruption to domestic

¹ Easton, Book Review, 11 GA. J. INT'L & COMP. L. 390 (1981).

² R. DALE, ANTI-DUMPING LAW IN A LIBERAL TRADE ORDER (1980).

³ Easton, *supra* note 1, at 393.

⁴ R. DALE, *supra* note 2, at XIII.

⁵ Easton, *supra* note 1, at 391.

production. This is indeed a version of Jacob Viner's classic case against dumping,⁶ which my study seeks to challenge.

Mr. Easton complains that I criticise the effects of anti-dumping actions "from the perspective of abstract economic principles"⁷ which "may lead to naive conclusions."⁸ However, a large part of my study is devoted to a critical examination of the operation of anti-dumping laws in practice, based on the entire post World War Two case history of anti-dumping investigations in North America and Europe. The perverse effects of anti-dumping action also are illustrated by detailed consideration of pricing behaviour in the United States, European and Japanese steel industries. This analysis indicates that anti-dumping laws and procedures have been adapted to reconcile cartelised domestic steel pricing with unregulated competition in international steel markets. Here the conventional justification for anti-dumping action, prevention of predatory behaviour aimed ultimately at monopolistic pricing, has been turned on its head. It is further suggested that this overtly anti-competitive use of anti-dumping laws may have had the effect of increasing unemployment in both the steel and steel-using industries. Mr. Easton does not address these arguments, which also have a wider application outside the steel sector.

Finally, Mr. Easton's review fails to address my central argument for reform: that anti-dumping laws are being used as a protectionist safety valve, a purpose for which they are neither designed nor intended and which would be fulfilled much better (if fulfilled it must be) by a reformed and purpose-built GATT Article XIX safeguard provision.

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⁶ J. VINER, *DUMPING: A PROBLEM IN INTERNATIONAL TRADE* (1923).

⁷ Easton, *supra* note 1, at 391.

⁸ *Id.*

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