THE IMPACT OF EUROPEAN UNION ANTITRUST POLICY ON INTERNATIONAL TRADE JUSTICE: AN ANALYSIS OF TRADE HURDLES AND GLOBALISATION

Venus Dutta, Symbiosis Law School, Pune, India

ABSTRACT

One of the most persistent and advanced competition platforms on a global scale has been established by the European Union (EU), with substantial international extent, encouraging the commerce of MNCs and non-EU states. The regulations' complete effect on international trade justice has attained low scholarly acknowledgement, although their basic objective is to secure impartial and fair competition in the domestic commerce. Hence, the core aim of the paper is to critically scrutinize how the competition laws of European Union encourage just competition in the worldwide marketplace and prevent organisations from involving in anti-competitive approach that detriments consumers globally. The paper furthermore targets to critically analyses how the European Union antitrust regulations and international trade schemes join within the wide-ranging concept of globalization, and how its policies applicability promotes just and open marketplaces, effecting the non-EU actors and the international trade systems. The paper concludes with recommendations for advancing persistency between internation trade norms and antitrust policies to develop a more unified, fair, and just commerce arrangement globally.

Keywords: European Union; Antitrust; EU Competition Law; Brussels Effect; Globalisation; International Trade; Trade Justice

1. Introduction

The Brussels Effect is a major concern of the European Union competition law norms that goes beyond the national boundaries of impact, and it encourages the commerce convenience and trade schemes across the globe. This establishes the EU antitrust policy, a powerful device of worldwide dominance. Contemplating Article 101 as well as 102 of TFEU and the European Union Merger Regulation (EUMR), this article will discuss how the EU competition law standards, and specifically, the state aid policy, merger control, and the antitrust enforcement, has complicated doctrines of jurisdiction in order to enlarge its administrative extent beyond EU borders with notable inferences to the international trade justice and the procure of the global marketplace. By applying competition regulations to foreign companies whose operations effect the home market, the EU can employ the effects theory and implementation doctrine to make European standards a reality worldwide.

As the multinational corporations (MNCs) adhere to EU compliance norms in the global market, international trade justice ha both opportunities and problems in its regulatory outlook. In the meantime, the developing economies have less sovereignty in designing competition policies and reducing entry barriers in developing countries. To determine whether EU merger laws, online market rules, and foreign subsidy laws lead to fair competition or inadvertently cause structural imbalance to the developed and developing markets, the paper will also focus on assessing the impacts of these laws on international trade relationships. The present article aims to increase the knowledge of the results of the lack of balance in terms of global trade relations in situations where the actions of the supranational competent authorities are prescriptively exercised outside the national borders of the state.

The extraterritoriality of EU competition law is a challenging aspect of global trade justice because it introduces asymmetric forms of political regulation liabilities that are unfairly imposed, especially on developing economies, rather than catering to international trade and competitive markets. Although competition laws have been widely applied in developing nations, primarily based on Western structures by pushing them into action internationally and following treaty requirements, they place them at a severe disadvantage should they have to deal with the extraterritorial enforcement procedures at the EU level.[1] The Brussels Effect in

[1] Prof. W. Lachmann, *'The Development Dimension of Competition Law and Policy' (UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT).* Available at: < https://unctad.org/system/files/official-document/poitcdclpm9.en.pdf > Accessed on 25 September 2025.

competition law works by highly advanced jurisdictional dogma extending the European regulation oversight past EU limits, which makes foreign undertakings adapt to the EU normalities, disregarding their home legal regulations.

2. Conceptual Structure: Antitrust, Globalisation and Trade Justice

The conceptual structure lays out the basis for scrutinizing how antitrust regulation of EU deals with global trade framework, uplifts concern of justice and legality, adding up to the advancing architecture of commerce governance globally.[2]

2.1 Trade Justice and Antitrust Policy

Trade justice is the just, rightness, and legality of international trade systems, which includes the categorization of profits and hardships amongst firms, states and consumers.[3] While conventional trade justice arguments highlight on subsidies, tariffs, and market access, corporate conduct and private market power progressively frame trade results.[4]

Antitrust policy joins with trade justice by acknowledging private limitations on trade, like exclusionary practices, cartels, and monopolization. Successful antitrust implementation can advance trade justice by avoiding market seizure, lowering injustice in opportunity, and protecting competitive impartiality.[5] Nevertheless, antitrust policy can raise issues on sovereignty, justice, and regulatory surpass when extraterritorially applied.

2.2 Regulatory Power and Globalisation

Globalisation has reduced the connection between commerce activity and territorial jurisdiction. Companies function extraterritorially, but policy stays widely regional or national. This difference establishes policy gaps that strong jurisdictions can take advantage of by putting their regulatory norms on a global scale.[6]

The European Union is oftentimes depicted as a regulatory superpower, competent to export

[2] DAVID J. GERBER, *GLOBAL COMPETITION: LAW, MARKETS, AND GLOBALIZATION* 23–26 (Oxford Univ. Press 2010).
[3] FRANK J. GARCIA, TRADE, INEQUALITY, AND JUSTICE 4-7 (Brill 2003).
[4] Sungjoon Cho, Linkage of Free Trade and Social Regulation: Moving Beyond the Entropic Dilemma, 5 CHI. J. INT'L L. 625, 636–38 (2004).
[5] OECD, *COMPETITION POLICY AND INTERNATIONAL TRADE* 11–13 (2003).
[6] Kalypso Nicolaïdis & Gregory Shaffer, Transnational Mutual Recognition Regimes, 68 LAW & CONTEMP. PROBS. 263, 270–72 (2005).

its standards by way of market size, implementation ability, and lawful sophistication.[7] EU antitrust policy illustrates this mechanism, framing market attitudes globally without formal international agreement.

3. Relevant Law/Treaty/Regulation

The interrelation between competition law and international trade has become a hotspot in the modern world of global economic governance, due to the increasing linking of international markets beyond their borders, The competition policy scheme of EU, which draws its inspiration from Article 101 and 102 of TFEU and operates under the EU Mergers Regulation, is a prime example of the so-called Brussels Effect, the situation whereby the regulatory standards in one jurisdiction have a structural implication in the global market at large. This regulatory projection is based both de facto, whereby multinational companies have voluntarily embraced EU regulations of compliance standards to exercise access to the markets, and de jure, through which foreign government have formally adopted rules of an EU form in instruction to the law of their own domestic juris.

As the EU used the volume and regulatory capabilities to exercise its competitive standards internationally, developing countries face serious challenges in protecting their domestic markets against transnational antitrust behaviour. Concurrently, such a global accessibility of EU competition policy is possible because of merger control thresholds, state aid determinations, and the doctrine of effects, which invoke compliance costs potentially functioning as non-tariff obstacles and lowering the entry of enterprises in less-developed industries in the market. These discrepancies are further enforced by a liberal interpretation of jurisdiction on Articles 101 and 102 of TFEU by the European Commission in conjunction with the recent extensions of merger referral schemes up to the introduction of foreign subsidies regulation. The asymmetry in the regulation creates basic questions regarding the sovereignty and validity of extraterritorial competition enforcement.

Although the EU promotes its global regulation outlook by the need to integrate markets and consumer protection, critics believe that the interventions amount to regulatory imperialism at the expense of policy room and the development-oriented competition policy of developing countries.[8] This is added by the fact that national competition laws of EU standards, skewed

[7] Case C-89/85, *Ahlström Osakeyhtiö v. Comm'n* (wood Pulp), 1988 E.C.R. 5193.
[8] Dina I.Waked, *'Competition Law in the developing world: The why and how of adoption and its implications*

towards mature economies, might not reflect the market failure and developmental needs of emerging economies, and thus, act to restrain and not encourage fair international trade relationships.

4. Extraterritorial Applicability and Trade Inference

One of the most unique and debatable characteristics of the European Union is its extraterritorial extent. The section analyses the legal basis and trade interference of the Union's extraterritorial antitrust applicability, with specific focus to its effect on non-EU businesses and international trade justice.

4.1 The Effects Doctrine

The antitrust policy of EU enforces in order to establish noticeable impacts within the Union, despite the location of the conduct. This impact-oriented territories have authorized the European Commission to inquire and authorize foreign businesses whose practices impact the European Union marketplace.

While legally rationalized, extraterritorial applicability have notable trade inferences. Non-EU companies may encounter significant compliance prices, legal ambiguity, and fines, even when their behaviour is legal under domestic law.

4.2 Enforcement of Antitrust as a De Facto Trade Concern

From the point of view of international trade justice, extraterritorial antitrust applicability can perform parallel to a non-tariff concern to trade. Companies intending to enter into the EU commerce must comply with their worldwide behaviour to EU norms, prospectively burdening the businesses from territories with different administrative philosophies or frail applicability ability.

Even though the Union's antitrust guidelines are officially unbiased, their effect may be uneven, impacting non-EU companies more profoundly owing to gaps in commerce framework, legal approach and compliance resources.

---

for international competition law' (Queen Mary University of London, Global Antitrust Review, 2008). Available at: < https://www.qmul.ac.uk/icc/media/icc/gar/gar2008/Waked.pdf > Accessed on 25 September 2025.

5. European Union Antitrust Policy and the Extraction of Private Trade Hurdles

Past acknowledging public trade barriers, the antitrust policy of EU plays a vital function in recognizing and dissembling private hurdles to trade that establishes from anti-competitive behaviour by market agents.

5.1 Cartels, Collusions and Trade Deformation

Function in dissembling private trade hurdles is one of the firm rationalizations for European Union antitrust policy in relation to trade justice. Collusive exercises and Cartels deform prices, limit output, and divide markets. European Union applicability opposed to international cartels has added up to price confluence, expanded market access, and developed consumer interest.[9] These results harmonize carefully with the purposes of trade deregulation and encourage a fairer trading mechanism.

5.2 Vertical Barriers and Global Division

European Union norms on vertical barriers, like restricted distribution and maintenance of resale price, have notable ramification for trade on a global scale. While targeted at maintaining competition and amalgamation within the Union, these norms impact supply chains globally and distribution schemes.[10]

Export-based companies must oftentimes remodel global division mechanisms to abide by the Union's norms, illustrating how regional competition law can frame the architecture of global trade.

6. Digital Trade, Globalisation and Market Power

It analyses the function of EU antitrust applicability in directing digital platforms and evaluates its significances for impartiality, trade justice and market access in the digital commerce.[11]

6.1 Digital Platforms as Global Caretaker

Digital platforms demonstrate the issues of directing market power in a globalized marketplace.

---

[9] Case C-67/13 P, *Groupement des Cartes Bancaires (CB) v. Comm'n*, 2014 ECLI:EU:C:2014:2204; Richard A. Posner, *ANTITRUST LAW* 69–72 (2d ed. 2001).
[10] Council Regulation (EU) No. 330/2010, 2010 O.J. (L 102) 1 (Vertical Block Exemption Regulation).
[11] OECD, *COMPETITION POLICY IN THE DIGITAL AGE* 7–10 (2019).

These businesses function across nations, profit from network impacts, and oftentimes attain dominant roles in several markets concurrently.

EU antitrust applicability opposed to digital platforms has attempted to acknowledge exercises like data utilization, self-preferencing, and restrictive behaviour.[12] These interferences have spillover impacts globally, framing global platform administration.

6.2 Trade Justice in the Digital Marketplace

As per the viewpoint of trade justice, interference of EU in digital marketplace can encourage impartiality by avoiding platforms that are dominant from baring commerce access.[13] Nevertheless, it may also project administrative responsibilities that demonstrates European norms and policy preferences, possibly restricting innovations or alternative administrative designs.

7. State Interference, Subsidies and Competitive Impartiality

It analyses how the European Union reigns on state assistance engagement with competition worldwide and trade interactions, and how the revival of industrial regulation concerns the balance among strategic autonomy, market discipline and international trade justice.

7.1 Global Competition and State Aid Control

European Union state assistance control demonstrates definite assistance to competition law and trade justice arguments. By limiting subsidies that deform competition, state aid guidelines support competitive impartiality within the Union.[14]

Nevertheless, the EU businesses related to firm state aid norms oftentimes challenge the foreign businesses profiting from wide-ranging state encouragement. This imbalance concerns with questions on impartiality and mutuality in global trade.

[12] Jean Tirole, Competition and the Industrial Challenge for the Digital Age, 7 ANNU. REV. ECON. 573, 576–79 (2019).

[13] Eleanor M. Fox & Mor Bakhoum, *MAKING MARKETS WORK FOR AFRICA: MARKETS, DEVELOPMENT, AND COMPETITION LAW IN SUB-SAHARAN AFRICA* 63–65 (Oxford Univ. Press 2019).

[14] Consolidated Version of the Treaty on the Functioning of the European Union arts. 107–109, Oct. 26, 2012, 2012 O.J. (C 326) 47.

7.2 Antitrust, Industrial Regulation and Planned Autonomy

The revival of industrial regulation has smudged the barriers between trade policy and competition law. The interim leisure of state assistance norms in the time of emergencies emphases on the tensities between strategic purposes and commerce discipline.[15] These advancements hurdle the Union's affirmation to conventional authority and increase issues on legality and consistency.

8. Distributional Impacts and Conventional Legitimacy

The antitrust policy of EU may produce unequal distributional impacts. While consumers in the Union profit from lower costs and larger alternatives, companies, specifically from advancing commerce, may encounter imbalanced compliance prices and legal concerns.[16] Trade justice needs focus to combine welfare as well as to how profits and hurdles are divided across borders and actors.

The European Union's capability to frame competition guidelines globally without formal international agreement elevates issues on regulatory solitariness. While successful, this attitude may weaken regulatory diversity and national autonomy.[17]

Legality also relies on procedural impartiality, clarity and responsibility. Assuring equitable procedure in antitrust applicability is significant to ensuring the reliability of the Union's action in the global stage.

9. Cases Addressing the Concept of Justice

The Brussels Effect competition law operates on sophisticated jurisdictional principles that broaden the EU antitrust enforcement on the extraterritorial level. A doctrine of implementation was relevant in A. Ahlstrom Osakeyhtioy v. Commission (Wood Pulp)[18], which grants the European Commission the jurisdiction to assume control over any antitrust agreement within the European Union to the extent that it is carried out in the internal market. The fundamental

[15] Eleanor M. Fox, Monopolization and Dominance in the United States and the European Union, 19 FORDHAM INT'L L.J. 981, 1003–05 (1996).
[16] Eleanor M. Fox & Mor Bakhoum, *MAKING MARKETS WORK FOR AFRICA: MARKETS, DEVELOPMENT, AND COMPETITION LAW IN SUB-SAHARAN AFRICA* 78–82 (Oxford Univ. Press 2019).
[17] Kalypso Nicolaïdis & Gregory Shaffer, Transnational Mutual Recognition Regimes, 68 LAW & CONTEMP. PROBS. 263, 270–74 (2005).
[18] 1988 E.C.R. I-05193 (1988).

problems with these extraterritorial practices are that they establish the relationship between regulatory sovereignty and global trade justice since they pose unequal compliance costs, which tend to be more detrimental to developing economies that do not enjoy similar legal systems.[19]

The Intel Corporation v. Commission[20], where the commission related to the loyalty rebates and exclusivity agreements of the U.S.-based microprocessor manufacturer with the original equipment manufacturers. Intel controlled the x86 CPU market in Europe by about 70 percent with conditional rebates to retain the market. The Judicial Implication in the case also depicts corrective justice, whereby the EU attempted to correct Intel's exclusionary behaviour, which hurt competition. Nonetheless, it also reflects the issue of regulatory justice because Intel claimed that the extraterritorial application was against the principles of due process and sovereignty. The Court of Justice eventually asked the Commission to do a more economic analysis on the issue when dominant firms challenge the anti-competitive character of their actions.[21]

10. Critical Analysis

The European Union has established one of the most extensive antitrust systems globally, aiming to secure antitrust commerce and safeguard consumer interests. Nevertheless, its insistent and extraterritorial implementation of antitrust laws has notable impacts on international commerce, specifically third countries and firms.

10.1 European Union Antitrust Implementation Reach Across the Globe

The competition law of EU, particularly Articles 101 and 102 of TFEU, is exerted extraterritorially when performance outside the boundary of the EU impacts on its internal market. Therefore, this has permitted the European Union to levy fines on U.S. tech companies, such as Apple, Microsoft, and Google, obstruct mergers among non-EU firms, such as General

---

[19] Eleanor M. Fox, *'Blind Spot: Trade and Competition Law—the Space Between the Silos' (Cambridge University Press, 22 March 2023).* Available at: < https://www.cambridge.org/core/journals/german-law-journal/article/blind-spot-trade-and-competition-lawthe-space-between-the-silos/EB525CA38F9E9424B681BB24D5301A3D> Accessed on 25 September 2025.

[20] (C-413/14 P) EU:C: 2017:632.

[21] Eleanor M. Fox, 'Extraterritorial Jurisdiction, Antitrust, and the EU Intel Case: Implementation, Qualified Effects, and the Third Kind' (Fordham International Law Journal, Volume 42, Issue 3 Article 8). Available at: <https://hesalawjournal.com/wp-content/uploads/2024/05/Hesa-Law-Journal.-Extraterritorial-Jurisdiction-Antitrust-and-the-EU-Intel-Case_.pdf > Accessed 10 October 2025.

Electric/Honeywell; and examine the foreign state-backed companies' practice, such as the European Union Foreign Subsidies Regulation. Although legally these are justified, such an approach lays out a regulatory effect that stretches outside the European Union boundaries, framing the global commerce standards and corporate management.

10.2 Just Trading and Regulatory Colonisation

From a commerce justice point of view, particularly evolving and advancing economies, the extraterritorial attitude of the European Union's antitrust policies can raise concerns:

- *Asymmetrical Ability* – Evolving and advancing commerce often lacks the regulatory ability to engage in complementary implementations or defy the pressures of the EU.

- *Acquiescence Concern* – Companies established in third countries may face trouble meeting the standards of European Union competition, sustaining legal charges and compliance concerns disproportionate to their commercial share or profits.[22]

- *Obstacle to Access* – Firm antitrust implementation may unintentionally function as a non-tariff market challenge, primarily when performed against companies accessing a platform or digital marketplace.[23]

Thus, it can be said that the above establishes regulatory colonialism, where advanced dominion, like the European Union, disseminates its standards and norms globally, restricting the autonomy of policies of evolving commerce.

10.3 Legal Consistency and Tensions with International Trade Standards

There is still a raging debate on whether the antitrust implementation of the EU is consistent with the World Trade Organization (WTO) rules and the international trade governance systems. Even in cases where the WTO prohibits trade practices that are harmful or discriminatory in nature, the European Union uses its antitrust laws mainly based on its own trade matters.[24] The EU law boasts of a universalist and commerce-based design, but the changing non-EU states argue that the antitrust laws should be geared towards the

[22] David J. Gerber, Competition Law and Development, 27 WORLD COMPETITION 249, 261–64 (2004).
[23] Kalypso Nicolaïdis, The Power of the Superpowerless, 40 J. EUR. PUB. POL'Y 1, 9–12 (2013).
[24] WTO, *WORLD TRADE REPORT* 133-36 (2020).

contextualities of development. This, therefore, creates conflict between dominance of regulation and the target of trade emancipation, and a little attention is given to how developing economies should be approached.[25]

11. Recommendations

1. *Intensify Governance of Multilateral Competition* – For cooperation on international antitrust policies, encourage the advancement or re-establishment of multilateral domains, such as under the UNCTAD or WTO. This lowers the unilateral policy superiority and expands cooperation and transparency between EU and non-EU states.[26] For example, the International Competition Network (ICN) could be authorized to establish soft law regulations that encourage harmonized practices.

2. *Enforcement of Advancement-Sensitive Implementation Strategies* – Standards of differentiated implementation or procedural protection should be introduced for companies from third countries with low-middle economies.[27] This would address systematic gaps in commerce and legal role, mapping it up with justice in trade principles. Lowered penalties or legal immunities for first-time acquiescence failures can be introduced for such zones.

3. *Encourage Legal and Policy Consistency* – European Union antitrust law implementation should be aligned more precisely and categorically with the trade principles of the WTO.[28] The EU can collaborate with the WTO more closely to investigate the impacts of cross-border trade. It might lower the risk of WTO challenges and promote stability in the context of global legal systems.

12. Conclusion

The paper concludes that the European Union competition law, particularly Articles 101 and 102 of TFEU and the European Union Merger Regulation, allows the competition law of EU to have a wide-ranging international impact and affect the international trade justice, access

[25] Frank J. Garcia, *TRADE, INEQUALITY, AND JUSTICE* 57–60 (Brill 2003).
[26] UNCTAD, *SET OF MULTILATERALLY AGREED EQUITABLE PRINCIPLES AND RULES FOR THE CONTROL OF RESTRICTIVE BUSINESS PRACTICES* (2010).
[27] Eleanor M. Fox & Mor Bakhoum, *MAKING MARKETS WORK FOR AFRICA* 92–95 (Oxford Univ. Press 2019).
[28] WTO, *WORLD TRA REPORT: ECONOMIC RESILIENCE AND TRADE* 141–44 (2021).

and administrative norms in worldwide trade. Thus, this extraterritorial inference has made the European Union a crucial actor in settling the global competitive attitudes, in fact as well as a matter of right related to MNCs and foreign nations. On the one hand, these regimes amplify the risks of imperial regulation and the high cost of compliance, particularly to the developing economies that lack resources and institutional capacity to cope with sophisticated EU standards.

Lastly, because of the desire to introduce competition policy and the competition mechanisms of the EU (controlling the mergers, state aid regulation, and the adoption of the Digital Markets Act), the researcher/s conclude that their globalization essence brings specific structural imbalances and even acts as non-tariff barriers to the weaker economies. This establishes the requirement of a more formal regulation and international cooperation in order to balance administrative autonomy and worldwide commerce equity, so that the antitrust activities of EU do not over-profit any developing marketplace at the cost of its advancement promotion regulation goals.

BIBLIOGRAPHY

Primary Sources

- Treaty on the Functioning of the European Union
- Regulation (EU) 1/2003
- Regulation (EU) 773/2004

Secondary Sources

- ANU BRADFORD – "THE BRUSSELS EFFECT: HOW THE EUROPEAN UNION RULES THE WORLD" (WORLD UNIVERSITY PRESS, 2020)
- ALISON JONES & BRENDA SUFRIN – "EU COMPETITION LAW: TEXT, CASES, AND MATERIALS" (OCFORD UNIVERSITY PRESS, LATEST EDITION)
- LENA HORNKOHL – "THE EXTRATERRITORIAL APPLICATION OF STATUES AND REGULATIONS IN EU LAW" (MAX PLANCK INSTITUTE LUXEMBOURG, 2022)