The International Diffusion of Competition Laws

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June 2015

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Abstract

Competition laws aim to prevent firms' anticompetitive behavior—such as forming cartels to fix prices or share markets—in the marketplace. From the enactment of the Sherman Act (1890) in the United States until the 1970s, competition laws existed only in a handful of industrialized countries. In the last few decades, many countries around the world with varying degrees of economic development have adopted competition laws and established competition authorities to enforce them. The number of countries with competition laws has grown impressively from twenty-seven in 1980 to more than a hundred and thirty in 2014. What explains the rapid diffusion of competition laws? Existing research emphasizes domestic factors that influence a country's likelihood of adopting a competition law such as the level of economic development, political and economic liberalization, and the political power of small businesses and consumer groups. I argue that a satisfactory model to account for the diffusion of national competition laws has to incorporate both domestic and external factors. Drawing on the literature on international diffusion, I argue that coercion by economically powerful states, learning, as well as emulation of other countries may be important in explaining the diffusion of competition laws. I test these arguments with original data on competition law adoptions between 1960-2012, and find that coercive pressures by economic powers and international organizations, as well as regional learning influence the spread of competition laws across the globe.

Keywords: competition law, antitrust, diffusion, coercion, learning, emulation

Introduction

Competition laws aim to prevent firms' anticompetitive behavior in the marketplace, such as forming cartels to fix prices or to share markets. The idea that firms have incentives to restrain competition goes back to Adam Smith, but the idea that the state should step in to protect competition is more recent (Stiglitz 2001). From the adoption of the first modern competition laws in Canada (1889) and the United States (1890) until after World War II, competition laws existed only in a handful of industrialized countries. This changed in the aftermath of World War II with the adoption of competition laws in Western Europe and Japan. Since the early 1990s, the enthusiasm for competition laws have become much more widespread: the number of countries with competition laws has grown from twenty-seven in 1980 to 131 in 2014. Recent adopters of competition laws vary in their socioeconomic and political conditions, which raises a puzzle: what accounts for the rapid spread of competition laws to countries around the world in a relatively short time span?

Existing research has focused mostly on domestic economic and political factors to explain the adoption of competition laws. Scholars have argued, for instance, that a country's adoption of competition laws is related to its broader efforts to liberalize its economy and to its level of economic development and industrialization (Edwards 1974, Palim 1998). Others such as Weymouth (2015) and Parakkal (2011) have focused on the domestic political processes and institutions that make it more likely for countries to adopt competition laws. Domestic economic, political and institutional factors, while playing a crucial role, do not explain the rapid spread of competition laws to countries with diverse domestic conditions in the last 30 years. In order to account for this rapid diffusion, it is crucial to incorporate the role of international factors into the analysis.

Drawing on the literature on policy diffusion, my argument in this paper is that a country's adoption of a competition law is influenced by policy choices of other countries, and that it cannot be explained independently of them. The diffusion literature describes a number of mechanisms through which policies may diffuse across the international system: coercion by stronger states and international organizations, learning from geographically or culturally proximate countries, economic competition and emulation of other states. My argument is that in the post World War II period, international diffusion mechanisms, primarily pressure by economic powers such as the United States (US) and the European Union (EU), have played a crucial role in countries' decisions to adopt competition laws. Second, I argue that international institutions such as the World Bank (WB) and the International Monetary Fund (IMF) have been influential in the diffusion of competition laws through loan conditionality. I also expect learning from geographic and cultural neighbors, and emulation of other states in the system to be important mechanisms for the diffusion of competition laws.

I test these arguments with an original dataset on competition law adoptions from 1960- 2012. I compile the data on competition law adoptions from various sources such as UNCTAD (2007), International Bar Association's Global Competition Forum (2009), OECD and UNCTAD peer reviews, as well as websites of national competition authorities, and have periodically updated it. The data on the independent variables of the study are drawn from various sources such as World Bank Indicators, Correlates of War bilateral trade data and Penn World Tables. I present the data on competition law adoptions in section two, and the results of the empirical analyses of the proposed hypotheses using Cox proportional hazard models in section three. I find that pressure by economic powers, especially the EU, international organizations such as the IMF, and regional learning play important roles in the diffusion of competition laws.

This paper contributes to the literature on policy diffusion by empirically exploring the arguments proposed in these studies in a new policy area, thereby contributing to our understanding of how mechanisms of diffusion differ across policy areas (Graham, Shipan and Volden 2013, Jordana and Levi-Faur 2005, Simmons, Dobbin, and Garrett 2006). The paper also contributes to research on comparative competition policy, an area traditionally dominated by lawyers and economists. Recent contributions by political scientists have emphasized the inherently political nature of competition policy, and have provided important insights regarding the role of politics and power in the adoption, reform and enforcement of competition laws (Büthe 2015, Parakkal 2011, Weymouth 2015). This paper contributes to this growing literature by analyzing the role of international political factors in the adoption of competition laws.

In addition to its theoretical and empirical contributions, the paper advances policy debates. Competition policy is high on national, regional and international agendas. Regional and international organizations such as the World Bank, United Nations Conference on Trade and Development (UNCTAD), Organization for Economic Cooperation and Development (OECD), the EU, and the Association of Southeast Asian Nations (ASEAN) preach the benefits of competition policy and actively advocate the adoption of competition laws or the reform of non-functioning ones among their membership. Yet, systematic analyses of the process by which countries adopt or reform their competition laws are scarce. The few findings that are consistent across the existing studies—for instance that economic development and the adoption of competition law are positively associated—provide only limited help in designing policies that can assist countries in adopting or reforming their competition laws. The paper contributes to the debate by exploring the external factors that motivate countries to adopt competition laws.

In the next section, I provide a brief overview of how competition laws spread around the world since the end of the World War II, review the existing literature that attempts to account for these trends, and discuss my hypotheses and the causal mechanisms behind them. The third section of the paper describes the data and the methodology I use in analyzing the data, while the fourth section discusses the results of the analysis. The fifth and last section concludes by offering some further avenues for research.

The Spread of Competition Laws around the World

The popularity of competition laws is a relatively recent phenomenon. Prior to World War II, only a handful of countries—the United States, Canada, Australia, Weimar Germany and Norway—had functioning competition laws.[1] While several European countries considered adopting laws to protect competition in the 1920s, and the League of Nations launched an effort in 1927 to establish an international regime on cartels (Gerber 2010), it was only after World War II that the awareness and acceptance of competition policy increased gradually in Western Europe and Japan. The first big wave of competition law adoptions happened in the early 1990s, as seen in Figure 1. To some extent, the dramatic increase in adoptions in that period reflects the implementation of market reforms in Central and Eastern Europe and the former Soviet Union countries after the fall of the Berlin Wall. As Figure 2 demonstrates, however, most other regions of the world saw an upsurge in adoptions in the 1990s as well.

Competition law adoptions show variation across regional lines and income groups. Certain regions, such as the Americas, and Europe and Central Asia have a larger proportion of competition law adopters compared to the rest of the world. Countries in higher income groups are also more likely to have adopted competition laws, as Table 1 shows. Despite these regional and income variations, recent wave of adoptions has affected all corners of the world, implying a widespread acceptance of competition policy around the world as "not just a luxury to be enjoyed by rich countries, but a real necessity for those striving to create democratic market economies" (Stiglitz 2001).

[1] Sweden also adopted a competition law in 1925, however, its scope was limited and it was seldom used (Gerber 1998, 155).

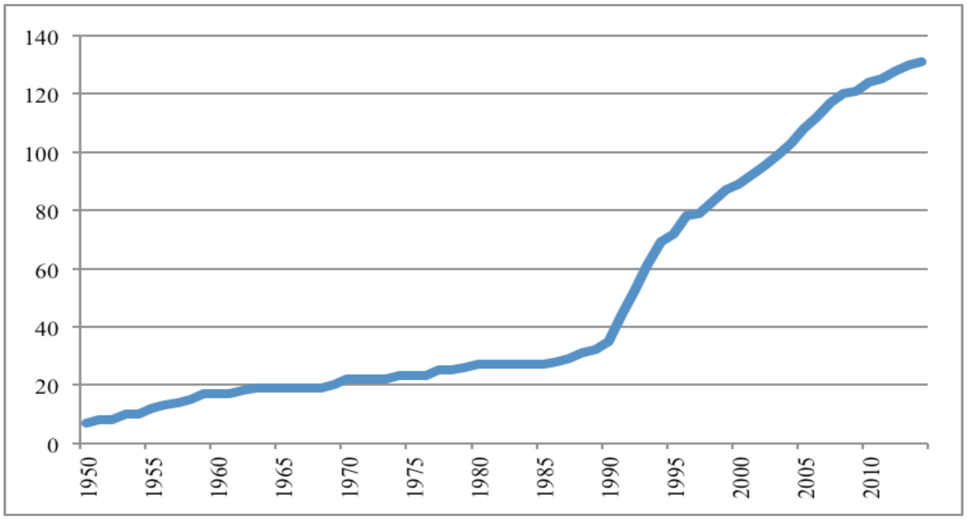

Figure 1: Number of countries that have adopted competition laws, 1950-2014.

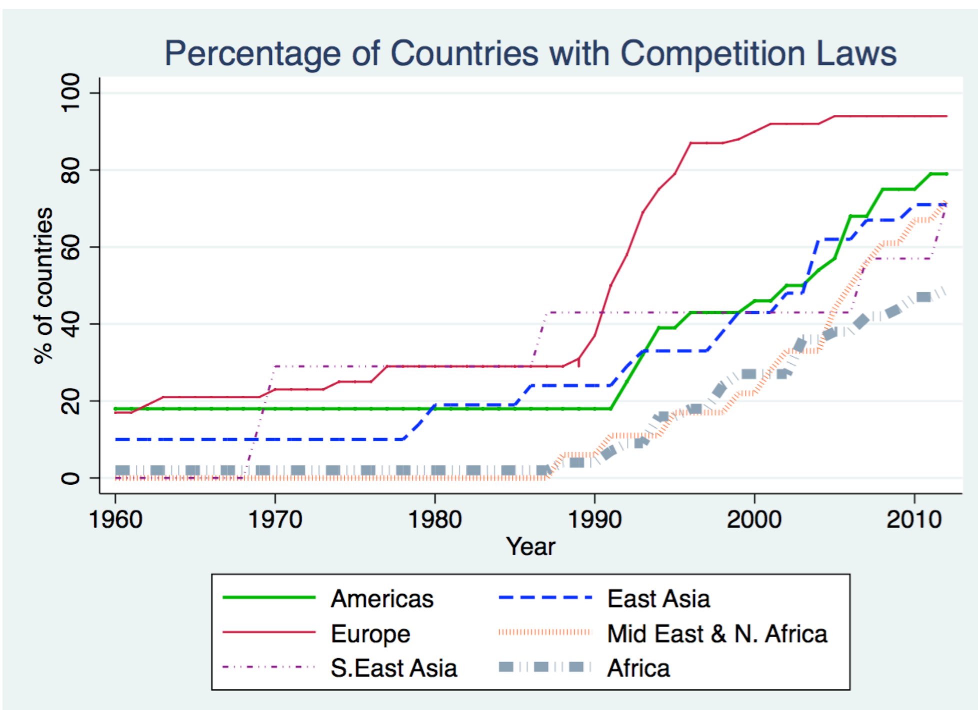

Figure 2: Percentage of countries that have adopted competition laws in a region (World Bank Regions).[1]

Notes: [1] The United States and Canada are included along with World Bank's Latin America and Caribbean countries in the Americas category. Australia, Fiji, New Zealand, Samoa and Solomon Island are included in the East Asia and Pacific category.

Table 1: Countries that have competition laws, based on income categories of the World Bank (based on current income).

	Low-income countries	Lower-middle-income countries	Upper-middle-income countries	High-income countries
% of countries with competition laws (number of countries with comp.laws)	50 % (17)	70 % (28)	78.7 % (37)	90.6 % (48)

The increasing popularity of competition laws has motivated scholars, initially in the disciplines of law and economics and more recently in political science, to explore the factors that lead a country to adopt competition laws. Most of this research emphasizes domestic economic and political factors. For instance, a number of previous studies have proposed that a country's level of economic development is positively associated with its decision to adopt a competition law. The relationship was first noted by Edwards (1974), who argued that competition laws, at the time of his writing, only existed in developed countries or in advanced developing countries, and had little probability of diffusing much further. In later studies, Palim (1998), Kronthaler and Stephan (2007), and Conybeare and Kim (2010) argue that in addition to economic development, a country's level of industrialization is positively associated with the adoption of competition laws. The underlying logic of these arguments is that as economies industrialize and become more complex, the emergence of large firms and frequent mergers raise concerns about potential anticompetitive behavior, and the concentration of economic and political power. The emergence of large "trusts" in the process of industrialization in the US, for instance, raised concerns among the small businesses (Stigler 1985) and a popular dissatisfaction in the society (John 2012), which at least partly motivated the adoption of the Sherman Act in 1890.[2] Cross-national empirical analyses support the argument that the level of economic development is positively associated with the probability of adopting a competition law (Palim 1998, Kronthaler and Stepan 2007) and its strength (Conybeare and Kim 2010).

[2] The motivations behind the adoption of the Sherman Act are still a matter of debate (Bork 1978, Hazlett 1992, Kolasky 2009, Stigler 1985). See also U.S. Senate debates on what became the Sherman Act (Kintner 1978).

The evidence for the level of industrialization is more mixed with Kronthaler and Stephan (2007) finding that a higher level of industrialization is associated with lower probability of adopting a competition law, and Conybeare and Kim (2010) finding that more industrialized countries adopt stricter merger control regimes.

In addition to the level of economic development and industrialization, Palim argues that transitions to a market economy, or "the gradual shift away from direct management of the economy in favor of an increased reliance on the market" is one of the most frequently cited reasons for the spread of competition laws (1998, 111-2). The adoption of competition laws is frequently an integral part of a country's economic liberalization program. Palim finds support for the positive link between economic liberalization and the adoption of competition laws—as do Kronthaler and Stephan (2007).

Kronthaler and Stephan (2007) additionally argue that the extent of government involvement in the economy and the level of corruption may influence the decision to adopt a competition policy. They find that the level of government involvement is negatively associated with the decision to adopt competition laws.[3] Their interpretation is that if the government plays a very active role in the economy, competition and markets play a less decisive role (Kronthaler and Stephan 2007, 147). The level of corruption, on the other hand, is positively correlated with competition law adoption, which they argue may suggest that governments adopt competition laws to remedy corruption (Kronthaler and Stephan 2007, 160). A different interpretation could be that corrupt governments are more likely to adopt competition laws in order to extract more resources from business in the form of fines.

More recently, a number of political scientists have contributed to this debate by theorizing and testing the influence of domestic political and institutional variables. Taking Kronthaler and Stephan's model as a base, Parakkal (2011) explores whether democracy, rule of law, and governing party ideology in a country has an effect on the likelihood of competition policy adoption on a dataset covering competition law adoptions from 1990-2008. He finds that while having a democratic regime and a left-leaning government

[3] However, see Conybeare and Kim (2010), who find that the level of government involvement in the economy increases the stringency of merger regulations.

increases a country's likelihood for adopting a competition law, the presence of rule of law in a country decreases the likelihood. Weymouth (2015) argues that the adoption of competition law in developing countries depends on the relative political power of two opposing groups, an alliance of incumbent producers and affiliated labor which he calls "the rent-preserving alliance", and that of consumers, unorganized labor and small business owners. In empirical research covering nearly all developing countries for the period 1975-2007, he finds support for the argument that the stronger the power of the rent-preserving alliance, the less likely it is for a country to adopt competition law.

These earlier studies provide important insights into the domestic conditions under which policymakers are more likely to adopt competition laws. Yet, the widespread adoption of competition laws in countries with diverse economic and political conditions in the last thirty years suggests that more than domestic factors might be at play. While factors such as the level of economic development may be necessary conditions for the adoption of competition laws, they do not explain how policymakers in diverse domestic contexts become convinced of the need to adopt competition laws and are able to do so despite opposition from powerful domestic actors. External pressures may be crucial in overcoming opposition from dominant firms with entrenched interests in the existing system, as was the case, for instance, in Central and Eastern European countries under EU and World Bank conditionality in the early and mid-990s (Fingleton et al., 1996). My argument in this paper is that while domestic economic and political variables certainly play a role in the adoption of competition laws, we need to incorporate international factors to understand why so many governments made similar policy choices in the last 30 years.

Recent research on international diffusion of neoliberal policies provides useful theoretical and conceptual tools for addressing this puzzle. Diffusion in the international system "occurs when government policy decisions in a given country are systematically conditioned by prior policy choices made in other countries (sometimes mediated by the behavior of international organizations or even private actors and organizations)" (Simmons, Dobbin, and Garrett 2006). Diffusion implies that governments' decisions may be uncoordinated but interdependent. A number of different mechanisms may be responsible for such uncoordinated interdependence, such as coercion by economically powerful states, learning from other governments that are geographically or culturally proximate, emulating successful governments, or competition with other countries to attract foreign direct investment. Empirical research has shown the dynamics of diffusion at work in the spread of privatization (Meseguer 2004), public sector downsizing (Lee and Strang 2006), pension, healthcare and family policy reforms (Linos 2013, Weyland 2007), tax policies (Swank 2006), financial liberalization (Quinn and Toyoda 2007) and Bilateral Investment Treaties that protect investors' rights (Elkins, Guzman and Simmons 2006).

Drawing on this literature, I identify three mechanisms that help account for the spread of competition laws around the world. Coercive pressures from economically powerful states, most significantly the United States and the European Union, and international financial institutions can be important factors for a country's decision to adopt competition laws. Second, learning from the experiences of other countries, especially of cultural and geographic neighbors, or regional organizations may increase a country's probability of adopting competition laws. Third, countries may decide to adopt competition laws by emulating others, in other words, not as a consequence of rational calculation of the costs and benefits of adoption, but because they see it as the appropriate thing to do given the policy's acceptance in the international system. A fourth mechanism of diffusion discussed in the literature, competitive pressures, is not likely to be significant for the diffusion of competition policies. I discuss why this is so below.

Coercion

Pressure by economically powerful states and international institutions can play an important role in policy diffusion. An early example of such coercion in the area of competition policy was the US pressure on Germany and Japan in the aftermath of World War II, which was crucial for the adoption of competition laws in both countries (Dumez and Jeunemaître 1996).[4] More recently, both the US and the

[4] There is broad consensus that the US played a key role in the efforts at decartelizing these economies and in the adoption of competition laws in Germany and Japan. However, see Gerber (1998) and Freyer (2006) on the domestic roots of competition laws in both countries, and the difficulty of imposing laws under conditions relatively favorable for their success.

EU have promoted the adoption of competition laws around the world as a way of addressing the complexities of regulating competition in an interdependent world (Aydin 2012, Botta 2011, Doleys 2012, Wigger 2008).

Economic openness and improvements in technology have encouraged international mergers—the annual value of which peaked at $1000 in 2007 (UNCTAD 2014)—and have permitted companies to engage in anticompetitive practices—such as setting up international cartels—across borders. In the early 2000s, approximately 35 international cartels were discovered each year, with a typical cartel causing more than $2 billion in economic harm (Connor and Helmers 2007, 1, 21). In order to address potential anticompetitive conduct taking place outside of their jurisdictions with effects on their markets, competition authorities in the US and the EU have claimed the extraterritorial application of their competition laws under the effects doctrine (Griffin 1999, 160).[5] However, legal and practical obstacles often cripple such extraterritorial application of antitrust laws (Weinrauch 2004, 93).[6] For this reason, the US competition authorities, the Department of Justice and the Federal Trade Commission's Antitrust Division, and the EU Commission's Competition Directorate-General have pursued a strategy of promoting the adoption and enforcement of competition laws in other countries (Aydin 2012; Doleys 2012). Additionally, some scholars argue that the US and the EU authorities are driven by a desire to ensure market access for their companies when promoting competition laws abroad (Weinrauch 2004, 43; Wigger 2008). Competition laws can eliminate private barriers to competition in third country markets, and thus open up markets for the US and the EU companies in these countries.

A typical way that coercive pressures work is conditioning foreign aid, loans, or trade agreements on policy changes in the target country (Dobbin, Simmons and Garrett 2007, 454-5). The US and the EU may

[5] The effects doctrine was first introduced in *United States v. Alcoa* (1945). This doctrine allows for US jurisdiction over foreign offenders and foreign conduct, so long as the economic effects of the anticompetitive conduct are experienced on the domestic market (Griffin 1999). The European Court of Justice endorsed the extraterritorial application of EU's competition laws in 1972, but the practice became much more common after the Court's *Woodpulp* decision in 1988.

[6] Extraterritorial application of competition policies may be difficult because key documents and witnesses may be located abroad, out of reach of the evidence-seeking authority (Weinrauch 2004, 93). It might also be difficult to craft meaningful remedies even when anticompetitive behavior is identified. Effective relief often cannot be ordered when foreign companies have no assets within the territory of the enforcing state (Weinrauch 2004, 94).

influence the adoption of competition laws in countries that are dependent on them for trade, foreign direct investment, grants or loans. Frequently, adoption of a national competition law is a condition for entering into free trade agreements with the US and the EU. Mexico adopted its first modern competition law in 1992 to fulfill the conditions of North American Free Trade Agreement's Chapter 15. Competition law was adopted in Singapore in early 2005 to fulfill obligations under the US-Singapore bilateral free trade agreement (Nikomborirak 2006, 597). Adopting a competition law and establishing an agency to enforce the law is a condition for accession to the EU, and this has played a key role in the Central and Eastern European countries' decisions to adopt EU-style competition laws (Fox 1998). The EU's influence does not stop at potential member states (Schimmelfennig 2009). With few exceptions all countries that have signed association agreements with the EU adopted competition laws modeled on EU's laws (Aydin 2012).

In addition to the US and the EU, the two economic powers with the incentives and the means to promote competition laws abroad, I argue that international financial institutions can exert coercive pressures on countries to adopt competition laws. International organizations (IOs) may serve the interests of powerful states as neorealists claim (Mearsheimer 1994/5). From this perspective, IOs promote the adoption of certain policies to advance the interests of powerful states. Constructivist and sociological approaches attribute more autonomy to IOs, and emphasize their eagerness in "the transmission of norms and models of 'good' political behavior" (Barnett and Finnemore 1999, 712–3). Research in this vein has shown that the United Nations has been influential in spreading science policy bureaucracies in the developing world (Finnemore 1993), while the IMF and the World Bank have been crucial actors in persuading developing countries of the benefits of financial liberalization (Chwieroth 2010; Woods 2006). Differentiating between these two perspectives on the motivations for IO behavior is beyond the scope of this paper. My argument here is simply that IOs have been influential in the diffusion of competition laws through coercive pressures.

Adopting a competition law may appear as a condition for joining multilateral organizations such as the World Trade Organization (WTO) or for obtaining loans from the World Bank and the International Monetary Fund (IMF). For instance, Indonesia passed its competition law in 1999 to comply with conditions set by a series of Letters of Intent signed with the IMF in return for loans during the Asian financial crisis (Neilson 2006, 291), and Vietnam enacted its competition laws to fulfill its commitments to join the WTO (Nikomborirak 2006, 597, Pham 2006, 551). Systematic analyses of conditionality of international organizations such as the IMF and World Bank provide corroborating evidence. In a study of World Bank and IMF conditionality, Dreher finds that "improving competition" was a condition in about 40% of the World Bank Country Assistance Strategy Papers between 1998-2000 (Dreher 2002). Kronthaler and Stephan (2007) find that a country's dependence on IMF credits is positively associated with its probability of adopting competition laws. I expect the impact of IMF and World Bank conditionality to be particularly strong during the 1990s, when these organizations were focused on the adoption of competition laws in their client countries, and less so in the 2000s when their focus shifted from mere adoption of laws to enforcement issues (Author's interviews 2015).

To sum up, I expect a country's economic dependence on the US and the EU, such as its trade relations with these countries to influence the likelihood of its competition law adoption. Signing free trade agreements with the US or the EU, or being a candidate for EU membership should also increase the likelihood of a country's competition law adoption, since frequently there is conditionality attached to these agreements. Likewise, I expect a country's dependence on loans from the IMF and the World Bank to increase the probability of competition law adoption.

Hypothesis 1: The more dependent a country's economy on exports to the US and the EU, the higher is the likelihood that it will adopt a competition law.

Hypothesis 2: A country's likelihood of competition law adoption increases if it has a trade agreement with the US or the EU, or if it is a candidate for EU membership.

Hypothesis 3: The more dependent a country's economy on loans from the IMF and the World Bank, the higher is the likelihood that it will adopt a competition law. This relationship is expected to be stronger in the 1990s.

Learning

Countries may decide to adopt competition laws as a consequence of learning about the benefits of competition laws from other countries, international or non-governmental organizations. According to Dolowitz and Marsh (2000, 14), the emergence of a problem or dissatisfaction with the status quo will drive policymakers to voluntarily engage in a search for new ideas and solutions. Actors will evaluate the policy solutions in light of their effects elsewhere and with a view to understand what will happen if a program in effect elsewhere is transferred to their country. The rational learning model suggests that policymakers learn from countries that are regarded as successful (Lee and Strang 2006; Meseguer 2004). In the case of competition policy, countries may look at the economic performance of others that have adopted competition laws recently and follow in their steps if the policy seems effective in generating positive economic outcomes. Yet the link between competition policy and economic performance is not very straightforward to justify such lesson-drawing. While some recent studies have found a positive relationship between the adoption of competition laws and economic growth (Gutmann and Voigt 2014, Petersen 2013), the evidence is far from conclusive. Moreover, it is not clear to what extent policymakers share the economists' and lawyers' conviction of the benefits of competition law for growth. In a study of countries' written contributions to regional and international organizations' working groups on competition, Emmert, Kronthaler and Stephan (2005) find both positive and negative statements on whether competition laws help attract Foreign Direct Investment (FDI) and whether they are good for economic growth. There does not appear to be a broad consensus among policymakers on the idea that competition policy contributes to positive economic performance, which suggests that learning from success may only be a weak mechanism for diffusion.[7]

Research on learning in sociology suggests that actors may learn from others with similar

[7] Learning from success may be a more plausible mechanism of diffusion in terms of the *type* of competition regime that is adopted by a country. Gerber (2002,16) argues that for a long time, the US antitrust regime was considered to be the most successful regime and was emulated by many countries around the world.

characteristics. An actor's reference group for learning constitutes of actors belonging to a common social category (Strang and Meyer 1993). In political science, models of bounded rationality emphasize geographical proximity as a factor facilitating learning, as proximity makes certain policy models more "available", or more immediate and observable (Weyland 2007, 6-7). Interactions among members of a culturally or geographically proximate group may be more intense, hence creating more opportunities for learning. Therefore, we would expect

Hypothesis 4: the larger the proportion of countries in a country's neighborhood that have adopted competition laws, the higher the probability that the country will adopt competition policies.

International or regional organizations are other natural conduits for learning (Simmons, Dobbin, and Garrett 2006, 798). While international organizations such as the IMF and the World Bank possess coercive means to impose policies on the governments that they work with, these and other organizations may also act as agents of voluntary transfer by providing information about policies (Dolowitz and Marsh 2000, 11). IOs provide technical assistance to countries planning to adopt new policies, and allow for exchange of information and best practices among their members. They also facilitate the emergence of epistemic communities, or "networks of professionals with recognized expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue-area" (Haas 1992, 3). Such epistemic communities of policy makers, lawyers and economists working on competition policy can play important roles in disseminating information about competition laws. For instance, Leucht (2009) documents the impact of a transatlantic community of lawyers and policymakers on the adoption of competition provisions in the European Economic Community. Within the European Union, van Waarden and Drahos (2002) argue that the emergence of an EU-level epistemic community of competition policy lawyers has been the most important channel of influence of EU law over national competition laws.

In the field of competition policy, the OECD and UNCTAD have played important roles in generating and spreading information internationally. These organizations do not have the means to impose policies on their members, nonetheless, they actively engage in promoting competition policies through non-binding resolutions and recommendations, reports and analyses of competition policies. For instance, UNCTAD developed a set of principles on restrictive business practices in 1980, and a model law on competition, both of which have been influential especially in the developing world (UNCTAD 2008, Sell 1995). It organizes voluntary peer review among its members, provides technical assistance and training, organizes an annual conference that brings together national agencies and experts (Intergovernmental Group of Experts on Competition Law and Policy) and publishes research on various aspects of competition policy. The OECD's Competition Committee similarly works to promote competition policy awareness and improvement among members and non-members. It publishes the *OECD Journal of Competition Law and Policy*, and organizes the annual Global Competition Forum, which brings together experts from national competition authorities, international and regional organizations, and from the business community and consumer groups. These two IOs contribute significantly to the dissemination of ideas and knowledge about competition policies among their members. However, due to the near universal membership of UNCTAD, and the inclusiveness of OECD Competition Commission's meetings, it is difficult to analyze the impact that these organizations have had on learning with the currently available data.

Regional trade agreements (RTAs) can also serve as fora for learning about competition policy. A growing number of RTAs incorporate competition policy provisions in their treaties (Cernat 2005, Silva 2005). Regional blocs can be effective in facilitating learning among their members as they bring together a small number of member states and allow for intense interactions among them, through which exchange of information and expertise takes place. The scope and depth of competition provisions in these agreements vary from establishing a common competition policy enforced by a regional authority (such as in the EU or the Common Market for Eastern and Southern Africa) to informal cooperation procedures among the member states (Petrie 2014). We can expect that entering an RTA with competition policy provisions increases a country's probability of adopting competition laws, and we can further expect that the deeper the level of cooperation on competition policy in a regional bloc, the more impact it would have on the probability of competition law adoption in its member states.

Hypothesis 5: A country is more likely to adopt a competition law if it is a member of a regional or bilateral trade agreement that incorporates competition policy provisions. This relationship is stronger for RTAs with deeper cooperation procedures.

Dür, Baccini and Elsig's (2014) Design of Trade Agreements (DESTA) database compiles information about competition policy provisions in preferential trade agreements, and Petrie (2014) categorizes regional trade agreements' competition provisions according to their scope and depth. Both databases provide rich information about competition policy provisions incorporated into RTAs. Recent case study evidence has shown, however, that the actual enforcement record of these provisions has been highly varied (Botta 2011, Sokol 2008). Systematic data about the enforcement of competition provisions in RTAs is not available, and thus it is not possible to include a variable on the *de facto* strength of competition provisions of RTAs in the analysis.

Emulation

A third mechanism through which policy diffusion occurs is emulation. Meseguer argues that "unlike with learning, in the case of emulation governments do not choose policies as a result of improving their understanding of the consequences of their choices. Emulation 'entails adoption of policy ideas without such understanding'" (2004, 312). Emulation involves the social construction of appropriate behavior, where actors model their behavior on the examples provided by others (Lee and Strang 2006, 889). This is consistent with Di Maggio and Powell's (1983) suggestion that policy adoption by mimicry provides legitimacy rather than performance improvement. Finnemore and Sikkink (1998, 902) suggest that after a certain tipping point in a norm's life cycle, an international or regional demonstration effect occurs, in which "international and transnational influences become more important than domestic politics for effecting norm change," and the norm "cascades" through the rest of the states in the system. At this stage, policymakers adopt policies in large part to demonstrate that they are acting in a proper and adequate manner (Braun and Gilardi 2006, 311). The process of emulation, then, suggests that countries adopt policies because they perceive it to be the right or legitimate thing to do.

Following Meseguer (2004, 313), in order to explore the significance of emulation mechanisms in the international diffusion of competition policies, I explore the effect of the percentage of countries in the international system that have adopted competition policies on a country's decision to adopt.

Hypothesis 7: A country's likelihood of adopting a competition law increases as the percentage of countries with competition laws in the world increases.

Competition

A final mechanism of policy diffusion discussed in the literature is competition. Theories of competition-based diffusion suggest that "when a country's policy choice gives it an edge in attracting foreign investment or in selling to export markets, competitors will have strong incentives to give up policy tools they favor on political or social grounds and follow suit—for fear of large-scale losses of investment and jobs" (Simmons, Dobbin and Garrett 2006, 792). These competitive dynamics are widely debated in academic and policy circles, and extensively theorized and tested in the literature on races to the bottom or to the top (Konisky 2007; Rom, Peterson, and Scheve 1999; Vogel 1995). What is important, however, is to identify "as precisely as possible the areas in which governments can be expected to be sensitive to the policies of their peers" (Simmons, Dobbin and Garrett 2006, 794). For instance, since portfolio investors are responsive to taxes and capital controls, governments hoping to attract portfolio investors would be sensitive to changes in tax rates or capital controls in competitor countries.

There are good reasons to believe that countries are not as sensitive to the adoption of competition laws by their competitors as they are to changes in their tax rates or capital controls. Competition policy can at best be a marginal concern for a firm deciding to invest in a country; as Fox (2001, 351) argues, "the firm first chooses to serve the market, and probably will do so absent 'unlivable' law". A firm planning to invest in a relatively protected economy may lobby for the adoption of competition laws to gain market access, but in that case a country's decision to adopt is a consequence of firms wanting to invest in that country, not a cause of it. It is possible, however, that host countries adopt competition laws to send a signal to potential investors to show their commitment to creating a business friendly environment. This is plausible; however, given the limited range of factors that investors care about (Ahlquist 2006, Mosley 2000), competition policy is probably only a marginal concern. Emmert, Kronthaler and Stephan's (2005, 18, 31) analysis of countries' discourses on competition policy demonstrates that policymakers are unsure whether adopting a competition law helps or hurts their chances of attracting FDI. Therefore, it is unlikely that competition to attract investment plays an important role in the adoption of competition laws.

Could the lack of competition laws be an incentive for firms to invest? That does not seem to be the case either. Because many countries claim extraterritorial reach of their competition laws under the effects doctrine, host country laws are not the only laws that apply to a firm operating in a country (Fox 2001, 351). For instance, a US firm cannot evade US antitrust laws by operating in another country; if its anticompetitive conduct harms the US market, it would still be subject to the US antitrust legislation. Thus, there are no competition law safe havens, as in corporate charter or tax safe havens. Fox (2001) discusses the possibility of a race to the bottom in terms of the content of competition laws, for which she argues there is some room, even though there is no consensus among the world antitrust community about what constitutes top or bottom in terms of competition laws. This type of competition, even if it exists, would be beyond the scope of this paper, which is primarily concerned with the adoption of any form of competition law.

In light of the above factors, I expect competitive pressures for policy adoption to play a marginal role in convincing policy makers to adopt competition laws. In the words of Fox (2001, 351), "the competition of laws to attract business hypothesis does not very well fit competition laws". This contrasts with diffusion mechanisms of other policies discussed in the literature such as corporate tax rates (Swank 2006) and Bilateral Investment Treaties (Elkins, Guzman, and Simmons 2006). Competitive pressures are the most significant mechanism in the diffusion of these two policies: once a competitor country reforms its policy, not reforming is costly in terms of (potentially) lost investment and, consequently, growth and jobs. For the diffusion of competition laws, competitive pressures are less of a concern, because the presence or absence of competition laws is a relatively minor concern for firms looking to invest in the country.

Data and Method

I empirically explore the proposed hypotheses with data on the adoption of competition laws in countries around the world. Data on competition law adoptions are collected from various sources such as UNCTAD (2007), International Bar Association's Global Competition Forum (2009), OECD Peer Reviews (various years), UNCTAD Peer Reviews (various years) and websites of national competition authorities where available. The data are cross-checked against previous studies that use similar data on competition law adoptions such as Palim (1998), Petersen (2013), and Gutmann and Voigt (2014), and any inconsistencies were resolved consulting official sources. For each country, I record the year in which the country adopted a competition law for the first time.

Data on the independent variables of the study are collected from various sources. To measure a country's dependence on the US and the EU as export markets, I calculate separately the share of exports of the country going to the US and the three largest economies of the EU (Germany, France and the UK). The export data are retrieved from the World Integrated Trade Solution (WITS) database of the World Bank (World Bank 2014a). I collect data on whether a country has signed free trade agreements with the US and the EU from the official websites of the Office of the United States Trade Representative (2014) and European Commission's Directorate-General Trade (Commission of the European Communities 2014). To measure the impact of IMF and World Bank loan conditionality, I calculate IMF and World Bank loans (separately) as a percentage of GDP in each country in a given year. Data on IMF and World Bank loans are retrieved from World Development Indicators (World Bank 2014a). An alternative measure is a dummy variable measuring whether a country has an ongoing IMF or World Bank loan in a given year, which is taken from Dreher (2006). I calculate the share of countries that have national competition laws in place in a country's neighborhood in a given year using World Bank regions. Data on membership in RTAs with competition policy provisions is obtained from DESTA (Dür, Baccini and Elsig 2014). I also code, as dummy variables, whether the country has signed an RTA with deep competition policy provisions, as classified by Petrie (2014).[8] Data on export dependence, and dependence on IMF and World Bank loans are lagged one year. Data on trade agreements with the EU and the US, and data on RTAs with competition provisions are lagged two years, given that trade agreements frequently take a number of years to negotiate. To explore the impact of regional learning, I calculate the percentage of countries with competition laws in a country's region, based on World Bank regions, lagged one year. In order to test emulation as a mechanism of diffusion, I incorporate a variable measuring the percentage of countries in the world with competition laws, also lagged one year.

A number of control variables are incorporated into the analysis to control for the impact of factors that previous research has identified as important. As suggested by Parakkal (2011), democracy may be an important factor in the adoption of competition laws. I include polity2 score from Polity IV Dataset version 2013 to control for the impact of level of democracy in a country on adoption of competition law (Marshall, Gurr and Jaggers 2014). Weymouth (2015) argues that the strength of the "rent-preserving alliance" in a country, defined as the concentrated producers and allied labor, will oppose the adoption of competition laws, whereas a coalition of consumers, unorganized workers and small business owners will favor the adoption of competition law. To measure the strength of economic concentration, he uses a time-invariant variable based on a Herfindahl index of employment concentration, which is calculated with data from Mitton (2008). Rather than using a similar control variable, I incorporate in the analysis variables measuring gross domestic product per capita on purchasing power parity basis (logged) and population (logged), which according to Mitton (2008) explain more than half of the variation in economic

[8] The RTAs that have the highest score ("7") in terms of the depth of competition provisions according to Petrie (2014, 8) are the following: European Community (1957), European Free Trade Area (1960), Andean Community (Group Decision 285, 1991), European Economic Area (1994), West African Economic and Monetary Union (1994), Central African Economic and Monetary Community (CEMAC Reg. 1/99, 1999), Caribbean Community (CARICOM Protocol VIII, 2000) and Common Market for Eastern and Southern Africa (COMESA Regulations 2004).

concentration. By incorporating the country's gross domestic product per capita, I also control for economic development, which previous research found to be positively associated with the probability of adoption (Palim 1998, Kronthaler and Stephan 2007). These data are from World Bank Indicators (World Bank 2014b). As suggested by Büthe (2015), trade liberalization may be intimately linked with the adoption of competition laws, and I control for this by incorporating a variable measuring trade openness as the sum of exports and imports as a percentage of GDP, taken from Penn World Tables 8.0 (Feenstra, Inklaar and Timmer 2013).

Table 2 presents the results of regression analyses testing the impact of the independent and control variables on the dependent variable, competition law adoption, using an event history model. Event history analyses are frequently utilized in the social sciences to help estimate the factors that influence the hazard or risk of "events" such as the outbreak of a war, the end of a peacekeeping mission, and the adoption of a particular policy (Box-Steffensmeier and Jones 2004). I estimate a Cox proportional hazards model, which is useful when one does not have strong assumptions about the effect of time on the baseline hazard.

In Model 1, I include the variable on trade openness but not population, and in the second model, I incorporate population but not trade openness, as the simultaneous inclusion of these two variables present problems due to high correlation between them. In both models, trade with the EU, loans from the IMF, and percentage of countries in the region that have adopted competition laws turn up statistically significant, in addition to the level of economic development. All of these variables have hazard ratios greater than 1, which means that higher levels of export dependence on the EU, the fact that a country draws on IMF loans, and higher rates of competition law adoption in a country's neighborhood increase the likelihood of a country adopting a competition law. More economically developed countries are also more likely to adopt competition laws, which is consistent with earlier studies. In Model 2, the population variable is also statistically significant and over 1, which suggests that larger countries are more likely to adopt competition policies. These results support the argument that coercion, especially trading intensively with the EU, and drawing on IMF credits to increase the likelihood that a country will adopt a competition law. Moreover, regional learning appears to be important. However, according to these preliminary results, regional learning do not happen through RTAs, as the variable measuring the impact of competition policy provisions in RTAs does not turn up significant. Economic development has a positive influence on a country's adoption of competition laws, which is in line with previous research. Finally, larger countries are more likely to adopt competition laws. The positive influence of economic development and country size on competition law adoption also goes in line with Weymouth's (2015) argument about economic concentration and the rent-preserving alliance. Since larger and more economically developed countries are also typically less economically concentrated (Mitton 2008), it is also more likely that there is higher demand for (and less opposition to) the adoption of competition law in such countries.

Table 2: A Model of Competition Law Adoptions: Cox Proportional Hazard Model		
	Model 1	*Model 2*
Variable	Hazard Ratio (s.e.)	Hazard Ratio (s.e.)
Export %, EU	1.02 (.007)**	1.02 (.008)***
Export %, US	1.00 (.007)	1.0 (.007)
IMF loans	1.9 (.66)*	2.13 (.71)***
% with CL in the region	1.02 (.008)**	1.02 (.009)**
FTAs with CL provisions	1.22 (.34)	1.25 (.34)
Number of countries with CL, global	1.02 (.02)	0.008 (.01)
Trade openness	.995 (.003)	
GDP per capita (logged)	1.44 (.15)***	1.5 (.17)***
Democracy	1.02 (.02)	1.02 (.018)
Population (logged)		1.25 (.09)***
N	2427	2493
Log likelihood	-234.83	-250.24

Notes: * significant at 0.1 level, ** significant at 0.05 level, *** significant at 0.001 level

Conclusion

This paper lays the theoretical foundation for a project investigating the factors driving the diffusion of competition policies around the world in a relatively rapid pace since the 1980s, and presents some preliminary findings. Competition laws were initially adopted in countries with relatively high levels of development, and from there spread through the international system in the aftermath of the World War II. Their adoption started to gain pace in the 1980s and took off in the 1990s. The most significant wave of competition law adoption occurred following the end of the Cold War and the transition of formerly communist countries to market economies. Transitions to market economy may be an important factor in determining competition law adoption, but is in itself not a complete explanation, since such circumstances create both opportunities and obstacles to the adoption of competition laws. Moreover, as competition laws continued to spread through the 1990s and the early part of the twenty-first century to countries with different backgrounds, it seems that more than market reforms are at play in the spread of competition laws.

Previous research on the diffusion of competition policy highlights mostly domestic factors to explain the widespread adoption of competition laws. While I draw on these studies, I argue that they fail to bring in the role of international factors in a theoretically meaningful way. Certain domestic considerations may be important for the decision to adopt, but I argue that we cannot assume countries' adoption of competition laws to be completely independent of policies of other actors in the international system, such as economically powerful countries, international and regional organizations.

The preliminary results give some support for the arguments proposed in the paper. Pressures from economic hegemons, in particular, the EU, and international organizations such as the IMF seem to play a role in the adoption of competition laws. Moreover, there is a regional diffusion effect. As the share of the countries with competition laws in a country's neighborhood rises, the more likely it becomes for a country to adopt competition laws. As in previous research, economic development as well as a country's size appears as important factors in influencing a country's likelihood to adopt competition law.

The findings of this paper raise a number of questions to be addressed by future research. The finding that a country's decision to adopt a competition law is influenced by the adoption of such laws in its neighborhood is intriguing, however future research needs to unpack this regional influence. How do neighbors influence one another's policy decisions? Comparative analyses of a small number of countries or regions could be a fruitful way to explore regional learning mechanisms more deeply. Another area for future research is the motivation for reform of competition laws. A cursory exploration suggests that many countries have undertaken multiple reforms in their competition laws. It would be plausible to argue, for instance, that learning from regional and international organizations will be an important mechanism in competition policy reform. Finally, this paper has dealt exclusively with the adoption of competition laws, and did not touch on issues of enforcement, which obviously is of key importance. Some recent studies have addressed the issue of enforcement (Kronthaler 2010). However, the paucity of good cross-country indicators of competition policy enforcement hampers these efforts. In-depth country studies might be more useful in trying to understand the difficulties of enforcement in recent competition law adopters.

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