least unworkable. For example Robert Bork, former Solicitor General of the U.S., and now a judge, has condemned U.S. legislation on price discrimination: ". . . it is impossible to say that price discrimination in general is bad. In fact, in general, it seems to be desirable. And we have seen that the Robinson-Patman Act bears precious little relationship to real discrimination, except by its inability to recognize cost difference, it creates discrimination. Moreover, if Robinson-Patman could recognize discrimination, the law's test are not addressed to output effects, the sole issue discrimination presents. . . .That there now exists no reliable means, and certainly no means suitable for use in litigation, to identify price discrimination is in itself a conclusive agrument against adapting a law dealing with the practice."[2] In fact, Bork's thesis goes beyond merely writing-off the Robinson-Patman Act; his general thesis is that antitrust policy has adversely affected the consumer interest by protecting inefficient and uncompetitive small businesses. Bork's root and branch condemnation is in part related to the highly legalistic character of the U.S. (and Canadian) anti-trust systems; one could argue that his criticism makes, by implications, a case for a system based on ad hoc inquiry, rather along the lines of the UK system, for assessing each alleged case of discrimination or of this or that abuse of market dominance in terms of a carefully defined "public interest", taking account of the interest of users and consumers and of the national interest in maintaining healthy competition.

In competition policy, whatever may be in general, and at a rather abstract level, agreed about objectives, there seems little agreement as to modalities. From the point of view of the trade policy community, competition policy does not always appear to be very sharply defined nor coherent; nor is it evident that legislatures have hitherto been significantly concerned that competition policy objectives be reflected in the formulation or implementation of trade policy. This is merely a re-iteration of the point made earlier that the reason why competition policy is ignored in so much of trade policy administration is that that is the way the law is written. The scope for the consideration of competition policy in the administration of trade policy has been made virtually negligible by legislatures, particularly when one takes account of legislative history.

The Question of "Thresholds"

The first proposal for discussion is that, in general terms, the anti-dumping provisions and the countervailing duty provisions (and the safeguard provisions) should operate only when the quantities involved are relatively substantial and the impact relatively substantial; to so modify the system would in itself take account of the fact that actions under the contingency protection system necessarily impose a burden on the country taking the action, and may be anti-competitive in effect, and therefore should be avoided unless the situation calls unambiguously for such intervention. A simple but substantial raising of the thresholds would by itself help achieve this purpose; it is important to realize, however, that raising the threshold for intervention would justify, and perhaps require, a more punitive set of sanctions.

By "raising the thresholds" we mean the following:

First, it is necessary to to ensure that "injury" in trade policy legislation is more rigorously defined; this will require legislation in most