This issue was extensively discussed in the informal bilateral meetings between Canadian representatives and the representatives of other countries, particularly those representing the UK, during the Kennedy Round negotiations which resulted in the Anti-dumping Code. In those meetings the senior UK official expressed the view that the appropriate technique for dealing with problems of import competition in regard to such products as turbines and generators was not by the use of the anti-dumping system but by procurement rules. That was and is the pattern by which this industry is protected and subsidized in most of the industrialized countries, except for certain Canadian provinces and the privately controlled power utilities in the United States.

The issue of how to open the market of the other industrialized countries, the producers of which competed in part of the Canadian market only over the tariff, was addressed in the Tokyo Round. In the various discussions around the negotiation of the Procurement Code there was detailed examination of the scope for adding to the list of entities to be covered by the proposed code those publicly owned or controlled electricity generator and distribution entities which would be potential markets for Canadian producers. By the same token, it was clear that the relevant Canadian entities would also have to be included. There were detailed discussions to that end with the Canadian provincial authorities, at a senior level, particularly those which were known to give effective preferences to Canadian producers.[24] Until a very late stage of the negotiation the representatives of the EEC Commission expressed the view that it could not be ruled out that such entities as Électricité de France could be included under the Code. However, from an early stage of the negotiations of the Procurement Code the Canadian representatives were aware, from bilateral discussions in Paris, that it was unlikely that Électricité de France would be covered by the Procurement Code, and in the event there proved to be no scope for opening the foreign procurement market to Canadian exports of turbines and generators.

The sectors of production covered by absolute domestic product procurement preferences are only one example, but a very clear cut one, of the restrictive practices which may be found to exist, perhaps for many products in many countries. Our proposal here is that the Tribunal or Commission investigating the impact of alleged dumped, subsidized or intolerable imports should take into account not only the state of competition within the domestic market, but also within the market of the exporter. It could be argued that this would involve an undesirable extension of jurisdiction; but this might be no more an extension of jurisdiction than is the detailed inquiry by officials of the importing country into pricing practices in the determination of "normal value" (that is, the exporter's price in his domestic market) in an anti-dumping action. This involves not only compiling evidence in a foreign jurisdiction but very often the investigation on the spot, in the factory, of pricing practices (by inspection of invoices etc.) by agents of the administrative authority of the importing country. (Officials from anti-dumping administration do carry out detailed investigations in foreign countries, and on the premises of the exporters; in some jurisdictions the government of the importing country may insist that an official of that government be present.)

This proposal is intended, as already noted, to take into account the fact that dumping is a function of the separation of markets: by tariffs, by transport costs, by procurement preferences, by market power and by restrictive