CHAPTER VII

SOME PROPOSALS FOR REFORM

The purpose of this final chapter is to set out, for discussion, some proposals for reform of the contingency protection system so as to more fully take into account the objectives and rationale of competition policy.

The proposals are addressed in the main to the anti-dumping system and to the "safeguard" system of GATT Article XIX, and to surrogate measures and related quasi-cartilization of trade. Much of what is said about the anti-dumping system can be applied to the countervailing duty system. We have not treated that device in any detail in this study, although the observations on injury and causality are, of course, relevant. It should be kept in mind that there is no equivalent in domestic law to countervailing duty — that is, there is no procedure for injured parties to seek a remedy against subsidy in their own country. Only the EEC has attempted an overt-discipline on subsidies. In considering how a deal with the problems identified in the previous chapters, we shall have to deal with elements that are integral to all these components of the system.

Incremental Change

It should be emphasized that these proposals are evolutionary and incremental rather than revolutionary; they will require some re-thinking of the bases of policies, at both the administrative and legislative levels. It is not realistic to think of dramatic changes being legislated overnight. We should beware of formulating proposals for reform in a simplistic fashion, such as comprehensive "harmonization" of trade policy with competition policy. Competition policy is no more understood at the broad political level than is trade policy, perhaps less so, and once one moves from the narrow circle of practitioners and academics making their careers out of competition policy, there would appear not to be, in any country, a very broadly based community of informed support. Moreover, within the competition policy community, if we can call it that, there are sharp and evolving divisions of opinion as to the utility, from an economic or legal point of view, of various legal enactments embodying national competition policy — as the continuing debate in the U.S. about anti-trust in general and Robinson-Patman in particular makes clear,[1] and, of course, there are major differences between the various competition policies.

More particularly, there is a significant current of opinion to the effect that legislation against domestic price discrimination as such is illogical, or at