deterrence. In the administrative remedy approach, the objective is to shield the domestic producer from the impact of discrimination by bringing about a price adjustment (either by an undertaking to raise prices, or by the levying of a duty which can be avoided by the exporter by raising the export price or decreasing the home market price).

If anti-dumping procedures were applied to domestic price discrimination would there be more cases successfully prosecuted? Conversely, if we adopted competition law provisions (that is, a criminal law technique, in the anti-dumping system (that is, if anti-dumping law were to be modelled on the U.S. 1916 law) might we not have a more restrictive trade policy system? Much would depend on what defences were acceptable against a charge of injurious dumping.

One result of the fact the anti-dumping system is a system of administered remedies is that there is no penalty imposed on the person receiving the immediate benefit of discrimination — that is, the importer of the dumped goods — except that he must pay any provisional duty (and assuming that, if there is a positive anti-dumping determination the exporter either gives an undertaking or otherwise eliminates the dumping margin). There is no sense, however, in which the importer of dumped goods is guilty of any offence, nor is there any right to civil action against him by the injured domestic producer. From the point of view of the economic agents, the anti-dumping law may seem less punitive than the domestic price discrimination provision, but less easy to defend against, once an action is commenced.

Much of this difference in structure derives from the fact the principal discriminating agent (the exporter) is some measure outside the jurisdiction of the national authorities; the only effective remedial course is to apply some measure within the jurisdiction or competence of the importing country (a duty on imports, a limitation on imports, or an exclusion order). This is not to say that if the anti-dumping law were to revert to the criminal law model it would be impossible to devise sanctions which would threaten to reach individuals outside the territorial jurisdiction; such a system of sanctions could be intellectually justified by an application of the "effects" doctrine. Such as approach is followed by the U.S. in the application of the export control provisions, in that sanctions are imposed on individuals outside the U.S. who are alleged to have committed such offenses as breaches of re-export undertakings.

## Injury to Whom? To What?

Another, a much commented on difference, is in regard to injury. There are two questions here: Injury to whom? and Injury to what? The anti-dumping systems are, on their face, directed at protection of the domestic competitors of the discriminating foreign seller, that is, "primary-line" injury. In U.S. competition law. That being the case, it is likely that a mere "diversion-of-business" test will be all that is required to satisfy the injury requirement under the anti-dumping law; it is a matter of argument as to what extent this is different from the test of primary line injury cases under U.S. competition legislation. It is difficult to make a comparison in Canada, because of the relative lack of examples of successful price discrimination cases.[2] A number of writers have examined the issue in the U.S., particularly after the Supreme