on trade policy, the work by Hufbauer and Erb, there is only the briefest of references to competition policy considerations.[11]

Given that subsidies are now one of the major techniques of intervention, that subsidies are part of the "new protectionism", one could argue that competition policy should be brought to bear in this area of trade policy. Moreover, there is the important point that, although there is mechanism to offset certain foreign subsidies (the countervailing duty provisions), there is no equivalent mechanism in regard to domestic commerce (except within the EEC, where particular member state subsidies may be prohibited). In the U.S. and Canada, there is no legal mechanism which an agrieved producer in one state or province can invoke against a producer in another state or province who has received a subsidy. The broad issue of subsidization and trade policy has been left in a most confused state by the Tokyo Round agreement.

Patents

The designing, working and the manipulation of the patent system has been frequently a concern of competition policy. A patent confers a monopoly, and accordingly there has been an extensive debate about how that monopoly should be limited without destroying the incentive to technical progress which, it is held, is the objective of a system designed to reward invention. Without attempting to contribute to the extensive literature on patents, we may look at some illustrative examples of situations in which trade policy considerations, the working of the patent system, and competition policy considerations were involved.

One of the more important examples is the Canadian Radio Patents case. It was alleged by the U.S. Department of Justice that certain producers of radios and television receivers in the U.S. and outside the U.S. were using a patent-pooling device to restrict imports into Canada. The production of radios (and television receivers) depended on access to a great number of patents; the producers in Canada, some of which were subsidiaries of U.S. firms, assigned these patents to a firm, Canadian Radio Patents Ltd., which was prepared to grant comprehensive licences to producers and to importers for these patents. However, given that the Patent Act provided that it is an abuse of the patent to serve the market for the patented article by imports,[12] these licences were granted to foreign producers in regard to exports to Canada only for those categories of equipment which it was judged by the company could not be economically manufactured in Canada. This was believed to preclude certain imports from the United States, to the detriment of those U.S. firms which wished to serve the Canadian market from their U.S. production, rather than from the production of a subsidiary in Canada. The patent pool also effectively kept out a range of Japanese television sets, until such time as the last relevant patent expired.

Action by the Anti-trust Division of the U.S. Department of Justice, and subsequently, private suits, under the Clayton Act, were instituted. Within the Canadian bureaucracy, there were at least three different views. In the trade policy community, there had been no knowledge that this private sector trade barrier was in place; trade policy officials had not been concerned with the Canadian patent system, which was regarded as a policy device essentially