

deleterious effects on competition as to be actionable. This was made explicit as regards U.S. anti-trust law when the U.S. required the Japanese authorities to mandate a restriction on automobile exports to the U.S.<sup>35</sup> Absent formal action under the U.S. escape clause, a restriction on exports to the U.S. can escape U.S. anti-trust only if the restrictive action is mandated by the foreign government. The issue is not as clear-cut in other jurisdictions (e.g. EEC and Canada); it is not clear why the Canadian competition authorities, for example, have not more closely scrutinized the variety of restrictive export arrangements which the Canadian authorities have negotiated, not all of which have had a mandatory character in the exporting countries concerned.

In economic terms, much the same should be said of "undertakings" under the anti-dumping system and the countervailing duty system. As we have already noted, the result of an anti-dumping proceeding, frequently in the EEC, less frequently in the U.S. and Canada (less frequently in Canada because "undertakings" have been permitted only under the recent revised import legislation)<sup>36</sup> is an agreement to limit exports or to raise export prices to the importing country concerned. Absent the legal cover of the anti-dumping provisions, such undertakings would be open to scrutiny by competition policy authorities, and no doubt actionable.<sup>37</sup> The magnitude of "costs" involved is affected by the fact that under the anti-dumping provisions selling below full average costs, plus an allowance for profit, is considered to be dumping. (Moreover, the U.S. system, as we have noted, provides minima for the calculation of such costs and profits.)

2. The second category of "costs" arises from the impact on industrial structure, on industrial concentration, from agreements to limit exports. Tumlin has noted the European interest in more explicit cartel-like solutions to problems of adjustment; what we refer to here is the broader issue that trade limiting arrangements, competition limiting arrangements, necessarily affect the structure of industry by reducing competitive pressures. The impact on the steel, textile, apparel, shipbuilding, television and automobile industries, for example, of the various arrangements to limit trade may, in the longer-run, impose greater costs on the various economies than have been measured in the studies noted above. We might ask, for example, what is the effect on the U.K. economy, on the French economy, on the Italian economy, of the sharp restrictions (implemented by various techniques) on the imports of Japanese automobiles. (The arrangements on autos between the U.K. manufacturers and the Japanese manufacturers under which the Japanese manufacturers limit their exports of automobiles would presumably be actionable in the U.S., or Canada, under competition law.) There is clearly a whole area of inquiry here; we need studies, on an industry basis, of the impact of "managed" trade, from a competition policy point of view; however, absent such inquiries, it remains clear enough that many such arrangements are in sharp conflict with competition policy and that they necessarily impose long-term burdens of maladjustment.<sup>38</sup>

3. The third "cost" in terms of the impact on political processes is the increased bureaucratization of trade policy inherent in the contingency protection system. All practitioners, because they are involved in the process, know that despite the log-rolling, despite the adherence to the interests of narrow producer groups necessarily at play in a tariff-centered system, such a system of legislated protection is less open to the covert play of special influence than is the system of contingent protection. There are "costs", these