

his extra production and by reasoning that dumping overseas does not affect his market price at home. This kind of distress selling, and even more so, direct predatory pricing with an attempt to drive localized production from the market, is disruptive of ordinary marketing processes. It gives false signals both to consumers and producers as to the relative value of competing products. International trade will grow on a sound basis in proportion as dumping practices can be minimized.

The low levels of tariffs to which we are now committed will be an open invitation to extensive dumping practices; therefore, we need to prepare the best possible defenses against this type of market disruption.

A sound antidumping law would establish dual criteria as a basis for dumping penalties, (1) that there be, in fact, sales below fair market value; (2) that there be injury to producers in the country of import.

The crux of the matter comes in the definition of the terms in these two criteria.

To arrive at a definition of dumping, a fair market value must be established. Important criteria for the definition of "fair market value" are: (1) that it should represent a price at which the product is freely offered in the country where produced; (2) in normal wholesale quantities, unless the import is similar to a level of trade in the product for which there is special pricing and conditions of sale in the home market—"condition of sale" here referring to end use, type of shipment, duration and volume of the commitment, et cetera; (3) that the price be taken as f.a.s. (free alongside ship) or f.o.b. ship's rail (depending on whether packaged or bulk cargo) at the time and place of shipment or at the nearest port; (4) that calculations of currency exchange rates used in any antidumping case be the actual involved in trade transactions where there is a difference from official rates.

It is important that an injury test be relevant to the actual market conditions. Any suitable definition should include the following criteria:

1. An antidumping statute should recognize no injury for products that are noncompetitive. For this, the U.S. criteria of "like and similar" in present legislation in defining competitive products seems to be a good one.

2. There should be a presumption of no injury where import sales are not below the prevailing price in the country of importation. There should be no penalty for imports that meet the going price.

3. There should be a finding of injury if the import is sold at prices below the prevailing price in the country of importation and producers have capacity to supply 10 percent or more of the home market.

4. Each product or product line should be considered an industry in and of itself. An injury test which looks to the average profitability of an industry or a company therein is meaningless; in fact, there is no economic basis for applying any profitability test in an antidumping law.