

[Code, the Exclusive Remedy]

International Antidumping Code:

Article 1

The imposition of an antidumping duty is a measure to be taken only under the circumstances provided for in Article VI of the General Agreement. The following provisions govern the application of this Article, in so far as action is taken under antidumping legislation or regulations.

Comment:

To require U.S. antidumping actions to conform to the conditions set out in the Code is to limit use of the present U.S. Antidumping Act and regulations to those areas in which the U.S. law and regulations are in accordance with the international code. In those areas not in accordance, it will be necessary to either change U.S. law and regulations to conform to the international code or to cease to use U.S. law and regulations now on the books, a situation which it is doubtful that the Congress intended.

Whereas the Code contains many permissive points which the authorities "may" apply, and therefore which would not seem to require conformity by countries signatory to the international Code, the danger of these permissive provisions lies in the fact that they prescribe the outer limits of any national legislation in the future, on the points they cover, just as effectively as those provisions which are mandatory under the new Code--should the Congress at a later time be persuaded that any legislation contrary to the Code would embarrass the President as being contrary to our international obligations. If this were the case, while Congress could still pass any legislation it desired, it would, as a practical matter, be effectively foreclosed from legislatively achieving many of the needed reforms outlined in S. 1726 and other industry proposals.