

[Like Product]

International Antidumping Code:

2 (b) Throughout this Code the term "like product" ("produit similaire") shall be interpreted to mean a product which is identical, i.e., alike in all respects to the product under consideration, or in the absence of such a product, another product which, although not alike in all respects, has characteristics closely resembling those of the product under consideration.

Antidumping Act, 1921, As Amended:

No comparable all-purpose concept under U. S. law. There is no such concept regarding injury but there is a concept somewhat similar for dumping; the section 212(3) definition of "such or similar merchandise" is used in determining foreign market value in sections 205, 202(b) and (c). Strict priorities are set out in section 212(3), however, for which there is no parallel in the International Antidumping Code.

U.S. Treasury Regulations:

Section 14.7(b)(3) of the Treasury Regulations requires that in any consideration of "similar merchandise" as described in subdivisions (C), (D), (E), or (F) of section 212(3), Antidumping Act, 1921, as amended, due allowance be made for differences in the merchandise, primarily the effect of such differences upon the market value. Consideration may also be given to differences in cost of manufacture if the amount of any price differential is wholly or partly due to such differences.

Comment:

The Code term "characteristics closely resembling those of the product under consideration" is thoroughly ambiguous. Are these to be physical characteristics, competitive equality, similarity of productive processes? What kind of variations would determine "closely resembling"?

Like product is further clarified in the Code only with regard to qualifications for comparison under the injury test--production process, the producers' realizations, profits. (See discussion in Article 3 (d)).

Thus, U.S. Law and Treasury Regulations are much more specific than International Code. This raises the question of whether these provisions must be scrapped in favor of the more generalized Code provisions.