Dummy Exporter Loophole: Importers could avoid the Act simply by setting up a foreign subsidiary to the parent company as the exporter of the dumped merchandise, and by seeing to it that the bulk of the profits from the sale of such merchandise are made by the subsidiary itself in the country of export. The Bill, therefore, provides that such markup for expenses and profits by the exporting subsidiary shall be deducted in determining the exporter's U.S. sales price.

In addition, if Treasury finds a margin of dumping both ways--whether it recognizes or sees through the subsidiary--the Bill provides that the dumping duty shall be equal to the greater margin. This would relieve Treasury of the need for extensive investigations to determine the bona fide nature of the exporting subsidiary in such cases. Section: 3.

Comment:

Article 2 (e) is permissive. It appears to envision some sort of a work-back from retail sales to an independent buyer, or if such sales are not available or if there is further manufactured by importer before sale the resort is to "such reasonable basis as the authorities may determine."

The last sentence of 2 (f) is less permissive, using the words, "should also be made." The question raised is whether Treasury could claim that almost any situation would enable it to use "such reasonable basis as the authorities may determine" so that any hope of getting more specific provisions such as are proposed by S. 1726 may be permanently foreclosed.