

B. Determination of Injury ...

Article 3

[Principal Cause of Material Injury]

International Antidumping Code:

3 (a) A determination of injury shall be made only when the authorities concerned are satisfied that the dumped imports are demonstrably the principal cause of material injury or of threat of material injury to a domestic industry or the principal cause of material retardation of the establishment of such an industry. In reaching their decision the authorities shall weigh, on one hand, the effect of the dumping and, on the other hand, all other factors taken together which may be adversely affecting the industry. The determination shall in all cases be based on positive finding and not on mere allegations or hypothetical possibilities. In the case of retarding the establishment of a new industry in the country of importation, convincing evidence of the forthcoming establishment of an industry must be shown, for example, that the plans for a new industry have reached a fairly advanced stage, a factory is being constructed or machinery has been ordered.

Article VI, GATT:

6 (a) "No contracting party shall levy any antidumping or countervailing duty on the importation of any product of the territory of another contracting party unless it determines that the effect of the dumping or subsidization, as the case may be, is such as to cause or threaten material injury to an established domestic industry, or is such as to retard materially the establishment of a domestic industry."

Antidumping Act, 1921, As Amended:

The Antidumping Act, 1921, delegates to the Tariff Commission the determination of whether an industry in the United States is being or is likely to be injured or is prevented from being established, by reason of the importation of such merchandise into the U.S. There are no specific guidelines for finding injury.

S. 1726 (90th Congress):

Section 201 (b) of the Bill would set forth several tests for determining whether material injury exists or is likely to exist. [See discussion under Article 3 (b)].

Section 1 [201(b)(2)(3) and (4)] of the Bill recognizes that dumping may be one of several contributing causes of injury. [See discussion under Article 3 (c)].