[Forms of Injury]

International Antidumping Code:

3 (b) The valuation of injury--that is the evaluation of the effects of the dumped imports on the industry in question--shall be based on examination of all factors having a bearing on the state of the industry in question, such as: development and prospects with regard to turnover, market share, profits, prices (including the extent to which the delivered, duty-paid price is lower or higher than the comparable price for the like product prevailing in the course of normal commercial transactions in the importing country), export performance, employment, volume of dumped and other imports, utilization of capacity of domestic industry, and productivity; and restrictive trade practices. No one or several of these factors can necessarily give decisive guidance.

Antidumping Act, 1921, As Amended:

No comparable provisions; Tariff Commission has complete discretion in determining what amounts to injury.

S. 1726 (90th Congress):

Definitions of "Injury"

Section 201 (b) of the Bill sets forth the following tests for determining whether material injury exists or is likely to exist:

Test 1. Percentage Loss of Market Share

THE NEED — Members of the Tariff Commission have tended to agree that a domestic industry must show "material" injury to obtain relief, but have disagreed on the percentage of a market which dumped imports must seize to be deemed "material".

PROPOSAL — Injury shall be found if imports determined by Treasury to be dumped:

Capture 5% of the total domestic sales of the relevant product in the competitive market area.

DEFENSE AVAILABLE — Unless there is clear and convincing evidence that had su dumped sales not been made, the industry in the U.S. still wo not have increased its sales.

The Commission could measure dumping in any 3-month ti span during a period starting six months before the initiation o the investigation by the Treasury Department and ending at the conclusion of the Commission's investigation.