

COMMENT           The choice of 5% can be justified on the basis of concepts borrowed from U.S. antitrust laws, and on the fact that domestic industry cannot be expected to suffer a 5% loss of sales to dumped merchandise without serious adverse effects. Section: 1 [201 (b) (1)].

Test 2. Forcing a Price Break

THE NEED           There has been wide disagreement within the Tariff Commission as to the role dumped imports must play in forcing a price break before they are considered injurious.

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

A contributing cause of a decline in the prices of 50% or more of the relevant domestic merchandise supplied to the competitive market area.

The price break must occur in any month within the period starting six months before the Treasury investigation and ending at the close of the Commission's investigation.

COMMENT           Injury may be caused when, in order to protect their market position from dumping, domestic producers are forced to reduce prices. Even small quantities of imports at dumped prices can cause widespread price breaks in the competitive market area. Section: 1 [201(b)(2)].

Test 3. Losses by Labor

THE NEED           The interests of domestic labor cannot be separated from those of domestic industry in the face of dumped imports. At present the Act makes no direct reference to injury to labor, only to "an industry."

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

A contributing cause of a decline of 5% or more (in man-hours worked or in wages paid) of direct labor employed by a domestic industry in producing merchandise of the same class or kind supplied to a competitive market area.