

[Contributing Cause]

International Antidumping Code:

3 (c) In order to establish whether dumped imports have caused injury, all other factors which, individually or in combination, may be adversely affecting the industry shall be examined, for example: the volume and prices of undumped imports of the product in question, competition between the domestic producers themselves, contraction in demand to substitution of other products or to changes in consumer tastes.

Antidumping Act, 1921, As Amended:

No comparable provision.

S. 1726 (90th Congress):Recognizing "Dumping" as a "Contributing Cause"

The second, third and fourth tests of injury, outlined in connection with Article 3 (b), require that the dumping of foreign merchandise must be a contributing cause of the stated effects. It is rarely the case that any event is the sole or even the predominant cause of any other event, especially in the field of economic cause and effect. Yet, the Tariff Commission has recently refused to recognize injury from dumping because injury might have been explained in part by causes other than dumping. The Bill would make clear that the mere presence of concurrent causes may not be used to avoid a finding of injury from the dumping. Section: 1 [201(b)(2), (3), and (4)].

Comment:

Article 3 (c) seems to be a causal relation test (whereas Article 3 (b) is concerned with the scope of injury)

Article 3 (c) picks up several of the defenses which Tariff Commission used to deny injury finding.

The words "individually, or in combination" in Article 3 (c) are particularly damaging because they require the "principal cause" of Article 3 (a) not only to be the largest single cause, but also of greater effect than all other causes combined. Read in conjunction with the words in Article 3 (a), "all other factors taken together" this becomes the inescapable intent of the Code which the Tariff Commission would have to implement because no exception has been accorded the U.S. as was originally done regarding Article VI of the GATT.