

[Competitive Product Market]

International Antidumping Code:

3 (d) The effect of the dumped imports shall be assessed in relation to the domestic production of the like product when available data permit the separate identification of production in terms of such criteria as: the production process, the producers' realizations, profits. When the domestic production of the like product has no separate identity in these terms the effect of the dumped imports shall be assessed by the examination of the production of the narrowest group or range of products, which includes the like product, for which the necessary information can be provided.

Antidumping Act, 1921, As Amended:

No comparable provision. The "such or similar" provisions in Section 212(3) of the U.S. Antidumping Act apply to comparability for purposes of determining whether there is dumping, not to the injury question.

S. 1726 (90th Congress):

The product market would include merchandise which is reasonably interchangeable in use with the class or kind involved. Other lines of commerce in which one or more members of a domestic industry may be engaged, but which are outside the scope of competition with dumped imports, are not to be considered by the Commission in weighing the impact of dumping upon a domestic industry. Section: 1 [201(f)(4)].

Comment:

Article 3 (d) attempts to solve the "relevant product line" problem. This concept would be superimposed upon the definition of industry as set out in Article 4 by Article 4 (c).

The Code's reference to production process would seem to preclude any subsequent possibility of legislation to allow a claim on injury to be made by a competing product not necessarily of the same material or made by similar processes, although such broadening of product line may be dangerous where broadening the relevant market base may make it more difficult to show injury.

The usefulness of this provision would depend upon whether the availability of data and "necessary information" provisions can be satisfied.