

to determine ab initio the injury question without the benefit of knowing the margin of dumping, if any, which may exist.

The requirement in Article 5(b) for simultaneous consideration of dumping and injury not only during the course of such investigation but also in the decision whether or not to initiate an investigation, is a complete innovation from the statutory scheme set up by the 1954 Amendment which required the determination of sales at less than fair value to be made before the question of injury even became pertinent.

The sentence beginning "In any event" makes no sense except as an attempt to require the U.S. Tariff Commission to begin consideration of evidence of injury once a preliminary decision has been taken that there is dumping and sufficient evidence of injury (the earliest date on which provisional measures may be applied--see Article 10 (a)).

The Tariff Commission could informally be supplied with information by Treasury on the injury question prior to a formal finding of a dumping margin--and conceivably could make a finding of "no injury" on the first day of the statutory 90 day period available for its injury determination--unless the domestic complainant requested the Tariff Commission to hold a public hearing on the question of injury. Conceivably, this is what our U.S. negotiators have in mind. The unavoidable question, however, is how the Tariff Commission is supposed to determine the injury question prior to knowledge of the margin of dumping involved in a finding of sales at less than fair value which, according to U.S. law, must be first supplied to the Tariff Commission by the U.S. Treasury so that the Tariff Commission can measure the impact of the goods containing the margin of dumping. [see also discussion on page iii]