Antidumping Action on Behalf of A Third Country

Article 12

International Antidumping Code:

(a) An application for antidumping action on behalf of a third country shall be made by the authorities of the third country requesting action.

(b) Such an application shall be supported by price information to show that the imports are being dumped and by detailed information to show that the alleged dumping is causing injury to the domestic industry concerned in the third country. The government of the third country shall afford all assistance to the authorities of the importing country to obtain any further information which the latter may require.

(c) The authorities of the importing country in considering such an application shall consider the effects of the alleged dumping on the industry concerned as a whole in the third country; that is to say the injury shall not be assessed in relation only to the effect of the alleged dumping on the industry's exports to the importing country or even on the industry's total exports.

(d) The decision whether or not to proceed with a case shall rest with the importing country. If the importing country decides that it is prepared to take action, the initiation of the approach to the CONTRACTING PARTIES seeking their approval for such action shall rest with the importing country.

Article VI, GATT:

6(b) The Contracting Parties may waive the requirement of subparagraph (of this paragraph so as to permit a contracting party to levy an antidumping or countervailing duty on the importation of any product for the purpose of offsett dumping or subsidization which causes or threatens material injury to an indu in the territory of another contracting party exporting the product concerned to territory of the importing contracting party.

Comment:

Although there is no comparable concept in U.S. law or regulations, by having originally subscribed to Article VI of GATT, the U.S. might be deemed to have accepted this provision in principle. Insofar as the Antidumping Act, 1921, as amended requires injury to be measured in terms of whether an "indu in the United States" is being or is likely to be injured, it would seem to requ a change in U.S. law to authorize the Tariff Commission to find injury to a th country.