that international trade will grow on a sound basis in proportion as dumping practices can be minimized. To this end, it would be desirable to harmonize and make uniform the language and practices relative to antidumping. A fair system is needed that takes into account the legitimate interests of both the developed and the underdeveloped countries.

We concur in the basic concept embodied not only in the U.S. antidumping law, but also in Article 4 of GATT, namely, that there ought to be a dual criteria as a basis for any dumping penalties: 1) that there be, in fact, sales below fair-market value; and 2) that there be injury to producers in the market of import.

A DEFINITION OF "FAIR MARKET VALUE"

There are wide variations in the definition which different countries use for the term "fair market value" or "normal value" as stated in Article 4 of GATT. If dumping is to be minimized, without at the same time injuring normal international trade and competition, careful attention must be given to the definition of fair market value.

This problem is especially difficult in the chemical industry, where a product may be sold into a variety of different uses under different conditions of sale. Our experience leads us to believe that the following statements represent important criteria in defining fair market value:

1. That it should represent a price at which the product is freely offered by national producers in their home market;
2. That the price should be for normal wholesale quantities, unless the import is simlar to a level of trade in the product for which there is special pricing and condition of sale in the home market ("condition of sale" here referring to end use, grade, type of shipment, duration and volume of the commitment, etc.);
3. That the price be taken as F.A.S. (free alongside) or F.O.B. ship's rail (depending on whether packaged or bulk cargo) at the time and place of shipment or at the nearest port; and
4. That calculations of currency exchange rates used in any antidumping case be the actual involved in trade transactions where it is different from official rates.

INJURY TEST

The diversity in the definition and treatment of the question of "injury" is even greater than that of fair value. In the United States and Germany, the test is so restrictive that injury is seldom found. In an 11-year period (1955–65), out of 345 U.S. dumping cases only 10 showed injury; of this, only 2 were chemicals. By contrast, some countries—notably Commonwealth countries—may claim injury even if the import is sold at or even above their domestic price.

The present U.S. approach to determining injury gives important weight to the corporate or industry level of profits. The presumption appears to be that if a company and/or an industry are making profits equal to or better than the national average, it is therefore not disadvantaged by any dumping that might have occurred. This approach avoids dealing with the specific injury which is the basis for the complaint. It is especially unfair in the modern business world where the business of so many companies is highly diversified. The inappropriateness of profit as a criterion is discussed in the attached appendix.

Clearly, a standardization of the injury test is needed. The United States should propose, through GATT, criteria that will make the test more specific and less judgmental. We believe that a suitable defintion should include the following criteria:

1. An antidumping statute should recognize no injury for products that are noncompetitive. For this, the U.S. criteria of "like and similar" in defining competitive products seems to be a good one.
2. There should be a presumption of no injury where import sales are not below the prevailing price in the country of importation.
3. There *should* be the presumption of injury if domestic production equals 10% or more of demand and the import is being sold below fair value and below the price in the country of import. This is the test that was so effective in preventing a destructive type of competition in Canada.
4. Each product or product line be considered an industry in and of itself. An injury test that looks to averages for an industry, or multiproduct company therein, is meaningless. Actual losses in a particular product or narrow product line may be concealed by profits from patented or other products. This product