capital goods, because for such goods there are often no domestic sales with which to make a comparison. Not surprisingly, manufacturers of such goods are not always willing to provide all their pricing data to Canadian officials, and accordingly, in so-called "cost of production" cases recourse may be had to the setting of arbitrary figures for normal values. This is intended, in part, as a technique to force firms to provide data, but the tactic has not always been successful. The same problem arises in the United States system, of course; Kawahito discusses the implications in his review of steel dumping cases:

> Application of the cost criterion may result in erroneous rulings by the investigating agency, because determination of foreign producers' cost is far more difficult than determination of their home market price. . .
>
> the "best information available" may turn out to be the information provided by the petitioner and other domestic industry sources when the investigating agency is not aware of the existence of better data which are publicly available. It may be recalled that, for the October 1977 preliminary ruling on the Gilmore case involving Japanese carbon steel plates, the Treasury Department relied on estimates supplied by the petitioner (the cost ratio between carbon steel plates and all steel products) and Japanese financial reports translated by the U.S. Steel Corporation.

It should be clear from these comments that, in Canada and the U.S., the anti-dumping system, like the price discrimination system, has developed in roughly, but only roughly, similar fashion. In both systems, discrimination in pricing is at issue; in both systems, selling below a defined level of costs is at issue. But the difference, the key difference, is in deciding on the level of costs at issue. One should consider therefore, whether the existing difference in the two systems is reasonable, given that one system is directed at domestic sales, at sales within the national territory, where the effect of the discrimination on the buyer who pays the higher price from the same seller, as well as the impact on other sellers, must be taken into account, and the other system is directed import sales, and where the impact on the buyer discriminated against is not at issue.

Injury to "Industry"

An assessment of the relevance of this key difference in the standards between the two systems must depend, in part, on another key element: that is, what is the entity or party on which the impact of discrimination falls. What we are referring to is not the question of "first-line", or "second-line" injury but an issue which has received less attention: that is, the concept in the anti-dumping system that it is the industry[30] (or rather, a major part of it) which must show injury (except for the special provisions for regional markets) but in domestic price discrimination cases it is any firm that can show that another firm is discriminating against it. We need not go into the problems which arise in any domestic price discrimination case of determining what is the market being served, which firms are competing in that market: these are all rather obvious questions which flow from the fact that any individual retail merchant can launch a proceeding under the Robinson-Patman Act or the Canadian Combines