restriction against Canadian exports.[19] It is for consideration whether such a definition could be introduced into the antidumping reform process.

Fourth, we could usefully seek to strengthen injury determination standards (in addition to the industry definition issue). For example, currently it must be demonstrated that dumped imports are causing injury, but it is not necessary to demonstrate that such imports are the principal cause of injury, or even an important cause. In the NAFTA, in contrast, imports from a Party are excluded from global import surge action (against "fairly" traded goods) taken by another member country unless certain conditions are met, including that the imports "contribute importantly" to injury (defined as "an important cause, but not necessarily the most important cause", combined with a measurable trigger related to the growth rate of imports).[20] Perhaps some variation on the concept of "importance" might be feasible in the antidumping context.[21]

Fifth, could the meaning of "injury" be sharpened? The current international discipline simply refers to "material" injury, which is not directly defined but is understood to mean something less then the "serious" injury concept used in emergency import surge actions. In this latter context, injury means "significant overall impairment of a domestic industry". There may be room here to build on the concept of "material" injury so that it approximates the higher threshold of "serious" injury.[22]

For example, the MTN antidumping agreement lists several indicators that must be taken into account when determining injury, including whether there has been a "significant increase in dumped imports" or "significant price undercutting", or "whether the effect of such imports is otherwise to depress prices to a signficant

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[19] See NAFTA Article 805. The U.S.'s Statement of Administrative Action forwarded with the NAFTA implementing legislation last autumn tried to loosen this definition in a way that is clearly inconsistent with the treaty obligation. The SAA suggested that the scope of "domestic industry" could be adjusted at the discretion of the U.S. International Trade Commission by excluding firms that are related to exporters or importers of the good in question. A recent MTN-related, private members' bill tabled in Congress provides another variation of how this definition can be manipulated by creative minds. The recent Regula-Mineta proposal would allow for the exclusion of domestic production of an input "simply further processed into a downstream product" from the like input sold as a finished product, thereby narrowing the industrial production base against which injury may be determined. See "Kantor Signals Support for Dumping Demands in Regula-Mineta", in **Inside U.S. Trade**, Vol.12, No.19 (May 13, 1994), pp.1-3.

[20] See Articles 802 and 805.

[21] It is also critical that domestic antidumping law explicitly recognize the causal link between dumping and injury. U.S. law does not yet do so, despite the clear multilateral obligation in this regard, recently confirmed in the MTN Final Act.

[22] In U.S. trade law, material injury is defined loosely as harm that is not inconsequential, immaterial or unimportant.