

25 Without citing all the extensive literature on this issue, we note the well known article by Phillip Areeda and Donald R. Turner: "Predatory Pricing and Related Practices Under Section 2 of the Sherman Act", 88 Harvard Law Review 1975 (the Areeda-Turner doctrine that only sales below short run marginal costs should be considered predatory) and the discussion of the various theories of cost in Richard A. Posner: Antitrust Law/An Economic Perspective, University of Chicago Press, 1976, 184-196: Posner's definition of predatory pricing is "pricing at a level calculated to exclude from the market an equally or more efficient competitor".

26 Combines Investigation Act, 34 (1) (c).

27 Zaid, op. cit., 196, and 109 DLR (3d) 5-59, and 119 DLR (3d) 279285.

28 Consumer and Corporate Affairs: Proposals for a New Competition Policy for Canada, Second Stage, March 1977, pp. 55-59, 67-67.

29 Special Import Measures Act, Section 19.

30 Anti-dumping Code, Article 4, para. 1.

31 Rodney de C. Grey: The Development of the Canadian Anti-dumping System, pp. 46-47.

32 In this context, regional market cases are not a major issue; for a discussion of the relevant GATT provisions, see Grey, op. cit., pp. 48-49, and Grey: U.S. Trade Policy Legislation, pp. 47-51.

33 There are of course, penalties for fraud in connection with anti-dumping proceedings, such as false invoicing, but this is not at issue in this context.

34 "Undertakings" are provided for in the Tokyo round Subsidies/Countervail Code in Article 4, paras. 5 to 8; in the Anti-dumping Code in Article 7; these are heavily negotiated provisions. In the Canadian legislation (SIMA) in Section 49 to 54; in the U.S. legislation in Section 734 of the Tariff Act, as enacted in Section 101 of the Trade Agreements Act of 1979.

35 Gary N. Horlick: "American Trade Law and the Steel Pact Between Brussels and Washington", 6 The World Economy, September 1983, p. 361.

FOOTNOTES TO CHAPTER V

1 For an explanation of the marginal differences between the Havana Charter provisions and GATT Article XIX, see GATT: Analytical Index, Third Revision 1970, p. 106.

2 Hawkins, op. cit., p. 106.