

application of the law to U.S. private interests, can be used by special interests to harass foreign export industries and foreign governments and thus to manipulate U.S. foreign policy.<sup>10</sup>

#### Definition of Subsidy

There are three substantive issues in a countervailing duty action as prescribed by Article 2 of the GATT Subsidies Code and Section 701 of the U.S. Trade Agreements Act of 1979:

- o the existence of a subsidy;
- o material injury to a domestic industry, threat of material injury to a domestic industry, or material retardation of the establishment of a domestic industry; and,
- o a causal link between the subsidized imports and the alleged injury.

In U.S. law, material injury means "harm which is not inconsequential, immaterial, or unimportant." It is to be assessed in terms of, first, the volume of imports of the merchandise; second, the effect of the imports on prices in the United States for similar products; and third, the impact of the imports on domestic producers of similar products.<sup>11</sup> Generally speaking, injury will be found whenever there is an absolute increase in the volume of imports and an actual or potential decline in the output, sales, market share, profits, productivity, return on investment, or utilization of capacity in the U.S. domestic industry.

The injury test is not onerous and causation is not really a separate issue in practice. An increase in the volume of imports need be only one cause of injury to a U.S. industry; it need not be the predominant cause.