

So you see that the code requires a different and much higher standard of proof.

Now, there has been testimony before this committee already regarding the major cause test for adjustment assistance under the Trade Expansion Act of 1962. The President himself in his message to Congress has described this major cause test as too rigid, too technical, and too complicated.

In this connection I would like to read another short excerpt from our statement at page 16.

In his statement on July 11, 1967, to the Subcommittee on Foreign Economic Policy of the Joint Economic Committee of Congress, Ambassador William Roth described the difficulties of the "major cause" test of the 1962 act as follows, and I am now quoting from Ambassador Roth:

Unfortunately, however, the adjustment assistance provisions have not had the expected beneficial effect, because in practice the present test of eligibility to apply for the assistance has proved too strict. In fact, in no case brought under the act have any firms or workers been able to prove eligibility.

The present test of eligibility requires (1) that tariff concessions be shown to be the major cause of increased imports and (2) that such increased imports be shown to be the major cause of injury to the petitioner.

In the complex environment of our modern economy, a variety of factors affect the productive capacity and competitiveness of American producers, making it virtually impossible to single out increased imports as the major cause of injury.

Mr. Chairman, we submit that if the major cause test is too rigid under the Trade Expansion Act the principal cause test is too rigid under the Antidumping Code. Consider the practical application for just a minute of these words in the market place.

In the northeastern cement dumping cases there were several factors that affected the declining prices. One was a widening gap between supply and demand. Another was the actual decrease in the consumption of cement. The Tariff Commission took judicial notice of these factors but it found that dumped cement was nevertheless an important contributing cause to the price break in the northeast that followed 1960.

Under the act the cement industry in these cases was able to obtain relief but under the code we would have had to show and would have been unable to show that the dumped cement import from Sweden, Belgium, Portugal, and the Dominican Republic were demonstrably the principal cause of material injury, so we object to this code since as a practical matter of proof it would deprive us of a just remedy.

The second area of conflict between the act and the code we wish to mention involves industry standards.

Under the act the Tariff Commission has used definitions of "market" on a regional basis where appropriate and it has also used as a basis large metropolitan seaboard markets. This accords with the realities of the cement business because we are a series of regional markets.

There is no such thing as a national market for cement because of transportation costs. Under the code regional markets may be considered only in exceptional circumstances and are very narrowly defined.