

standards forbids a domestic seller to discriminate in price between different purchasers of comparable merchandise when the result of such discrimination is to cause injury of competition. The Antidumping Act extends this principle to foreign sellers in the U.S. market by forbidding such sellers to charge a lower price in this market than is charged in their own home markets, when the result is to cause injury to a domestic industry. The Antidumping Act of 1921 was enacted by the Congress as an integral part of the unfair trade practice laws of this country,⁴ and the proposed legislation to strengthen the Act has the same purpose in mind. This purpose would in no way impede or restrict legitimate imports free of the taint of dumping. The proposed legislation cannot be categorized intelligently as providing protection to any domestic industry against legitimate competition, or as depriving any foreign industry of any fair competitive advantage which it might otherwise have. It merely forecloses to the foreign supplier any unfair advantage which he might derive from dumping, a practice which has been recognized as an unfair trade practice in this country for over fifty years and which has been universally condemned.

The U.S. unfair trade practice laws prohibit domestic producers from certain unfair competitive conduct. The proposed amendments to the Antidumping Act would do no more than impose a similar prohibition against such unfair practices when they are engaged in by foreign competitors.

The CHAIRMAN. Thank you, Mr. Mundt, and Mr. Hiss, for coming to the committee. Are there any questions? We thank you.

Mr. HISS. Mr. Chairman, in answer to your question about lack of authority, if you would like we would be very glad to file a statement on that.

The CHAIRMAN. I meant to ask you to do that, if you would.

Mr. HISS. Fine, very well.

The CHAIRMAN. It will appear in the record when received.

Mr. HISS. Thank you.

(The following memorandum was received by the committee:)

MEMORANDUM ON THE LEGAL AUTHORITY OF THE EXECUTIVE BRANCH TO
NEGOTIATE THE INTERNATIONAL ANTIDUMPING CODE

On June 14, 1968, during the testimony of Mr. John C. Mundt, spokesman for the Cement Industry Antidumping Committee, before the Ways & Means Committee, Chairman Wilbur Mills inquired as to whether the Cement Industry Committee had looked into the question of the legal authority of the Executive Branch to negotiate the International Antidumping Code, which is inconsistent with and would supersede various sections of the Antidumping Act of 1921. The response to the Chairman's question by Donald Hiss of this firm, as counsel to the Cement Industry Committee, was that there is no such legal authority. At the conclusion of Mr. Mundt's testimony it was suggested and agreed that the Cement Industry Committee should file a memorandum on this point. This memorandum has been prepared and is being filed with the Ways & Means Committee in accordance with that arrangement.

The authority of the office of the Special Representative for Trade Negotiations, which negotiated the International Antidumping Code, derives solely from the Trade Expansion Act of 1962. The Office of the Special Representative was created by Congress in that Act. Under the Trade Expansion Act, the President, through the Special Trade Representative, was given specifically limited authority to negotiate trade agreements concerning "existing duties or other import restrictions." The Act and its legislative history make it clear that this authority concerns *only* tariff duties or other import restrictions (such as quotas) relating to specific articles of merchandise. There was no authority to negotiate trade agreements with respect to nontariff legislation, such as the Antidumping Act of 1921, which is not a tariff act and which does not relate to specific articles of merchandise.

The Antidumping Act is an integral part of the unfair trade laws of the United States. It is not designed to impose tariff duties upon specific articles of

⁴ See pp. 7-8 of the Cement Industry Committee's statement filed with this Committee on June 14, 1968.