The Tariff Commission's recent report to the Senate Finance Committee on S. Con. Res. 38 points out significant areas of conflict between the International Anti-Dumping Code and the United States Antidumping Act. The report makes the very telling point that in four out of five cases in which dumping was found to be injurious to U.S. industry, no finding of injury would have been made had the standards of the International Code been followed.

Of particular interest to the Committee will be the revisions to the antidumping regulations which Treasury has said it will put into effect on July 1, to implement the Code. Under these regulations, the Treasury Department would take back a portion of the injury determination in dumping cases, in spite of the fact that in 1954 the Congress specifically withdrew the injury function from Treasury and placed it with the Tariff Commission. Requiring a dumping complainant to document for Treasury a prima facie case of injury will make the Tariff Commission's functions a dead letter—many cases will never even reach the Tariff Commission for a determination of injury to United States industry.

For your convenient reference in evaluating the many areas of disparity between the United States Antidumping Act and the International Anti-Dumping Code, enclosed is a staff study prepared by the American Mining Congress and a one page summary of the significant basic policy questions raised by these conflicts. I offer it to show both the full scope of the massive uncertainty which may be expected and that implementation of the International Code in July will seriously undermine the basic import price floor of United States trade policy provided by the United States Antidumping Act.

Noting that Canada will not have implemented the International Code by July 1, it may also be more appropriate for the United States to postpone hasty implementation of the International Code, rather than go through the more painful processes of revoking United States implementation of the Code at a later date.

With warmest personal regards,

Sincerely,

J. ALLEN OVERTON, Jr.,
Executive Vice President.

DECLARATION OF POLICY, 1967–68, AMERICAN MINING CONGRESS, ADOPTED AT DENVER, COLO., SEPTEMBER 10, 1967

Antidumping—Foreign manufacturers who sell their goods in the United States at discriminatory prices—below the prices prevailing in the countries of origin—are engaging in a practice which is clearly contrary to the principles embodied in our domestic fair-trade laws and the intent of Congress as expressed in the Antidumping Act of 1921.

After 46 years, legislative amendment of this Act is now urgently needed; not as protection against fair international trade, but as a necessary countermeasure against the unfair trade practice of dumping. Experience has shown that Congressional guidelines are necessary to clarify basic concepts. There is an immediate need to eliminate loopholes revealed in administrative practices and to provide greater speed and certainty in the handling of dumping cases.

Bills designed to accomplish those objectives were introduced in the 89th and 90th Congresses under broad legislative sponsorship and with significant and substantial support from both industry and labor. The recent negotiation of an International Antidumping Code (referred to below) has stimulated further interest in antidumping legislation. As a consequence, additional bills—similar to the foregoing ones—may be introduced in the near future for the purpose of dealing comprehensively with this important subject. We urge Congress to assign a high priority to such legislation.

The International Antidumping Code, drawn up in Geneva during tariff negotiations under the Trade Expansion Act of 1962 and scheduled to become effective July 1, 1968, has been agreed to by the President and was made public on June 30, 1967. The code is inconsistent with the provisions of the Antidumping Act of 1921 and, we believe, could expose American industry to increased unfair competition from foreign manufacturers.

Because implementation of the International Antidumping Code may produce this result, its acceptance is clearly a usurpation of the legislative functions of our government and is contrary to Senate Concurrent Resolution 100, adopted in 1966. Therefore, we consider it essential that the code negotiated in Geneva be submitted to Congress for study, hearings and action as proposed in Senate Concurrent Resolution 38, 90th Congress, before it is made effective.