Appendix F

United States Senate
COMMITTEE ON FINANCE
WASHINGTON, D.C. 20510

July 25, 1967

Dear Colleague:

The Office of the Special Representative for Trade Negotiations has only recently made public the provisions of the International Anti-dumping Code which was signed on June 30. Ambassador Roth, the President's Special Representative for Trade Negotiations, recently testified before the Joint Economic Committee of the Congress that no Congressional action is required to make the Code effective. The Code is scheduled to become effective on July 1, 1968.

The position of Ambassador Roth evidently is that the Code does not conflict with the Antidumping Act of 1921 and therefore no Congressional approval or implementation is necessary. By the same process of reasoning, Ambassador Roth presumably would agree that if the Code in any way amends the Act, Congressional approval or implementation is necessary before the Code becomes binding in the United States.

It seems to me that Ambassador Roth's position that there is no conflict between the Antidumping Act of 1921 and the Code is clearly erroneous. At this stage, I am not concerned with whether the provisions of the Code are desirable or undesirable as a matter of economic policy, but only with whether the Congress has been improperly bypassed and whether Senate Concurrent Resolution 100, described below, has been defied by the failure of the Office of the Special Representative to present the Code to Congress for approval. The crucial question at this point, therefore, is whether the provisions of the Code conflict with any of the substantive provisions of the Act. As noted, it is my position there is direct conflict between the Code and the Act and that the Code can become effective in the United States <u>only</u> if approved by Congress.

While the Code would subject the Antidumping Act to a multitude of amendments, I limit myself here to an examination of three fundamental amendments of the Act. First, Article 3 of the Code specifies that a determination of injury may be made only if it is found that "dumped imports are demonstrably the principal cause of material injury or of threat of material injury to a domestic industry...." Section 201 (a) of the Antidumping Act vests the Tariff Commission with authority to