tion and to say the least not a protracted argument between the legislative and executive branches of the government over whether or not authority of the legislature has been usurped by the executive. Over the 34 years during which it made injury findings, I don't believe the Treasury Department, or the Tariff Commission over the 14 years since, has ever made an injury finding unless it involved *material* injury. No administrative body in determining whether injury has been brought about by one factor can blind itself to all the other factors which usually enter into the problems which an industry may face at any particular moment. Furthermore, why should we prejudice imports if they have not been a *principal* cause as distinguished from a minor cause of the difficulties of a domestic industry.

Article III of the International Code sets forth the factors which are to be considered in evaluating the effect on an industry or "dumped imports." The factors are, frankly, fair considerations which any administrative body *should* consider and which I am confident both Treasury during its period of injury findings, and the Tariff Commission during its jurisdictional period, have considered. But the Tariff Commission's majority and those who would emasculate the 1921 Act complain that the Act is silent as to how less than fair value imports of an industry should be evaluated in an injury proceeding. What in the world is wrong with our country agreeing with other countries that our exporters will get fair and square treatment in dumping proceedings instituted abroad? What is wrong with the idea that reasonable factors should be considered by any administrative body determining an injury question in a dumping proceeding? I cannot see any merit in this argument.

Similar arguments have been made with respect to the scope of the industry which is to be considered in a dumping proceeding, i.e., whether it can be regional or national. I think the International Code conforms with the scope of the industry "concept" which was adopted by the Tariff Commission in 1955 in the first injury finding it made. That one related to British soil pipe. The concept adopted is that if injury or likelihood of injury would result to the U.S. industries selling in a particular area as a result of sales in that area, it makes no difference that the entire industry in the United States may not be seriously affected—dumping is dumping even if only a segment of the entire industry is affected thereby. This in my opinion is precisely what the Code requires. So I don't go along with the argument that the Code goes beyond our presently enacted statute.

Now, having discussed the International Dumping Code. I should like to turn to the two major bills which I have identified above and which are now pending before this Committee.

What do I find wrong with them? Time does not permit a detailed analysis. In general they would turn the fair value finding and the injury determination into a farce. Little if any discretion would be left to the fact finding body regardless of the facts found. Injury findings would be required of the Tariff Commission if sales to the U.S. occurred at less than foreign market value even if potential or actual injury was only in *minute part* caused by such sales; *and* an injury finding is *required* of the Commission if the dumped imports *plus* all other imports of a similar class or kind, *even though sold to the U.S. at fair prices*, are in excess of 10% but less than 90% of all sales of the product in the U.S. (imported and domestically produced) measured either by quantity or value during the 16 month period prior to the date on which the dumping inquiry is instituted.

Now this is only one test provided as to when the Commission must make an injury finding. There are other tests—tests almost too complicated to explain—certainly so within the time the Committee has granted me.

May I conclude by saying that the two major proposals for amendment of the Antidumping Act are nettles. You can't grasp them without being stuck. They do not provide for fair and equitable findings. They attempt to freeze determinations in advance and without regard to the facts found by the Tariff Commission or the Treasury Department. No discretion is left to the administrator to do equity—to dismiss cases where the dumping prices have been discontinued bona fide—to dismiss cases where the prices were set in ignorance of the law or the complicated formulae incorporated in the law and regulations for determination of a "fair price"—to find no injury if injury exists but is infinitesimally caused by the dumped sales and 99% by other causes.

I don't come before you suggesting the gates to dumping practices should be opened. I am a lawyer. I believe whole heartedly in favor of sound administra-