CERTAIN TOBACCO

Report to the President on Investigation No. 22-43 Under Section 22 of the Agricultural Adjustment Act, as Amended

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UNITED STATES INTERNATIONAL TRADE COMMISSION

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Note.--Information which would disclose confidential operations of individual concerns may not be published and therefore has been deleted from this report. Deletions are indicated by asterisks.

REPORT TO THE PRESIDENT
ON INVESTIGATION NO. 22-43

CERTAIN TOBACCO

UNITED STATES INTERNATIONAL TRADE COMMISSION
August 21, 1981

Findings and recommendations

On the basis of the information developed in the course of the investigation, the Commission 1/ finds and recommends that tobacco, provided for in items 170.3210, 170.3500, 170.6040, and 170.8045 of the Tariff Schedules of the United States Annotated (TSUSA), is not being and is not practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the flue-cured tobacco program or the burley tobacco program of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such tobacco.

Background

The Commission instituted its investigation on March 5, 1981, following the receipt on January 18, 1981, of a request from the President. The investigation was instituted pursuant to section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) to determine whether tobacco, provided for in items 170.3210, 170.3500, 170.6040, and 170.8045 of the TSUSA, is being or is practically certain to be imported into the United States under such

1/ Commissioner Bedell dissents in part. Commissioner Bedell finds that flue-cured tobacco, provided for in items 170.3210, 170.3500, 170.6040, and 170.8045 of the TSUSA, is being or is practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the flue-cured tobacco program of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such tobacco.

conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the tobacco program of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such tobacco.

Notice of the Commission's investigation was published in the Federal Register of March 11, 1981 (46 F.R. 16162). A public hearing was held in Washington, D.C., on June 24 and 25, 1981. All interested parties were afforded an opportunity to appear and to present information for consideration by the Commission.

This report is being furnished to the President in accordance with section 22(a) of the Agricultural Adjustment Act. The information in the report was obtained at the public hearing, from interviews by members of the Commission's staff, from information provided by other Federal and State agencies, and from the Commission's files, submissions from the interested parties, and other sources.

Statement of Chairman Bill Alberger, Vice Chairman Michael J. Calhoun, and Commissioner Paula Stern

I. Introduction

Section 22 provides that relief from import competition shall be granted if the President finds that articles "are being or are practically certain to be imported...in such quantities as to render or tend to render ineffective, or materially interfere with..." certain agricultural programs. 1/ The statute thus requires that two different events occur before relief is granted. First, with regard to the imports, the articles must be imported or be practically certain to be imported. The "practically certain" standard means that the probability of imports must be highly likely. Mere speculation as to future imports that will cause harm to a program is not sufficient.

Second, after the import test has been met, it also must be shown that harm to the program is occurring or is threatened by those imports. The most severe harm would "render ineffective" the program. Relief from imports may also be provided if imports are shown to "materially interfere with" a program. Material interference is more than slight interference but less than major interference. A program which has been rendered ineffective has also suffered material interference, although the reverse may not be true. Therefore, material interference is the less stringent of these two standards. We believe that the Commission should consider both of these standards in order to provide the fullest advice possible to the President.

Finally, relief from prospective harm by imports may be provided if their importation is practically certain to materially interfere with or tend to

1/ The statute also includes a clause referring to products processed from agricultural commodities. This clause is more fully discussed below and in a memorandum to the Commission from the General Counsel (GC-E-197), Appendix H of the report.

render ineffective a program. 1/ Tendency to render ineffective must, of course, be more than speculative. A real and imminent harm to the program in question must be shown. In this case we find that none of the requisite harms to the program is present and, therefore, find that relief is not warranted.

II. Summary of reasons

Our determination in this case is based upon several factors which indicate to us that the conditions for imposing import restrictions under Section 22 do not exist. In reaching our conclusions, we have considered the impact of imports on the purposes established for the programs and the impact on the operation of the programs.

While there has been a large increase in the volume of imports of burley and flue-cured tobacco since 1975, imports in prior years characteristically have been very low and, in our view, the market share enjoyed by imports is not sufficient to materially affect the USDA tobacco programs.

Furthermore, the information presented to us during this investigation clearly indicates that the programs are healthy and are not suffering the type of harm or interference contemplated by the statute. USDA concedes this fact with respect to the burley program. With respect to the flue-cured program, the evidence weighs against USDA's representations. For example, loan stocks of flue-cured tobacco have been steadily declining since 1978 and are now at their lowest level since 1977. The amount of tobacco placed under loan each year has been significantly lower since 1978 than during 1974-77.

In addition, we have found that the cost to the Government of operating the program quite plainly has not been increasing relative to past years. In

1/ It is the view of Vice Chairman Calhoun that relief from prospective harm from imports may be provided if imports are practically certain to be imported under such conditions and in such quantities as to materially interfere with a program or if their importation is such as to tend to render ineffective a program.

light of recently developed information, USDA estimates of financial losses on the 1975 crop and on subsequent crops appear to be exaggerated. While there was a slight loss of $5.6 million on the 1974 crop and there may be a loss of about $11 million on the 1975 crop, these losses are not comparable to the average losses experienced in the period 1950-70. They simply are not of a magnitude to suggest material interference or ineffectiveness of the program. Moreover, in stark contrast to USDA estimates, the Flue-cured Stabilization Cooperative (FCS) projects that substantial profits will be made on sales from crop years 1976-80.

With respect to the prospective impact of imports on the programs, there is no evidence to demonstrate that imports are tending to render the program ineffective or that they are practically certain to be imported so as to cause future harm. While the best estimates do indicate a long term growth in imports, such an event is too protracted to be a basis for concluding imminent harm. Moreover, information on the current crop is that because of its high quality auction prices are high, loan placements are down sharply over prior years, and processors are dipping into loan stocks to obtain lower grade tobacco. While USDA is alarmed by the apparent long-term decline in U.S. competitiveness vis-a-vis other tobacco producing countries, the facts before us do not suggest that harm is imminent.

Finally, the purposes of the tobacco programs, including assuring adequate income to farmers and fair prices to consumers, maintaining a balanced supply, and providing a balanced flow of tobacco in interstate and foreign commerce, are currently being achieved.

III. The tobacco programs of the USDA

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The purposes of USDA programs dealing with tobacco, as well as with certain other agricultural commodities, are set forth in section 2 of the

Agricultural Adjustment Act of 1938:

> It is hereby declared to be the policy of Congress to continue the Soil Conservation and Domestic Allotment Act, as amended, for the purpose of conserving national resources, preventing the wasteful use of soil fertility, and of preserving, maintaining, and rebuilding the farm and ranch land resources in the national public interest; to accomplish these purposes through the encouragement of soil-building and soil-conserving crops and practices; to assist in the marketing of agricultural commodities for domestic consumption and for export; and to regulate interstate and foreign commerce in cotton, wheat, corn, tobacco, and rice to the extent necessary to provide an orderly, adequate and balanced flow of such commodities in interstate and foreign commerce through storage of reserve supplies, loans, marketing prices for such commodities and parity of income, and assisting consumers to obtain an adequate and steady supply of such commodities at fair prices. (Emphasis added.)

There are no other specific legislative purposes articulated for the tobacco programs.

With respect to types of tobacco covered by this investigation, the purposes set forth in the 1938 Act are accomplished through two different programs administered by USDA: the flue-cured tobacco program, and the burley tobacco program. 1/ Section 22 provides for relief when the President finds that "any article or articles are being or are practically certain to be imported...as to render or tend to render ineffective, or materially interfere with, any program or operation undertaken under this chapter or the Soil Conservation and Domestic Allotment Act...or any loan purchase or other program or operation undertaken by the Department of Agriculture...." We therefore have made findings and recommendations with regard to each program.

The specific programs of the Department of Agriculture that are of concern to the Commission in this investigation are those which support the

1/ A thorough discussion of the distinctions between the programs may be found in Appendix H of the report (memorandum to the Commission from the General Counsel, GC-E-196). Also, it is possible that small amounts of other types of tobacco which may be grown in the United States are included in some of the TSUSA categories mentioned in our notice of investigation. However, the best information available indicates that imports of those tobaccos are insignificant. Therefore, this investigation is only concerned with burley and flue-cured tobacco.

flue-cured and burley types of tobacco. Under these programs, the price farmers receive for their tobacco is supported by a loan program that establishes minimum prices for every grade of these tobaccos. The average support price of tobacco is set by a formula based on the parity index (index of prices paid by farmers). A support price for each individual grade is established by USDA to reflect market conditions to the extent possible, provided that the average of prices of all grades weighted by the historical share of each grade in the overall crop must equal the statutory support price. This average price is $1.58 per pound for 1981.

The support programs further require that the Secretary of Agriculture establish annually a national poundage quota for both types of tobacco and, in the case of flue-cured tobacco, also an acreage allotment, thereby limiting the amount of tobacco which can be brought to market by growers. With the exception of allowing up to 10 percent overmarketing by a farmer (which is then subtracted from his quota in the next year), any tobacco grown in excess of a farmer's prorated marketing quota cannot be marketed except with severe penalties. The purpose of these marketing limitations is essentially to assure that the market will not be oversupplied with tobacco, causing market prices to decline below the support price and causing increased quantities of tobacco to be placed in the Government stocks.

Producers may place any or all of their tobacco under loan if auction of that tobacco does not bring a bid from prospective buyers at least equal to the appropriate support price for the grades offered. The grower, whether he places his tobacco under loan or sells it to a dealer, receives payment immediately through the auction management. The tobacco placed under loan is generally processed by agents of the USDA into the strip form and then stored until after the auction season is complete. At that time the tobacco is made available for sale at a price no lower than 105 percent of the support price. Certain fees, carrying charges, and interest charges are added to this price during the time tobacco remains under loan. When all tobacco under loan from a particular crop is sold or otherwise disposed of, a financial accounting is made. After expenses are paid the remainder of any proceeds are applied by the Commodity Credit Corporation (CCC) against the loan principle and then against the outstanding interest. The surplus of income over expenses, if any, is not accumulated by the CCC. These so-called profits are distributed to the growers through their associations while losses, if any, are absorbed by the CCC.

IV. <u>The question of harm to the burley program</u>

USDA testified before the Commission that only the flue-cured tobacco program is being adversely affected by imports. Imports of burley and other types of tobacco which are entered into the United States under the four TSUSA numbers covered by this investigation are not believed by USDA to be harming the USDA burley program. We concur with the USDA in this assessment.

The burley tobacco program is unquestionably healthy. Although imports of this type of tobacco are believed to have increased in recent years, this increase is clearly in response to increased demand for burley tobacco. The basic marketing quota for burley was stable at about 614 million pounds 1/ from the 1979 crop year through the 1980 crop year and was increased to 660 million pounds in 1981. The effective quota, that is, the basic quota adjusted for under- or overmarketing of the previous year, has been increased

1/ This and other references to poundage in this opinion are in terms of farm-sales weight, the weight of tobacco when sold by the grower at auction. After processing and packing, the weight of tobacco is somewhat reduced. One pound packed weight is approximately equal to 1.4 pounds farm-sales weight.

to 851 million pounds. Stocks both under loan and held by dealers and cigarette manufacturers have declined. Loan stocks are practically non-existent, no burley was placed under loan in 1980, and the CCC reports no losses from sales or other disposal operations.

No testimony at the Commission's hearing and no other information available to the Commission supports an argument that imports are adversely affecting the burley program. We, therefore, determine that burley tobacco is not being imported and is not practically certain to be imported under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the burley program of the Department of Agriculture.

V. <u>The question of harm to the flue-cured program</u>

USDA and other participants testified that imports of flue-cured tobacco were materially interfering with this program and that projected increases in such imports will materially interfere in the future. Major elements of testimony in favor of relief included the following:

1). Imports have increased from an annual level of 30 million pounds or less before 1976 to as much as 85 million pounds in 1979. USDA projects imports to increase by about 8 percent each year until at least 1986.

2). Imports have displaced at least 225 million pounds of tobacco from the 1975-80 crops which would otherwise have been purchased by dealers or cigarette manufacturers, causing the displaced domestically produced tobacco to be placed under loan. During the next five years additional displacement is expected to exceed 400 million pounds.

3). Because of the addition of imports to domestic inventory, marketing quotas have been reduced substantially since 1975.

4). Because of the availability of foreign tobacco at prices well below that of domestic tobacco from either the auction floor or from loan stocks, the Flue-cured Stabilization Cooperative which handles the stocks has been unable to sell and will continue to be unable to sell substantial quantities of tobacco otherwise competitive with imports, suffering financial losses projected at as much as $123 million from the 1975-80 crops currently under loan, and over $200 million from future crops.

In order to halt the interference with the program and to prevent future interference, USDA suggested that a quota on imports be established at the average level of such imports from 1978-80, or approximately 72 million pounds.

Of the standards for finding harm to the flue-cured tobacco program under section 22, only material interference was claimed. No participant in this investigation alleged, nor does any information before us suggest, that the quantity of imports is such as to render the program ineffective. Regarding the assertion that imports are materially interfering with the program, we can find no such interference, nor do we find indications of imminent harm. While there are troublesome factors affecting the operation of the flue-cured program, imports are not entering at such a level or under such conditions as to cause the requisite interference; nor is the program suffering or facing the adverse circumstances contemplated by section 22.

Imports

Imports of flue-cured tobacco have indeed increased to record high levels in recent years. In 1976 imports began to increase dramatically, reaching 54 million pounds in 1977, 74 million pounds in 1978, and 85 million pounds in 1979. While imports of flue-cured tobacco appear to have declined to 76 million pounds in 1980, import penetration has remained near the record high level of 15 percent of domestic utilization. From the time the program was created by the Congress, until 1975, imports were at a very low level, never exceeding 30 million pounds in any year. Import penetration during that period did not exceed 3 percent of domestic utilization of U.S. produced flue-cured tobacco. Therefore, while recent increases appear dramatic, it must be remembered that they are from a very low level.

Domestic utilization of tobacco is not the only yardstick by which the impact of imports can be measured. Nearly one-half of all domestic tobacco production is destined for export markets. Even a large portion of tobacco used for domestic production of cigarettes is ultimately exported in that processed form. Although imports are at record high levels, they remain at less than one-sixth of the level of flue-cured tobacco exports and import penetration relative to all utilization of U.S. produced flue-cured tobacco is only 8 percent.

It is apparent that the major reason for the increase in imports in recent years is the price differential which has resulted from the rapid escalation of the U.S. support price. Prices paid by cigarette manufacturers for U.S. produced tobacco are substantially above those for tobacco from other producing nations. Much U.S. produced tobacco is of higher quality than that available abroad. This is a fact clearly demonstrated by the large volume of U.S. exports despite their high prices. However, there is also significant foreign production comparable to lower quality, neutral flavored domestic tobacco at prices below the support price. The average price of imported flue-cured tobacco in the United States was $.60 per pound below that of domestic tobacco, even after adjusting for quality differences.

It is quite possible that imports will increase further under these conditions of competition, as predicted by USDA. However, though these imports undoubtedly will have some effect upon the program, we do not believe that they have reached or are likely to reach in the immediate future a level which would constitute material interference.

The question of present harm

We believe that the program is healthy and is not suffering the type of harm contemplated by the statute. USDA testified that dealers and cigarette manufacturers have been purchasing and placing in inventory increased quantities of imported tobacco. It suggested that, as a result, those[11] buyers were reducing their purchases from FCS-held loan stocks causing those stocks to increase. In addition, buyers were purchasing imports rather than domestic tobacco from the tobacco auctions causing FCS to purchase the displaced tobacco at the support price, thereby raising the level of loan stocks and causing unusual expenditures. In order to balance supply (which includes the larger quantities under loan) with demand, USDA testified it had reduced marketing quotas. We have examined all these factors in detail.

The level of uncommitted stocks (those still available for sale) 1/ as of the beginning of each crop year has been declining steadily since 1978 and, by July 1, 1981 had declined to 468 million pounds. Recent sales in the first few weeks of the 1981 crop year have caused uncommitted stocks to decline even further to what may be the lowest level since at least mid-1977. We cannot speculate as to what level these stocks might be were imports not available during recent years, but the trend is in a positive direction despite the lower quality of recent harvests and the higher volume of imports in recent years.

Another indicator of material interference specifically identified by USDA and other supporters of import restrictions is the amount of tobacco being placed under loan each year. This amount reached 277 million pounds in 1976, declined to about 64 million pounds in 1978 and increased to 138 million pounds in 1980. However, an examination of changes in the amount of flue-cured tobacco placed under loan shows that there is no discernible positive correlation between that quantity and the level of imports. In fact,

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1/ USDA has suggested that because total FCS-held stocks have been higher since 1977 than during the period 1973-76, material interference is occurring. However, these total FCS-held stocks comprise two categories of tobacco. These categories are 1) uncommitted stocks still available for sale and 2) committed stocks which are already sold on paper but have not yet been 12
removed from FCS control. These latter stocks are, in effect, the same as privately held stocks, and they should not be considered still under loan.

to the extent a relationship exists between import levels and the amount of flue-cured tobacco placed under loan, it appears to be a negative correlation. 1/ Furthermore, the amount of tobacco placed under loan each year has been significantly lower since 1978 than during 1974-77.

The level of tobacco placed under loan is a function of demand in the market for the tobacco offered at a price which can be no lower than the support price. Since support prices are set in advance of the harvest, there is no method by which USDA can adjust the support prices on the approximately 150 grades of flue-cured tobacco to perfectly reflect market conditions. If a crop is of generally low quality, it is probable that the support prices on some, and possibly many, of the various grades will be higher than prospective buyers believe appropriate. Such tobacco will inevitably be placed under loan. Similarly, it is probable that in the event of a low quality crop, and particularly if that crop is large, there will be more of some lower quality grades than the market can comfortably absorb at support prices. Under such conditions it would be expected that farmers will place larger than desirable quantities under the loan program. Such tobacco would remain as part of loan stocks until demand for those grades at the offered prices increased relative to the supply at the tobacco auctions. This is precisely one of the means by which a commodity buffer stock is intended to accomplish its purpose of maintaining stable prices and supplies. The smooth operation of the flue-cured stabilization mechanism points to a system that is functioning as intended.

USDA has in recent years made adjustments in the program which will serve to encourage lower loan stock levels in future years. Among these are

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1/ For example, in crop years 1977 and 1978 imports increased significantly while loan placements decreased from the preceeding years. In 1980 imports declined while placements nearly doubled. See the tabulation on p. A-32 and table 4.

incentives to farmers not to harvest the lowest quality tobacco which is in least demand, and the removal of price support for a number of grades covering this lower quality tobacco. As a separate matter, the interest rate policy of the CCC may have operated as a cause, different from imports, of large FCS-held uncommitted stocks. The interest rate charged by the CCC was set for the life of the loan and, owing to escalating costs of money, rapidly fell below commercial interest rates. For example, the interest charged on tobacco now under loan is as low as 6 percent. By 1981, the commercial rates exceeded the loan rate by as much as 14 percentage points. So long as it is reasonable to expect commercial interest rates to remain high or to increase, there is clear incentive for flue-cured purchasers to maintain a measure of their inventory under FCS control, thereby availing themselves of what is essentially a subsidized inventory. Although there will continue to be an interest rate differential between the CCC rate and commercial rates, recent changes in policy now provide for a higher variable interest rate on CCC loans. The reduced differential between loan rates and commercial rates, although still about 5 percentage points at this time, will be less likely to encourage a build-up in FCS-held tobacco stocks.

In addition, it is our view that the current condition of the loan program is not an indication of harm. Rather it is the result of the proper operation of the system. When harvests were of good quality relative to other years, as in 1978 and 1979, the average price paid to farmers exceeded the support price by a considerable margin. In those years tobacco placed under loan was in relatively small quantities, suggesting that demand was strong relative to supply and suggesting that imports increased in those years partially because of this strong demand. In other years, such as 1977 and 1980, when the crop was rather poor quality, market prices were close to the support price and large quantities were placed under support. In 1975 the quantity offered was simply too large for the market to clear at prevailing prices.

If the system is working properly, tobacco which is placed under loan is ultimately sold at little or no cost to the program. USDA testified that the losses already incurred and likely to be incurred in the immediate future were the most telling indicators of harm from imports. A loss of about $6 million had already occurred in sales from the 1974 crop and, on the basis of some sales at a loss over the period December 1979 to March 1981, USDA projected that losses would continue into the future. However, in our view such losses are not likely to occur.

The only loss which has actually occurred during the last decade is that on sales from the 1974 crop. Production in that year was among the highest in the decade and all but 25 million pounds were sold at auction at prices which exceeded the $0.83 support price by an average of $0.22 per pound. This was nearly the smallest quantity placed under loan in well over a decade, and this tobacco was described in testimony as the "leavings of the leavings." The loss incurred on these sales cannot be convincingly laid at the door of imports.

USDA states that, on the basis of sales prices obtained in recent bid sales of the 1975 crop, losses likely to be incurred on that crop can be estimated at $34 million. However, FCS, which is directly responsible for determining list prices and conducting the sale of stocks, estimates losses at $11.6 million if those stocks are sold at list price. The extreme estimate made by USDA is belied by the most recent events in sales by FCS.

Since the 1981 markets opened in late July, over 40 million pounds of tobacco have been sold from stocks of the 1975 crop, and these sales included large quantities of that tobacco which previously had been made available for sale at bid. This tobacco was not sold owing to lack of interest among potential buyers at a price acceptable to FCS. All 40 million pounds, accounting for over one-third of the remaining stocks of the 1975 crop, were sold at list price. Only a small amount of tobacco from the 1975 crop similar to that previously offered in bid sales remains in loan stocks (approximately 5 million pounds). There is no reason to believe that this tobacco, or any other from the 1975 crop, will be sold at a loss approaching that projected by USDA.

Moreover, if the remaining stocks are sold at list prices, the loss would more nearly approximate the lower FCS estimate than that of the USDA. High auction prices for the 1981 crop and the removal of interest rate incentives are likely to increase the appeal of tobacco now held by FCS. The increased demand for the grades currently held under loan may allow FCS to revalue the tobacco upward, reducing losses further. An additional encouraging indication is that this crop has been held by FCS for only about 6 years. The average length of time before complete disposal of crops from 1955-70 was over eight years, and the average for the 1971-74 crops was over six years. Of those crops after 1966, only the 1974 crop was sold at a loss; others were sold at profits of up to $16 million.

USDA further suggested that if losses on the 1975 crop were $34 million, other crops held by FCS would also be sold at substantial losses. However, since there is no convincing evidence that the 1975 crop will be sold at a loss greater than that estimated by FCS, there is no reason to doubt the FCS estimates on other crop years as well. FCS estimates that stocks from each of those crops will be sold at substantial profit and that the net profit for all crops under loan through 1980 will be about $17 million. It should be noted that FCS is not permitted by the legislation to carry over any profit it may make from sales of one year's crop to balance losses incurred from sales of another year's crop and, technically, it cannot make a profit. All gains must be distributed to the farmers participating in the program after expenses have been paid. It may be desirable that each and every crop be sold at no loss to the program, but losses must be expected on occasion. Only the size and frequency of such losses are in question. The operation of the program has certainly improved since 1950-70 during which the program incurred frequent and, sometimes, large losses. We do not believe that the relatively small loss from sales of the 1974 crop and the uncertain loss from other crops constitutes material interference from imports.

USDA also argues that material interference to the program has manifested itself in the need to reduce the marketing quotas since 1976. Marketing quotas for flue-cured tobacco have decreased from the level of the mid-1970's. In 1975 the basic quota was 1,491 million pounds and, in 1981, it is only 1,013 million pounds. However, the 1975 quota was a record high quota which exceeded the levels of preceding years by nearly 40 percent. The decline since that time is in fact only a return from several years of abnormally high marketing quotas to the levels in effect before 1974.

As support for its decision to reduce marketing quotas, USDA noted that the domestic utilization of flue-cured tobacco has declined by 17 percent since 1972 while exports have declined only slightly (although exports have declined by 18 percent from 1973 levels). Utilization of U.S. produced flue-cured tobacco in 1980 was 113 million pounds below utilization in 1971 while imports had increased by 65 million pounds. Thus, USDA argues that processors are turning more and more to imports to replace domestic tobacco. However, in the same period, cigarette manufacture in the United States increased 24 percent to about 714 billion cigarettes in 1980. It is apparent that factors other than imports are at play here. In particular, cigarette manufacturers have apparently become considerably more efficient in the use of tobacco in their product or have shifted the tobacco content of cigarettes from flue-cured to some other type of tobacco. In 1971 manufacturers produced about 860 cigarettes from a single pound of flue-cured tobacco (blending it with other tobaccos, both domestic and imported). In 1980 manufacturers produced 1,140 cigarettes from each pound of flue-cured tobacco purchased either domestically or from foreign sources, an increase of one-third. We find, therefore, that it is not primarily the presence of imports which have caused the decrease in the marketing quotas, but rather a variety of other factors which are beyond the control of the program and are also beyond the scope of section 22.

USDA testified that material interference had already occurred, but their recommendation of a 72 million pound quota on imports of flue-cured tobacco is not consistent with that conclusion. This level is the average of imports during the most recent three years for which data are available. However, imports during those years were the highest in the history of the program, and only in 1979 did imports substantially exceed the recommended quota. If a level of imports substantially lower than 72 million pounds was interfering with the program as early as 1976 and imports are now materially interfering with the program, there can be no justification to allow that quantity to be entered in the future.

The question of future harm to the program

From the language of the statute, there are two alternative standards by which the prospective impact of imports may be sufficient to warrant relief. The first standard is that articles are practically certain to be imported under such conditions and in such quantities as to materially interfere with the flue-cured program. The second standard is that articles are being imported or are practically certain to be imported under such conditions and in such quantities as to tend to render ineffective the flue-cured program.

As is the case with allegations of current injury, no representation has been made nor data collected by us which suggests that the program is likely to be rendered ineffective. The remaining statutory basis for considering future harm to the program is that there are articles being imported which are practically certain to materially interfere with the program. Again, we can find no data which allow for a conclusion that there is a quantum of flue-cured tobacco which is "practically certain to be imported" under conditions or in quantities which would materially interfere with the support program.

In the first instance, the USDA forecast of 8 percent yearly import growth through 1986 does not support a conclusion that imports are practically certain to cause material interference. Second, current information on the 1981 harvest indicates that the quality of the tobacco being sold at recent auctions is better than that in most recent years, and there appears to be a short supply of lower grade tobacco similar to that which has been most prevalent in FCS loan stocks. Prices offered at auction are reported by the USDA to be significantly higher than the support price--which is itself 12 percent higher than in 1980--and the quantity of tobacco being placed under loan in the first few weeks of this auction season is well below the rate of 1980. As noted above, the high market prices provide incentive for purchases of older tobacco from FCS. In fact, there have been significant purchases from FCS stocks, at list prices, of grades of tobacco which USDA suggested might be sold only at a loss.

We recognize that these events do not necessarily guarantee a long term positive trend in all the factors which we have considered. It is possible that, as with any agricultural commodity, conditions in the tobacco markets may change very rapidly. We are, however, of the view that unless some entirely unforeseen event causes a rapid turn-around in the market, that these imports cannot be said to be practically certain to harm the program in the foreseeable future.

The purposes of the program

Finally, we have concluded that the purposes of the program are currently being achieved. The primary purpose of the program, according to USDA, is the maintenance of farmers' incomes from growing and marketing flue-cured tobacco. The first factor which determines income is the price at which a farmer's tobacco is sold. The price of tobacco is guaranteed by the price support legislation to be some percentage of parity--that is, the price of a pound of tobacco is guaranteed to be able to buy some percentage of what it could buy during the period 1910-14. This percentage has been changed during the history of the program, most recently in 1960. The legislation has essentially defined by this process what Congress considers to be a minimum fair price for tobacco both for growers and for consumers. This price is still guaranteed through the price support system. Provided the program operates effectively there is no manner in which imports can interfere with a grower obtaining that price for any tobacco he markets within his quota.

The second factor which determines growers' incomes is the quantity of tobacco which they are allowed to place on the market for sale at or above the support price. As discussed above, this quantity has varied considerably over time. However, we note that the gross returns from sale of tobacco has increased. In 1972, 1,022 million pounds were marketed at an average price of

$0.853 per pound (13 cents above the support price) for a total crop value of $872 million. In 1975, marketings reached an all-time record of 1,415 million pounds at an average price of $0.998 per pound (6.6 cents above support) for a total value of $1,412 million. In 1980, the support price had risen to $1.42 per pound and farmers received an average of $1.45 per pound on a total crop of 1,086 million pounds for a total value of $1,571 million. In each year, the value of the crop has increased and the average price has been above the support price determined by the statutory formula. The gross return on an acre of harvested tobacco in 1977 was over $2,300, far exceeding most other crops including those which have support programs (e.g. sugar, peanuts). While tobacco accounted in 1977 for only 0.3 percent of total acreage planted in the United States, it accounted for 4.4 percent of the total value of the crops. Additionally, from 1972 to 1979 the average return to land, management, and allotment for flue-cured tobacco in North Carolina increased from $8,200 to $15,400, or 89 percent. 1/ The increase in the support price during the same period was only 79 percent, suggesting that growers have improved their position relative to the support price established by Congress. Without addressing the issues implicit in the income distribution effects of the practice of leasing tobacco allotments, we note that testimony at the hearing indicated that the average lease value of an allotment was about $0.40 per pound in 1980 and had increased in recent years. Therefore, either the actual growers (who often are not the same as allotment holders) are willing to make less money on their tobacco operations, or the

1/ The USDA study which presents this farm income data also found that, while the number of growers had decreased, the size of each farm increased. The income of growers is a stated purpose of the program, but stability in the number of farmers is not. Therefore, it is actually the income per farm which is most relevant to an examination of grower income, rather than the growth in total crop value.

guaranteed price of tobacco has increased more than have the costs of growing and curing the tobacco. We cannot under these conditions find otherwise than that the purpose of the tobacco program in providing tobacco farmers with a fair income is being accomplished.

The program is also designed to provide for balanced supply-demand relationships in the marketplace for flue-cured tobacco. This is primarily accomplished through the process of setting marketing quotas. Such quotas are largely determined by a formula in which the main variables are the historical levels of domestic utilization, exports, existing inventory both in private and FCS stocks, and the expected crop size. The North Carolina Farm Bureau observed in its post-hearing brief that no mention is made in the 1938 Act of the role of imports in the determination of marketing quotas and that all variables are defined in terms of U.S. produced tobacco only. Regardless, the legislation does allow the Secretary of Agriculture the discretion to adjust the marketing quota according to other factors, such as imports, which he might deem relevant. We do not believe that the term "adequate and balanced flow" in the 1938 Act is necessarily to be interpreted as an increasing or even stable market for domestic tobacco, but only that there should not be unexpected but otherwise avoidable imbalances in the markets for tobacco. There has been a gradual decline in marketing quotas which roughly parallels the decline in utilization of flue-cured tobacco. The similarity in these changes indicates that the system is operating as it should despite the presence of import competition. We find no evidence that there is an import-induced imbalance in the marketplace for flue-cured tobacco.

Another purpose of the program is the regulation of foreign commerce. Although the tobacco legislation does not define the importance of exports to the programs, they are clearly a significant factor in their operation. The formula by which the Secretary of Agriculture determines marketing quotas includes as one of its variables the average level of exports. In the determination of support prices for individual grades, USDA has considered the possible effects of overpricing tobacco grades favored by foreign buyers. In recent years exports consistently have accounted for nearly one-half of total utilization of U.S. produced flue-cured tobacco and, despite the recent increases in the level of imports, currently exceed imports by a six to one ratio.

Any complete discussion of the tobacco program must include the positive contribution of exports to the purposes of the program and the potential impact upon those exports of import restrictions. It is our view that although the appeal of U.S. produced flue-cured tobacco in foreign markets continues to be strong, it is experiencing increasing competition on the basis of both quality and price. The declining trend in U.S. exports, both absolutely and relative to other countries' exports, is particularly disturbing as it may indicate potential for tougher competition in the domestic market from foreign producers. Close attention should be given to the causes and solutions for the ailing export market in any examination of the industry and the program.

VI. The processing clause

Section 22 includes a clause which states that if imports "reduce substantially the amount of any product processed in the United States from" a commodity which is the subject of a USDA program, restrictions may also be imposed by the President. This clause no longer appears to have relevance to investigations under section 22. 1/

1/ See memorandum to the Commission from the General Counsel, GC-E-197, Appendix H of the report.

The processing clause was added to section 22(a) to provide an avenue of relief for processors of agricultural articles subject to a processing tax that was part of the Agricultural Adjustment Act of 1933. That processing tax was struck down as unconstitutional in 1936 in United States v. Butler, 297 U.S. 1 (1936), and the clause has not formed the basis for a Commission determination since that time.

Nevertheless, we note that the products which we consider to be the "product processed" from tobacco are cigarettes. Production of cigarettes has increased steadily during any recent period which might be chosen. Since 1972, production has risen by about 24 percent to 714 billion cigarettes in 1980. There is likewise no indication that imports will reduce production of cigarettes in the foreseeable future. We therefore find that tobacco, either flue-cured or burley, is not being imported under such conditions and in such quantities as to reduce substantially the amount of any product processed in the United States from domestic flue-cured or burley tobacco.

STATEMENT OF COMMISSIONER CATHERINE BEDELL

On the basis of the information before me in this investigation I have found that--

> (1) flue-cured tobacco, provided for in items 170.3210, 170.3500, 170.6040, and 170.8045 of the Tariff Schedules of the United States Annotated (TSUSA) is being or is practically certain to be imported into the United States under such conditions and in such quantities as to materially interfere with the flue-cured tobacco program of the Department of Agriculture, but that
>
> (2) burley tobacco, provided for in items 170.3500, 170.6040, and 170.8045 of the TSUSA, is not being and is not practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the burley tobacco program of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such tobacco.

Therefore, I recommend that the President proclaim a quota on imports of flue-cured tobacco in order that the entry of such tobacco will not materially interfere with the flue-cured tobacco program.

Before discussing the data supporting my respective findings and recommendation, I wish to discuss four points central to my decision in this case. The first three points are also central to my decisions in section 22 cases in general.

First, the Commission's task in a section 22 investigation is to determine the impact, if any, that imports are having on a Department of Agriculture (USDA) program or on a product processed from a product covered by such a program. While the Commission, in assessing such impact, must examine the program and its method of operation in order to understand how it works, it is not the Commission's responsibility or function to question its merits or the manner in which the Department of Agriculture administers it. The programs are authorized by Congress and administered by the Department of Agriculture. Thus, any criticisms of the programs directed to the Commission during the investigation are not relevant to a Commission finding under section 22 and accordingly are not taken into account.

Second, keeping in mind the purpose of the particular program and its method of operation, I have considered in this and in prior cases 1/ certain economic factors and data which I believe are key in determining the impact, if any, of imports on the operations of a program. For example, I have considered such factors as import levels, domestic production and inventory levels, inventories held by USDA under the particular program, changes in the cost to the Government in running the program, price differences between the domestic and imported products, world stocks of the imported product, and whether various objectives of the program are being met. The key test is whether imports are rendering or tending to render a program ineffective or materially interfering with it. Basic objectives of a program may be satisfied, but a program may nevertheless be materially interfered with if imports are causing increases in domestic stocks under loan and losses to the program.

1/ See, for example, my statement or statements in which I joined in investigation No. 22-42, Peanuts, USITC Publication 1124, January 1981, pp. 5-9; investigation No. 22-41, Sugar, USITC Publication 881, April 1978, pp. 14-16; investigation No. 22-40, Dried Milk Mixtures, USITC Publication 783, July 1976, pp. 8-9; investigation No. 22-39, Cheddar Cheese, TC Publication 653, March 1974, pp. 6-8; and investigation No. 22-38, Wheat and Wheat Milled Products, TC Publication 675, May 1974, pp. 8-10.

Third, officials of the USDA are the most expert witnesses to testify and present information during a section 22 investigation. USDA has administered the programs for almost 50 years, is the closest party to them, and should be in the best position to know when a program is in difficulty and what is causing the difficulty. Other parties may of course rebut the assertions made by USDA and from time to time have successfully done so. However, when other parties have been unable to persuasively rebut the contentions and supporting information of the Department, I have given great weight to the sworn testimony of the Department.

Fourth, in the present case the scope of investigation covered imports of flue-cured and burley tobacco. Both types are grown in the United States, and each type is the subject of a different USDA program. Imports of both, whether viewed by type or in the aggregate, do not necessarily have the same impact on both programs. Further, the programs, while sharing many features and objectives, are different. For example, the flue-cured tobacco program includes an acreage allotment system, and the burley tobacco program does not. Thus, I have examined the impact of imports on each program and have, in so doing, made separate findings with respect to the impact of imports on each program.

My findings with respect to the impact of imports on each of the two programs, together with my recommendation of a quota on imports of flue-cured tobacco, are discussed in detail immediately below.

Flue-cured tobacco

The program.--The authority for USDA's flue-cured tobacco program (as well as that for its burley tobacco and other programs) is set forth in the

Agricultural Adjustment Act of 1938, the Agricultural Adjustment Act of 1949, and the Commodity Credit Corporation Charter Act. The objectives of the programs are set forth in the 1938 act and include the stabilizing, supporting, and protecting of farm income and prices, assistance in the maintenance of balanced and adequate supplies of the subject commodities, including tobacco, and the facilitation of an orderly distribution of such commodities. 1/

The flue-cured tobacco program consists of three parts--marketing quotas, an acreage allotment program, and price supports. The marketing quota specifies the quantity of tobacco that may be sold without penalty in a given marketing year from a qualifying farm. The acreage allotment specifies the maximum acreage that may be planted in tobacco in a given year on a qualifying farm. The 1949 act provides that when marketing quotas are in force, price supports are available to any producer who is unable to sell his tobacco for at least the price-support rate (also known as the loan level). Price supports are made available by means of nonrecourse loans made through producer cooperative associations, with financing by the Commodity Credit Corporation (CCC). 2/

Material interference.--Flue-cured tobacco is being or is practically certain to be imported under such conditions and in such quantities as to materially interfere with the flue-cured tobacco program.

Imports increased steadily during the past 10 years from 10 million pounds, farm-sales-weight equivalent, in marketing year 1970 to 84 million

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1/ See sec. 2 of the 1938 act and USDA testimony during the Commission hearing, transcript, p. 29.
2/ For more information on the program, see the report, pp. A-5-A-10 and USDA hearing testimony, transcript, pp. 29-40.

pounds in 1980. 1/ Imports are projected to have been 76 million pounds for the marketing year ended in June 1981. 2/ U.S. utilization of domestically grown flue-cured tobacco declined during this period, and as a result imported flue-cured tobacco, which in 1970 accounted for less than 2 percent of U.S. utilization, accounted for 13 percent in 1980. 3/ Furthermore, USDA projects that these trends will continue, with imports reaching 118 million pounds and accounting for nearly 19 percent of U.S. utilization by marketing year 1985. 4/

In large part because of imports, national marketing quotas for flue-cured tobacco were reduced in 4 of the last 6 crop years (1975-80) and had to be reduced a fifth time in 1981. 5/ The marketing quota for the 1981 crop year, the most recent, had to be reduced 7.5 percent from the 1980 level because domestic supplies were considered excessive. 6/ The 1981 quota level is 32 percent less than the 1975 level. This downward adjustment of annual marketing quotas caused in part by increased imports has had a negative effect on farm income. While the farm income objective of the program technically has been met through adjustment of the price-support levels, farm income undoubtedly is lower than it would otherwise have been because of the marketing quota reductions. 7/

Most of the imported flue-cured tobacco competes directly with lower quality, lower stalk domestic flue-cured tobacco, which accounts for the major

1/ Report, p. A-27.
2/ Id.
3/ Id.
4/ Id., and hearing transcript, p. 32.
5/ Hearing transcript, p. 174.
6/ Id.
7/ Id., p. 171.

portion of the domestic tobacco currently under loan from the 1975-80 crops. 1/ USDA estimates the quantity of domestic flue-cured tobacco from the 1975-79 crops diverted into loan stocks because of imports at 169 million pounds (farm-sales weight), with a loan value of $198 million. 2/ It projects additional displacement from the 1980 crop at 56 million pounds, with a loan value of $80 million, and future displacement for the next 5 marketing years (1981-85) at 414 million pounds, with a loan value of $833 million. 3/ As of May 1, 1981, uncommitted flue-cured loan stocks from the 1975-80 crops amounted to 476 million pounds (farm-sales weight), representing principal and interest of about $682 million. 4/ Although there have been several major sales in recent weeks by the CCC of lower quality, lower stalk tobacco from 1975-76 crop years under loan, it is too early to conclude that these sales represent a trend or basic change in the market situation. 5/

1/ Lower quality, lower stalk stocks are nevertheless quite salable. Cigarettes are made from blends of tobacco, and most blends include a considerable amount of lower quality, lower stalk tobacco.

Unlike most other agricultural products, tobacco is not quickly perishable. In fact, it is at its best after it has been aged for several years. It is not uncommon for tobacco to be held by cigarette manufacturers and other firms and by producer cooperative associations for several years before being used. However, after 5 or more years the tobacco begins to deteriorate, and it is not generally salable after 10 years. Thus, stocks under loan from the 1975-76 crop years are the ones of most immediate concern to USDA in managing the program because they are reaching the point where they will have to be sold, See report, pp. A-26-A-28.

2/ Report, p. A-28. USDA considers diversion or displacement to occur when imports exceed a penetration level of 3 percent. Thus, figures showing displacement used in this paragraph represent imports in excess of 3 percent penetration. USDA's rationale for this figure is set forth on pp. 66-70 of the hearing transcript.

3/ Report, p. A-28.

4/ Id., p. A-29.

5/ Data concerning these recent sales is set forth in a memorandum from the staff to the Commission, dated July 31, 1981, memorandum No. INV-E-100.

Import penetration is largely the result of lower import prices, which can eventually be translated into losses to the CCC under the program. After adjusting for quality differences, imported flue-cured tobacco is underselling similar domestic tobacco by 60 cents per pound, or by 30 percent. 1/ Because tobacco is perishable over a period of time, it will be necessary for the tobacco under loan from the 1975-80 crops to be sold, probably at a substantial price discount, in order to prevent deterioration. USDA projects that the CCC will lose $34 million from the eventual sale of the 1975 crop and $123 million on the 1975-80 crops (including interest). 2/ USDA estimates that the projected displacement of an additional 414 million pounds in crop years 1981-85 could cost the CCC an additional $100 million to $150 million. 3/

This price advantage of imports in combination with growing inventories of foreign flue-cured tobacco stores both in the United States and abroad make it practically certain that USDA's flue-cured tobacco program will continue to be interfered with for several years to come if no ceiling on import levels is set. During the last decade domestic stocks of foreign-grown flue-cured tobacco increased steadily from 14 million pounds in 1971 to 166 million pounds in 1980. 4/ These stocks accounted for 8.3 percent of total stocks of domestic flue-cured tobacco on July 1, 1980, compared with 3.8 percent on July 1, 1976. 5/ Furthermore, a recent study on tobacco by the World Bank shows that there is presently an abundance of low-quality filler grade flue-cured

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1/ Report, pp. A-26-A-27.
2/ Hearing transcript, pp. 37-38; and report, p. A-29.
3/ Report, p. A-30.
4/ Id., p. A-14.
5/ Id.

tobacco in world markets and that this abundance will continue for at least the next 4 to 5 years due to expanded production in Brazil, Korea, and Malawi. 1/

In summary, I have found, on the basis of increased and projected increases in imports, import penetration, stocks under loan in the program, and loan losses, that imports are materially interfering with USDA's flue-cured tobacco program. Further, I have found, on the basis of the lower prices of imported flue-cured tobacco and the abundance of such tobacco in world markets, that imports of flue-cured tobacco are practically certain to continue to materially interfere with USDA's flue-cured tobacco program. I have found nothing in the information before me that convincingly refutes or rebuts the facts, figures, and projections provided by the Department of Agriculture.

Recommended relief.--I have considered the various relief proposals made by interested parties in this investigation and have concluded that the proposal made by the Department of Agriculture is the most appropriate in the present situation. Therefore, in order that the entry of flue-cured tobacco will no longer materially interfere with USDA's flue-cured tobacco program, I recommend that the President proclaim a quota restricting imports of flue-cured tobacco to an annual level of 72 million pounds, farm-sales weight (52 million pounds, declared weight). This level is equal to the average of estimated flue-cured tobacco imports for the period 1978-80, which I consider to be representative. I suggest that such a quota be applied on a global rather than a country-by-country basis.

1/ World Bank, "Tobacco: Background Note on World Situation and Outlook," unpublished, Economic Analysis Department, 1981.

I favor the USDA's proposed limitation for several reasons. First, it will halt the rapid increase in flue-cured tobacco imports and reduce them slightly (1980 marketing year imports were 84 million pounds, farm-sales weight, and 1981 imports are projected to be 76 million pounds). At the same time I feel that such a quota is unlikely to disrupt manufacturers' operations, cause domestic shortages, or adversely affect U.S. tobacco and tobacco product exports. Second, I believe that a quota in this amount will reduce the likelihood that the CCC will be forced to sell the tobacco now under loan at a substantial loss. Third, such a quota should have little, if any, disrupting effect on world markets and therefore cannot serve as a basis for retaliatory action by any of our trading partners (the 1955 waiver under the General Agreement on Tariffs and Trade notwithstanding).

Because marketing conditions affecting an agricultural product like tobacco can change radically from year to year due to the weather and other factors, I suggest that any limitation be reviewed by the Department annually and that the Commission be asked to reevaluate the situation in 3 to 5 years in order to advise whether the quota should be modified or terminated.

Burley tobacco

As stated above, USDA's burley tobacco program is similar to its flue-cured tobacco program. A major difference, of course, is that growers of burley tobacco are not subject to an acreage allotment system.

Market conditions relevant to the flue-cured and burley tobacco programs are quite different. Burley tobacco has been in tight supply in world markets for the past 2 years, and the World Bank predicts that this situation is not likely to change much in the next 3 to 4 years. 1/ Demand for U.S. burley tobacco is increasing both here and abroad. 2/ Virtually no burley tobacco is presently under loan (an estimated 1.3 million pounds, farm-sales weight, was under loan in 1981, compared with 600 million pounds of flue-cured tobacco in 1981), and therefore there is no likelihood of significant losses to the CCC under that program in the foreseeable future. 3/ Finally, the USDA, which administers the burley tobacco program and which therefore is the party most knowledgeable about its operations, is of the view that imports are not adversely affecting that program. 4/

1/ Report, p.A-20.
2/ Id., p. A-25.
3/ Id., p. A-57.
4/ Hearing transcript, p. 81.

INFORMATION OBTAINED IN THE INVESTIGATION

Introduction

On January 18, 1981, the United States International Trade Commission received a letter from the President requesting that the Commission make an investigation under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), to determine whether tobacco, currently provided for in items 170.3210, 170.3500, 170.6040, and 170.8045 of the Tariff Schedules of the United States Annotated (TSUSA), is being or is practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the tobacco program of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such domestic tobacco. 1/

On March 5, 1981, the Commission instituted the current investigation (No. 22-43). 2/ Notice of the institution of the investigation and of a public hearing to be held in connection therewith was duly given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the Federal Register of March 11, 1981 (46 F.R. 16162). 3/ The public hearing was held June 24 and 25, 1981, and a list of witnesses is included in appendix D. The public briefing and vote was held on August 4, 1981.

Description and Uses

Tobacco (Nicotiana tabacum) is a tall, erect plant cultivated as an annual for its leaves which are prepared for use in smoking or chewing. Among the more widely cultivated varieties, the average height ranges from 4 to 6 feet. There are marked differences in the number of leaves per plant, size, shape, arrangement, venation, color, and other leaf characteristics by plant strain variety. In general, the number of leaves per plant ranges from 20 to 30 and leaf size ranges from 2 inches to 30 inches in length with corresponding differences in width.

Types of tobacco differ as to plant strain, culture, and method of curing. Dependent on these factors and the climate and soil where the tobacco is grown, properties of the leaf vary greatly and, consequently, determine its use in particular tobacco products.

1/ A copy of sec. 22 of the Agricultural Adjustment Act (7 U.S.C. 624), is presented in app. A. A copy of President Carter's letter directing the Commission to make an immediate investigation under sec. 22 of the Agricultural Adjustment Act, on certain tobacco, is presented in app. B.

2/ At the request of the Office of the United States Trade Representative, the Commission delayed institution of the investigation to provide the new administration the opportunity to review the original request.

3/ A copy of the Commission's notice of investigation and hearing is presented in app. C.

Many types of tobacco are grown in the United States, that which is used in the production of cigarettes makes up over 90 percent of domestic tobacco production. The remainder consists of types used for cigars (cigar filler, binder, and wrapper) and types used principally in snuff and in chewing and pipe-smoking tobacco (fire-cured, dark air-cured, sun-cured, and perique). Imports entered under the TSUSA items which are the subject of this investigation are primarily filler tobacco of types used in the manufacture of cigarettes. 1/

There are three types of domestic cigarette leaf tobacco--flue-cured, burley, and Maryland, and one general type of foreign leaf, oriental,--that are usually blended for the production of U.S. cigarettes. Although the various brands of cigarettes differ in the proportions of their tobacco components, flue-cured tobacco accounts for 40 to 50 percent of the tobacco used in the production of a cigarette, burley accounts for 30 to 40 percent, Maryland for 1 to 2 percent, and oriental, for 15 to 20 percent. Oriental tobacco is not produced in the United States and only relatively small amounts enter the United States classified under the TSUSA items under investigation. There are no imports of Maryland-type tobacco. Consequently, flue-cured and burley tobaccos are the primary types which enter the United States under the TSUSA items which are the subject of this investigation. 2/

Flue-cured leaf is a tobacco of light body, of fine, oily texture, and of mild and somewhat aromatic taste, which ranges from reddish orange to bright yellow in color. As the name implies, this tobacco is heat-cured in airtight curing barns heated by a system of flues. The U.S. Department of Agriculture (USDA) reports that in 1979 about 95 percent of domestic flue-cured leaf consumed in this country was used in the production of cigarettes with the remainder used in other tobacco products (pipe tobacco, chewing tobacco, etc.).

Burley tobacco is light and papery, and tan to reddish in color. It is readily combustible, and its elastic (springy) quality improves the porosity of the cigarette blend. Burley is relatively high in nicotine and substantially free of sugar. The highly absorbent character of the leaf makes it an ideal carrier for the "casing" or flavoring compounds used in cigarette manufacture. It is slowly air-cured in freely ventilated barns, with heat used only when needed to maintain humidity in proper balance. In 1979 about 92 percent of domestic burley used in the United States was consumed in the production of cigarettes, with the remainder used in other tobacco products (pipe tobacco, etc.), according to USDA.

1/ The Commission's staff estimates that over 96 percent of the imports (by value) in 1980 of the items under investigation consisted of cigarette tobacco with most of the remainder made up of pipe tobacco.

2/ These conclusions are based upon discussions with U.S. Customs officials and tobacco experts from the Department of Agriculture and private industry, and from the examination of Customs import documents.

U.S. Customs Treatment

Tariff treatment

The imported tobacco (items) under investigation is classifiable for tariff purposes in items 170.3210, 170.3500, 170.6040, and 170.8045 of the Tariff Schedules of the United States Annotated (TSUSA). Imports under these items are presently subject to no quantitative limitations. The rates of duty currently applicable to imports are shown in table 1, appendix E.

The most-favored-nation (MFN) rate of duty of 12.75 cents per pound for TSUSA item 170.3210 (cigarette leaf tobacco, not over 35 percent wrapper, not stemmed, flue-cured) has been in effect since June 30, 1958, and reflects a concession granted by the United States in the General Agreement on Tariffs and Trade (GATT). The ad valorem equivalent of the rate of duty for this item in 1980 was 17 percent. The present MFN duty rate of 38 cents per pound for TSUSA item 170.3500 (cigarette leaf tobacco, not over 35 percent wrapper tobacco, stemmed) has been in effect since January 1, 1981, and reflects a concession granted by the United States in the Tokyo round of trade negotiations. This rate of duty is scheduled to be reduced 3 cents per pound annually until January 1, 1987, when the final stage of the duty reduction (20 cents per pound) becomes effective. Prior to January 1, 1981, the rate was 41 cents per pound and prior to January 1, 1980, the rate was 45 cents per pound. The ad valorem equivalent of the rate of duty for this item in 1980 was 23 percent.

The MFN rate of duty of 16.1 cents per pound for TSUSA item 170.6040 (scrap tobacco, other than from cigar leaf) has been in effect since June 30, 1958, and reflects a concession granted by the United States in the GATT. The ad valorem equivalent of the rate of duty for this item during the last 6 months of 1980 was 28 percent. 1/ The MFN rate of duty of 17.5 cents per pound for TSUSA item 170.8045 (tobacco, manufactured or not manufactured, not specially provided for, other than smoking tobacco in retail-size packages) has been in effect since January 1, 1948, and reflects a concession granted by the United States in the GATT. The ad valorem equivalent of the rate of duty on this item during July-December 1980 was 14 percent.

Recent Customs decision on certain machine-threshed tobacco

On September 29, 1979, the U.S. Customs Service published a notice in the Federal Register (44 F.R. 56089) indicating that the Customs Service had received a petition from an American producer of flue-cured tobacco, requesting that certain imported machine-threshed cigarette leaf tobacco then

1/ Customs classification decision (T.D. 80-132) on certain machine-processed cigarette leaf tobacco became effective June 27, 1980 (this decision is discussed in the following section of this report). The ad valorem equivalent of the rate of duty for item 170.6040 in July-December 1980 is relatively high in relation to those of the other items under investigation because the value of imports (scrap) which enter under this item number is low, in relation to the other items under investigation.

classified by Customs under the provisions for scrap tobacco in TSUS item 170.60 be reclassified under the provision for stemmed cigarette leaf filler tobacco in TSUS item 170.35.

On May 20, 1980, the Customs Service published notice in the Federal Register (45 F.R. 15378) that it concluded, after review, that the subject merchandise is neither scrap tobacco nor is it in leaf form, but has been processed to the extent that it may be considered a partially manufactured product classifiable under the provision for tobacco, manufactured or not manufactured, not specially provided for, in TSUS item 170.80. A copy of this decision (T.D. 80-132) is included as appendix F.

Customs' ability to distinguish flue-cured and burley tobacco and the amount of duty drawback paid relating to imports of the items under investigation

An inquiry from Chairman Alberger was sent to the Acting Commissioner of Customs on March 20, 1981, requesting advice as to whether Customs can distinguish between flue-cured, burley, and other tobacco when such tobacco enters the United States classified under TSUSA items 170.3500, 170.6040, and 170.8045. In addition, the letter requested any information available on the amount of duty drawback paid on the above items (plus TSUSA item 170.3210) in 1979 and 1980. 1/ The information was requested for possible consideration in a remedy recommendation.

The reply (included as app. G) indicates that in most cases Customs officers with experience in examining tobacco can distinguish flue-cured from burley or other tobaccos, based on a physical inspection. No information was available on the amount of duty drawback paid on the tobacco items under investigation. Customs advised they have discontinued the collection and maintenance of drawback payment data.

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1/ Drawback denotes a situation in which a duty, lawfully collected, is refunded or remitted, wholly or partially, because of a particular use made of the commodity on which the duty or tax was collected. Several types of drawback are authorized under sec. 1313, title 19, United States Code. Duty refunded under sec. 1313(b) of title 19 is commonly referred to as substitution drawback and is refundable (99 percent) when both imported merchandise and domestic merchandise of like kind and quantity are used to manufacture articles which are exported. This provision allows firms to obtain drawback without the expense of maintaining separate inventories for imported and domestic merchandise.

U.S. Department of Agriculture Program for Tobacco

Description of the program

USDA regulates the production of tobacco in the United States through acreage allotments, marketing quotas (based on poundage), and price-support loans. Compliance by the farmer to the rules and regulations (marketing quotas, acreage allotments, price supports, etc.) of the program is mandatory for each kind or type of tobacco, 1/ if the program is approved in a referendum vote by a two-thirds majority of eligible voters. 2/ Table 2 is a summation of recent referendums relating to the individual kinds of tobacco which are part of the program. Since this investigation is primarily concerned with imports of flue-cured and burley cigarette tobacco, the following discussion of the domestic program will focus on these types.

Marketing quotas and acreage allotments.--U.S. production of both flue-cured and burley tobacco is controlled by marketing quotas. In addition, flue-cured tobacco is subject to an acreage allotment program. The marketing quota specifies the quantity of tobacco that may be sold without penalty in a given marketing year from a qualifying farm. The allotment specifies the maximum acreage that may be planted in tobacco in a given year on a qualifying farm. To be eligible for an allotment and a quota, a farm must have either established a historical base of production traceable to the 1930's when the tobacco program began, or have been assigned a base at a later date by the Agricultural Stabilization and Conservation Service (ASCS). The ASCS provides each landowner official notification of the allotment and/or quota applicable to his farm for each marketing year. An owner of a quota may produce the farm's quota on his farm or, by use of a lease, transfer part or all of his farm's allotment and/or quota to another farm within the county within which his farm lies. The rights to produce and market flue-cured and burley tobacco are assigned to a particular farm and may not be sold independently of the land.

1/ USDA classifies tobacco in 7 general classes or kinds. These classes are based on method of cure and usage, and are described as follows; flue-cured, fire-cured, air-cured, cigar filler, cigar binder, cigar wrapper, and miscellaneous. Classes are further divided into types (flue-cured, type 11, air-cured, type 31 (burley), etc.). USDA defines a type as a division of a class of tobacco having certain common characteristics and closely related grades. A subdivision of a type according to leaf group, quality, and color is called a grade. The major tobacco produced in the United States is flue-cured (types 11-14), raised largely in North Carolina. Second in importance is burley (type 31 in the air-cured class), raised primarily in Kentucky.

2/ With some exceptions, eligible voters are all persons having a financial interest in the production of tobacco. This may include allotment holders who have leased out their allotments as well as the actual growers of the tobacco.

Each year the U.S. Secretary of Agriculture determines and announces the national marketing quota for each kind of tobacco. 1/ The national quota is a projection of the production needed to meet domestic and export demand and to provide for reasonable carryover stocks. The national quota determines acreage allotments and marketing quotas for individual farms as each tobacco farm, based on its historical production, is given a pro rata share of the national quota. Allotted quota and marketings for flue-cured and burley tobacco and allotted acreage for flue-cured during 1977-81 are shown in table 3. 2/ The basic 1981 quota for flue-cured was reduced 7.5 percent, but the addition of undermarketings from the previous year results in an effective quota of 1,112 million pounds, or 6 percent less than the effective quota in 1980. The 1981 basic quota for burley is 660 million pounds, or 7.3 percent more than it was in 1980. Marketings from the 1980 crop totaled 554 million pounds, 17 percent more than the 7-year low marketed in 1979.

Price support.--The Agricultural Act of 1949, as amended, provides that when marketing quotas are in force, price support shall be made available to any producer that is unable to sell his tobacco for at least the loan level. 3/ Legislation (Public Law 86-389) was enacted in 1960 replacing support at 90 percent of parity with support at the level of the 1959 parity prices, adjusted each year beginning in 1961 for the average change in the parity index (index of prices paid by farmer, including interest, taxes, and wage rates) during the 3 most recent calendar years. 4/ Individual support rates are assigned to each grade of tobacco in order to reach the legal average

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1/ This is the quantity of tobacco estimated to be used during the next marketing year, adjusted by an amount the Secretary determines is desirable to maintain an adequate supply, or that is deemed necessary to reduce the supply, in an orderly way, to the reserve supply level. The law defines reserve supply level as equal to 105 percent of the normal supply. Normal supply is defined as 275 percent of a normal year's domestic consumption of U.S.-produced tobacco plus 165 percent of a normal year's exports. The data for a normal year are determined by using the average of the data for each of the 10 immediately preceding years, adjusted for trends. After the reserve supply level is determined, it is compared with the total supply, which consists of the estimated production for the current marketing year plus carryover of U.S.-produced tobacco. If the total supply varies from the reserve supply, the Secretary is authorized to act within prescribed limits to reduce or increase the national marketing quota as, in his discretion, conditions warrant.

2/ A farm can market up to 10 percent more than its allotment (overmarketings), but the excess is deducted from the following year's quota. If less than the quota is marketed in any year (undermarketings), the difference is added to the farm's quota for the following year. Marketings above the 10 percent allowable excess are subject to penalty charges. The penalty is equal to 75 percent of the average market price for the previous year, a rate which effectively discourages excess production.

3/ Individual price-support rates (loan levels) are assigned to individual grades of tobacco before the marketing season.

4/ The "parity price" of individual commodities is determined by the Secretary of Agriculture according to a statutory formula and is, in effect, the price that a certain quantity of a specific commodity would have to command in order to give the grower the same equivalent purchasing power as existed during a statutory base period.

price-support level. 1/ USDA, through ASCS, sets the price support which is applicable to each grade. Allocation of price support among grades is accomplished by using sales records of the proportion of each year's crop going into each grade. Before the 1980 grade allocation, a 10-year average of these proportions was used as the weight assigned to each grade when allocating price support among grades. Beginning with the 1980 crop, the allocation was based on the averages from the 1978 and 1979 crops. 2/ The sum of the 10-year proportions multiplied by the support price on each grade is expected to equal the average support price for that kind of tobacco in accordance with the legislative formula. Table 4 shows average sale prices per pound and the price-support level for flue-cured and burley tobacco during recent years.

Price support is extended by means of nonrecourse loans made through producer cooperative associations, with financing by the Commodity Credit Corporation (CCC). 3/ Administrative expenses of the associations, to the extent service charges on producers are not adequate, are also financed by the CCC. When a farmer accepts the advance, the cooperative pledges the tobacco as security for the nonrecourse loan. The cooperative handles all operations related to making the loan advance to the farms, and receiving, processing,

storing, and eventually selling the tobacco under loan. Under usual conditions, the tobacco placed under loan with the association is marketed over a period of time on the basis of prices established jointly by the CCC and the association. Sale proceeds are applied toward repayment of the principal first, and then the interest on the loan. 4/ Net gains, if any, are distributed to the producers based on participation. The quantity of flue-cured and burley placed under loan for 1971-80 and total stocks under loan for 1971-81 are shown in table 4.

Operation of the program

Quantities placed under loan to the CCC.--During the marketing years 1976-80, 5/ the annual quantity of flue-cured tobacco used by producers as collateral for CCC loans ranged from 277.3 million pounds in 1976 to 64.1

1/ The number of grades of flue-cured and burley exceeds 120 each.

2/ If changes are deemed necessary in grade specifications, or in grades eligible for support, an adjustment in the average is made by USDA after receiving advice from interested parties. For example, in 1980, price support was eliminated on 8 grades of lower quality flue-cured tobacco which USDA considered to be in limited demand.

3/ A nonrecourse loan absolves a producer from liability for any losses incurred from the sale of the tobacco by the producer association but provides that the producer is permitted to share in any profits.

4/ Interest rates are determined by the rate charged the CCC in obtaining its funds from the Department of the Treasury. Previous to 1981 the rate was established for the duration of the loan. Tobacco under loan bears rates ranging from 6 percent (the 1975-78 crops) to 11.5 percent (the 1980 crop). On Apr. 1, 1981, CCC Officials announced that 1981-crop commodity loans would carry a "floating" interest rate subject to adjustment each Apr. 1 and Oct. 1. The 1981 crop will bear an initial rate of 14.5 percent.

5/ July 1-June 30 for flue-cured.

million pounds in 1978. In the 1980 marketing year 138.3 million pounds, or 12.7 percent of the crop, was placed under loan. The share of the flue-cured crop which was placed under loan during the 1976-80 marketing years ranged from 21.0 percent in 1976 to 5.3 in 1978.

The annual quantity of burley tobacco used by producers as collateral for CCC loans during the 1976-80 marketing years 1/ ranged from 67.7 million pounds in 1978 to zero in 1980. The share of the burley crop placed under loan ranged from 10.8 percent in 1978 to zero in 1980. USDA reports that the shift to low-tar, low-nicotine cigarettes and two successive short burley crops has meant auction sales prices for burley are substantially above the support level. In addition, burley loan stocks are completely sold.

Tobacco loan stocks and sales.--Stocks of uncommitted flue-cured and burley tobacco under loan and held by producer associations on the last day of February during 1977-81 and on March 13, and July 1, 1981, are shown in the following tabulation:

Type	End of February					1981 1/	1981 2/
	1977	1978	1979	1980	1981		
	Million pounds (farm-sales weight)						
Flue-cured (types 11-14)	598.7	670.0	590.2	525.6	529.6	489.0	468.2
Burley (type 31)	38.8	105.7	161.7	56.6	0	0	0

1/ Mar. 13, 1981.
2/ July 1, 1981.

USDA reports that since the 1980 flue-cured auction season, manufacturers and dealers have bought sizable amounts of flue-cured tobacco from Stabilization Co-op stocks. From July 1980 to March 1981, 169 million pounds of flue-cured tobacco were sold from loan stocks, compared with 84 million pounds a year earlier. USDA further reports that a sizable part of the sales was priming and nondescript grades sold by bid since December 1980. 2/ By March 13, unsold loan stocks of 489 million pounds were at the lowest level in 5 years (stocks

1/ Oct. 1-Sept. 30 for burley.
2/ A group is a division of a type covering closely related grades based on certain characteristics which are related to stalk position, body, or the general quality of the tobacco. Groups in flue-cured, types 11-14 are: wrappers, leaf, smoking leaf, cutters, lugs, primings, mixed nondescript, and scrap. Primings consist of round-tipped leaves from the lowest portion of the stalk. Nondescript may be from any stock position and is decribed as extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group except scrap.

on July 1, 1981, were 468 million pounds). However, USDA reports that about two-thirds of the remaining inventory on March 13, 1981, represents the 1975-77 crops and contains grades of tobacco having qualities which are in limited demand at announced sales prices. 1/

Section 407 of the Agriculture Act of 1949 (63 Stat. 1051), as amended, sets forth the conditions for sales of tobacco from loan stocks. The law requires that tobacco used as collateral not be sold for less than 105 percent of current support prices plus reasonable carrying charges, unless the tobacco is deteriorating or in danger of loss from spoilage. Table 5 shows pertinent data relating to the operations of the tobacco loan program for fiscal years 1977-81. Net loss or gain on CCC price-support activities ranged from a gain of $826,000 in 1978 to a loss of $5.4 million in 1979. 2/ The large loss in 1979 was primarily due to a fire loss of 1976 and 1977 crop burley tobacco in a Kentucky warehouse. USDA estimates a net loss of $700,000 for 1981.

USDA actions taken to reduce flue-cured stocks.--USDA has reduced the national marketing quota for flue-cured tobacco in 4 of the last 6 years and cites excessive domestic flue-cured supplies as the reason. The 1981 quota level is 7.5 percent less than the 1980 quota and 32 percent less than the 1975 level.

Other program features initiated by USDA to reduce the buildup of lower quality, lowerstalk flue-cured tobacco in loan stocks include revision of the grade standards for flue-cured tobacco in 1977 (by setting more stringent waste tolerance levels and defining foreign matter more precisely) and initiating the Four Leaf Program in 1978. Producers that agreed not to harvest the four bottom leaves of each plant (the lower quality leaves) were permitted to plant 120 percent (changed to 110 percent for 1979, 1980, and 1981) of their acreage allotments in 1978. USDA indicates that producers accounting for about 16 percent of the flue-cured quota have participated in the program in recent years. USDA further adjusted the program beginning with

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1/ The 1977 crop was of low quality because of weather conditions and even the higher graded tobacco from that crop which remains in the loan stocks is not as desirable as upperstalk tobacco from other crop years. Consequently, this crop represents the largest single crop in stocks.

The Flue-Cured Tobacco Cooperative Stabilization Corporation (FCS) reported (August 3, 1981) that sales of about 60 million pounds (farm-sales weight) had occurred from loan stocks since July 20, 1981. These sales account for about 13 percent of the total uncommitted inventory of 468 million pounds (as of July 1). Tobacco sold (except for about 2 million pounds) was from the lower stalk positions; lugs accounted for about 16 million pounds and primings for about 42 million pounds. Virtually all the sales were from the 1975 and 1976 crops, and at least some appear to have been tobacco previously made available for bid sale but not sold due to lack of interest at a price acceptable to FCS.

2/ CCC officials report that these data do not include interest losses or gains, since interest is not reported separately by commodity in their financial reports.

the 1980 marketing year when it discontinued support on eight lowerstalk grades in excess supply. 1/ The share of the flue-cured crop accounted for by these eight grades ranged from 4 to 11 percent in 1974-79.

U.S. Growers, Dealers, and Manufacturers

Tobacco growers

The production of flue-cured tobacco was allotted to about 194,000 farms in 1981, and about 307,000 farms were allotted burley quotas. Some growers, however, use more than one quota through rental and lease arrangements. 2/ Because of these arrangements, USDA estimates that flue-cured tobacco is produced by about 45,000 farmers and burley is produced by about 160,000 farmers. 3/ The major area of production is the Southeastern United States. In 1980, North Carolina accounted for 67 percent of the flue-cured quota, and South Carolina, Georgia, and Virginia accounted for 9 to 12 percent each. In 1980, Kentucky accounted for 71 percent of the burley quota and Tennessee for 17 percent. USDA reports that cash receipts from tobacco as a percent of cash receipts from all farm commodities in 1979 amounted to 27 percent for North Carolina, 24 percent for Kentucky, and 16 percent for South Carolina.

Studies by USDA indicate that during 1972-79, growers in the major flue-cured tobacco producing regions have consolidated operations (presumably through leasing provisions of the Act), improved productivity, and increased their incomes faster than the actual cost of production. In these areas of Georgia, South Carolina, North Carolina, and Virginia, accounting for approximately 75 percent of all U.S. production of flue-cured tobacco, the number of farms declined 29 percent from 41,000 in 1972 to 29,000 in 1979, while the quantity of tobacco produced on those farms declined by about 5 million pounds to 748 million pounds. The average farm in 1972 was 9.5 acres and produced 18,600 pounds of tobacco but, by 1979, had increased to 13.8 acres producing 26,000 pounds of tobacco. Although yield declined slightly during the period---owing primarily to poor weather conditions in 1979, the harvest was well below the effective quota for the year---farms average about 1,900 pounds of tobacco per acre. The productivity of labor expended on this production improved considerably from 1972 to 1979; 10.5 pounds of tobacco were produced for each hour of labor in 1972, while in 1979 about 16.1 pounds was produced, an increase of 54 percent. USDA calculated that the net return to land, management, and allotment in this region increased 89 percent from $8,173 in 1972 to $15,424 in 1979. This improvement exceeded the 79 percent increase in the support price, suggesting that the greater efficiency of the

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1/ A support price was determined for these grades (P5L, P5F, P5G, N1L, N1GL, N1XO, and N1PO), but the grades were considered unacceptable quality for loan collateral.

2/ Rental rates for flue-cured and burley quotas are reported to be in the 40- to 50-cents-per-pound range, with higher and lower rates also reported.

3/ Flue-cured tobacco is generally produced in geographic areas which more readily lend themselves to mechanization, compared with the areas in which burley is produced; thus, flue-cured growers are more likely to acquire multiple quotas through rental and leasing arrangements than burley growers.

larger farm units has improved the growers' level of income faster than the increase in prices paid by farmers (the parity index) and on which support prices are based.

The following tabulation shows the gross value and harvested acreage in 1977 of selected crops:

Crop	Acreage harvest	Gross value	Value per acre
	(1,000 acres)	($1,000)	($ per acre)
Corn	70,872	12,944,467	182.6
Wheat	66,461	4,742,686	71.4
Soybeans	57,612	10,352,409	179.7
Cotton	13,275	3,614,938	272.4
Peanuts	1,516	783,302	526.6
Sugarbeets	1,216	604,399	496.9
Tobacco	958	2,268,420	2,389.1
Sugarcane	759	327,146	430.8
All crops	335,239	52,084,112	155.4

Source: Official statistics of the U.S. Department of Agriculture.

The tabulation shows that the gross value of all tobacco (not just flue-cured) from each harvested acre is significantly greater than virtually all other major U.S. crops, including several which have been the subject of price support programs in recent years. One factor which may affect the level of return, however, is the intensity of labor input for tobacco relative to that of other crops. This level reflects both the small size of most tobacco operations (particularly of burley) and the low level of mechanization in both planting and harvesting tobacco.

Tobacco dealers

Tobacco dealers buy tobacco for resale to domestic manufacturers, foreign manufacturers, and foreign dealers. Major dealers plus major manufacturers are represented in all auction markets where cigarette leaf tobacco is sold. There are 7 major domestic tobacco dealers and about 40 minor dealers. They are located primarily in Virginia, North Carolina, and Kentucky. Most domestic tobacco moving in foreign trade is handled by tobacco dealers. Many domestic dealers purchase flue-cured and burley tobacco produced in other countries. This tobacco may be bought either for later sale in another foreign country or for import into the United States. Flue-cured and burley imported into the United States may be processed for reexport or sold to U.S. manufacturers for use in cigarettes or other tobacco products.

Cigarette manufacturers

Six major cigarette manufacturers produce over 99 percent of the cigarettes manufactured in the United States and buy practically all flue-cured and burley tobacco used in the manufacture of cigarettes. The three largest manufacturers (R. J. Reynolds Tobacco Co., Philip Morris U.S.A., and Brown & Williamson International Tobacco) account for over 75 percent of domestic cigarette production. North Carolina, Virginia, and Kentucky are the principal cigarette-producing States. Cigarette manufacturers import tobacco themselves and/or arrange with an independent U.S. dealer to purchase the types, grades, and qualities of tobacco required for their various cigarette blends (the components of which are regarded as highly sensitive trade secrets).

U.S. Consumption

Flue-cured tobacco

During the last decade, consumption (disappearance) of domestic flue-cured tobacco ranged from 703 million pounds (farm-sales weight) in 1973 to an estimated 550 million pounds in 1980 (table 4). Consumption of domestic flue-cured tobacco has declined steadily since 1975. USDA reports that the recent shift to low-tar, low-nicotine cigarettes has caused burley tobacco to replace flue-cured tobacco in cigarette blends and has therefore been a factor in the general decline in flue-cured usage. Burley tobacco has certain characteristics which make it more suitable for use in low-tar, low-nicotine cigarettes. In addition, USDA reports cigarette manufacturers have become more efficient in their use of tobacco; the quantity of tobacco required to produce 1,000 cigarettes declined annually from 1.88 pounds (unstemmed-processing weight) in 1975 to 1.76 pounds in 1979.

Total U.S. consumption of flue-cured tobacco cannot be computed from official Government statistics because total imports of flue-cured tobacco are not separately reported. However, import data on flue-cured and burley tobacco were obtained by questionnaires. On the basis of on these data it is estimated that the quantity of flue-cured tobacco imported under the TSUSA items under investigation amounted to 89.8 million pounds (farm-sales weight), or 16 percent of consumption of domestic flue-cured tobacco in 1980, compared with 14 percent (79.0 million pounds) in 1979 and 9 percent in 1978 (51.1 million pounds). 1/

Burley tobacco

During 1971-80, domestic burley tobacco consumption (disappearance) ranged from 535 million pounds (farm-sales weight) in 1972 to 490 million pounds in 1976 (table 4). Consumption of domestic burley is estimated at 490 million pounds for 1980. Total U.S. consumption of burley tobacco is not available since (as with flue-cured) U.S. import statistics are not separately reported for burley tobacco.

It is possible, however, to estimate burley tobacco imports of the items under investigation, and to estimate the share of domestic consumption which is supplied by these imports. 2/ Staff estimates (using questionnaire data) indicate that burley tobacco imports in 1980 of the items under investigation amounted to 72.5 million pounds (farm-sales weight) or about 14.8 percent of consumption of domestic burley tobacco, compared with 81.4 million pounds, or 16.2 percent of consumption of domestic burley in 1978. 3/

1/ The estimate was made by applying the shares shown below (which are based on aggregate import data reported in the questionnaires) to the annual quantity of imports which entered under TSUSA item numbers 170.3500, 170.6040, and 170.8045 and reported as official import statistics by the U.S. Department of Commerce (in percent):

Year	Flue-cured	Burley	Other	Total
1978	34	58	8	100
1979	37	58	5	100
1980	50	44	6	100

The estimated import data were then converted to a farm-sales-weight basis using standard USDA conversion factors. The quantity of imports entered under TSUSA items 170.3500, 170.6040, and 170.8045 by importers responding to questionnaires amounted to 54 percent of official import statistics in 1978, 59 percent in 1979, and 64 percent in 1980 (table 6).

2/ See explanation for flue-cured import estimates in previous footnote.

3/ The estimate for imported burley tobacco and its relation to consumption is only for imports of burley tobacco estimated to have entered under the TSUSA items under investigation.

Cigarettes

During the last decade domestic consumption of cigarettes increased from 555 billion cigarettes in 1971 to 630 billion cigarettes in 1980 (table 7). Imported cigarettes are negligible in relation to apparent consumption, accounting for less than 0.1 percent annually. Consumption in 1980 was about 1.5 percent greater than consumption in 1979, thereby continuing the trend of increasing net consumption, but declining (or stable) per capita consumption. USDA reports that per capita cigarette use by persons 18 and over in 1980 remained at the same level as 1979 (3,924 cigarettes), which was the lowest level since 1957. Per capita consumption by consumers 18 years and over during 1976-80 is shown in the following tabulation:

Year	Number of cigarettes
1976	4,092
1977	4,051
1978	3,967
1979	3,924
1980	3,924

U.S. Production and Stocks

Flue-cured tobacco

U.S. production (marketings) of flue-cured tobacco during 1971-80 ranged from 1,415 million pounds in 1975 to 974 million pounds in 1979 (table 4). Production declined irregularly after 1975 and reached a 10-year low in 1979. Production increased to 1,086 million pounds in 1980. Total stocks of domestic flue-cured tobacco during 1971-80 (on July 1) ranged from 1,607 million pounds in 1974 to 2,075 million pounds in 1977 (table 4). 1/ Stocks of domestic flue-cured tobacco have been relatively stable since 1975, averaging close to the 1980 level of 2.0 billion pounds. During the last decade, U.S. stocks of foreign-grown flue-cured tobacco have increased steadily from 14 million pounds in 1971 to 166 million pounds in 1980 (table 8). These stocks accounted for 8.3 percent of total stocks of domestic flue-cured tobacco on July 1, 1980, compared with 3.8 percent on July 1, 1976.

Burley tobacco

U.S. production (marketings) of burley tobacco ranged from 664 million pounds in 1976 to 446 million pounds in 1979, which was a 10-year low (table 4). Production declined irregularly after 1976, but increased by more than 100 million pounds in 1980 from the 1979 level. During 1971-81, stocks of

1/ Tobacco is generally aged about 2 years (and at times, considerably longer) before being used in the production of cigarettes. Stocks are held by Co-ops, dealers, and cigarette manufacturers.

burley tobacco ranged from 1,346 million pounds in 1971 to an estimated 951 million pounds in 1981 (table 4). During the last decade, U.S. stocks of foreign-grown burley tobacco increased steadily from 6 million pounds in 1971 to 216 million pounds in 1980 (table 8). Stocks of foreign-grown burley tobacco accounted for 21.0 percent of total stocks of domestic burley on July 1, 1980, compared with 12.2 percent on July 1, 1976 (tables 4 and 8).

Cigarettes

During 1971-80 domestic production of cigarettes increased irregularly from 576.4 billion cigarettes to 714.2 billion, for an average annual increase of 2.4 percent (table 7). In recent years low-tar and low-nicotine cigarettes have become increasingly popular and cigarette companies have heavily promoted these cigarettes. Recent Government estimates indicate the share of the market accounted for by low-tar cigarettes was about 50 percent in 1980. 1/ USDA's annual survey of cigarette manufacturers indicates that filter cigarette output in 1980 continued to increase both in relation to the percent of the total cigarette market and in absolute terms. In 1980, 92.5 percent of total production consisted of filter-tip cigarettes, compared with 88.5 percent in 1976.

U.S. Exports

The United States is the world's major tobacco-exporting country and has a worldwide reputation of producing tobacco of the highest quality. In recent years, U.S. exports of tobacco were equivalent to about three-eighths of the domestic crop and about a fifth of world exports. U.S. exports of all tobacco and tobacco products were valued at a record high of $2.43 billion in 1980. The total consisted of $1.3 billion of unmanufactured tobacco and $1.1 billion of tobacco products.

Tobacco items similar to the imported items under investigation

During 1976-80, U.S. exports of tobacco items similar to the imported items under investigation increased irregularly from 565 million pounds, valued at $883 million, to 584 million pounds, valued at $1.27 billion (tables 9, 12, and 13). 2/ Cigarette filler tobacco including flue-cured, burley, and Maryland accounted for $1.22 billion (96 percent) of the 1980 value of these exports. The chief markets for these cigarette filler tobaccos in 1980 were the Federal Republic of Germany (17 percent, by value), Japan (16 percent), the Netherlands (6 percent), the United Kingdom (6 percent), and

1/ Cigarettes containing 15 or less milligrams of tar are considered to be low-tar.

2/ Includes cigarette leaf, flue-cured, burley, and Maryland (Schedule B Nos. 170.3310, 170.3320, 170.3330, 170.3340, and 170.3350), unmanufactured tobacco, n.s.p.f., (Schedule B No. 170.5100) and smoking tobacco in bulk and certain manufactured tobacco (Schedule B Nos. 170.8140 and 170.8160).

Italy (5 percent) (table 9). The increasing worldwide popularity of American-style-blended cigarettes has been a major factor in world demand for U.S. cigarette filler tobacco.

Flue-cured tobacco.--The bulk of U.S. exports of cigarette filler tobacco consists of the flue-cured type. In 1980, the value of exports of flue-cured tobacco amounted to $969 million, or 80 percent of the value of those exports similar to the imported items under investigation (table 10). During 1976-80, exports of flue-cured tobacco increased irregularly from 379 million pounds, valued at $701 million, to 391 million pounds, valued at $969 million. Japan (17 percent, by value), the Federal Republic of Germany (15 percent) and the United Kingdom (7 percent) were the major markets in 1980.

Burley tobacco.--During 1976-80, the value of U.S. exports of burley cigarette filler tobacco increased annually from 68 million pounds, valued at $124 million, to 91 million pounds, valued at $234 million (table 11). The Federal Republic of Germany (26 percent, by value), Japan (13 percent) and the Netherlands (10 percent) were the major markets in 1980.

Other unmanufactured tobacco.--During 1976-80, the quantity of exports of other unmanufactured tobacco including stems, trimmings, scraps, cuttings, and siftings declined irregularly from 96 million pounds, valued at $27 million, in 1976 to 78 million pounds, valued at $29 million in 1980 (table 12). Spain (25 percent, by value), the Federal Republic of Germany (15 percent), and Japan (8 percent) were the major markets in 1980.

Smoking tobacco in bulk.--During 1976-80, U.S. exports of smoking tobacco in bulk and certain other manufactured tobacco ranged between 4.2 million pounds, valued at $6.6 million, in 1978 and 26.9 million pounds, valued at $43.5 million, in 1979, but showed no discernible trend (table 13). In 1980, exports amounted to 17.5 million pounds, valued at $23 million, with Spain (41 percent, by value), the Federal Republic of Germany (16 percent), and Switzerland (13 percent) being the major markets.

Cigarettes

U.S. exports of cigarettes increased annually during 1976-80, from 61.4 billion cigarettes, valued at $510 million, to 82.0 billion cigarettes, valued at $1.1 billion, reflecting the increasing world demand for American-style cigarettes (table 14). 1/ Belgium (23 percent, by value), Hong Kong (9 percent), and Saudi Arabia (6 percent) were the major markets in 1980.

U.S. Imports

Aggregate U.S. imports of tobacco entered under the four TSUSA items under investigation increased significantly from 95.8 million pounds, valued at $86.7 million, in 1978 to 134.3 million pounds, valued at $126.5 million, in 1979, and then declined to 116.7 million pounds, valued at $114.3 million,

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1/ Estimates indicate about one-third of a cigarette is made up of foreign tobacco (including oriental tobacco).

in 1980 (table 15). 1/ A possible reason for the 1980 decline in imports is USDA's discontinuation of price support on eight lower grades of flue-cured tobacco in the 1980 marketing year. This tobacco (which in recent years accounted for 4 to 11 percent of the flue-cured crop) was consequently sold at competitive market prices and beginning in 1980 may have displaced tobacco which was previously imported.

The major suppliers in 1980 included Brazil (28 percent, by value), the Republic of Korea (18 percent), Canada (12 percent), Zimbabwe (6 percent), and the Republic of South Africa (5 percent). The majority of these imports consist of tobacco (primarily flue-cured and burley) which is used in the manufacture of cigarettes. 2/ In 1980 the quantity of imports 3/ entered under the TSUSA items under investigation accounted for about 11.5 percent of domestic production of flue-cured and burley tobacco, compared with 10.8 percent in 1978.

Tobacco, manufactured or not manufactured, not specially provided for, other than smoking tobacco in retail-size packages (TSUSA item 170.8045)

During 1978-80, imports entered under TSUSA item 170.8045 ranged from 2.2 million pounds, valued at $3.4 million, to 28.2 million pounds, valued at $35.5 million (table 16). 4/ The primary reason for the significant increase in imports entered under this item in 1980 was the change in classification of certain machine-processed cigarette leaf tobacco by the U.S. Customs Service (T.D. 80-132) from TSUSA item 170.6045 to item 170.8045. 5/ This change took effect June 27, 1980. The major suppliers in 1980 were the Republic of Korea (26 percent, by value), Brazil (25 percent), and Mexico (9 percent).

It is estimated that about 96 percent (by value and quantity) of recent imports (since the reclassification) entered under this item number consist of machine-processed cigarette leaf tobaccco (primarily flue-cured and burley) with most of the remainder made up of smoking tobacco in other than in retail-size packages. Questionnaire responses indicate that during the period July 1, 1980, to December 31, 1980, approximately 55 percent (by quantity) of the imports entered under this item consisted of flue-cured tobacco and about 45 percent was identified by importers as burley tobacco. 6/

1/ U.S. imports of certain of the TSUSA items under investigation were not separately reported in U.S. foreign trade statistics prior to Jan. 1, 1978.

2/ Based on an examination of Customs documents (commercial invoices), data obtained from questionnaires, and staff discussions with Customs import specialists, tobacco importers, and cigarette manufacturers.

3/ Based on farm-sales weight.

4/ Imports entered under this item were not reported separately in U.S. foreign trade statistics prior to Jan. 1, 1978.

5/ See tariff treatment section and app. F.

6/ The total quantity of imports reported during this period by those importers responding to Commission questionnaires represented about 82 percent of official imports for consumption as reported by the U.S. Department of Commerce for the same period.

Scrap tobacco, other than from cigar leaf
(TSUSA item 170.6040)

U.S. imports entered under this item increased annually during 1977-79 from 75.6 million pounds, valued at $59.7 million, to 122.2 million pounds, valued at $113.7 million, and then declined to 78.2 million pounds, valued at $70.6 million, in 1980 (table 17). The decline in 1980 resulted, in large part, from the reclassification (June 27, 1980) of machine-processed cigarette leaf tobacco. The major sources of supply for this item in 1980 were Brazil (29 percent, by value), the Republic of Korea (16 percent), and Canada (12 percent). The majority of imports in this category presently consist of scrap tobacco from cigarette leaf, including scrap from such leaf types as flue-cured, burley, and oriental.

Table 18 and the following tabulation show U.S. imports for consumption, by month, for TSUSA items 170.6040 and 170.8045 during 9-month comparable periods before and after the Customs reclassification decision on machine-processed cigarette leaf tobacco in 1980:

Period	TSUSA item 170.6040		TSUSA item 170.8045	
	July 1979-March 1980	July 1980-March 1981	July 1979-March 1980	July 1980-March 1981
	Quantity (1,000 pounds)			
July	8,452	2,273	189	3,287
August	9,904	1,481	82	3,397
September	10,817	2,686	211	4,453
October	16,886	1,694	119	5,812
November	10,232	1,236	106	4,836
December	7,075	1,274	209	5,218
January	11,210	1,180	190	5,276
February	9,812	1,632	138	9,081
March	16,136	1,937	177	5,118
Total	100,524	15,393	1,422	46,479

A comparison of the two periods reveals the level of imports entered under the two items were significantly affected by the reclassification as total imports entered under item 170.6040 were 100.5 million pounds during July 1979-March 1980, and then declined to 15.4 million pounds during July 1980-March 1981. During the corresponding period, imports entered under item 170.8045 increased from 1.4 million pounds to 46.5 million pounds. Responses to Commission questionnaires indicate that during January 1, 1980, to June 30, 1980, approximately 50 percent (by quantity) of the imports entered under TSUSA item 170.6040 consisted of flue-cured tobacco and about 44 percent consisted of burley tobacco. 1/ Respondents further indicated that in 1979, 37 percent of

1/ The total quantity of imports reported by those importers responding to Commission questionnaires represented about 63 percent of official imports for consumption as reported by the U.S. Department of Commerce during Jan. 1, 1980-June 30, 1980, 60 percent of official imports for 1979, and 55 percent of official imports for 1978.

the imports entered under this item was flue-cured tobacco, and 58 percent was burley, whereas in 1978, 34 percent was flue-cured and 58 percent burley.

Cigarette leaf tobacco, not over 35 percent wrapper tobacco, not stemmed, flue-cured (TSUSA item 170.3210)

U.S. imports of flue-cured cigarette leaf, not stemmed, increased irregularly from 5.2 million pounds, valued at $3.5 million, to 10.4 million pounds, valued at $8.1 million, during 1977-80 (table 19). The chief sources of supply in 1980 were Brazil (36 percent, by value), Canada (28 percent), and Zimbabwe (9 percent).

Cigarette leaf tobacco, not over 35 percent wrapper tobacco, stemmed (TSUSA item 170.3500)

Imports entered under this item were relatively insignificant during 1977-80, ranging from 771 pounds, valued at $1,000, in 1979 to 62,400 pounds, valued at $110,000, in 1980 (table 20). Canada was the only supplier in 1980.

World Production and Trade

During the period 1976-80, world production of all unmanufactured tobacco decreased irregularly from 12.3 billion pounds to 11.5 billion pounds (table 21). U.S. production in 1980 accounted for 15 percent of world production. Flue-cured tobacco made up 43 percent of world production in 1980, and burley tobacco made up 11 percent. World exports of all unmanufactured tobacco have shown no consistent pattern in recent years, but have remained relatively near the 1979 level of 3 billion pounds (table 21). U.S. exports of unmanufactured tobacco in 1979 accounted for 19 percent of world exports of such tobacco. World exports of flue-cured tobacco made up 43 percent of world exports of all unmanufactured tobacco in 1979, and burley accounted for 10 percent. Principal world importing markets of unmanufactured tobacco in 1979 included the European Community (43 percent, by quantity), the United States (14 percent) and Japan (5 percent) (table 22).

Flue-cured tobacco

During 1976-80, world production of flue-cured tobacco declined slightly, averaging 5.0 billion pounds annually (table 21). In 1980, U.S. production of flue-cured tobacco accounted for 22 percent of world production, compared with 26 percent in 1976. Hence, U.S. production has declined at a greater rate than world production during the last 5 years. World exports of flue-cured tobacco increased irregularly from 1.2 billion pounds to 1.3 billion during 1976-79. In 1979, U.S. exports of flue-cured tobacco accounted for 28 percent of the world total, compared with 31 percent in 1976. Other major flue-cured exporting countries in 1979 were Brazil (14 percent), Zimbabwe (14 percent), and India (10 percent) (table 23).

A recent study on tobacco by the World Bank 1/ indicates that there currently exists an abundance of low-quality filler grade flue-cured tobacco in world markets. In part this is due to reports of tight supplies in the middle 1970's which led to accelerated expansion of production in countries such as Brazil, the Republic of Korea, and Malawi. The study reports there will be sufficient supplies of flue-cured tobacco to meet world demand for the next 4 to 5 years; however, shortages in certain grades of high-quality leaf are predicted. These predictions are qualified in the report by the statement that a crop failure in any major producing country, or large purchases on the world market by a country such as China could turn the supply/demand situation around. 2/ The study indicates no significant production increases are expected in any of the major producing countries. 3/ Production in lower cost producing countries, such as Brazil, Zimbabwe, and Malawi are expected to remain relatively constant, while production cutbacks are expected in the United States, Canada, and Japan.

Burley tobacco

During 1976-80, world production of burley tobacco showed no discernible trend, averaging about 1.3 billion pounds annually (table 21). In 1980, U.S. production of burley tobacco accounted for 44 percent of world production, compared with 52 percent in 1976. World exports of burley tobacco increased irregularly from 258 million pounds to 313 million pounds during 1976-79. In 1979, U.S. exports of burley tobacco accounted for 26 percent of the world total (the same share as in 1976). Other major burley-exporting countries in 1979 were India (20 percent), Mexico (13 percent), and the Republic of Korea (11 percent).

Owing to such factors as adverse weather, disease problems, and higher prices for competing crops, burley tobacco was in tight supply in the world market in 1980 and 1981. The World Bank study indicates that the burley supply situation is not expected to change for the next 3 to 4 years. The present shortage of burley is expected to cause upward pressure on prices which will produce a worldwide supply response in about 5 years. Major expansions of burley production are forecast for Brazil, Malawi, Spain, Mexico, and the Philippines.

Prices

Prices in the United States

Prices paid for tobacco depend upon demand factors such as the type or kind of the tobacco, the quality and condition of the leaf, and the changing demand for the products made from tobacco leaf (e.g., cigarettes). Tobacco is

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1/ World Bank, "Tobacco: A Background Note on the World Situation and Outlook," unpublished, Economic Analysis Department, 1981.

2/ Testimony at the Commission hearing suggest that a production decline may have occurred recently in China (see transcript p. 358).

3/ With the possible exception of China where production data are somewhat unreliable.

produced and traded throughout the world, and many countries maintain some form of government control over production and marketing. In the United States, control is through the program of acreage allotments, marketing quotas, and price support. The influence of supply-demand factors is reflected primarily in the determination of marketing quotas and, secondarily, in the support prices.

Price-support legislation provides that minimum prices be paid to farmers for each kind of tobacco produced domestically. These support prices are determined by USDA in accordance with guidelines set forth in the authorizing legislation 1/ requiring average prices in the base year, 1959, to be adjusted annually according to changes in the index of prices paid by farmers (parity index). 2/ Since each kind of tobacco (e.g., burley or flue-cured) was supported at a different price in 1959, the support price of the various kinds of tobacco in a given year will also be different. The relationship of the support price for one kind of tobacco to that for another has remained constant since the 1960 crop, however, because the adjustments for all kinds of tobacco are based on the same parity index. For example, the average support price for flue-cured tobacco has remained 97 percent of the average price for burley tobacco since 1960.

The following tabulation shows the tobacco support-price-adjustment factor, the support prices for flue-cured and burley tobaccos, and the Consumer Price Index (CPI) for 1971-80:

Year	Tobacco support-price-adjustment factor	Support price for tobacco		Consumer Price Index
		Flue-cured	Burley	
	1959 = 100	Cents per pound		1967=100.0
1971	125	69.4	71.5	121.3
1972	131	72.4	74.9	125.3
1973	138	76.6	78.9	133.1
1974	150	83.3	85.8	147.7
1975	168	93.2	96.1	161.2
1976	191	106.0	109.3	170.5
1977	205	113.8	117.3	181.5
1978	218	121.0	124.7	195.4
1979	233	129.3	133.3	217.5
1980	255	141.5	145.9	246.9

1/ See Description of the Program, p. A-5.
2/ The annual adjustment factor in a given year is the ratio of the average of the parity index for the 3 preceding years to the parity index for 1959.

In general, changes in the adjustment factor from 1971 to 1980 were similar in magnitude to those in the Consumer Price Index for the period. The exception to this was in 1976-79. In 1976, the general rate of inflation (shown by the CPI) reached 6 percent and tobacco support prices increased by more than 14 percent. Tobacco support prices then increased at approximately the same rate as inflation until 1979 when the rate of change in support prices slowed relative to the general rate of inflation. In 1980, the support price continued to rise slower than the general rate of inflation, bringing increases in tobacco support prices during 1971-80 back into line with those shown by the CPI during the same period.

The support price for each kind of tobacco, since it is based on the index of prices paid by all farmers, is largely independent of the supply-demand relationship for tobacco. 1/ However, USDA does consider the relationship in its determination of the distribution of each year's support price increase among the various grades within each kind of tobacco. The legislation allows USDA to adjust the support price for tobacco depending on a variety of factors--such as type, grade, and quality--provided that the average support price remains equal with the prescribed price level. Since certain leaf grades command higher prices in the tobacco markets, the USDA generally reflects this price structure in setting its support prices. USDA estimates the distribution of grades within the total crop on the basis of an historical average and maintains the weighted-average price for the total crop at the required level. Because a specific average price must be obtained in each year, if demand for a particular grade allows it to be supported at a high price, other grades may be supported at lower prices, and vice versa. Should a grade be supported at a price higher than its market value to purchasers, more of the grade is likely to be placed into the loan program by farmers and would thereby become part of the Government stabilization stocks. Furthermore, should too small an increase be applied to a particular grade, larger increases must be applied to other grades in order to meet the requirements of the legislation. It is possible that adjustments in the support price made in order to allow one grade to be marketable under prevailing conditions may in turn cause USDA to support other grades at a price higher than their market value, subsequently encouraging farmers to place those grades under loan.

The following tabulations show the support price and the average price actually received by farmers for flue-cured and burley tobacco. These data indicate that the average support price does not necessarily reflect supply and demand relationships in the market for these tobaccos. For both kinds of tobacco, the average price received by farmers exceeded the support price throughout the period for which data are shown. 2/ Since the support price is

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1/ USDA is able to influence the supply of tobacco through its determination of marketing quotas. Quotas are set according to the level of the national reserve supply of tobacco but may be adjusted within certain limits at the discretion of the Secretary of Agriculture (see Description of the Program, p. A-5). There is no direct connection between the support price and the marketing quota for any kind of tobacco, according to USDA officials.

2/ The average price received by farmers necessarily will never be below the support price since, if auction prices were lower than the support price, farmers would place the tobacco under loan to the CCC at the support price.

determined by the estimated cost of production rather than demand factors, the differential between the support price and the actual price received is an indication of actual market conditions. An unusually high differential--as in 1974--shows strong demand (relative to supply) and a low differential is indicative of weaker conditions in the marketplace. It appears from the tabulations that the differential between the two prices is related to the share of each crop actually placed under the loan program, as shown in the following:

Year	Flue-cured Tobacco: Support price	Flue-cured Tobacco: Average price paid to farmers	Flue-cured Tobacco: Price differential	Share of crop placed under loan
	Cents per pound			Percent
1971---	69.4	77.2	7.8	5.2
1972---	72.4	85.3	12.9	2.4
1973---	76.6	88.1	11.5	2.7
1974---	83.3	105.0	21.7	1.9
1975---	93.2	99.8	6.6	18.4
1976---	106.0	110.4	4.4	21.0
1977---	113.8	117.6	3.8	17.3
1978---	121.0	135.0	14.0	5.3
1979---	129.3	140.0	10.7	7.4
1980---	141.5	144.7	3.2	12.7

Year	Burley tobacco: Support price	Burley tobacco: Average price paid to farmers	Burley tobacco: Price differential	Share of crop placed under loan
	Cents per pound			Percent
1971---	71.5	80.9	9.4	1/
1972---	74.9	79.2	4.3	3.9
1973---	78.9	92.9	14.0	0.1
1974---	85.8	113.7	27.9	0.4
1975---	96.1	105.6	9.5	7.9
1976---	109.3	114.2	4.9	7.0
1977---	117.3	120.0	2.7	9.2
1978---	124.7	131.2	6.5	10.8
1979---	133.3	145.2	11.9	1.5
1980---	145.9	165.9	20.0	1/

1/ less than 0.05 percent.

When market prices are significantly higher than the support price--as in 1972-74 and 1978-79 for flue-cured tobacco and in 1971, 1973-74, and 1979-80 for burley tobacco--the quantity of tobacco placed under loan declines, and when the average price is close to the support price--as in 1975-77 for flue-cured tobacco--receipts by the program increase. Market conditions reflected in these price differentials are factors such as increased demand for particular characteristics found in one type of tobacco but not in another, or particularly good or bad harvests in the United States or other major producing nations.

Prices in other markets

Export prices for unstemmed flue-cured tobacco for major producing countries are shown in the following tabulation. 1/

Country	1976	1977	1978	1979	1980
	Per pound, dry weight				
United States	$1.53	$1.85	$1.96	$2.06	$2.17
Canada	1.43	1.36	1.33	1.65	1.83
Republic of Korea	1.04	1.29	1.50	1.47	1.54
Philippines	.80	.86	.79	.88	1.09
Brazil	.80	1.29	1.06	1.07	1.09
Argentina	.68	.70	.79	.98	1.07
Malawi	1.02	1.18	1.58	1.36	1.58
U.S. support price	1.06	1.14	1.21	1.29	1.42

U.S. export prices have been consistently higher than those of other exporters during the period shown. The differential between the export prices for U.S. produced flue-cured tobacco and those of other exporters is partially an effect of the price-support system and partially a result of demand for certain characteristics of U.S. tobacco. Industry sources report that most countries do not produce the highest quality flue-cured tobacco which can be found in the United States. On the other hand, the neutral tobacco from lower positions on the stalk used primarily for cigarette filler is of satisfactory quality in many producing nations. The better quality tobacco has no difficulty attracting customers at a price consistent with the support price in the United States (with appropriate adjustments for the cost of handling, commissions, etc.) but the downstalk tobacco is not internationally competitive at the support price and, therefore, is not exported in large quantities. According to USDA, exports from the United States of flue-cured tobacco are of the better grades and accordingly are traded at a higher price than tobacco of other countries.

Most trading of tobacco on international markets is done by a relatively few large dealers which resell to cigarette manufacturers. Since U.S. tobacco represents 20 to 25 percent of the world's total exports of tobacco and imports

1/ Prices for unstemmed tobacco are shown since those for tobacco other than unstemmed might reflect the value of the processing rather than the value of the tobacco itself.

about 14 percent of total imports, the influence of U.S. prices is felt in all markets. Export price changes in other markets tend to follow those of the United States, according to the World Bank report. The data indicate, however, that export prices also reflect other factors, such as government tobacco policies; the influence of stocks held by governments, dealers, and manufacturers, and general supply-demand conditions. U.S. export prices for flue-cured tobacco rose 42 percent from 1976 to 1980, but increases in those of other nations ranged from 28 percent (Canada) to 57 percent (Argentina). Of those countries shown, only the United States and Argentina show increases in export prices in each year; each of the other countries experienced price declines as well as increases. Export prices for all countries rose in 1980.

As with flue-cured tobacco, U.S. export prices for burley tobacco are significantly higher than those of other countries. This reflects an increased level of demand for U.S. burley tobacco in general as well as tight supplies caused by poor burley crops in a number of countries in recent years. Such export prices increased by 27 percent from 1976 to 1980; only Mexico's export price increase of 57 percent was significantly greater than that of the United States. Similarly, only the United States and Mexico did not experience declines in prices in either 1979 or 1980. Average prices for exports of burley tobacco from major producing nations are shown in the following tabulation:

Country	1976	1977	1978	1979	1980
	Per pound, dry weight				
United States	$1.62	$1.76	$1.90	$1.96	$2.06
Mexico	.91	1.06	1.13	1.23	1.43
Brazil	.82	.90	1.04	.93	.93
Republic of Korea	.93	1.01	1.13	1.21	1.09
Italy	.71	.57	.95	1.06	.91
Greece	.90	1.06	1.15	1.18	1.08
Malawi	.95	1.04	1.25	.90	1.03
U.S. support price	1.09	1.17	1.25	1.33	1.46

Price comparisons

The Commission requested data on prices of imported and domestic flue-cured and burley tobacco from tobacco dealers and from cigarette manufacturers for 1978-80. The questions were designed to address two issues: (1) to what extent do prices of imported tobacco from specific positions on the stalk 1/ vary from prices of domestic tobacco of the same stalk position, and (2) to

1/ For a number of reasons, including taste, texture, nicotine content, and dirt and sand content, leaves which grow higher on the tobacco stalk are generally more desirable than the lower leaves. Manufacturers are believed to use primarily midstalk leaves in American-style-blended cigarettes, but the exact blend varies among cigarette manufacturers and among the various cigarette brands. Data were requested for 5 stalk positions for flue-cured tobacco (from lowest to highest, they are: primings, lugs, cutters, smoking leaf, and leaf) and for 4 stalk positions for burley tobacco (flyings, lugs, leaf, and tips).

what extent do prices of imported tobacco vary from the prices of the domestic tobacco for which they are substitutes in the tobacco blends of cigarette manufactures. In considering the first of these issues, a direct comparison of tobacco from the same relative stalk positions is made based on the hypothesis that an imported leaf from a particular position may be competitive with a domestically produced leaf from the same stalk position. In considering the second issue, a comparison is made of tobacco from different stalk positions based on the hypothesis that imported tobacco is generally of lower quality and a cigarette manufacturer may purchase higher position imported leaf to replace a lower position domestic leaf in its tobacco blends. It was not useful to request data on a more disaggregated basis (for example, using the very detailed USDA grade definitions) since there is no consistent international grading system. Dealers and cigarette manufacturers maintain internal grading specifications which generally vary from one another. Comparisons based on inconsistent systems would not be meaningful whereas, according to industry sources, the concept of stalk position is universally understood.

Tobacco purchased by cigarette manufacturers is for use in a wide variety of blends, each with its own specific characteristics. Since tobacco must be aged for at least 18 months and may be held in inventory by dealers or manufacturers for 5 years or more before use, purchases made by cigarette manufacturers from dealers or from Government loan stocks in any one year often include tobacco from other crop years. Moreover, imported tobacco may be held in bonded warehouses for lengthy periods and is often resold more than once while in bond. Therefore, prices reported to the Commission are based on sales of tobacco from several crop years and many sources. Prices in response to the questionnaires should not be compared with prices in the preceding discussion concerning prices to farmers and in international markets since the latter are based on prices received for each year's crop individually.

Tables 24 and 25 compare prices of domestic and imported stemmed flue-cured and burley tobacco by stalk position of the leaf. For flue-cured tobacco, higher prices were generally paid for tobacco from midstalk positions than from other positions. This pattern is less apparent for burley tobacco, possibly owing to the high level of demand for all burley tobacco. Prices paid for domestic tobacco of both types were considerably above those paid for imported tobacco. The weighted-average price for domestic flue-cured tobacco during 1978-80 was $2.00 per pound, and that for imported tobacco of the same type was $1.56. Weighted-average prices for domestic and imported burley tobacco were $2.37 and $1.32 per pound, respectively.

Tables 26 and 27 indicate, even with allowances for the alleged differences in quality of domestic and imported tobacco, that prices for imports judged by cigarette manufacturers to be generally comparable with certain domestic tobacco for use in their blends are typically lower than prices of domestic tobacco. The weighted-average price for imported flue-cured tobacco was about $1.40 per pound, $0.60 less than the price for domestic tobacco. 1/ The weighted-average price of imported burley tobacco was $1.42 per pound, about $0.92 less than the price of comparable domestic tobacco.

Impact of Imports on the Operation of the Tobacco Program as Reported by USDA

At the Commission's hearing on June 24 and 25, 1981, and in posthearing submissions officials of the USDA described the conditions and considerations which led to the recommendation by the Secretary of Agriculture that action be taken to limit imports of certain tobacco in order to prevent interference with the Department's program for tobacco. The Department indicated that increasing imports are displacing domestic flue-cured tobacco in the market place on the basis of price. This displacement has forced an accumulation of domestic stocks and in the majority of recent years has forced a reduction in domestic production through a reduction in the national flue-cured marketing quota. USDA states some monetary losses to the CCC are now virtually locked into the management and disposal of present inventories and larger losses will be incurred unless remedial action is taken.

Imports

USDA officials indicate that the Department is experiencing interference with its support program for flue-cured tobacco and estimate that imports of such tobacco have grown steadily during the past 10 marketing years, from about 10 million pounds (farm-sales weight) in marketing year 1970 to 84 million pounds in 1980. The Department projects imports of flue-cured tobacco in the marketing year which ended on June 30, 1981, at 76 million pounds. 2/ It estimates that imported flue-cured tobacco made up less than 2 percent of domestic utilization of flue-cured tobacco in marketing year 1970, compared with 13 percent in marketing year 1980, and projects imports to reach 118 million pounds, or nearly 19 percent of utilization, in marketing year 1985. 3/

1/ It is observed that this price is below the average price for flue-cured tobacco derived from table 24; the reverse was expected. Commission staff has not been able to explain this discrepancy. One possible cause is the difficulties in making the subjective judgements required of cigarette manufacturers in responding to the Commission's questionnaire. The data, however, could be interpreted to mean that the imported tobacco for which prices were reported was of better quality than domestic tobacco of the same stalk position.

2/ A posthearing submission filed by the Department estimates flue-cured tobacco imports (on a calendar-year basis) at 42.9 million pounds (declared weight) or 60.5 million pounds (farm-sales weight) in 1978, 61.2 million pounds (declared weight) or 85.3 million pounds (farm-sales weight) in 1979, and 51.3 million pounds (declared weight) or 70.9 (farm-sales weight) in 1980.

3/ This estimate provided by USDA in testimony before the Commission, is based on a least-squares analysis of past trends. Imports are projected to increase by about 8 million pounds annually after 1981.

The Department states that although meaningful price comparisons are difficult to make because of differences in tobacco qualities, on average, domestic flue-cured prices have consistently exceeded imported flue-cured prices by more than 2 to 1, 1/ and the growth in imports is primarily due to price differences. USDA considers a level of 3-percent import penetration for flue-cured tobacco to be complementary to domestic production and believes penetration in excess of 3 percent results in displacement of domestic glue-cured tobacco.

Diversion of domestic tobacco into loan stocks

USDA estimates the quantity of domestic flue-cured tobacco from the 1975-79 crops diverted into loan stocks because of imports at 169 million pounds (farm-sales weight), with a loan value of $198 million, and projects displacement from the 1980 crop at 56 million pounds, with a loan value of $80 million. The Department estimates future displacement of domestic tobacco (assuming no displacement occurs until imports exceed the 3 percent penetration) for the next 5 marketing years (through 1985) at 414 million pounds, with a loan value of $833 million.

CCC losses

The Department reports that because of competition from imports, the composition of loan stocks has shifted to less desirable upperstalk and lowerstalk grades and most of these stocks cannot be readily sold since they are relatively high cost, compared with foreign-produced tobacco. USDA indicates that as it becomes necessary to sell the tobacco currently under loan from the 1975-80 crops, in order to prevent deterioration, 2/ substantial price discounts very likely will be needed resulting in further CCC losses. The Department believes a further reduction in the marketing quota sufficient to allow the sale of present stocks would probably cause future shortages in high quality domestic upperstalk tobacco and cause imports to increase beyond the level already projected.

USDA reports that the problem of excess lowerstalk tobacco first became evident in 1974, when virtually all of the 23 million pounds placed under loan that year were in the lug, priming, and nondescript grades. Such 1974 loan tobacco remained in loan stock inventory until sold by bid in March 1979. The proceeds of the sale failed by $5.9 million to cover the costs incurred by CCC.

1/ This ratio is greater than that calculated by the Commission staff from questionnaire responses (p. A-25). However, this difference does not imply that price differences are not significant factors in purchase decisions.

2/ Tobacco quality generally improves with age for the first 5 years of storage, but thereafter quality generally declines.

As of May 1, 1981, uncommitted flue-cured loan stocks from the 1975-80 crops ammounted to 476 million pounds (farm-sales weight), representing principal and interest of about $682 million. USDA believes it is fairly certain that the principal eventually will be repaid, but indicates there is a strong likelihood that a portion of the interest will not be recovered. 1/

USDA reports that officials of the Flue-cured Tobacco Cooperative Stabilization Corporation (FCS) project that sale of the 1975 crop inventory (at current approved selling prices effective Jan. 12, 1981) would result in a loss of $11.6 million. USDA believes this projection should be revised upward since 39 percent of loan placements are still outstanding and sales since 1978 have been limited except for bid sales. Considering the outstanding loan for the 1975 crop of $188 million (principal and interest) and the limited market for the remaining lug(X) grades, USDA projects an 18 percent or $34 million loss from the eventual sale of the 1975 crop. 2/ The Department indicates later crops might experience a smaller share of loss because the lowerstalk grades declined as a share of loan receipts beginning in 1976, and therefore believes a 12-percent loss ($59 million) on the unsold 1976-80 stock loans is a reasonable estimate. Consequently, the CCC could realize a total loss of $93 million on the 1975-80 crops. The Department further states that the increased interest rates and the buildup of imported leaf stocks in the United States could push the loss share on the 1976-80 crops nearer the rate of 18 percent estimated for the 1975 crop, for a total loss on the 1975-80 crops of $123 million. The Department qualifies these loss estimates by stating that these losses would not be entirely attributable to imports, since even if imports were zero, a certain quantity of the stocks might have to be sold for less than their loan value plus accrued interest because of an excessive supply of certain grades.

The Department states that there is little doubt that without limitation imports will assume an ever greater share of total U.S. use of flue-cured tobacco (given that the U.S. price is likely to continue well in excess of the prices for imported tobacco), and will displace a certain quantity of domestic tobacco and force it into future FCS stocks. The Department indicates only the size of the displacement is in question, and the size depends on a number of factors. These include the U.S. inflation rate (which affects the level of tobacco price support), the overall quality of the U.S. crop, the comparative support levels for the various grades and qualities, foreign leaf prices, export demand for U.S. flue-cured, domestic consumption, and the accuracy with which the U.S. marketing quota reflects actual demand conditions.

1/ USDA officials report current CCC policy calls for interest rates on CCC loans to be at or near the interest rate which the Treasury charges CCC for its funds. Interest on 1981-crop loans will be 14.5 percent and will be adjusted each October and April to conform with this policy. Earlier crops (1975-80) carry fixed-interest rates and, with the rise in commercial borrowing rates, enjoy a substantial interest advantage which has probably facilitated disposal of loan stocks at full cost plus carrying charges. The interest advantage eventually will be eliminated as the loan stocks are turned over and new crops come under loan.

2/ USDA indicates that losses from bid sales during 1979-81 of the 1974-76 crops averaged 18 percent of outstanding loan costs (principal and interest) and considers this loss share to be representative for the remainder of the 1975 crop loan.

USDA estimates future displacement of U.S. flue-cured tobacco by imports at about 414 million pounds, with a loan value of $833 million over the next 5 years. 1/ A 12 to 18 percent loss on these stocks would be $100 million to $150 million.

Probable Economic Effects of Import Restrictions

Section 22(b) of the Agricultural Adjustment Act, as amended, empowers the President to--

> impose such fees not in excess of 50 per centum ad valorem or such quantitative limitations on any article or articles which may be entered, or withdrawn from warehouse, for consumption as he finds and declares shown by such investigation to be necessary ... Provided, That no proclamation under this section shall impose any limitation on the total quantity of any article or articles ... which reduces such permissible total quantity to proportionately less than 50 per centum of the total quantity of such article or articles ... during a representative period as determined by the President: And provided further, That in designating any article or articles, the President may describe them by physical qualities, value, use, or upon such other bases as he shall determine.

USDA recommended to the Commission that annual imports of flue-cured tobacco be restricted to 52 million pounds, declared weight, or 72 million pounds, farm-sales weight, the average of estimated flue-cured tobacco imports in the period believed by USDA to be representative, 1978-80. USDA also recommended that the quota be applied on a global basis, rather than setting specific country-by-country quotas, and that appropriate statistical categories be established in the Tariff Schedules to permit the necessary accounting of these imports. USDA stated its view that imports of burley tobacco are not materially interfering with the program and recommended that no restrictions on such imports be imposed. 2/ 3/

Representatives of the Farm Bureau, in support of the imposition of import restrictions, recommended to the Commission that imports of tobacco entered into the United States under the four TSUSA categories be limited to 75 percent of the average level of imports of flue-cured tobacco during 1970-80, approximately 21 million pounds, declared weight, or 30 million pounds,

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1/ USDA officials report that the estimate is arrived at by projecting total use (domestic disappearance plus imports) for 1970-79 through marketing year 1985 and assuming a 3-percent share of imports to be complementary.

2/ Transcript, p. 80.

3/ See General Counsel memos in app. H. on factors to be considered by the Commission.

farm-sales weight. 1/ This recommendation did not specifically separate flue-cured tobacco from other types of tobacco entered under the four categories.

No testimony was provided at the hearing in support of fees as an appropriate remedy to the alleged effects of imports upon the USDA program. It is believed by parties in support of import restrictions that such additional fees would not be effective. The maximum fee which could be applied is 50 percent ad valorem, based upon f.o.b. value at the foreign port. The tabulation on p. A-24 shows that most export values are considerably lower than the average U.S. support price, and, although such a fee might increase the cost of importing tobacco sufficiently to discourage imports, rising U.S. support prices are likely to cause increased price differentials again in the future.

More important than the possible ineffectiveness of even the maximum fee allowed by the legislation is the possibility that importers will avail themselves of the drawback and substitution-drawback provisions of customs laws. These provisions permit importers to recover virtually all duties paid on imports upon reexport of the good, or upon export of a domestic good of like kind and quality. Such rights can be assigned to other parties, and the good which is exported can be in a processed form. Therefore, it is possible that importers of tobacco could assign drawback rights to cigarette manufacturers, that upon export of cigarettes, could recover the entire duty paid. Because drawback is based upon the value of the good imported rather than the quantity, and because domestic tobacco is valued higher than imports, the quantity of domestic tobacco exported in the form of cigarettes could be substantially less than the quantity imported and all duties still could be recovered. Use of the substitution-drawback provisions has been limited in the past 2/, but it is believed that imposition of additional fees would encourage future use, impairing the effectiveness of such restrictions. 3/

The level of imports of flue-cured tobacco in each marketing year (July-June), 1970-81 is shown in the following tabulation (in million pounds, farm-sales weight):

1/ All further references to imports and import quotas in this section will be in terms of farm-sales weight.
2/ See p. A-4.
3/ Fees imposed under sec. 22 are treated as tariffs and are therefore refundable under drawback provisions.

Marketing year	Quantity
1970-71	10.6
1971-72	12.1
1972-73	15.2
1973-74	30.0
1974-75	28.7
1975-76	22.0
1976-77	24.9
1977-78	54.9
1978-79	74.7
1979-80	84.9
1980-81	75.5

These estimates, submitted to the Commission by USDA, are based on official data on imports entered under the four TSUSA categories, adjusted according to changes in stocks of foreign-produced tobacco held by private parties in both bonded and unbonded warehouses.

The quota recommended by USDA would allow larger quantities of flue-cured tobacco to be entered into the United States than were entered in any year prior to 1978, and only slightly less than were entered in the 1978-79 marketing year. Therefore, such a quota would not be restrictive of imports unless imports could otherwise be expected to increase further or, at a minimum, remain near recent levels. 1/ The quota recommended by the Farm Bureau, however, would be considerably more restrictive; although it is based on estimates of imports of flue-cured tobacco, it would include imports under four TSUSA categories that also include significant quantities of other types of tobacco (e.g., burley and oriental). The following discussion assumes that such a quota would be imposed only on imports of flue-cured tobacco, as recommended by USDA. The Farm Bureau quota also would reduce imports in future years to the relatively low 1975 level, allowing little flexibility in the event of changes in cigarette manufacturers' requirements or other unforeseen circumstances. 2/

The primary effects of limiting imports to either of the recommended levels would be in three interrelated areas. First, there would probably be

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1/ It appears that the recommended quota of 72 million pounds is not logically consistent with statements by USDA that imports have been materially interfering with the program since 1975 (e.g., transcript, p. 41). USDA alleged that imports of only one-third the recommended quota were at least partially responsible for the reduction of marketing quotas at that time. The extent to which imports caused the alleged interference was not quantified by USDA. It is observed in the posthearing brief of the Farm Bureau (p. 48) that this quota "would be permitting on a continuing basis the very level of imports which has caused the problem."

2/ Peanuts are the only other commodity under a USDA program as closely controlled as tobacco. Quota restrictions imposed after a sec. 22 investigation in 1954 were relaxed the following year after crop failure, and relaxed again in 1981 after another crop failure. Tobacco, which unlike peanuts can be stored for lengthy periods, is unlikely to face such severe problems provided that stocks are maintained at an appropriate level.

less tobacco placed under loan in the future. Second, the cost of tobacco to the cigarette manufacturer and of tobacco products to the final consumer would increase while the options of manufacturers to change their product according to market demands would be restricted. Finally, it is possible that restrictions on imports of flue-cured tobacco would cause a reduction in U.S. export sales.

Effects on the program

If a restrictive quota is imposed upon imports of tobacco, it is expected that there will be some beneficial effects upon the tobacco program. The elimination of imports beyond a certain level will force dealers and cigarette manufacturers to purchase domestic tobacco for lack of an alternative. In the short term, an increase in such purchases from what they otherwise might be will cause a decline in the level of loan stocks by drawing down current tobacco stocks or by increasing purchases of future crops causing less tobacco to be placed under loan. USDA estimates that imports of flue-cured tobacco in the absence of restrictions will reach a cumulative total of 510 million pounds during marketing years 1981-86, and that the USDA recommended quota will reduce that total by 150 million pounds. The Farm Bureau quota could be expected to reduce the total in that period by 360 million pounds.

It is also possible that import restrictions will not have a useful effect on the program. A large portion of tobacco currently under loan is of less desirable grades from poorer crops and includes about 75 million pounds of grades for which support is no longer provided. If some of the current stocks are not marketable at the mandated list price--a possibility made more likely by removal of support for certain grades--the Stabilization Corp. may have to sell them at a loss in spite of import restrictions. Despite this possibility, there may still not be a financial loss for those crop years as a whole. Furthermore, since imports are projected by USDA to increase at an annual rate of 8 million pounds, the equivalent of 1.3 percent of domestic consumption in 1980, it is probable that the USDA recommended quota will not be particularly restrictive for several years into the future. It would be nearly 4 years before imports would be restricted by a cumulative total equal to the 75 million pounds in current inventory of grades for which support is no longer provided. Thus, the more restrictive Farm Bureau quota would be significantly more effective as an incentive for reducing stocks.

The effectiveness of a quota would also be reduced by actions already taken by the Government. The removal of support from some grades assures that such hard-to-dispose-of tobacco will not enter Stabilization stocks in the future. The recent changes in CCC loan rates also assure that any tobacco placed under loan will change in value at a rate reasonably close to the costs of holding private inventory. If interest rates are greater than increases in the support price the escalating cost of tobacco held under loan will encourage purchase from current crops and holding tobacco in private inventory. Therefore, it is possible that significant growth in loan stocks will not occur even in the absence of import restrictions, and existing stocks will become more attractive as current crop prices increase relative to interest charges on those stocks.

Price effects

Data on prices for flue-cured tobacco received in response to Commission questionnaires indicate that, over the 3 years 1978-80, cigarette manufacturers paid an average of 60 cents per pound less for imported tobacco than they did for the equivalent domestic tobacco. Imports exceeded the USDA recommended quota in 1978-79 and 1979-80, by a total of about 16 million pounds. Had the quota been imposed at that time, the direct cost of purchasing U.S.-produced tobacco in place of the imports would have been $9.6 million. 1/ Had this same tobacco been used immediately in the production of the 1,400 billion cigarettes produced in the 2 years, the extra cost to the final consumer would have been about 0.14 cent for each carton of 200 cigarettes. The costs of the Farm Bureau recommendation under the same conditions (and assuming that only flue-cured tobacco was entered under the four TSUSA categories) would have been $60 million and 0.86 cent per carton.

As stated above, imports of flue-cured tobacco are projected by USDA to increase to a cumulative total of about 510 million pounds during marketing years 1981-86, about 150 million pounds more than would be allowed under the USDA quota and 360 million pounds more than would be allowed under the Farm Bureau quota. Restrictions on imports may incourage prices for domestic tobacco to increase from what they otherwise would have been, depending on domestic supply-demand conditions. These conditions are not predictable. If the price differential between the imported and domestic tobacco remains at 60 cents per pound, the minimum total cost of the USDA quota over the 5-year period would be $90 million, or 0.5 cent per carton of cigarettes, and the minimum total cost of the Farm Bureau quota would be $215 million, or 1.2 cent per carton. The actual costs would be relatively small in the first years of the quota. However, these costs would increase substantially in later years if imports would otherwise increase as projected by USDA, owing to the increasingly restrictive effect of the recommended quotas.

Effects on the export market

If the United States is no longer accessible as a market for foreign-grown flue-cured tobacco, it is probable that such tobacco will enter other import markets. To some extent, the increased supply of tobacco to those markets will result in the displacement of U.S. exports. Initially, such displacement is not expected to be on a one-to-one basis owing primarily to the desirability of full-flavored U.S.-produced tobacco in cigarette production. However, in recent years the trend of U.S. exports, both as absolute quantities and as a share of total world exports, has been downward. 2/ This decline is primarily caused by factors such as increasing quantity and improving quality of foreign-grown tobacco coincident with the declining quality of U.S.-produced tobacco 3/ and declining price competitiveness of U.S.-produced tobacco in foreign markets owing to the inflexibility of the

1/ This and the following estimates are necessarily inexact and should be used only to suggest the order of magnitude of restriction costs.

2/ See tables 4 and 21.

3/ Transcript, pp. 368-370.

price support formula. 1/ These factors suggest that future exports of U.S.-produced flue-cured tobacco may continue to decrease even in the absence of an import quota, but that the loss of the export markets may be hastened by restricting access to the U.S. market. Competition among producers for fewer available markets would enhance the competitive position of the relatively few international buyers of tobacco relative to the large number of sellers, encouraging lower export prices and increased differentials between prices of U.S.- and foreign-produced tobacco. If demand for tobacco of a quality similar to that provided by the United States is relatively price inelastic as alleged in testimony by Farm Bureau representatives 2/, increasing competition for purchasers of lower quality tobacco coupled with the rising U.S. export prices mandated by the support formula is likely to encourage further improvements in foreign tobacco quality so that farm revenues in exporting countries will be maintained. Thus, U.S. export markets will be increasingly threatened in the longer term.

A further consideration affecting the export markets for U.S.-produced tobacco is the possibility of requests for compensation or retaliation by other governments. It is speculative to assume that other governments will necessarily take such actions, but the possibility exists. Governments of virtually all producing countries have historically been involved in the production and marketing of tobacco and tobacco products. The United States has in recent trade negotiations obtained significant concessions from other nations in terms of reductions in tariff and nontariff barriers for exports of U.S. tobacco and tobacco products. Most producers of flue-cured tobacco are not major U.S. trading partners although several, such as the European Community, Canada, and Brazil are significant. These and other governments may not be concerned only with the loss of the U.S. market for their exports of flue-cured tobacco, but will most likely be concerned with increased competition for their tobacco exports in other markets. The increased supply of tobacco to non-U.S. markets may realistically be expected to result in lower prices for these countries' tobacco with coincident decreases in growers' revenues.

1/ Transcript, p. 36.
2/ Transcript, p. 260.

APPENDIX A

SECTION 22 OF THE AGRICULTURAL ADJUSTMENT ACT, AS AMENDED

§ 624. Limitation on imports; authority of President

(a) Whenever the Secretary of Agriculture has reason to believe that any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, any program or operation undertaken under this title or the Soil Conservation and Domestic Allotment Act, as amended or section 32, Public Law Numbered 320, Seventy-fourth Congress, approved August 24, 1935, as amended [7 USCS § 612c], or any loan, purchase, or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction, with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken, he shall so advise the President, and, if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made by the United States Tariff Commission [United States International Trade Commission], which shall give precedence to investigations under this section to determine such facts. Such investigation shall be made after due notice and opportunity for hearing to interested parties, and shall be conducted subject to such regulations as the President shall specify.

(b) If, on the basis of such investigation and report to him of findings and recommendations made in connection therewith, the President finds the existence of such facts, he shall by proclamation impose such fees not in excess of 50 per centum ad valorem or such quantitative limitations on any article or articles which may be entered, or withdrawn from warehouse, for consumption as he finds and declares shown by such investigation to be necessary in order that the entry of such article or articles will not render or tend to render ineffective, or materially interfere with, any program or operation referred to in subsection (a) of this section, or reduce substantially the amount of any product processed in the United States from any such agricultural commodity or product thereof with respect to which any such program or operation is being undertaken: Provided, That no proclamation under this section shall impose any limitation on the total quantity of any article or articles which may be entered, or withdrawn from warehouse, for consumption which reduces such permissible total quantity to proportionately less than 50 per centum of the total quantity of such article or articles which was entered, or withdrawn from warehouse, for consumption during a representative period as determined by the President: And provided further, That in designating any article or articles, the

President may describe them by physical qualities, value, use, or upon such other bases as he shall determine.

In any case where the Secretary of Agriculture determines and reports to the President with regard to any article or articles that a condition exists requiring emergency treatment, the President may take immediate action under this section without awaiting the recommendations of the Tariff Commission [International Trade Commission], such action to continue in effect pending the report and recommendations of the Tariff Commission [International Trade Commission] and action thereon by the President.

(c) The fees and limitations imposed by the President by proclamation under this section and any revocation, suspension, or modification thereof, shall become effective on such date as shall be therein specified, and such fees shall be treated for administrative purposes and for the purposes of section 32 of Public Law Numbered 320, Seventy-fourth Congress, approved August 24, 1935, as amended [7 USCS § 612c], as duties imposed by the Tariff Act of 1930, but such fees shall not be considered as duties for the purpose of granting any preferential concession under any international obligation of the United States.

(d) After investigation, report, finding, and declaration in the manner provided in the case of a proclamation issued pursuant to subsection (b) of this section, any proclamation or provision of such proclamation may be suspended or terminated by the President whenever he finds and proclaims that the circumstances requiring the proclamation or provision thereof no longer exist or may be modified by the President whenever he finds and proclaims that changed circumstances require such modification to carry out the purposes of this section.

(e) Any decision of the President as to facts under this section shall be final.

(f) No trade agreement or other international agreement heretofore or hereafter entered into by the United States shall be applied in a manner inconsistent with the requirements of this section.

(May 12, 1933, c. 25, Title I, § 22, as added Aug. 24, 1935, c. 641, Title I, § 31, 49 Stat. 773; Feb. 29, 1936, c. 104, § 5, 49 Stat. 1152; June 3, 1937, c. 296, § 1(k), 50 Stat. 246; Jan. 25, 1940, c. 13, 54 Stat. 17; July 3, 1948, c. 827, Title I, § 3, 62 Stat. 1248; June 28, 1950, c. 381, § 3, 64 Stat. 261; June 16, 1951, c. 141, § 8(b), 65 Stat. 75; Aug. 7, 1953, c. 348, Title I, § 104, 67 Stat. 472.)

INTERPRETIVE NOTES AND DECISIONS

1. Generally

Since purpose of executive agreement, effect of which was to exclude food product of foreign country from importation into United States, was to bar imports which would interfere with Agricultural Adjustment program, provisions of 7 USCS § 624 for investigation by Tariff Commission and recommendation to President for his action must be complied with, and executive agreement which failed to comply was void. United States v Guy W. Capps, Inc. (1953, CA4 Va) 204 F2d 655, affd 348 US 296, 99 L Ed 329, 75 S Ct 326.

2. Investigation

Importer of dried figs and fig paste could not maintain action against Secretary of Agriculture to have marketing agreement and order for California dried figs declared invalid and restraining him from conducting investigation of impact of importation of figs, where Secretary had taken no action, even assuming that later there might be order entered on basis of marketing program which would adversely affect plaintiff. Wolff v Benson (1958) 103 App DC 334, 258 F2d 428.

3. Import restrictions; fees or quotas

7 USCS § 624 contains neither ambiguity in language, nor uncertainty in legislative intent, and there is no basis, therefore, for construing disjunctive "or" as conjunctive "and;" President has power to impose fees or quantitative limitations, in the alternative; proclamation No. 3084 which attempts to impose both fee and quota is invalid insofar as it imposes fee. United States v Best Foods, Inc. (1960) 47 Cust & Pat App 163.

4. —Findings necessary to imposition of fee or quota

Congress in 7 USCS § 624 has required as condition precedent to imposition of tax or quota a finding by President that importations of certain articles are likely to increase in such way as to threaten price support program, directly or by limiting domestic processing of price-supported commodity, and fee imposed without such finding was void. Best Foods, Inc. v United States (1963) 50 Cust Ct 94, 218 F Supp 576.

5. Judicial review

Congress contemplated, in connection with fee levied on imported merchandise by purported authority of 7 USCS § 624, usual administrative customs procedure, including entry, appraisement, liquidation, protest, and filing of such protest by collector with Customs Court, and ouster of that jurisdiction could not be inferred from statute; judicial review is not precluded by provision of § 624(e) that Presidential findings of fact should be final. Best Foods, Inc. v United States (1956) 37 Cust Ct 1, 147 F Supp 749.

6. Modification of proclamation

Congressional delegation to President of power, pursuant to prescribed procedure, to modify proclamation imposing quota on peanuts, did not empower him by his modifying proclamation to also proclaim new fee of two cents per pound that had not previously been proclaimed. Best Foods, Inc. v United States (1957) 39 Cust Ct 305, 158 F Supp 583.

7. Particular commodities

President's quota restriction on tung oil was applicable to importer's en route tung oil, product of and imported from Paraguay notwithstanding provisions of General Agreement on Tariffs and Trade. C. Tennant, Sons & Co. v Dill (1957, DC NY) 158 F Supp 63.

Fee at rate of two cents per pound, exacted on imported peanuts pursuant to presidential proclamation issued under 7 USCS § 624, is invalid. Best Foods, Inc. v United States (1963) 50 Cust Ct 94, 218 F Supp 576.

Calcium reduced dried skim milk is an "article of milk" subject to license requirements and import restrictions pertaining to milk rather than to those pertaining to edible preparations other than milk. Western Dairy Products, Inc. v United States (1974) 72 Cust Ct 75, 373 F Supp 568, affd (Cust & Pat App) 510 F2d 376.

APPENDIX B

PRESIDENT CARTER'S LETTER TO THE COMMISSION

RECEIVED
81 JAN 21 A10:09
OFFICE OF THE SECRETARY
DOCKET/USITC

RECEIVED
81 JAN 21 A10:09
OFFICE OF THE SECRETARY DOCKET/USITC

DOCKET NUMBER
712
Office of the Secretary
Int'l Trade Commission

THE WHITE HOUSE

WASHINGTON

January 18, 1981

To Chairman Bill Alberger

Pursuant to Section 22 of the Agricultural Adjustment Act of 1933, as amended, I have been advised by the Secretary of Agriculture, and I agree with him, that there is reason to believe that certain tobacco, provided for in items 170.3210. 170.3500, 170.6040 and 170.8045 of part 13, Schedule 1, of the Tariff Schedules of the United States, is being or is practically certain to be imported under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the tobacco program of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such domestic tobacco.

The United States International Trade Commission is directed to make an immediate investigation under Section 22 of the Agricultural Adjustment Act of 1933, as amended, to determine whether the above-described tobacco is being, or is practically certain to be, imported under such conditions and in such quantities as to render or tend to render ineffective or materially interfere with the tobacco program of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such domestic tobacco, and to report its findings and recommendations to me at the earliest practicable date.

Sincerely,

Jimmy Carter

The Honorable Bill Alberger
Chairman
United States International
  Trade Commission
Washington, D.C. 20436

APPENDIX C

U.S. INTERNATIONAL TRADE COMMISSION NOTICES OF INVESTIGATION AND HEARING

components thereof for producing such slide fastener stringers which were alleged to infringe claim 5 of U.S. Letters Patent 3,123,103. Named as respondents were Yoshida Kogyo K.K. and Y.K.K. (USA), Inc.

The complaint, *inter alia*, Requested that the Commission issue an order excluding the subject goods from importation into the United States during the pendency of the investigation. On August 21, 1980, the Commission voted to deny such temporary relief. In light of this vote and the impending expiration dates of the patents in issue, the parties concluded that the public interest could not be served by further pursuit of this investigation. Therefore, on December 5, 1980, they moved to terminate this investigation (Motion Docket No. 85-7). The presiding officer has recommended that the motion be granted and that the investigation be terminated.

Additional Information

The Commission's Action and Order, and all other public documents on the record of this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) at the Office of the Secretary, United States International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-3-0161.

FOR FURTHER INFORMATION CONTACT: Scott Daniels, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Room 226, Washington, D.C. 20436, telephone 202-523-0480.

By order of the Commission.

Issued: March 3, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-7618 Filed 3-10-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 22-[illegible]]

Certain Tobacco; Institution of Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)) to determine whether tobacco, currently provided for in items 170.3210, 170.3500, 170.6040, and 170.8045 of the Tariff Schedules of the United States Annotated (TSUSA), is being or is practically certain to be imported into the United States under such conditions in such quantities as to render or tend to render ineffective, or materially interfere with, the tobacco program of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such domestic tobacco.

EFFECTIVE DATE: March 5, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. William Lipovsky, 202-724-0097.

SUPPLEMENTARY INFORMATION:

Background

The current investigation (No. 22-43) is being instituted following receipt of a letter dated January 18, 1981, from the President requesting that the Commission make an investigation under section 22 of the Agricultural Adjustment Act to determine whether the above-described tobacco is being, or is practically certain to be, imported under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, the tobacco program of the Department of Agriculture, or to reduce substantially the amount of any product being processed in the United States from such domestic tobacco, and to report its findings and recommendations to the President at the earliest practicable date.

Prehearing Procedures

To facilitate the hearing process, it is requested that persons wishing to appear at the hearing submit prehearing briefs enumerating and discussing the issues which they wish to raise at the hearing. Nineteen copies of such prehearing briefs should be submitted to the Secretary to the Commission no later than the close of business on May 5, 1981. Copies of any prehearing briefs submitted will be available for public inspection in the Office of the Secretary. While submission of prehearing briefs does not prohibit submission of prepared statements in accordance with § 201.12(d) of the Commission's Rules of Practices and Procedure (19 CFR 201.12(d)), it is unnecessary to submit such a statement if a prehearing brief is submitted instead. Oral presentations should, to the extent possible, be limited to issues raised in the prehearing briefs.

A prehearing conference will be held on Thursday, April 23, 1981, at 9:00 a.m., e.s.t., in Room 117 of the U.S. International Trade Commission Building.

Persons not represented by counsel or public officials who have relevant matters to present may give testimony without regard to the suggested prehearing procedures outlined above.

Public Hearing

The Commission will hold a public hearing in connection with this investigation beginning at 10 a.m., e.d.t. on May 11, 1981, in the Hearing Room o the U.S. International Trade Commission Building, 701 E Street NW. Washington, D.C. Requests to appear a the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:1 p.m., e.s.t.) on April 22, 1981. For furthe information concerning the conduct of the investigation, hearing procedures, and rules of general application, consu the Commission's Rules of Practice and Procedure, Part 204 (19 CFR Part 204) and Part 201 (19 CFR Part 201).

Written Submissions

In addition to or in lieu of an appearance at the hearing, interested persons may submit to the Commissio a written statement of information pertinent to the subject matter of this investigation. Written statements shou be addressed to the Secretary to the Commission, 701 E Street NW. Washington, D.C. 20436, and must be received not later than May 18, 1981. A written submissions, except for confidential business data, will be available for public inspection.

Any business information which a submitter desires the Commission to treat as confidential must be submitte separately, and each sheet must be clearly marked at the top "Confidenti Business Data." Confidential submissions must conform with the requirements of § 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

By order of the Commission

Issued: March 5, 1981.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-7619 Filed 3-10-81; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-39 (Prelimina

Tubeless-Tire Valves From the Fed Republic of Germany; Institution of Preliminary Antidumping Investigat and Scheduling of Conference

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary antidumping investigation to determi whether there is a reasonable indica that an industry in the United States materially injured, or is threatened v

[Investigation No. 22-43]

Certain Tobacco; Change of Date of Public Hearing

AGENCY: International Trade Commission.

ACTION: Change of date of public hearing in investigation No. 22-43 to June 24, 1981.

EFFECTIVE DATE: April 21, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. William Lipovsky, 202-724-0097.

SUPPLEMENTARY INFORMATION: The hearing in this investigation will be held beginning at 10 a.m., e.d.t., Wednesday, June 24, 1981, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436. A hearing date of May 11, 1981, had previously been announced in the Commission's notice of institution of the investigation as published in the Federal Register of March 11, 1981 (46 FR 16162). The Commission's hearing has been rescheduled as a result of a request for a postponement by the United States Department of Agriculture in order to prepare its testimony on the issues involved in this investigation.

Persons wishing to appear at the hearing should follow the prehearing procedures outlined in the notice of March 11, 1981. Requests to appear at the Commission's hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.d.t.), May 27, 1981. The prehearing conference will be held on Friday, May 29, 1981, at 10 a.m., e.d.t., in Room 117 of the U.S. International Trade Commission Building. Nineteen copies of the prehearing briefs should be submitted to the Secretary to the Commission not later than the close of business on June 18, 1981. Written statements submitted by interested persons in lieu of an appearance at the hearing must be received not later than July 1, 1981.

Issued: April 21, 1981.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 81-12875 Filed 4-28-81; 8:45 am]

BILLING CODE 7020-02-M

APPENDIX D

LIST OF WITNESSES AT COMMISSION HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject : Certain Tobacco

Inv. No. : 22-43

Date and time : June 24, 1981 - 10:00 a.m., e.d.t.

Sessions were held in the Hearing Room of the United States International Trade Commission, 701 E Street, N.W., in Washington.

Honorable James B. Hunt, Jr., Governor, State of North Carolina

Honorable Charles Rose, United States Congressman, State of North Carolina

Honorable Charles O. Whitley, United States Congressman, State of North Carolina

Honorable Thomas E. Petri, United States Congressman, State of Wisconsin

Bailey P. Williamson on behalf of Honorable Jesse A. Helms, United States Senator, State of North Carolina

Honorable James A. Graham, Commissioner, State of North Carolina, Department of Agriculture

U. S. Government witnesses:

United States Department of Agriculture, Washington, D.C.

Hoke Leggett, Agricultural Stabilization and Conservation Service

Robert H. Miller, Economics and Statistics Service

Ms. Rosina Bullington, Office of General Counsel

William F. Doering, Foreign Agricultural Service

Kenneth A. Howland, Foreign Agricultural Service

James Davis, Agricultural Stabilization and Conservation Service

Russell Levering, Agricultural Stabilization and Conservation Service

- more -

Domestic:

Curtis, Mallet-Prevost, Colt & Mosle--Counsel
Washington, D.C.
on behalf of

American Farm Bureau Federation
Georgia Farm Bureau Federation
Kentucky Farm Bureau Federation
North Carolina Farm Bureau Federation
South Carolina Farm Bureau Federation
Tennessee Farm Bureau Federation, Inc.
Virginia Farm Bureau Federation, Inc.

Glenn Tussey, Assistant Director, National Affairs Division, American Farm Bureau Federation

John Sledge, President, North Carolina Farm Bureau Federation

Horace D. Godfrey, President of Godfrey Associates, Inc.

John A. Schnittker, President, Schnittker Associates

Joseph O. Parker)
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Importers:

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on behalf of

Leaf Tobacco Exporters Association
Tobacco Association of United States
Universal Leaf Tobacco Company, Inc.

Will E. Leonard)
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Washington, D.C.
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Dibrell Brothers, Inc.

Robert V. McIntyre)
Ms. Charlotte L. Walkup)--OF COUNSEL
John E. Seeley)

- more -

Tanaka, Walders & Ritger--Counsel
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on behalf of

A. C. Monk and Company of Farmville, North Carolina

Lawrence R. Walders)
Craig A. Schwandt)--OF COUNSEL
James C. Davenport)

Arter, Hadden & Hemmendinger--Counsel
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on behalf of

Standard Commercial Tobacco Co. of Wilson, North Carolina

Noel Hemmendinger)
Christopher A. Dunn)--OF COUNSEL

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on behalf of

Thorpe-Greenville Tobacco, Inc.

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WITNESSES:

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Frank R. Ellis, former Chief of Commodity Programs Branch, Tobacco Division, ASCS, USDA, Arlington, Virginia

Hugh C. Kiger, Executive Vice President, Leaf Tobacco Exporters Association and Tobacco Association of United States, and former Director of Tobacco Division, FAS, USDA, Raleigh, North Carolina

John G. Reilly, Principal, ICF Incorporated, Washington, D.C.

R. W. Tuggle, Senior Vice President, Universal Leaf Tobacco Co., Inc., Richmond, Virginia

Herman Woody, Virginia Flue-Cured Tobacco Grower

- more -

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Washington, D.C.
on behalf of

The Tobacco Marketing Board of Zimbabwe

C. J. Strong, Chairman

Raymond G. Bender, Jr.)--OF COUNSEL
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APPENDIX E

STATISTICAL TABLES

Table 1 .--Certain cigarette leaf tobacco, scrap tobacco (except cigar leaf), and certain tobacco manufactured or not manufactured (except smoking tobacco in retail size packages): U.S. rates of duty, by TSUSA items, January 1, 1981

TSUSA No.	Commodity description	Rate of duty: Col. 1 1/	Rate of duty: LDDC 2/	Rate of duty: Col. 2 3/	Estimated share of imports of TSUSA items under investigation (by value) 4/
		-------Cents per pound--------			----Percent---
	Filler tobacco (whether or not mixed or packed with wrapper tobacco):				
	When not mixed and not packed with wrapper tobacco, or when mixed or packed with 35 percent or less of wrapper tobacco:				
	Cigarette leaf:				
	Not stemmed:				
	Other than oriental or Turkish type:				
170.3210	Flue-cured	12.75		35	18
170.3500	Stemmed	38	20	50	5/
	Scrap tobacco:				
170.6040	Other than cigar leaf	16.1		35	8
	Tobacco, manufactured or not manufactured, not specially provided for:				
170.8045	Other than smoking tobacco in retail size packages	17.5		55	74

1/ The rates of duty in rate of duty column numbered 1 are most-favored-nation rates, and are applicable to imported products from all countries except those Communist countries and areas enumerated in general headnote 3(f) of the TSUS. However, such rates would not apply to products of developing countries which are granted preferential tariff treatment under the Generalized System of Preferences (GSP) or under the "LDDC" rate of duty column.

2/ The rates of duty in rate of duty column "LDDC" are preferential rates (reflecting the full U.S. MTN concession rate for a particular item without staging) and are applicable to products of the least developed developing countries (LDDC) designated in general headnote 3(d) of the TSUS which are not granted duty-free treatment under the GSP. If no rate of duty is provided in the "LDDC" column for a particular item, the rate of duty provided in column numbered 1 applies.

3/ The rates of duty in rate of duty column numbered 2 apply to imported products from those Communist countries and areas enumerated in general headnote 3(f) of the TSUS.

4/ Estimate considers certain machine-processed cigarette leaf tobacco to be classified as a partially manufactured tobacco under TSUSA 170.8045 per Customs T.D. 80-132, and is based on imports during January-March 1981.

5/ Less than 0.1 percent.

Table 2.--Tobacco: Marketing quota referendums, by kinds of tobacco 1979-81

Kind (type numbers in parentheses) and basis of quotas 1/	Last referendum				Next referendum	
	Date	Crops to which applicable	Number voting	Percentage voting in favor of quota 2/	Probable date 3/	Crops to which applicable
Flue-cured (11-14):						
Acreage-poundage	Dec. 18, 1979	1980-82	113,635	97.7	Dec. 1982	1983-85
Burley (31):						
Poundage	Feb. 25-29, 1980	1980-82	223,115	98.6	Feb. 1983	1983-85
Maryland (32)	Feb. 25-29, 1980	1980-82	1,383	17.0	Feb. 1983 4/	1983-85
Fire-cured (21-23)	Feb. 20-23, 1979	1979-81	9,885	94.9	Feb. 1982	1982-84
Dark air-cured (35-36)	Feb. 20-23, 1979	1979-81	10,303	95.5	Feb. 1982	1982-84
Va. sun-cured (37)	Feb. 25-29, 1980	1980-82	297	93.3	Feb. 1983	1980-82
Pa. filler (41)	Feb. 25-29, 1980	1980-82	752	7.6	Feb. 1983 4/	1983-85
Cigar binder (51-52)	Feb. 23-27, 1981	1981-83	165	85.5	Feb. 1984	1984-86
Cigar filler and binder (42-44, 53-55)	Feb. 23-27, 1981	1981-83	3,968	90.8	Feb. 1984	1984-86

1/ Quota based on acreage allotments unless otherwise specified.
2/ A majority of two-thirds or more of farmers voting is required for marketing quotas to become effective under the acreage allotment program or acreage-poundage program.
3/ Probable month, but referendums can occur earlier if warranted by pertinent considerations.
4/ Unless at least a fourth of the growers petition the Secretary in the interim.

Source: U.S. Department of Agriculture.

Table 3.—Flue-cured and burley tobacco: Marketing quota, marketings, and flue-cured acreage allotment, 1977-81

Year	Quota 1/		Actual	Marketings		Acreage alloted 2/	Under production 3/	
	Basic	Effective		Over-quota	Under-quota		Number	As percent of allotment
	Flue-cured (types 11-14)							
	Million pounds					Thousand acres		Percent
1977	1,116.5	1,197.3	1,124.2	42.6	115.2	651.7	56.5	8.7
1978	1,117.2	1,181.5	1,205.9	65.6	43.9	641.0	38.9	6.1
1979	1,094.9	1,068.5	973.8	24.8	118.8	580.3	77.5	13.4
1980 4/	1,095.0	1,187.3	1,084.6	36.0	137.9	639.5	87.7	13.7
1981 5/	1,012.6	1,111.7	6/	6/	6/	603.0	6/	6/
	Burley (type 31)							
1977	636.2	683.4	612.6	27.2	99.0	7/	7/	7/
1978	614.2	667.8	614.2	31.5	88.2	7/	7/	7/
1979	613.6	649.7	472.2	12.2	188.6	7/	7/	7/
1980 4/	615.0	769.2	553.5	11.7	228.0	7/	7/	7/
1981 5/	659.6	851.1	6/	6/	6/	7/	7/	7/

1/ There is annually determined a basic quota and an effective quota for each farm producing burley and flue-cured. The amount of quota annually assigned each farm from the national marketing quota is called the basic quota. The effective quota for a farm reflects any adjustment of the basic quota for any undermarketings or overmarketings in relation to the farm's effective quota for the previous year.
2/ Basic allotment adjusted for overmarketings and undermarketings.
3/ Acreage allotted minus harvested acres.
4/ Subject to revision.
5/ Preliminary.
6/ Not available.
7/ Not applicable.

Source: Compiled from official statistics of the U.S. Department of Agriculture.

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Table 4 — Flue-cured tobacco, types 11-14, and burley tobacco, type 31: Acreage, yield, production, carryover, supply, disappearance, season average price, and price support operations, 1971-81

(Farm-sales weight)

Marketing Year	Acreage Harvested	Yield per acre	Marketings	Beginning stocks 1/: Manufacturers and others	Beginning stocks 1/: Under loan	Beginning stocks 1/: Total	Total supply
	Thousand acres	Pounds	— Million pounds —				
	Flue-cured, types 11-14						
1971	525.8	2,050	1,076.3	1,214.5	761.9	1,976.4	3,052.7
1972	513.6	1,971	1,022.1	1,292.4	617.8	1,910.2	2,932.3
1973	575.1	2,011	1,159.0	1,347.0	402.3	1,749.3	2,908.3
1974	616.3	2,014	1,245.1	1,330.6	276.7	1,607.3	2,852.4
1975	717.2	1,973	1,414.7	1,471.9	179.9	1,651.8	3,066.5
1976	666.6	1,974	1,316.0	3/ 1,539.1	359.2	3/ 1,898.3	3,214.3
1977	589.3	1,917	1,124.2	1,517.6	556.9	4/ 2,075.0	3,199.2
1978	602.1	2,046	1,205.9	1,517.9	534.0	4/ 2,051.9	3,257.8
1979	502.8	1,881	973.8	1,510.8	564.0	2,074.8	3,048.5
1980	551.8	1,968	1,085.7	1,411.0	554.4	1,965.4	3,051.1
1981 5/	525.0	2,000	1,050.0	1,411.1	600.0	2,011.1	3,061.1
	Burley, type 31						
1971	213.5	2,213	2/ 472.6	882.4	468.4	1,345.8	1,818.4
1972	235.6	2,552	590.3	920.9	327.6	1,248.5	1,838.8
1973	221.1	2,028	461.4	952.5	276.7	1,229.2	1,690.6
1974	260.7	2,350	610.4	931.5	139.2	1,070.7	1,681.1
1975	282.2	2,265	638.3	1,082.4	12.0	1,094.4	1,732.7
1976	285.8	2,376	663.8	3/ 1,115.3	44.8	3/1,160.1	1,823.7
1977	268.6	2,298	612.5	1,162.3	54.9	4/1,217.2	1,829.7
1978	261.4	2,396	617.6	1,087.0	113.5	4/1,218.4	1,836.0
1979	238.1	1,873	445.8	1,056.3	155.4	1,211.7	1,657.5
1980	276.9	2,013	557.5	959.5	66.3	1,025.8	1,583.3
1981 5/	278.0	2,000	705.0	977.0	1.3	978.3	1,632.3

Marketing Year	Disappearance: Total	Disappearance: Domestic	Disappearance: Exports	Average price per pound	Price support level	Placed under loan: Quantity	Placed under loan: Percentage of crop
	—Million pounds—			—Cents—		—Million pounds—	Percent
	Flue-cured, types 11-14						
1971	1,142.5	662.5	480.0	77.2	69.4	55.7	5.2
1972	1,183.0	664.2	518.8	85.3	72.7	24.3	2.4
1973	1,301.0	703.0	598.0	88.1	76.6	30.7	2.7
1974	1,200.6	652.3	548.3	105.0	83.3	23.0	1.9
1975	1,193.1	670.6	522.5	99.8	93.2	259.0	18.4
1976	1,148.2	634.0	514.2	110.4	106.0	277.3	21.0
1977	1,147.3	608.2	539.1	117.6	113.8	195.6	17.3
1978	1,182.8	584.1	598.7	135.0	121.0	64.1	5.3
1979	1,083.4	563.2	520.0	140.0	129.3	72.0	7.4
1980	5/ 1,040.0	5/ 550.0	5/490.0	144.5	141.5	138.3	12.7
1981					158.7		
	Burley, type 31						
1971	569.9	515.2	54.7	80.9	71.5	.2	—
1972	609.6	534.5	75.1	79.2	74.9	22.9	3.9
1973	619.0	533.1	86.8	92.9	78.9	.7	.1
1974	586.7	518.8	67.9	113.7	85.8	2.8	.4
1975	602.5	510.1	92.4	105.5	96.1	50.7	7.9
1976	606.3	489.6	116.8	114.2	109.3	46.6	7.0
1977	611.3	494.8	116.5	120.0	117.3	57.0	9.2
1978	624.3	502.8	121.4	131.2	124.7	67.7	10.8
1979	631.8	498.5	133.3	145.2	133.3	7.3	1.5
1980	5/ 605.0	5/ 490.0	5/115.0	165.9	145.9	.0	.0
1981					163.6		

1/ July 1 for flue-cured; October 1 for burley.
2/ Production.
3/ Adjusted for change in conversion factor January 1, 1977.
4/ Stocks revision January 1, 1979 report.
5/ Estimated from acreage intentions and projected yield.

Source: U.S. Department of Agriculture.

Table 5.--Tobacco loan program operations: New loans made, repayments, loans charged off, additions or deductions, loans outstanding, other costs, and net loss (gains) on price support activities, fiscal years 1977-81 1/

Fiscal year ending Sept. 30--	New loans made	Repayments	Loans charged off	Additions or deductions	Loans outstanding: Value	Loans outstanding: Quantity	Other costs (recoveries) 2/	Net loss (gain) on price support activities 3/
	Million dollars					Million pounds	1,000 dollars	
1977	285.2	124.0	0.2	261.0	652.4	556	(450)	(267)
1978	282.9	184.1	4/	98.8	751.2	605	(837)	(826)
1979	228.7	71.4	5/ 5.4	152.0	903.2	691	8	5,370
1980	172.0	260.1	0.1	-88.0	814.9	647	280	351
1981 6/	241.9	221.4	-	20.5	834.8	592	700	700

1/ Covers all tobacco price-support loan programs.
2/ Recoveries are primarily loan service charges.
3/ Does not include interest.
4/ Less than $50,000.
5/ This large chargeoff is due primarily to a fire loss of $5,360,760 worth of 1976 and 1977 crop burley tobacco in a Kentucky warehouse.
6/ Estimated by USDA in "Tobacco Outlook & Situation," March 1981.

Source: Official statistics of the U.S. Department of Agriculture.

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Table 6. --Flue-cured, burley, and other tobacco: U.S. imports for consumption entered under TSUSA items 170.3500, 170.6040, and 170.8045 as reported by importers, 1978 and 1979, and January-June 1980 and July-December 1980

Period and type	TSUSA Item		
	170.3500 1/	170.6040 1/	170.8045 1/
	----1,000 pounds - declared weight------		
1978:			
Flue-cured	0	16,571	0
Burley	0	28,287	0
Other	0	3,578	0
Total	0	48,436	0
1979:			
Flue-cured	0	26,693	0
Burley	0	42,209	0
Other	0	3,852	22
Total	0	72,753	22
1980:			
January-June:			
Flue-cured	0	21,271	40
Burley	0	18,746	0
Other	0	2,545	0
Total	0	42,562	40
July-December:			
Flue-cured	0	787	12,160
Burley	0	731	9,898
Other	0	1,770	2
Total	0	3,288	22,059

1/ The quantity of imports entered under TSUSA items 170.3500, 170.6040, and 170.8045 by importers responding to questionnaires amounted to 54 percent of official import statistics as reported by the U.S. Department of Commerce in 1978, 59 percent in 1979, and 64 percent in 1980.

Source: Compiled from data submitted in response to questionnaires to the U.S. International Trade Commission.

Note.--Figures may not add due to rounding.

Table 7.--Cigarettes: U.S. production, removals, estimated inventory change and apparent consumption, 1971-80
(In billions of cigarettes)

Year	Production	Removals					Estimated inventory change 2/	Apparent consumption 3/
		Tax-paid	Tax-exempt					
			Exports	Shipments	Overseas forces 1/	Total		
1971	576.4	528.9	31.8	2.7	14.7	49.2	−11.4	555.1
1972	599.1	551.0	34.6	2.1	12.3	49.0	−3.3	566.8
1973	644.2	590.3	41.5	2.0	12.4	55.9	13.1	589.7
1974	635.0	576.2	46.9	1.9	10.4	59.2	−12.1	599.0
1975	651.2	588.3	50.2	1.5	10.6	62.3	−7.7	607.2
1976	693.4	617.9	61.4	1.9	8.8	72.1	13.5	613.5
1977	665.9	592.0	66.8	1.1	10.2	78.1	−14.4	617.0
1978	695.9	614.2	74.4	1.2	9.6	85.1	8.2	616.0
1979	704.4	614.0	79.7	1.1	12.2	93.0	6.8	620.0
1980	714.2	620.5	82.0	1.0	11.2	94.2	2.3	630.0

1/ Includes ship stores and small tax-exempt categories.
2/ Estimated by USDA.
3/ Taxable removals adjusted for overseas forces, inventory change, and imports (negligible). Imports annually account for less than 0.1 percent of domestic consumption.

Source: Compiled from official statistics of the U.S. Department of the Treasury, U.S. Department of Commerce, and U.S. Department of Agriculture.

Table 8.—Foreign-grown flue-cured and burley tobacco: U.S. stocks, on July 1 for flue-cured tobacco and on October 1 for burley tobacco, 1971-80 and on January 1, 1980 and 1981

(In millions of pounds, farm-sales weight basis)

Year	U.S. stocks of foreign-grown tobacco			
	Flue-cured tobacco on--		Burley tobacco on--	
	July 1	January 1	October 1	January 1
1971	14	-	6	-
1972	24	-	11	-
1973	40	-	36	-
1974	47	-	88	-
1975	70	-	136	-
1976	72	-	141	-
1977	109	-	138	-
1978	130	-	167	-
1979	147	-	189	-
1980	166	153	216	187
1981	-	152	-	200

Source: Compiled from official statistics of the U.S. Department of Agriculture.

Table 9.--Filler tobacco, cigarette leaf including flue-cured, burley and Maryland, stemmed and unstemmed: U. S. exports of domestic merchandise, by principal markets, 1976-80, January-April 1980, and January-April 1981

Market	1976	1977	1978	1979	1980	January-April-- 1980	January-April-- 1981
	Quantity (1,000 pounds)						
FR Germ	66,054	71,614	45,173	54,687	88,385	32,481	13,359
Japan	100,653	102,134	82,476	81,115	62,311	9,610	19,098
Nethlds	14,403	16,957	17,216	21,340	33,776	15,127	7,048
U King	51,352	34,583	119,625	54,755	26,117	4,125	8,296
Italy	31,523	38,028	40,235	33,320	30,086	20,369	15,812
Spain	4,606	4,650	17,561	678	23,556	9,161	8,487
Thailnd	21,761	15,968	18,203	18,792	22,611	22,611	13,386
Kor Rep	7,144	9,825	9,813	13,050	13,558	10,251	20
Switzld	14,882	19,835	20,458	12,984	15,910	7,137	3,776
Taiwan	12,315	20,643	25,802	41,473	14,075	0	2,822
All other	130,229	162,607	159,833	126,547	158,543	56,900	48,996
Total	454,921	496,844	556,394	458,741	488,929	187,773	141,101
	Value (1,000 dollars)						
FR Germ	100,539	117,502	85,077	119,567	207,544	77,345	32,844
Japan	220,716	257,450	225,080	226,959	194,871	29,784	60,952
Nethlds	21,837	28,275	31,542	43,839	74,350	33,999	16,124
U King	99,622	75,736	275,416	129,745	68,498	9,405	22,807
Italy	48,957	63,774	76,929	66,350	64,792	42,703	37,323
Spain	8,430	7,584	33,004	1,369	49,689	18,923	20,564
Thailnd	37,008	28,270	34,651	36,027	47,838	47,838	29,735
Kor Rep	12,685	21,153	25,116	32,641	45,238	33,943	45
Switzld	25,968	38,229	42,811	30,348	38,190	16,838	9,338
Taiwan	19,470	37,609	55,111	92,504	36,993	-	7,228
All other	242,121	324,152	346,503	296,210	390,642	135,413	126,121
Total	837,353	999,734	1,231,240	1,075,560	1,218,646	446,191	363,080
	Unit value (per pound)						
FR Germ	$1.52	$1.64	$1.88	$2.19	$2.35	$2.38	$2.46
Japan	2.19	2.52	2.73	2.80	3.13	3.10	3.19
Nethlds	1.52	1.67	1.83	2.05	2.20	2.25	2.29
U King	1.94	2.19	2.30	2.37	2.62	2.28	2.75
Italy	1.55	1.68	1.91	1.99	2.15	2.10	2.36
Spain	1.83	1.63	1.88	2.02	2.11	2.07	2.42
Thailnd	1.70	1.77	1.90	1.92	2.12	2.12	2.22
Kor Rep	1.78	2.15	2.56	2.50	3.34	3.31	2.25
Switzld	1.74	1.93	2.09	2.34	2.40	2.36	2.47
Taiwan	1.58	1.82	2.14	2.23	2.63	-	2.56
All other	1.86	1.99	2.17	2.34	2.46	2.38	2.57
Average	1.84	2.01	2.21	2.34	2.49	2.38	2.57

Source: Compiled from official statistics of the U.S. Department of Commerce.

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......, flue-cured cigarette leaf, stemmed and unstemmed: U.S. exports of domestic merchandise, by principal markets, 1976-80, January-April 1980, and January-April 1981

Market	1976	1977	1978	1979	1980	January-April-- 1980	January-April-- 1981
	Quantity (1,000 pounds)						
Japan	90,389	93,823	72,157	66,279	52,677	0	5,505
FR Germ	50,133	56,751	35,393	42,404	63,087	17,456	11,168
U King	51,247	34,339	108,805	51,563	24,898	3,223	8,296
Nethlds	13,747	15,233	14,577	14,692	24,344	8,876	6,886
Spain	4,606	4,246	17,363	674	23,176	8,781	8,487
Italy	17,144	21,597	21,020	16,878	19,706	12,963	10,550
Taiwan	12,315	20,643	25,547	41,306	14,075	0	2,822
Kor Rep	3,729	6,520	6,449	11,024	9,810	9,369	0
Thailnd	19,012	11,600	11,595	14,145	15,020	15,020	11,702
Cnry I	4,999	6,949	7,930	3,968	12,978	2,958	5,032
All other	111,408	138,397	133,921	107,709	131,279	48,892	39,703
Total	378,728	410,097	454,759	370,641	391,051	127,537	110,151
	Value (1,000 dollars)						
Japan	197,773	238,767	199,291	185,713	164,994	-	15,431
FR Germ	75,543	93,533	68,030	91,711	144,301	39,043	27,358
U King	99,419	75,185	255,445	122,310	65,310	7,046	22,807
Nethlds	20,848	25,612	26,651	28,978	50,586	17,845	15,731
Spain	8,430	6,929	32,651	1,363	49,217	18,451	20,564
Italy	26,463	36,407	42,039	35,583	43,847	27,828	25,382
Taiwan	19,470	37,609	54,594	92,213	36,993	-	7,228
Kor Rep	6,589	12,381	15,562	26,346	32,325	30,845	-
Thailnd	31,521	19,501	20,951	25,494	29,653	29,653	25,075
Cnry I	8,390	12,115	15,198	7,679	27,023	6,176	12,421
All other	206,151	275,924	292,156	253,349	325,171	116,298	100,557
Total	700,596	833,963	1,022,568	870,739	969,420	293,183	272,556
	Unit value (per pound)						
Japan	$2.19	$2.54	$2.76	$2.80	$3.13	-	$2.80
FR Germ	1.51	1.65	1.92	2.16	2.29	$2.24	2.45
U King	1.94	2.19	2.35	2.37	2.62	2.19	2.75
Nethlds	1.52	1.68	1.83	1.97	2.08	2.01	2.28
Spain	1.83	1.63	1.88	2.02	2.12	2.10	2.42
Italy	1.54	1.69	2.00	2.11	2.23	2.15	2.41
Taiwan	1.58	1.82	2.14	2.23	2.63	-	2.56
Kor Rep	1.77	1.90	2.41	2.39	3.30	3.29	-
Thailnd	1.66	1.68	1.81	1.80	1.97	1.97	2.14
Cnry I	1.68	1.74	1.92	1.94	2.08	2.09	2.47
All other	1.85	1.99	2.18	2.35	2.48	2.38	2.53
Average	1.85	2.03	2.25	2.35	2.48	2.30	2.47

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 11.--Filler tobacco, burley cigarette leaf, stemmed and unstemmed: U.S. exports of domestic merchandise, by principal markets, 1976-80, January-April 1980, and January-April 1981

Market	1976	1977	1978	1979	1980	January-April-- 1980	January-April-- 1981
	Quantity (1,000 pounds)						
FR Germ	13,691	13,961	8,129	11,212	24,080	14,685	1,704
Japan	10,263	8,312	10,318	14,835	9,633	9,610	13,593
Nethlds	570	1,662	2,549	6,304	9,196	6,216	123
Italy	14,378	16,431	19,215	16,442	10,381	7,406	5,262
Thailnd	2,749	4,368	6,607	4,647	7,591	7,591	1,685
Kor Rep	3,415	3,305	3,363	2,026	3,748	882	20
Denmark	1,128	1,725	3,839	1,074	4,271	1,910	136
Phil R	6,819	5,430	4,269	5,808	3,282	1,432	1,553
Indnsia	0	0	0	3	2,061	643	661
Sweden	2,274	1,801	3,315	1,898	2,448	379	0
All other	12,565	22,094	29,435	17,812	14,109	7,372	5,030
Total	67,853	79,092	91,039	82,060	90,801	58,127	29,767
	Value (1,000 dollars)						
FR Germ	22,021	22,668	13,922	26,083	60,867	37,692	4,305
Japan	22,942	18,683	25,788	41,247	29,877	29,784	45,521
Nethlds	880	2,575	4,751	14,152	23,373	16,127	357
Italy	22,494	27,367	34,890	30,767	20,945	14,875	11,941
Thailnd	5,487	8,770	13,700	10,534	18,185	18,185	4,660
Kor Rep	6,097	8,771	9,554	6,295	12,913	3,098	45
Denmark	2,244	3,420	7,973	2,246	9,851	4,175	253
Phil R	14,257	11,649	10,865	15,432	9,017	3,760	5,113
Indnsia	-	-	-	7	6,588	1,896	1,697
Sweden	4,494	3,674	7,186	4,659	6,413	943	-
All other	22,586	44,115	59,258	40,674	35,620	18,047	13,841
Total	123,504	151,693	187,888	192,095	233,647	148,583	87,732
	Unit value (per pound)						
FR Germ	$1.61	$1.62	$1.71	$2.33	$2.53	$2.57	$2.53
Japan	2.24	2.25	2.50	2.78	3.10	3.10	3.35
Nethlds	1.55	1.55	1.86	2.25	2.54	2.59	2.90
Italy	1.56	1.67	1.82	1.87	2.02	2.01	2.27
Thailnd	2.00	2.01	2.07	2.27	2.40	2.40	2.77
Kor Rep	1.79	2.65	2.84	3.11	3.45	3.51	2.25
Denmark	1.99	1.98	2.08	2.09	2.31	2.19	1.87
Phil R	2.09	2.15	2.55	2.66	2.75	2.63	3.29
Indnsia	-	-	-	2.70	3.20	2.95	2.57
Sweden	1.98	2.04	2.17	2.45	2.62	2.49	-
All other	1.80	2.00	2.01	2.28	2.52	2.45	2.75
Average	1.82	1.92	2.06	2.34	2.57	2.56	2.95

Table 12.--Unmanufactured tobacco, including stems, trimmings, scraps, cuttings and siftings: U.S. exports of domestic merchandise, by principal markets, 1976-80, January-April 1980, and January-April 1981

Market	1976	1977	1978	1979	1980	January-April-- 1980	January-April-- 1981
	Quantity (1,000 pounds)						
Spain	48	482	167	0	3,061	36	1,190
FR Germ	6,628	6,016	6,600	11,410	10,460	2,659	4,063
Japan	32,033	33,290	19,784	14,746	19,825	3,557	7,612
U King	19,810	11,508	28,185	12,651	5,467	831	3,646
Chile	0	0	0	33	627	26	358
Canada	935	4,244	3,434	3,356	7,313	2,551	530
Egypt	1,277	5,247	4,758	495	3,368	1,092	2,053
France	2,042	1,951	2,078	2,870	770	222	275
Sweden	3,450	3,027	4,193	3,528	4,563	3,434	3,415
Norway	0	0	245	44	416	0	0
All other	29,451	34,111	29,496	28,044	21,663	7,328	8,749
Total	95,673	99,876	98,940	77,176	77,532	21,735	31,891
	Value (1,000 dollars)						
Spain	9	766	175	-	7,202	6	3,169
FR Germ	1,692	1,598	2,857	4,843	4,431	1,448	2,037
Japan	2,312	2,503	1,832	1,681	2,280	405	917
U King	3,746	2,419	5,670	2,889	2,165	103	703
Chile	-	-	-	88	1,189	13	170
Canada	1,602	2,491	2,684	2,588	1,180	165	176
Egypt	117	1,678	864	71	1,158	269	1,865
France	214	138	475	256	1,089	21	240
Sweden	220	219	391	385	966	653	1,187
Norway	-	-	296	31	910	-	-
All other	16,935	14,373	12,573	9,804	6,731	1,442	6,382
Total	26,846	26,186	27,818	22,637	29,301	4,524	16,844
	Unit value (per pound)						
Spain	$0.18	$1.59	$1.05	-	$2.35	$0.16	$2.66
FR Germ	0.26	0.27	0.43	$0.42	0.42	0.54	0.50
Japan	0.07	0.08	0.09	0.11	0.12	0.11	0.12
U King	0.19	0.21	0.20	0.23	0.40	0.12	0.19
Chile	-	-	-	2.62	1.90	0.50	0.47
Canada	1.71	0.59	0.78	0.77	0.16	0.06	0.33
Egypt	0.09	0.32	0.18	0.14	0.34	0.25	0.91
France	0.10	0.07	0.23	0.09	1.41	0.09	0.87
Sweden	0.06	0.07	0.09	0.11	0.21	0.19	0.35
Norway	-	-	1.21	0.72	2.19	-	-
All other	0.58	0.42	0.43	0.35	0.31	0.20	0.73
Average	0.28	0.26	0.28	0.29	0.38	0.21	0.53

Source: Compiled from official statistics of the U.S. Department of Commerce.

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Table 13.--Smoking tobacco in bulk (including partially manufactured blended tobacco in strips and cut filler form) and certain other manufactured tobacco (including processed sheet tobacco): U.S. exports of domestic merchandise, by principal markets, 1976-80, January-April 1980, and January-April 1981

Market	1976	1977	1978	1979	1980	January-April-- 1980	January-April-- 1981
	Quantity (1,000 pounds)						
Spain	1,323	176	617	483	3,821	2,280	0
FR Germ	815	977	18	1,659	5,351	1,193	551
Switzld	2,101	419	308	7,355	4,673	1,284	901
Dom Rep	1,590	0	1,340	2,539	1,302	270	53
U King	900	287	923	883	781	258	227
Guinea	0	0	0	0	265	0	0
Nigeria	0	0	0	11	115	0	0
Belgium	0	41	298	354	417	230	786
Canada	244	199	241	89	101	32	9
Rep Saf	46	68	60	57	62	17	10
All other	6,892	7,663	399	13,486	600	93	1,078
Total	13,911	9,830	4,204	26,916	17,486	5,656	3,614
	Value (1,000 dollars)						
Spain	1,992	301	986	928	9,428	5,733	-
FR Germ	844	530	46	1,429	3,585	762	430
Switzld	609	257	203	7,687	2,987	838	745
Dom Rep	2,544	-	2,118	4,387	2,396	465	95
U King	1,332	889	1,925	1,963	1,933	671	733
Guinea	-	-	-	-	385	-	-
Nigeria	-	-	-	19	351	-	-
Belgium	-	62	140	219	264	145	541
Canada	647	514	392	114	246	43	8
Rep Saf	138	202	183	176	241	65	37
All other	10,659	11,931	622	26,582	1,215	187	2,303
Total	18,767	14,686	6,615	43,504	23,032	8,909	4,893
	Unit value (per pound)						
Spain	$1.51	$1.71	$1.60	$1.92	$2.47	$2.51	-
FR Germ	1.04	0.54	2.52	0.86	0.67	0.64	$0.78
Switzld	0.29	0.61	0.66	1.05	0.64	0.65	0.83
Dom Rep	1.60	-	1.58	1.73	1.84	1.72	1.78
U King	1.48	3.10	2.08	2.22	2.47	2.60	3.23
Guinea	-	-	-	-	1.45	-	-
Nigeria	-	-	-	1.81	3.04	-	-
Belgium	-	1.52	0.47	0.62	0.63	0.63	0.69
Canada	2.66	2.59	1.63	1.27	2.45	1.34	0.98
Rep Saf	2.98	2.97	3.08	3.09	3.91	3.93	3.90
All other	1.55	1.56	1.56	1.97	2.03	2.01	2.14
Average	1.35	1.49	1.57	1.62	1.32	1.58	1.35

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Table 14.--Cigarettes: U.S. exports of domestic merchandise, by principal markets, 1976-80, January-April 1980, and January-April 1981

Market	1976	1977	1978	1979	1980	January-April-- 1980	January-April-- 1981
	Quantity (millions of cigarettes)						
Belgium	12,090	11,579	13,618	13,660	18,370	5,628	5,472
Hg Kong	5,932	5,552	6,179	6,299	7,608	2,315	2,711
S Arab	2,423	3,526	3,912	4,345	4,232	1,359	1,873
Arab Em	1,603	1,178	1,653	5,917	4,422	2,783	1,565
N Antil	4,126	4,140	4,521	4,433	4,032	1,174	1,834
Kuwait	2,155	1,629	1,847	3,675	3,592	1,483	735
Japan	2,158	3,296	3,839	3,672	3,629	1,099	1,575
Cnry I	1,092	1,834	1,634	2,083	3,172	1,290	1,189
Spain	3,392	4,321	3,398	3,607	2,399	1,149	331
Nethlds	390	422	1,662	1,642	2,237	675	774
All other	26,009	29,358	32,095	30,384	28,305	10,957	11,767
Total	61,370	66,835	74,359	79,717	81,998	29,910	29,827
	Value (1,000 dollars)						
Belgium	101,833	109,746	140,596	157,371	247,024	72,019	79,629
Hg Kong	48,407	49,991	60,466	64,559	90,595	25,843	36,159
S Arab	20,362	33,608	40,852	53,754	60,723	18,350	30,230
Arab Em	13,603	11,121	17,087	71,107	59,776	37,428	23,888
N Antil	33,495	37,418	46,455	51,151	52,326	14,543	27,457
Kuwait	18,237	15,125	18,985	43,895	50,249	19,839	10,540
Japan	18,234	30,905	39,202	40,120	44,003	12,855	20,697
Cnry I	9,240	16,871	16,774	24,200	41,160	15,339	17,495
Spain	28,428	40,166	34,597	42,993	30,915	13,801	4,757
Nethlds	3,308	3,877	18,138	19,009	29,750	8,473	10,430
All other	214,369	266,050	316,302	340,455	348,901	130,300	159,440
Total	509,516	614,877	749,454	908,613	1,055,421	368,789	420,722
	Unit value (per thousand cigarettes)						
Belgium	$8.42	$9.48	$10.32	$11.52	$13.45	$12.80	$14.55
Hg Kong	8.16	9.00	9.79	10.25	11.91	11.16	13.34
S Arab	8.40	9.53	10.44	12.37	14.35	13.50	16.14
Arab Em	8.48	9.44	10.34	12.02	13.52	13.45	15.27
N Antil	8.12	9.04	10.27	11.54	12.98	12.39	14.97
Kuwait	8.46	9.28	10.28	11.94	13.99	13.37	14.34
Japan	8.45	9.38	10.21	10.93	12.12	11.70	13.14
Cnry I	8.46	9.20	10.27	11.62	12.97	11.89	14.71
Spain	8.38	9.29	10.18	11.92	12.89	12.02	14.36
Nethlds	8.49	9.20	10.91	11.58	13.30	12.55	13.47
All other	8.24	9.06	9.86	11.21	12.33	11.89	13.55
Average	8.30	9.20	10.08	11.40	12.87	12.33	14.11

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 15.--Certain cigarette leaf tobacco, scrap tobacco(except cigar leaf), and certain tobacco manufactured or not manufactured(except smoking tobacco in retail size packages): U.S. imports for consumption, by principal sources, 1976-80, January-April 1980, and January-April 1981

Source	1976 1/	1977 1/	1978	1979	1980	January-April-- 1980	January-April-- 1981
	Quantity (1,000 pounds)						
Brazil	0	0	24,390	31,615	33,041	9,672	11,821
Kor Rep	0	0	16,990	19,784	16,438	5,562	7,427
Canada	0	0	4,999	11,616	9,646	4,843	552
Zimbabwe	0	0	0	0	7,482	6,088	1,568
Rep Saf	0	0	0	2,720	4,817	941	1,504
Mexico	0	0	6,015	7,159	4,447	1,355	1,445
Argent	0	0	4,712	3,950	5,414	4,413	1,977
Guatmal	0	0	4,258	4,269	2,579	437	760
Thailnd	0	0	698	1,851	3,963	939	1,739
Denmark	0	0	1,627	1,545	1,944	687	658
All other	0	0	32,105	49,826	26,970	15,900	9,742
Total	0	0	95,794	134,334	116,739	50,836	39,193
	Value (1,000 dollars)						
Brazil	-	-	22,481	33,093	32,072	8,813	11,667
Kor Rep	-	-	19,013	23,174	20,393	6,771	10,406
Canada	-	-	7,049	15,320	13,665	7,427	714
Zimbabwe	-	-	-	-	6,985	5,932	1,408
Rep Saf	-	-	-	3,404	5,616	980	1,211
Mexico	-	-	5,900	6,796	5,213	1,186	1,681
Argent	-	-	3,168	2,702	3,793	3,069	1,335
Guatmal	-	-	5,445	5,727	3,707	609	885
Thailnd	-	-	391	1,754	3,383	808	1,509
Denmark	-	-	2,124	2,318	2,792	927	1,016
All other	-	-	21,089	32,225	16,684	10,599	7,836
Total	-	-	86,659	126,514	114,304	47,122	39,668
	Unit value (per pound)						
Brazil	-	-	$0.92	$1.05	$0.97	$0.91	$0.99
Kor Rep	-	-	1.12	1.17	1.24	1.22	1.40
Canada	-	-	1.41	1.32	1.42	1.53	1.29
Zimbabwe	-	-	-	-	0.93	0.97	0.90
Rep Saf	-	-	-	1.25	1.17	1.04	0.81
Mexico	-	-	0.98	0.95	1.17	0.88	1.16
Argent	-	-	0.67	0.68	0.70	0.70	0.68
Guatmal	-	-	1.28	1.34	1.44	1.39	1.16
Thailnd	-	-	0.56	0.95	0.85	0.86	0.87
Denmark	-	-	1.31	1.50	1.44	1.35	1.54
All other	-	-	0.66	0.65	0.62	0.67	0.80
Average	-	-	0.90	0.94	0.98	0.93	1.01

1/ Not separately reported.

Source: Compiled from official statistics of the U.S. Department of Commerce.

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Tobacco, manufactured or not manufactured, not specially provided for, except smoking tobacco in retail size packages: U.S. imports for consumption, by principal sources, 1976-80, January-April 1980, and January-April 1981

Source	1976 1/	1977 1/	1978	1979	1980	January-April-- 1980	January-April-- 1981
	Quantity (1,000 pounds)						
Kor Rep	0	0	1	0	6,858	0	7,427
Brazil	0	0	4	58	7,937	2	7,310
Mexico	0	0	20	0	2,247	0	1,123
Canada	0	0	6	6	1,781	3	526
Denmark	0	0	1,627	1,513	1,879	668	658
Guatmal	0	0	42	0	1,746	0	587
Rep Saf	0	0	0	0	1,875	0	467
Thailnd	0	0	0	2/	1,920	0	1,369
Hondura	0	0	0	2/	390	0	1,750
Argent	0	0	0	~~12~~	287	0	33
All other	0	0	497	331	1,253	24	2,772
Total	0	0	2,198	1,920	28,174	697	24,022
	Value (1,000 dollars)						
Kor Rep	-	-	1	-	9,124	-	10,406
Brazil	-	-	4	72	8,717	2	8,258
Mexico	-	-	18	-	3,301	-	1,317
Canada	-	-	8	12	3,236	7	709
Denmark	-	-	2,124	2,278	2,686	898	1,016
Guatmal	-	-	48	-	2,582	-	856
Rep Saf	-	-	-	-	2,043	-	674
Thailnd	-	-	-	2	1,570	-	1,121
Hondura	-	-	-	1	579	-	2,142
Argent	-	-	-	12	343	-	37
All other	-	-	1,213	1,016	1,347	73	3,775
Total	-	-	3,415	3,393	35,528	979	30,310
	Unit value (per pound)						
Kor Rep	-	-	$1.06	-	$1.33	-	$1.40
Brazil	-	-	0.88	$1.24	1.10	$ 0.80	1.13
Mexico	-	-	0.88	-	1.47	-	1.17
Canada	-	-	1.16	2.23	1.82	2.23	1.35
Denmark	-	-	1.31	1.51	1.43	1.34	1.54
Guatmal	-	-	1.15	-	1.48	-	1.46
Rep Saf	-	-	-	-	1.09	-	1.44
Thailnd	-	-	-	4.38	0.82	-	0.82
Hondura	-	-	-	9.48	1.48	-	1.22
Argent	-	-	-	1.06	1.20	-	1.12
All other	-	-	2.44	3.07	1.07	3.08	1.36
Average	-	-	1.55	1.77	1.26	1.41	1.26

1/ Not separately reported.
2/ Less than 500 pounds.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 17,--Scrap tobacco, except from cigar leaf: U.S. imports for consumption, by principal sources, 1976-80, January-April 1980, and January-April 1981

Source	1976 1/	1977	1978	1979	1980	January-April-- 1980	January-April-- 1981
	Quantity (1,000 pounds)						
Brazil	0	21,374	22,342	30,522	21,297	9,209	468
Kor Rep	0	16,439	16,687	19,784	9,355	5,338	0
Canada	0	1,357	3,436	6,268	5,628	4,840	0
Zimbabwe	0	0	0	0	6,088	6,088	4
Rep Saf	0	0	0	1,047	2,788	941	4
Argent	0	5,696	4,465	3,770	4,286	4,227	57
Italy	0	631	4,342	16,093	3,186	2,986	0
Mexico	0	4,096	5,995	7,159	2,200	1,355	309
Thailnd	0	711	647	1,444	1,969	929	20
Phil R	0	3,342	5,895	5,173	3,133	2,346	486
All other	0	21,956	24,535	30,904	18,221	9,888	4,384
Total	0	75,602	88,344	122,164	78,152	48,149	5,732
	Value (1,000 dollars)						
Brazil	-	16,154	20,865	32,332	20,449	8,393	572
Kor Rep	-	17,877	18,651	23,174	11,128	6,630	-
Canada	-	1,696	5,200	10,142	8,096	7,421	-
Zimbabwe	-	-	-	-	5,932	5,932	2/
Rep Saf	-	-	-	1,809	3,378	980	4
Argent	-	4,923	2,992	2,538	2,921	2,873	37
Italy	-	472	2,918	11,358	2,542	2,503	-
Mexico	-	3,981	5,882	6,796	1,911	1,186	356
Thailnd	-	631	366	1,259	1,757	799	16
Phil R	-	1,343	3,102	2,849	1,730	1,346	236
All other	-	12,652	18,598	21,453	10,743	6,635	1,820
Total	-	59,729	78,576	113,711	70,587	44,698	3,042
	Unit value (per pound)						
Brazil	-	$0.76	$0.93	$1.06	$0.96	$0.91	$1.22
Kor Rep	-	1.09	1.12	1.17	1.19	1.24	-
Canada	-	1.25	1.51	1.62	1.44	1.53	-
Zimbabwe	-	-	-	-	0.97	0.97	0.09
Rep Saf	-	-	-	1.73	1.21	1.04	1.08
Argent	-	0.86	0.67	0.67	0.68	0.68	0.66
Italy	-	0.75	0.67	0.71	0.80	0.84	-
Mexico	-	0.97	0.98	0.95	0.87	0.88	1.15
Thailnd	-	0.89	0.57	0.87	0.89	0.86	0.82
Phil R	-	0.40	0.53	0.55	0.55	0.57	0.49
All other	-	0.58	0.76	0.69	0.59	0.67	0.42
Average	-	0.79	0.89	0.93	0.90	0.93	0.53

1/ Not separately reported.
2/ Less than $500.
[illegible] from official statistics of the U.S. Department of Commerce.

Table 18.--Tobacco: U.S. imports for consumption entered under TSUSA items 170.6040 1/ and 170.8045, 2/ July 1979-March 1980 and July 1980-March 1981

Period	TSUSA item 170.6040		TSUSA item 170.8045	
	July 1979-March 1980	July 1980-March 1981	July 1979-March 1980	July 1980-March 1981
	Quantity (1,000 pounds)			
July	8,452	2,273	189	3,287
August	9,904	1,481	82	3,397
September	10,817	2,686	211	4,453
October	16,886	1,694	119	5,812
November	10,232	1,236	106	4,836
December	7,075	1,274	209	5,218
January	11,210	1,180	190	5,276
February	9,812	1,632	138	9,081
March	16,136	1,937	177	5,118
Total	100,524	15,393	1,422	46,479
	Value (1,000 dollars)			
July	$9,924	$1,268	$354	$5,359
August	10,521	447	130	4,264
September	10,492	2,391	328	5,545
October	15,387	925	186	6,863
November	10,354	554	178	6,064
December	6,265	569	282	5,883
January	10,802	653	249	6,564
February	9,445	666	193	11,655
March	14,079	1,239	264	6,638
Total	97,269	8,711	2,163	58,836
	Unit value (per pound)			
July	$1.17	$0.56	$1.87	$1.63
August	1.06	.30	1.57	1.26
September	.97	.89	1.55	1.25
October	.91	.55	1.56	1.18
November	1.01	.45	1.68	1.25
December	.89	.45	1.35	1.13
January	.96	.55	1.31	1.24
February	.96	.41	1.40	1.28
March	.87	.64	1.49	1.30
Average	.97	.57	1.52	1.27

1/ Scrap tobacco other than from cigar leaf.
2/ Tobacco, manufactured or not manufactured, not specially provided for, other than smoking tobacco in retail size packages.

Source: Compiled from official statistics of the U.S. Department of Commerce.

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Note: Figures may not add due to rounding.

Table 19.--Cigarette leaf tobacco, not over 35% wrapper tobacco, not stemmed, flue-cured: U.S. imports for consumption, by principal sources, 1976-80, January-April 1980, and January-April 1981

Source	1976 1/	1977	1978	1979	1980	January-April-- 1980	January-April-- 1981
	Quantity (1,000 pounds)						
Brazil	0	2,155	2,044	1,035	3,806	461	4,044
Canada	0	389	1,522	5,341	2,174	0	25
Zimbabwe	0	0	0	0	1,071	0	916
Malawi	0	0	16	0	1,044	351	1,033
Argent	0	1	247	168	841	186	1,887
Poland	0	0	365	170	556	534	132
Rep Saf	0	0	0	1,672	154	0	1,033
Kor Rep	0	77	302	0	224	224	0
China P	0	0	632	0	221	221	0
Paragua	0	0	0	0	154	0	0
All other	0	2,621	90	1,863	106	14	367
Total	0	5,242	5,218	10,250	10,351	1,991	9,438
	Value (1,000 dollars)						
Brazil	-	1,829	1,611	688	2,906	419	2,838
Canada	-	418	1,787	5,165	2,224	-	4
Zimbabwe	-	-	-	-	753	-	546
Malawi	-	-	25	-	634	200	650
Argent	-	1	176	152	528	195	1,261
Poland	-	-	232	115	391	363	96
Rep Saf	-	-	-	1,595	195	-	534
Kor Rep	-	61	361	-	142	142	-
China P	-	-	379	-	113	113	-
Paragua	-	-	-	-	108	-	-
All other	-	1,205	43	1,693	86	13	387
Total	-	3,513	4,614	9,409	8,080	1,445	6,315
	Unit value (per pound)						
Brazil	-	$0.85	$0.79	$0.66	$0.76	$0.91	$0.70
Canada	-	1.07	1.17	0.97	1.02	-	0.17
Zimbabwe	-	-	-	-	0.70	-	0.60
Malawi	-	-	1.58	-	0.61	0.57	0.63
Argent	-	0.81	0.71	0.91	0.63	1.05	0.67
Poland	-	-	0.64	0.68	0.70	0.68	0.73
Rep Saf	-	-	-	0.95	1.27	-	0.52
Kor Rep	-	0.80	1.19	-	0.63	0.63	-
China P	-	-	0.60	-	0.51	0.51	-
Paragua	-	-	-	-	0.70	-	-
All other	-	0.46	0.48	0.91	0.81	0.95	1.05
Average	-	0.67	0.88	0.92	0.78	0.73	0.67

1/ Not separately reported.

Source: Compiled from official statistics of the U.S Department of Commerce.

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Table 20.--Cigarette leaf tobacco, not over 35% wrapper tobacco, stemmed: U.S. imports for consumption, by principal sources, 1976-80, January-April 1980, and January-April 1981

Source	1976	1977	1978	1979	1980	January-April-- 1980	January-April-- 1981
	Quantity (pounds)						
Canada	0	527	34,531	330	62,400	0	441
Malaysa	0	0	0	441	0	0	0
Peru	0	0	0	0	0	0	578
Argent	0	10,836	0	0	0	0	0
Austria	0	1,543	0	0	0	0	0
India	0	440	0	0	0	0	0
Total	0	13,346	34,531	771	62,400	0	1,019
	Value (1,000 dollars)						
Canada	-	1	54	1/	110	-	1/
Malaysa	-	-	-	1/	-	-	-
Peru	-	-	-	-	-	-	1
Argent	-	10	-	-	-	-	-
Austria	-	2	-	-	-	-	-
India	-	1/	-	-	-	-	-
Total	-	13	54	1	110	-	1
	Unit value (per pound)						
Canada	-	$2.09	$1.58	$0.84	$1.76	-	$0.96
Malaysa	-	-	-	0.70	-	-	-
Peru	-	-	-	-	-	-	1.74
Argent	-	0.88	-	-	-	-	-
Austria	-	1.36	-	-	-	-	-
India	-	0.74	-	-	-	-	-
Average	-	0.98	1.58	0.76	1.76	-	1.40

1/ Less than $500.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 21.--Flue-cured, burley, and all unmanufactured tobacco: World production and exports, 1976-80

Period 1/	Flue-cured			Burley			All unmanufactured tobacco		
	United States 2/	World total	United States as percent of total	United States 2/	World total	United States as percent of total	United States 3/	World total	United States as percent of total
	Production (farm-sales weight)								
	----Million pounds----		Percent	---Million pounds---		Percent	---Million pounds---		Percent
Average:									
1976	1,316	5,021	26	664	1,279	52	2,137	12,284	17
1977	1,124	4,966	23	613	1,280	48	1,914	12,085	16
1978	1,206	5,182	23	618	1,309	47	2,025	12,411	16
1979	974	4,979	20	446	1,233	36	1,527	11,929	13
1980 4/	1,086	4,889	22	555	1,248	44	1,772	11,471	15
	Exports (unmanufactured, declared weight)								
	----Million pounds----		Percent	---Million pounds---		Percent	---Million pounds---		Percent
Average:									
1976	369	1,217	31	68	258	26	587	2,912	20
1977	410	1,226	34	79	291	27	640	2,794	23
1978	455	1,331	34	91	319	29	707	3,099	23
1979	371	1,331	28	82	313	26	567	3,028	19
1980	319	5/	5/	91	5/	5/	599	5/	5/

1/ Production on crop year basis, exports on calendar year basis.
2/ Production or marketings.
3/ Includes Puerto Rico.
4/ Preliminary.
5/ Not available.

Source: Compiled from official statistics of the U.S. Department of Agriculture and the U.S. Department of Commerce.

Table 22.--Unmanufactured tobacco: World imports by principal markets, 1976-79

Market	1976	1977	1978	1979 1/
	Quantity (millions of pounds-declared weight)			
EC:				
United Kingdom	319	314	514	413
Federal Republic of Germany	369	379	426	388
Netherlands	127	136	146	143
France	183	86	107	109
Belgium	91	87	79	82
Italy	74	74	45	69
Denmark	23	36	44	27
Ireland	17	17	16	17
Total, EC 2/	1,203	1,129	1,376	1,248
United States	367	328	396	408
Japan	208	190	179	144
Spain	85	89	83	93
Canary Islands	59	44	50	69
Egypt	44	64	65	67
Switzerland	71	68	60	63
German Democratic Republic	35	35	42	46
Taiwan	23	25	37	39
Other	739	743	738	748
World total	2,834	2,715	3,026	2,925

1/ Preliminary.
2/ Does not include Greece.

Source: United States Department of Agriculture.

Table 23.--Flue-cured and burley tobacco: World exports by major producing countries, 1976-80

Country	1976	1977	1978	1979	1980 1/
	Flue-cured (million pounds, declared weight)				
United States	379	412	455	371	2/
India	154	150	146	132	2/
Brazil	150	143	154	183	2/
Zimbabwe	172	129	129	183	2/
Republic of Korea	60	66	66	41	2/
Canada	42	41	57	86	44
Thailand	40	48	58	55	2/
Malawi	35	55	55	60	2/
South Africa	14	12	20	11	2/
Philippines	15	14	23	24	2/
Zambia	10	8	6	7	2/
Argentina	10	13	27	32	23
Italy	5	7	5	8	8
Other	130	128	132	132	2/
Total	1,217	1,226	1,331	1,323	2/
	Burley (million pounds, declared weight)				
United States	68	79	91	82	2/
India	56	44	49	61	48
Mexico	32	33	47	39	27
Republic of Korea	28	38	39	34	2/
Greece	22	30	28	17	35
Brazil	15	22	18	18	2/
Malawi	12	15	15	15	2/
Zimbabwe	4	3	3	4	2/
Thailand	4	9	10	11	2/
Other	17	19	20	22	2/
Total	258	291	319	301	2/

1/ Preliminary.
2/ Not available.

Source: United States Department of Agriculture.

Note.-- Because of rounding, figures may not add to the totals shown.

Table 24.—Flue-cured tobacco: Prices paid for stemmed tobacco, by stalk position; 1978-80

Period	Primings		Lugs		Cutters		Smoking Leaf		Leaf	
	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported
	Per pound									
1978:										
Jan.-June—	***	1/	***	***	***	***	***	***	***	***
July-Dec.—	***	***	***	1/	***	***	***	1/	***	***
1979:										
Jan.-June—	***	***	***	***	***	***	***	***	***	***
July-Dec.—	***	1/	***	***	***	***	***	***	***	***
1980:										
Jan.-June—	***	1/	***	***	***	***	***	***	***	***
July-Dec.—	***	1/	***	***	***	***	***	1/	***	***

1/ No prices reported.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 25.--Burley tobacco: Prices paid for stemmed tobacco, by stalk position, 1978-80

Period	Flyings		Lugs		Leaf		Tips	
	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported
	Per pound							
1978:								
Jan.-June	***	1/	***	***	***	***	***	***
July-Dec.	***	***	***	***	***	***	***	***
1979:								
Jan.-June	***	***	***	***	***	***	***	***
July-Dec.	***	***	***	***	***	***	***	***
1980:								
Jan.-June	***	***	***	***	***	***	***	***
July-Dec.	***	***	***	***	***	***	***	***

1/ No prices reported.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

Table 26.—Flue-cured tobacco: Prices paid by cigarette manufacturers for stemmed tobacco of like kind and quality, 1978-80

Period	Primings		Lugs		Cutters		Smoking Leaf		Leaf	
	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported
	Per pound									
1978:										
Jan.-June—	***	***	***	***	***	***	***	***	***	***
July-Dec---	***	***	***	***	***	1/	***	***	***	***
1979:										
Jan.-June—	***	***	***	***	***	***	***	***	***	***
July-Dec---	***	***	***	***	***	***	***	***	***	***
1980:										
Jan.-June—	***	***	***	***	***	1/	***	***	***	***
July-Dec---	***	***	***	***	***	***	***	***	***	***

1/ No prices reported.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

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Table 27.—Burley tobacco: Prices paid by cigarette manufacturers for stemmed tobacco of like kind and quality, 1978-80

Period	Flyings		Lugs		Leaf		Tips	
	Domestic	Imported	Domestic	Imported	Domestic	Imported	Domestic	Imported
	Per pound							
1978:								
Jan.-June	***	***	***	***	***	***	***	***
July-Dec	***	***	***	***	***	***	***	***
1979:								
Jan.-June	***	***	***	***	***	***	***	1/
July-Dec	***	***	***	***	***	***	***	***
1980:								
Jan.-June	***	***	***	***	***	1/	***	***
July-Dec	***	***	***	***	***	***	***	***

1/ No prices reported.

Source: Compiled from data submitted in response to questionnaires of the U.S. International Trade Commission.

APPENDIX F

CUSTOMS DECISION ON CERTAIN MACHINE-THRESHED TOBACCO

(T.D. 80-132)

Tariff Classification—Machine-Processed Cigarette Leaf Tobacco

Notice that certain machine-processed cigarette leaf tobacco is reclassified as a partially manufactured tobacco product

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Decision concerning an American manufacturer's petition.

SUMMARY: The Customs Service has reviewed a petition filed by an American producer of flue-cured tobacco requesting that certain machine-threshed cigarette leaf tobacco, currently classified by Customs as scrap tobacco under item 170.60, Tariff Schedules of the United States (TSUS), be reclassified as stemmed cigarette leaf filler tobacco under item 170.35, TSUS. The Customs Service has reviewed the voluminous record and concludes that the subject merchandise is neither scrap tobacco nor is it in leaf form, but has been processed to the extent that it may be considered a partially manufactured product classifiable under the provision for tobacco, manufactured or not manufactured, not specially provided for, in item 170.80, TSUS.

DATES: This decision will be effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after 30 days from the date of publication of this notice in the CUSTOMS BULLETIN.

FOR FURTHER INFORMATION CONTACT: John G. Hurley, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229; 202-566-5786.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 28, 1979, a notice was published in the Federal Register (44 F.R. 56089) indicating that the Customs Service had received a petition from an American producer of flue-cured tobacco, filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), requesting that certain imported machine-threshed cigarette leaf tobacco, currently classified by Customs under the provision for scrap tobacco in item 170.60, Tariff Schedules of the United States (TSUS), be reclassified under the provision for stemmed cigarette leaf filler tobacco in item 170.35, TSUS. Comments concerning the petition were to have been received no later then November 27, 1979.

The merchandise in question is produced in the manner set forth below. Tobacco leaves, approximately 10 to 20 inches in length, are received at the warehouse, graded and sorted, and then placed on a blending line where the undesirable leaves are removed. On a blending conveyor, tips of the leaves and a portion of the stems are removed, leaving the butts.

The moisture content of the butts is increased to make them more pliable, and the moisturized butts are then threshed and separated in four or five stages. In the separating process, the butts are torn into various sizes. As a result, the desirable lighter fragments are blown into a collecting belt and the heavier elements fall through screens of decreasing size. Those which are heavier, containing stem fragments, pass through a screen having grid wires spaced one-eighth inch apart and are not blended in with the desired product. The combined tip and butt fragments are processed further by partial drying, cooling and remoisturizing to achieve a uniform moisture content. The product will then be compacted by hydraulic ram into cartons, cases, or hogsheads under pressure. This operation will cause additional fragmentation. The stem content of machine-threshed tobacco is said to be about 3 percent. Approximately 60 percent of this threshed product is described as being 1 to 2 inches in length; 25 percent, one-half to 1 inch in length; about 14 percent, one-fourth to one-half inch in length; and 1 percent, one-eighth inch or less in length. This latter size is not in issue. Before being manufactured into cigarettes, the threshed tobacco is mixed with other types of tobacco, further shredded, humidified, and treated with additives.

The petitioner claims that the early administrative decisions reflect the legislative and judicial decisions in defining scrap tobacco as cut pieces of tobacco leaf, and cut slices of tobacco stems resulting from manufacturing of leaf tobacco. Scrap tobacco, the petitioner asserts, is the unintended byproduct of handling, curing, or manufacturing of tobacco, including floor sweepings. In contrast, the subject merchandise is a desired product.

The petitioner alleges that, with respect to the prevailing commercial meaning of stemmed leaf, the trade considers any stemmed leaf product acceptable as stemmed leaf tobacco if the size of the tobacco lamina constituting the product is 81 to 85 percent one-half inch or more in size. It is the petitioner's view that the subject merchandise meets this criterion.

The petitioner asserts that the increase in the importation of tobacco classified as scrap from 1976 through 1978 results in a loss of revenue as the result of lower duty assessed. It is further asserted that importations of this tobacco have had an adverse economic impact on the domestic growers.

DISCUSSION OF COMMENTS

Several hundred comments were received by the Customs Service in response to the instant American manufacturer's petition. The majority of comments from associations of tobacco farmers and individual tobacco farmers in the United States supported the petition. These farmers support the petitioner's claim that importations of the subject merchandise have had an adverse impact on domestic growers.

Several briefs and comments, however, filed on behalf of tobacco processors, oppose the petition and support the current classification as scrap tobacco under item 170.60, TSUS, or, in the alternative, as tobacco, manufactured or not manufactured, not specially provided for, under item 170.80, TSUS. These briefs contend that the term "scrap" includes not only the unintended byproducts resulting from processing of various tobacco products, but also small pieces which are intentionally produced; this, they maintain, is manufactured scrap. The briefs emphasize that the term "leaf" in the tariff schedules has always referred to the whole tobacco leaf or half-leaf. The machine-threshed product cannot be considered a leaf in view of the legislative and judicial history of the subject. The briefs note that the tariff schedules still define tobacco in leaf form, and that these legal definitions have no meaning if not referring to the actual leaf...

A report dated November 6, 1979, was also prepared by the Comptroller General of the United States, in which it was concluded that the subject tobacco was not scrap for tariff purposes, but should be classified as stemmed leaf filler tobacco in item 170.35, TSUS. The report concluded that, because this tobacco was not classified at the higher rate, as much as $188 million may have been lost over the past 10 years.

DETERMINATION

For tariff purposes, waste has traditionally included not only manufactured articles which have become useless for the original purpose for which they were made and fit only for remanufacture, but also includes refuse, surplus, and useless stuff resulting from manufacture or manufacturing processes. *Harley Co.* v. *United States*, T.D. 41644 (1926).

With respect to tobacco, the term "scrap tobacco" includes tobacco in the form of fragments and broken pieces resulting from the handling of leaf cigarette tobacco, as well as small pieces one-fourth inch in diameter and shredded pieces up to one-half inch, resulting from the manufacture of tobacco products. The Summary of Tariff Information (1929) stated that the term "scrap tobacco" included three distinct kinds:

> (1) Leaf tobacco scrap, the fragments of leaves broken in sorting, handling, and stemming;
> (2) Factory scrap, the cuttings and clippings which accumulate in the manufacture of cigars;
> (3) Manufactured scrap, generally the cheapest form of smoking tobacco consisting of leaves broken or cut into coarse pieces heavily sweetened for smoking or chewing.

In contrast, in *Latimer* v. *United States*, 223 U.S. 501 (1912), the Supreme Court considered a product consisting of small pieces of tobacco broken in the manufacture and handling of tobacco which were used in the manufacture of a cheap grade of cigarettes and stogies not to be scrap, but tobacco manufactured or not manufactured.

Customs has ruled that flue-cured tobacco, of a cigarette type, which consisted of pieces of lamina measuring from less than 1 inch to over 5 inches, was not cigarette leaf tobacco, stemmed or non-stemmed, or scrap, but tobacco, manufactured or not manufactured. Basically, the history of the classification of tobacco as scrap discloses a product which fits the basic defintion of waste or scrap, that is, that of a product unsuitable for its original purpose and fit only for remanufacture. In contrast, the machine-threshed tobacco in issue is a desired product, and is processed for the purpose of manufacturing cigarettes. Accordingly, the subject merchandise cannot be classified as scrap.

The next question is whether the instant product is classifiable as a leaf tobacco. The petition accurately describes the tobacco processed as a stemmed leaf product, but this does not establish it as a leaf for tariff purposes. A review of the various tariff laws reflects what Congress intended by the term "leaf". For instance, in the Tariff Act of March 3, 1883 (schedule F., Tobacco), leaf tobacco is described as a tobacco leaf which is 85 percent of the requisite size and necessary fineness of texture to be suitable for wrapper. In the Tariff Act of August 27, 1894 (schedule F., Tobacco and Manufactures of.), tobacco manufacturers were described as processing or manufacturing tobacco by such diverse means as cutting, pressing, grinding, crushing, or rubbing the tobacco leaf. In the Tariff Act of August 5, 1909, (schedule F., Tobacco and Manufactures of.), the unstemmed tobacco leaf is described as the natural leaf, not manufactured or altered in any way. The Summary of Tariff Information (1920), states that the term scrap tobacco usually refers to clippings accumulating in working cigars, although cheap leaf may be included.

In the Dictionary of Tariff Information (1924), tobacco was defined by the U.S. Tariff Comisssion as dried cured leaves of Nicotania Tobacco (with or without midrib or stem) commonly known as leaf tobacco.

In the Summaries of Trade and Tariff Information (1967), cigarette leaf tobacco (not stemmed in item 170.32) or (stemmed 170.35) is described as filler tobacco "that is tobacco essentially in leaf form other than wrapper tobacco)."

It is pertinent to note that the headnote definitions of wrapper and leaf tobacco have not been changed since the enactment of the current tariff schedule. Headnotes to part 13, schedule 1, TSUS, still refer to wrapper tobacco as that quality of leaf tobacco which has the requisite color, texture and burn, and is of sufficient size for cigar wrappers, and the term filler tobacco means all other leaf tobacco. Headnote 2 defines the method of determining the percentage of wrapper tobacco by using the number of leaves of tobacco.

The only conclusion possible is that Congress, even in regard to the tariff which went into effect January 1980, has never intended to materially alter the definition of leaf tobacco. It might be noted that at the April 23–27, 1979, hearings before the House of Representatives Ways and Means Subcommittee on Trade relating to the Multilateral Trade Negotiations (1979) (serial 96–13, pp. 724–6), a spokesman for the Leaf Tobacco Exporters Association and the Tobacco Association of the United States, stated that members of the two associations purchased 70 percent of the U.S. tobacco, and indicated satisfaction with the current tariff structure. He noted that the U.S. exports about $2 billion annually of tobacco and tobacco products and imports about $500 million.

With respect to the petitioner's claim that the current classification at a lower rate of duty has resulted in a loss of revenue, it is worth noting that reclassification might merely cause importers to import whole tobacco in whole leaf form rather than tobacco which has already been machine-threshed, resulting in even less duty than that actually assessed.

Therefore, in view of the legislative and administrative history concerning classification of tobacco processed in the manner described, it is concluded that the subject tobacco product is correctly classifiable as tobacco, manufactured or not manufactured, not specially provided for, in item 170.80, TSUS.

This decision will be effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after 30 days from the date of publication of this notice in the CUSTOMS BULLETIN.

Dated: May 15, 1980.

R. E. CHASEN,
Commissioner of Customs.

Published in the Federal Register, May 20, 1980 (44 FR 33761)

APPENDIX G

CUSTOMS REPLY TO COMMISSION INQUIRY

The
Commissioner
of
Customs
Washington, D.C.

APR 17 1981

MAN-5-06-CO:T:D:SO AO

RECEIVED
22 P 4: 23

The Honorable
Bill Alberger, Chairman
United States International
Trade Commission
Washington, D.C. 20436

Dear Mr. Chairman:

In your letter dated March 20, 1981, you requested to be provided with information in connection with an investigation under section 22(a) of the Agricultural Adjustment Act regarding the importation of certain tobacco products. The information desired pertained to the amounts of duty drawback paid and advice as to whether Customs can distinguish flue-cured tobaccos from burley or other tobaccos.

In most cases, Customs officers with experience in examining tobacco can distinguish flue-cured from burley or other tobaccos, based on a physical inspection. However, the descriptions on the commercial documents generally do not reflect these distinctions. This is because items 170.3500, 170.6040, and 170.8045 are not broken down to capture these distinctions and there is presently no requirement for Customs to administer such breakouts.

The establishment of such statistical breakouts for these item numbers would create additional workload problems until such time as importers and foreign shippers are able to provide reliable invoices and entry data which Customs can readily accept, and could be verified on a spot-check basis.

With regard to the amounts of duty drawback payments, we cannot furnish you such data covering the period you desire. Because of severe manpower constraints, we were forced to discontinue the collection and maintenance of drawback payment data.

We appreciate your interest in this matter. If we can be of any further assistance, please let us know.

Sincerely,

William T. Archey

Acting Commissioner of Customs

REPLY TO: COMMISSIONER OF CUSTOMS, WASHINGTON, D.C. 20229

APPENDIX H

GENERAL COUNSEL MEMOS

July 20, 1981

GC-E-196

MEMORANDUM

TO: THE COMMISSION

FROM: The General Counsel 1/

SUBJECT: Authority of the Commission to make separate findings and recommendations with respect to different classes of products covered within the scope of investigation No. 22-43, Tobacco 2/

This memorandum discusses the issue of whether the Commisson may make separate findings and recommendations with respect to different classes of products covered within the scope of a section 22 investigation.

In the hearing in the above-referenced investigation, Commissioner Calhoun asked whether the Commission could focus separately upon flue-cured tobacco in making its findings and recommendations when the scope of investigation includes other types of tobacco as well. (See pp. 79-82 of the hearing transcript.) The Department of Agriculture dealt with that issue in a post-hearing submission. USDA states that it believes that the legislative intent in section 22 cases would be offended if the broadest category of tobaccos were analyzed in this investigation, because adverse effects of flue-cured tobacco imports could be made to appear de minimis if all imported articles under the TSUS numbers were considered.

Conclusion

It is our view that the Commission can make separate findings and recommendations with respect to different classes of products covered within

1/ This memorandum was prepared by Jeffrey Neeley (30359).
2/ Library References: section 22; Tobacco; separate findings on products in scope of investigation.

the scope of a section 22 investigation when circumstances so warrant. The statute envisions that the Commission will recommend the relief most likely to remedy the problem or problems found to exist but will recommend no more relief than is necessary to remedy the problem found to exist.

The present investigation covers tobacco products which are the subject of two different USDA programs--flue-cured tobacco and burley tobacco. The programs are quite different. It is our view that the fact that two programs exist in and of itself provides a basis for making separate findings and recommendations with respect to flue-cured tobacco and burley tobacco. Thus, if the Commission finds that imports are materially interfering with both programs, relief of the same scope may not provide an effective remedy for the problems faced by both programs. On the other hand, if imports are materially interfering with only one of two programs, one would only want to recommend relief with respect to the program being materially interfered with.

Discussion

Section 22(a) allows relief when the Commission finds that "any article or articles are being or are practically certain to be imported . . . as to render or tend to render ineffective or materially interfere with, any program or operation undertaken under this chapter or the Soil Conservation and Domestic Allotment Act . . . or any loan purchase or other program or operation undertaken by the Department of Agriculture . . . ." In this investigation, more than one program of USDA is allegedly being affected by imported tobacco and the Commission may thus analyze separately the effect of imports of different types of tobacco on each program.

The tobacco programs for flue-cured and burley tobacco, although similar in certain respects, are separate programs that have important differences. Section 319 of the Agricultural Adjustment Act of 1938 (the Act) provides for poundage quotas for burley tobacco. That section of law does not provide for poundage quotas for flue-cured tobacco, which are found in section 317 of the Act. The flue-cured program provides for acreage allotments for flue-cured tobacco. The burley program consists only of poundage quotas and does not provide for acreage allotments. The marketing quotas for the two types of tobacco are also set separately.

Because the statute speaks in terms of the effect of imports on "any program," the Commission may assess the effects on the burley and flue-cured programs separately. The remedial provisions found in section 22(b) bolster this interpretation of the statute.

Section 22(b) allows the President to impose tariffs or quotas on "any article or articles . . . as he finds and declares shown by such investigation to be necessary in order that the entry of such article or articles will not render or tend to render ineffective, or materially interfere with, any program or operation referred to in subsection (a) . . . ." This section of the law allows the President (and hence the Commission) to narrow his focus to those specific articles which are doing damage to a program and limit relief to those articles.

July 20, 1981

MEMORANDUM

TO: THE COMMISSION

GC-E-197

FROM: The General Counsel 1/

SUBJECT: Investigation No. AAA22-43, Tobacco, and the Section 22 "processing clause." 2/

Background

The purpose of this memorandum is to discuss the meaning of the "processing clause" 3/ in section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)). There was discussion regarding both the meaning and relevance of the clause at the public hearing on June 24-25, 1981, on investigation No. 22-43, Tobacco, and the hearing participants further addressed the subject in their posthearing briefs.

On its face, section 22(a) provides alternative tests for determining whether the appropriate conditions exist for providing import relief. Section 22(a) provides for relief where--

> . . . articles are being . . . imported . . . [(1)] as to render or tend to render ineffective, or materially interfere with, any program or operation . . . undertaken by the Department of Agriculture . . . or [(2)] to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken . . . .

The questions posed are (1) whether, in view of certain historical events, the processing clause, the second test, should still be considered a valid

1/ This memorandum was prepared by Jeffrey Neeley (30359).
2/ Library References: section 22; Tobacco; "processing clause."
3/ The "processing clause" requires that the Commission determine if imports "reduce substantially the amount of any product processed" in the United States and is sometimes referred to as the "reduce substantially" test.

provision of law, and (2), assuming it is still a valid provision, whether one must find material inference with a price support program in order for the test to be satisfied.

In his January 18, 1981, letter to the Commission requesting the Tobacco investigation, President Carter stated that he has "reason to believe that certain tobacco is being or is practically certain to be imported under such conditions as to render or tend to render ineffective or materially interfere with, the tobacco program of the Department of Agriculture or to reduce substantially the amount of any product being processed in the United States from such domestic tobacco" and requested that we conduct an appropriate investigation. The presidential request thus covered both tests.

Our conclusions are set forth immediately below. Discussion follows.

Conclusion

(1) The "processing clause" test was added to section 22(a) on the Senate floor for the purpose of providing an avenue of relief for processors of agricultural articles subject to a processing tax. Under the original (1933) Agricultural Adjustment Act, programs were established to reduce production and stabilize prices in certain agricultural commodities. To pay for such programs, a special processing tax was imposed at the first stage of processing of commodities the subject of a program. The "processing clause" test was added to section 22(a) to allow relief to processors when foreign processed goods, which were not subject to the tax, were adversely affecting domestic processors. The processing tax was struck down as unconstitutional in 1936 (United States v. Butler, 297 U.S. 1 (1936)).

(2) To the best of our knowledge, no Commission or Commissioner vote has turned on the "processing clause" test. While the "processing clause" test has been included in most (but not all) presidential requests for Commission advice, Commissioners have largely ignored it in their views. After repeating the official wording of both tests, Commisioners have focused on whether imports are materially interfering with a USDA price support program (i.e., the first test).

(3) It is unclear whether the courts would regard the "processing clause" test as a valid test if it became the subject of litigation. There is an old common law rule which says that, when the reason for a law ceases, the law itself ceases. The purpose for enacting the test has clearly ceased. However, it should be noted that Congress has reviewed section 22 on numerous occasions since 1936 and has not changed the tests.

(4) Assuming that the "processing clause" test remains a valid test, we are of the view that one need not find material interference with a domestic price support program in order to find the test satisfied. The test contains no such requirement on its face and such a requirement would have imposed a needless burden on the processors for whom the test was designed. However, to find the test satisfied (in the absence of a processors tax) without finding material interference with a price support program produces an anomalous result, since it would permit relief when no USDA program was being interfered with and also when there was no foreign tax advantage which processors were trying to offset. Our position on this fourth point is contrary to that which this office and the Commission took in investigation No. 22-25, Cotton Products (1962), and which USDA took at the Tobacco hearing. (However, USDA took a position similar to that we are now taking in the 1962 Cotton Products investigation.)

Discussion

The legislative history

Section 22 is part of the Agricultural Adjustment Act (AAA) of 1933, which sought to protect farmers through price support and other programs from the low prices caused by the Depression. Section 22 was added in 1935 as an amendment to the Act. Section 22 is designed to ensure, among other things, that the price support programs are not undercut or made more expensive by imported goods.

Section 22(a), as it passed the House, did not contain the processing clause. It read as follows:

> Whenever the President has reason to believe that any one or more articles are being imported or are likely to be imported into the United States under such conditions and in sufficient quantities to render ineffective or materially interfere with any program or operation undertaken under this title, he shall cause an immediate investigation to be made by the United States Tariff Commission * * *.

In the Senate floor debate on the bill, Senator LaFollette offered a substitute for the House version of section 22. The LaFollette amendment did not contain a processing clause either. However, just before the Senate vote on the bill, Senator Bailey of North Carolina offered a further amendment which included the phrase "or to reduce or tend to reduce the amount of any commodity processed in the United States subject to this title. . . ." The Senate passed the bill in that form, although it was later rewritten in conference to give us essentially the form of the law that we have today.

Very few comments on the "Bailey amendment" are found in the Congressional Record. 3/ However, the history of the amendment suggests that it was meant to be an independent ground for relief. The fact that the processing clause was added to a bill that contained only the "interference clause" indicates that the Congress intended to add a significant new test for relief. If a showing of interference is needed to obtain relief under the processing clause, it is difficult to see why the processing clause is needed; a petitioner could always get relief by merely showing that there is interference with a program under the first clause without having to meet the additional burden of showing that there is also a reduction in the amount of the product processed. That reading of the statute effectively renders the second clause meaningless.

3/ See 79 Cong. Rec. 11523.

An understanding of the history of the Agricultural Adjustment Act of 1933 is necessary to place the processing clause in context. The AAA originally contained, as section 9, a processing tax. That processing tax was to be levied on the first domestic processing of a commodity under an agricultural program and was to be used to finance the commodity program. Under the AAA the processing tax was to be levied on the first level of processing, whether that processing was to be of domestic or foreign commodities. 4/

In 1935 the AAA was amended, adding section 22. The addition of the processing clause on the Senate floor was meant to offset adverse effects from imports caused to processors by the processing tax. The processing tax was part of the original 1933 act. Congress realized that the processing tax would add to the costs of domestic processers. The added costs could lead to those processers becoming uncompetitive with foreign processers, who did not have to pay the tax. By adding the processing clause to section 22, the Congress sought to protect the processors (and indirectly the price support programs) from injury due to the cost disadvantages. Senator Bailey, the sponsor of the amendment that added the processing clause, described its purpose this way:

> We are engaged in a process of imposing domestic taxes tending to elevate the prices of our manufactured products, the primary objective not only being to elevate the price of the raw material but not pass on to the consumer the tax that elevates the price. We are engaged in that process here. It would be fatal to us if, pursuing that process, we should leave the door open to manufacturers or producers of raw material in other countries who

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4/ Section 15(e) of the AAA of 1933 makes clear that imported commodities processed shall be taxed like domestic commodities.

> pay no processing taxes to come in under the special legislation under which we are operating. That is no protective tariff. That is compensating American nationals as against our own operations. 5/

The processing tax in the 1933 act was to meet an inglorious fate however. In 1936 the Supreme Court ruled in United States v. Butler, 297 U.S. 1 (1936) that the processing tax was unconstitutional because it violated the 10th Amendment. Thus the purpose for which the processing clause had been added to section 22 was eliminated. The processing clause of section 22 has remained in effect, however.

Is the section 22 processing clause still valid law?

In determining whether the processing clause continues to be valid law, it is helpful to turn to another piece of New Deal legislation, the National Industrial Recovery Act (NRA). The NRA, of course, was intended by the Roosevelt administration to speed recovery for the industrial sector, just as the AAA was to do for agriculture. Section 3(e) of the NRA 6/ was the industrial equivalent of section 22 of the AAA. Section 3(e) reads as follows:

> (e) On his own motion, or if any labor organization, or any trade or industrial organization, association, or group, which has complied with the provisions of this title, shall make complaint to the President that any article or articles are being imported into the United States in substantial quantities or increasing ratio to domestic production of any competitive article and on such terms or under such conditions as to render ineffective or seriously to endanger the maintenance of any code or agreement under this title, the President may cause an immediate investigation to be made by the United States Tariff Commission, which shall give precedence to investigations under this subsection, and if, after such investigation and such public notice and hearing as he shall specify, the President shall find the existence of such facts, he shall, in order to effectuate the policy of this title, direct that the article or articles concerned shall be permitted entry into the

5/ 79 Cong. Rec. 11499.
6/ 48 Stat. 196.

> United States only upon such terms and conditions and subject to the payment of such fees and to such limitations in the total quantity which may be imported (in the course of any specified period or periods) as he shall find it necessary to prescribe in order that the entry thereof shall not render or tend to render ineffective any code or agreement made under this title. In order to enforce any limitations imposed on the total quantity of imports, in any specified periods of any article or articles under this subsection, the President may forbid the importation of such article or articles unless the importer shall have first obtained from the Secretary of the Treasury a license pursuant to such regulations as the President may prescribe. Upon information of any action by the President under this subsection the Secretary of the Treasury shall, through the proper officers, permit entry of the article or articles specified only upon such terms and conditions and subject to such fees, to such limitations in the quantity which may be imported, and to such requirements of license, as the President shall have directed. The decision of the President as to facts shall be conclusive. Any condition or limitation of entry under this subsection shall continue in effect until the President shall find and inform the Secretary of the Treasury that the conditions which led to the imposition of such condition or limitation upon entry no longer exists.
> (Emphasis added)

The Commission never instituted an investigation under section 3(e). In 1935 sections 3(a), (b), (c), (d), and (f) of the NRA were found to be unconstitutional delegations of legislative power to the President in Schechter Poultry Corp. v. United States, 295 U.S. 495 (1935). Section 3(e) was not mentioned as pertinent to the decision of the Supreme Court in Schechter. However, since the purpose of section 3(e) was to provide protection for the industrial recovery program, it has been treated as a dead letter.

A strong argument can be made that the section 22 processing clause should, like section 3(e), be treated as inoperative because the reason for its existence has ceased. There is a long-standing common law rule of cessante ratione legis, cessat et ipsa lex (the reason of the law ceasing, the law itself also ceases). Although this maxim is most often used only as a means of statutory construction, 7/ it has also been used as a rationale for repeal of a law by implication. 8/

In this case, the Commission may follow one of at least two different paths. First, it could treat the processing clause as having implicitly been repealed because of the declaration of the unconstitutionality of the processing tax in Butler. Second, the Commission may treat the clause as being in effect, since it was not explicitly repealed, and go on to assess the effect of imports on products processed in the United States. Below we discuss the interpretation of the processing clause if the Commission believes it still should be given effect.

Does the processing clause require a showing of "material interference."

Section 22(a) states in pertinent part:

> (a) Whenever the Secretary of Agriculture has reason to believe that any article or articles are being or are practically certain to be imported into the United States under such conditions and in such quantities as to render or tend to render ineffective, or materially interfere with, any program or operation undertaken under this chapter or the Soil Conservation and Domestic Allotment Act, as amended, or section 612c of this title, or any loan, purchase, or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction, with respect to any agricultural commodity or product thereof, or to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken, he shall so advise the President, and, if the President agrees that there is reason for such belief, the President shall cause an immediate investigation to be made by the United States International Trade Commission, which shall give precedence to investigations under this section to determine such facts. [Emphasis added]

7/ See Petteys v. Butler, 367 F.2d 528 (8th Cir. 1966).
8/ See Gabriel v. United States, 59 So. 2d 127, 129, 221 La. 219 (S. Ct. La. 1952) cited with approval in Bounds v. James, 124 F.Supp. 563 (W.D. La. 1954).

The literal language of section 22(a) places the processing clause in the disjunctive. That clause, of course, does require that the reduction of the amount of the product processed be of a product that is under the agricultural program in question. But the language of the statute in its literal terms does not appear to require that a petitioner also show that there is material interference with that program. Unless there is a contrary indication in the legislative history of the statute, the rules of statutory construction require that the processing clause be treated as an independent ground for relief because of the use of the disjunctive "or."

We have found nothing in the legislative history that indicates that the processing clause should be construed to require a finding of material interference. If such a finding is required, the reason for the Bailey amendment seems to disappear. First, the Bailey amendment was intended to help processors, not farmers as such; the focus of the amendment was only harm to the processors, which can be inferred from the amount of product processed domestically, and not on any harm to an agricultural program. Processors could be adversely affected by imports of processed articles without a USDA program being materially interfered with.

In addition, a petitioner who has shown material interference has already met his burden for getting relief under the material interference clause and there is no need to go on to show the other requirements in the processing clause. Thus, interpreting the processing clause to require a showing of material interference means the clause is needless.

What is being "reduced substantially"?

Having established that a petitioner need not show "material interference" to gain relief under the processing clause, the question remains as to what commodity the Commission is to look to in determining whether relief is warranted under that clause. The processing clause requires a showing that the imports are entering the U.S. in such quantities as "to reduce substantially the amount of any product processed in the United States from any agricultural commodity or product thereof with respect to which any such program or operation is being undertaken . . . ." (Emphasis added). The interpretation given the clause by the importers in the present case is that it requires that the Commission examine the amount of product processed (e.g. cigarettes) to see if those products have been adversely affected by imports. An alternative reading of the statute focuses on the clause "from any agricultural commodity or product," and requires the Commission to examine the health of the market for the domestic agricultural product. That interpretation of the statute was seemingly adopted by former President Carter, who stated in his letter to the Commission of January 18, 1981, in this investigation, that the Commission should determine if the imports "reduce substantially the amount of any product being processed in the United States from such domestic tobacco." As we have discussed above, the legislative history of the processing clause indicates that it was intended to protect domestic processers rather than domestic growers. This being the case, our view is that the Commission is to assess the impact of imports on the product processed rather than on the commodity grown.

A comparison of wording of sections 22(a) and section 3(e) of the NRA is again helpful in determining what product is to be examined. Section 3(e) refers to importation of "articles or articles in . . . increasing ratio to domestic production of any competitive article" while section 22(a) refers only to importation of "any article or articles" and does not specify that the effect must be felt on competitive articles. Arguably this difference means that in section 22(a) cases the Commission could assess the impact of imported articles on non-competitive domestic articles. However, because the legislative history of the section 22 processing clause indicates that it was designed to offset increased costs of domestic processed goods resulting from the processing tax, we believe that the better view is that section 22(a) also implicitly requires the assessment of effect on the competitive domestic article.

In this case the first level of transformation substantial enough to be considered "processing" probably is in the manufacture of cigarettes. Information contained in the pre-hearing staff report indicates that the amount of cigarettes being manufactured have increased since 1975 (see table 6, p. A-55).

GC-E-211

July 31, 1981

MEMORANUDM

TO: THE COMMISSION

FROM: The General Counsel 1/ [illegible] for MS

SUBJECT: Factors which may be considered by the Commission in determining whether "material interference" exists under section 22(a) of the Agricultural Adjustment Act. 2/

BACKGROUND

The purpose of this memorandum is to address the issue of what factors the Commission should consider and has considered in most cases in determining if there is material interference with an agricultural program. We also wish to address the issue of whether the Commission may consider the goal of export promotion in making its determination in a section 22 investigation. Our views on these matters are directed toward investigation No. 22-43, Tobacco, on which the Commission is scheduled to vote on Tuesday, August 4.

There was considerable discussion on the second issue, the export promotion issue, at the tobacco hearing on June 24-25, 1981. The issue involves whether the Commission may take into account the goal of export promotion in assessing if there is material interference 3/ with the tobacco program within the meaning of section 22. Both the growers and the U.S. Department of Agriculture (USDA) took the position in their post-hearing submissions that export promotion is not a goal of the tobacco program.

1/ This memorandum was prepared by Jeffrey Neeley (30359 rm. 226).

2/ Library References: Section 22; tobacco; material interference; (WANG No. 2528B)

3/ The precise statutory language is imported articles "render or tend to render ineffective or materially interfer with" an agricultural program. For the sake of convenience the phrase "material interference" will be used in this memorandum.

The growers cite Senate Finance Committee hearings on the Trade Agreements Extension Act of 1951 for the proposition that section 22 investigations were not to take into account foreign policy considerations. They also argue that the reference to export promotion found in the preamble to the Agricultural Adjustment Act of 1938 relates to all commodities and is separate from the purpose of the tobacco program, which is to balance supply and demand to achieve parity prices for tobacco growers and an adequate supply to give tobacco consumers a fair price. The growers state:

> The tobacco program was established under Title III of the 1938 Act as finally enacted. Title I contained amendments to the Soil Conservation and Domestic Allotment Act. These are two separate pieces of legislation and despite the single declaration of policy must be considered separately. (P. 22 of Post-Hearing Brief)

The importers believe that the policy stated at the beginning of the 1938 Act declares exports as a goal of the program and therefore the Commission may take the effect of exports into account in determining whether relief is warranted in this case. The importers point out that the Foreign Agricultural Service of the Agriculture Department has a Tobacco Division whose purpose is to promote tobacco exports.

CONCLUSION

(1) The Commission should examine and has examined in past section 22 investigations such factors as import levels, domestic production and inventory levels, inventories held by the Government under the program, changes in the cost to the Government in running the program, and whether various objectives of the program are being met.

(2) We see no reason why, if the Commission finds that export promotion is one of the goals of the tobacco program, it may not take that factor into account in deciding whether the program is being materially interfered with. Even if export promotion is not an explicit goal of the program, the effect of relief on exports may nevertheless be a relevant consideration in the Commission's determination as to remedy if one of the goals of the tobacco program is to achieve high prices for tobacco farmers and the result of relief would be to interfere with those farmers' ability to achieve such prices.

DISCUSSION

<u>What program or programs are allegedly being interfered with?</u>

As we stated in an earlier memorandum in this investigation (GC-E-196, July 20, 1981), it is our view that two tobacco programs, the burley and the flue-cured, may be separately examined in this investigation. As we pointed out, the programs for flue-cured and burley are separate programs that have important differences. The burley program provides for poundage quotas but does not have acreage allotments; the flue-cured program has both poundage quotas and acreage allotments. Because the flue-cured and burley programs are administered separately, we believe that each should be considered a program for the purposes of section 22.

<u>What general factors may be considered?</u>

Commissioner Stern has asked all of the parties to discuss in their post-hearing submissions whether the Commission should take into account a list of factors. The answer to the question of whether a particular factor can be considered by the Commission ultimately turns on whether there is material interference with the program in question.

Section 22(a) provides that the President may impose quotas or higher tariffs if he finds that imports "render or tend to render ineffective, or materially interfere with any program or operation undertaken under this chapter or the Soil conservation and Domestic Allotment Act, as amended, or section 612c of this title, or any loan, purchase or other program or operation undertaken by the Department of Agriculture, or any agency operating under its direction, with respect to any agricultural commodity or product thereof . . . ."

There is little doubt that the Commission can consider the purpose of an agricultural program in determining whether such a program is being materially interfered with. The Commission has examined the purposes of the programs it was considering from the very beginning of its jurisdiction under section 22. In Cotton and Cotton Waste, Inv. No. AAA22-1 (1939) the Commission stated: "The principal purpose of the program regarding cotton . . . has been and is to adjust cotton production to effective demand and to bring cotton prices and the income of farmers to higher levels." (P. 2 of Report). Similar language regarding the purpose of agricultural programs is found in Wheat and Wheat Flour, Inv. No. AAA22-3 (1941) and Dried Figs and Fig Paste, Inv. No. AAA22-18 (1957).

The tobacco growers apparently agree that the Commission may legitimately examine the purposes of the tobacco program in determining whether the program is being materially interfered with. On p. 12 of their post-hearing brief they state: "The sole question presented in this investigation is whether the tobacco program (not other USDA programs) conducted 'for the purpose of stabilizing, supporting, and protecting farm income and prices, assisting in the maintenance of balanced and adequate supplies of tobacco and facilitating the orderly distribution of tobacco' is being rendered or tending to be rendered ineffective by imports."

Several of the factors listed by Commissioner Stern have been used by the Commission in past section 22 investigations and we believe they clearly are related to the material interference question. Those factors are import levels and changes in them and changes in domestic production. 4/ These factors have not always been explicitly mentioned in Commission opinions, but they have always been included in the information obtained in the investigation and presumably have been considered by the Commission.

Certain other factors would seem to be almost always relevant to a consideration of whether an agricultural program is being materially interfered with. Levels of loan stocks as well as changes in the net cost of the operation of the program seem to be evidence of the health of the program.

In this investigation, given the objectives of the tobacco programs discussed above, it is our view that the Commission may also properly examine tobacco farmers' income and the maintenance of fair prices to the consumer. Both of those factors are either explicitly or implicitly goals of the tobacco programs. The goals of the programs are set forth in section 2 of the Agricultural Adjustment Act of 1938 as follows:

> It is hereby declared to be the policy of Congress to continue the Soil Conservation and Domestic Allotment Act, as amended, for the purpose of conserving national resources, preventing the wasteful use of soil fertility,

4/ See, for example, Certain Cotton, Cotton Waste, and Cotton Products, Inv. No. 22-37 (March 1974).

> and of preserving, maintaining, and rebuilding the farm and ranch land resources in the national public interest; to accomplish these purposes through the encouragement of soil-building and soil-conserving crops and practices; <u>to assist in the marketing of agricultural commodities for domestic consumption and for export; and to regulate interstate and foreign commerce in cotton, wheat, corn, tobacco, and rice to the extent necessary to provide an orderly, adequate and balanced flow of such commodities in interstate and foreign commerce through storage of reserve supplies, loans, marketing prices for such commodities and parity of income, and assisting consumers to obtain an adequate and steady supply of such commodities at fair prices</u>. (Emphasis added)

Thus, it is valid to examine those factors in order to determine how successful a program is in achieving its goals. An examination of world production capacity would also be a factor that could help the Commission to determine if articles are "practically certain" to be imported in quantities sufficient to materially interfere with a program.

The quality of the crop being marketed domestically as compared to the quality of the foreign crop offered and the changes between domestic and foreign prices present more difficult analytical problems. The production of high quality tobacco does not appear to be a goal of the tobacco program as such. The reason that more of a commodity is being imported from abroad does not appear to be a particularly relevant consideration in determining whether a program is being interfered with by imports. Thus, the fact that imports are increasing because of the comparative quality or the comparative prices of the domestic and foreign articles is not related to the question of material interference with a program, if used to explain problems with the program. Those factors may be considered, however, in determining the likelihood that imports will increase in the future.

Finally, the maintenance of income to those who lease their allotments is clearly not a purpose of the tobacco programs and therefore would not be a proper focus of attention in a Commission investigation. The income from allotments is purely a by-product of the tobacco program and to our knowledge has never been mentioned by the Congress as one of the goals of the program.

If any of the objectives of the programs discussed above conflict, the Commission must balance the goals to determine if, on the whole, material interference is occurring. The Congress has never specified that any one of the goals of the program is to be given more weight than the others. It therefore would be appropriate for the Commission to give each goal such weight as it deems appropriate in reaching its determination.

Are exports a purpose of the programs?

All of the parties are in agreement that the purposes of the programs include "stabilizing, supporting, and protecting farm income and prices, assisting in the maintenance of balanced and adequate supplies of tobacco and facilitating the orderly distribution of tobacco." (See e.g. p. 12 of Growers' Post Hearing Brief.) Controversy exists, however, as to whether export promotion is one of the purposes of the tobacco programs.

Both tobacco programs in question here are part of the Agricultural Adjustment Act of 1938. 5/ The Declaration of Policy in section 2 of the Act, quoted above, mentions the exports of commodities in two ways. First, it

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5/ Agricultural support programs were first enacted as part of the Agricultural Adjustment Act of 1933. However, portions of that act were declared unconstitutional by the Supreme Court in U.S. v. Butler, 297 U.S. 1 (1936). For a further discussion of that case see GC-E-197 (July 20, 1981). As a result of Butler the Congress reenacted the agricultural support programs in the 1938 act.

states that a purpose of the act is to assist in marketing of agricultural commodities for export. Second, it declares that the act seeks to regulate foreign commerce in tobacco to the extent necessary to provide an orderly, adequate and balanced flow of such commodities in foreign as well as interstate commerce.

The growers argue that the first of these goals, assistance in marketing, is a general matter that relates to all commodities and is not an objective of the tobacco program as such. The growers state that "the tobacco program is specifically directed to balance supply and demand so as to achieve parity prices for tobacco growers and an adequate supply to give tobacco consumers a fair price." (pp. 19-20 of post-hearing brief) The growers main argument is that the provision for the foreign marketing is a separate program from the price support program.

We agree with the growers argument regarding export marketing assistance as a separate program. That program is essentially administered through the Foreign Agricultural Service, which is separate and distinct from the agricultural cooperatives and the Commodity Credit Corporation. However, it is our view that the second purpose mentioned above, the regulation of a balanced flow of foreign commerce for tobacco, is one of the objectives of the tobacco programs in question here.

That second purpose of the 1938 Act is directed explicitly to the tobacco programs, among others. It states that foreign commerce is to be regulated by the tobacco programs "to the extent necessary to provide an orderly, adequate and balanced flow of such commodities." Although the Department of Agriculture insists in its post-hearing brief that section 2 of the 1938 Act "does not purport to apply all of those policies to each particular program undertaken pursuant to the 1938 Act" and concludes that "the effect of section 22 action on exports is not to be considered," USDA gives no reason why the explicit reference to tobacco and foreign commerce makes a consideration of exports irrelevant.

Our conclusion is not changed by the interpretation of the statute given by Senator Milliken during the hearings on the Trade Agreements Extension Act of 1951 (see p. 11 of growers' post-hearing brief). Senator Milliken argued that section 22 did not contemplate an analysis of the effect of relief on U.S. foreign policy. We agree with that view of the statute. However, section 22 does give the Commission the authority to examine the goals of an agricultural program; among the goals of such a program may be foreign sales.

<u>How may the effect on exports be considered?</u>

The Commission may take into account exports in at least two ways in this investigation. First, the Commission may consider the health of the export sector in determining whether there is material interference with the tobacco programs. Second, if the Commission finds that there is material interference, it may take into account the effect of any remedy on exports for purposes if its recommendation on a relief. Clearly, the purpose of section 22 is to protect agricultural programs from material interference. If a particular remedy would have a more adverse effect on the programs than the imports, the Commission is given the discretion to avoid that remedy. It would be contrary to the purposes of section 22 to have the Commission recommend action which would itself cause greater material interference with the program than the imports.