

UNITED STATES TARIFF COMMISSION

CUSTOMS VALUATION

**Final Report to the Committee on Finance of
the United States Senate on Investigation
No. 332-48, Under Section 332 of the Tariff
Act of 1930, Pursuant to a Resolution of That
Committee Adopted February 9, 1966**



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UNITED STATES TARIFF COMMISSION

Paul Kaplowitz, Chairman

Glenn W. Sutton, Vice Chairman

James W. Culliton

Dan H. Fenn, Jr.

Penelope H. Thunberg

Donn N. Bent, Secretary

**Address all communications to
United States Tariff Commission
Washington, D. C. 20436**

C O N T E N T S

	<u>Page</u>
Introduction-----	1
The Commission's suggestions-----	3
Reject the Brussels definition of value-----	6
Abolish the "Final List"-----	13
Eliminate "American selling price"-----	19
Eliminate "United States value"-----	25
Retain "export value" and "constructed value"-----	26
Reasons of Commissioners Fenn and Thunberg for suggesting the actual-transaction-cost standard-----	30
Background information respecting customs valuation:	
Character and purpose of customs valuation-----	38
Purposes served by customs valuation-----	38
Interdependence of the rate and the rate base-----	41
Features common to most systems of customs valuation:	
Criteria for determining dutiable value-----	43
Country-----	44
Merchandise valued-----	45
Transaction level-----	46
Quantity offered-----	46
Time-----	47
Character of transaction-----	48
"Notional" and "positive" standards-----	49
Review-----	50
Ends desired in a system of valuation-----	50
Certainty of results-----	51
Uniformity of policy-----	52
Ease of administration-----	52
Relationship between customs valuation and statistical needs-----	54
International standards of valuation-----	59
Commitments of the Contracting Parties to the General Agreement on Tariffs and Trade-----	59
GATT valuation principles-----	61
Goods upon which dutiable value should be based-----	62
Quantity-----	63
Internal taxes-----	63
Fully competitive conditions-----	63
Currency conversion-----	64

CONTENTS

	<u>Page</u>
Background information respecting customs valuation--Continued	
International standards of valuation--Continued	
Commitments of the member nations to the Convention on the Valuation of Goods for Customs Purposes-----	65
Obligations of the member nations-----	67
Principal features of the Brussels definition of value----	68
Extent to which member nations conform to the Brussels definition-----	72
Appeals procedures-----	74
Valuation methods employed by the United States and its principal trading partners-----	75
United States:	
History of U.S. customs valuation-----	76
1789 to 1831: Landed value-----	77
1832 to 1882: Value in country of exportation-----	77
1883 to 1967: Development of primary and alternative standards-----	81
Cost of production (1883)-----	82
United States value (1897)-----	82
Export value (1921)-----	83
Unsuccessful attempt to revive "home value"-----	84
Foreign value-----	85
American selling price (1922)-----	86
The Tariff Act of 1930-----	88
Customs Simplification Act of 1956-----	88
Current U.S. valuation methods-----	90
Principal trading partners of the United States-----	96
Brazil-----	98
Canada-----	100
Japan-----	102
Mexico-----	103

APPENDIXES

Appendix A. U.S. Tariff Commission, notice of investigation-----	A1
Appendix B. Excerpts from texts setting forth standards of valuation:	
1. General Agreement on Tariffs and Trade-----	A6
2. The United States: Tariff Act of 1930, as amended;	
a. Title IV, sections 402 and 402a-----	A10
b. Title I - Tariff Schedules of the United States, general headnote 6-----	A16

CONTENTS

	<u>Page</u>
Appendix B. Excerpts from texts--Continued	
3. Customs Cooperation Council: Convention on the Valuation of Goods for Customs Purposes, signed at Brussels on December 15, 1950:	
a. Annex I. The Definition of Value-----	A17
b. Annex II. Interpretative Notes to the Definition of Value-----	A18
4. Belgium:	
a. Preliminary Provisions of the Tariff of Import Duties, dated January 1, 1948-----	A21
b. Ministerial Order, dated January 1, 1948---	A23
5. Denmark: The Customs Act of 28 January 1959, as Amended-----	A24
6. France:	
a. Customs Code of February 7, 1953, as amended February 27, 1961 by Decree No. 61-217-----	A27
b. Decree No. 61-217, dated February 27, 1961-	A28
7. Italy: Preliminary Provisions of the Tariff Customs Duties on Importation, approved by Decree No. 1339 of the President of the Italian Republic, dated December 21, 1961-----	A29
8. Norway: Customs Tariff, as amended January 1, 1963-----	A34
9. Sweden:	
a. Customs Tariff Ordinance (May 13, 1960)----	A37
b. Customs Tariff Proclamation (May 13, 1960)-	A37
10. United Kingdom:	
a. Customs and Excise Act of 1952-----	A40
b. Customs and Excise Act of 1952, Sixth Schedule-----	A40
11. West Germany: Customs Act of June 14, 1961-----	A43
12. Brazil: Tariff Law (No. 3,244) of August 14, 1957-----	A47
13. Canada: Customs Tariff-----	A49
14. Japan: Tariff Customs Law (Law No. 54) of April 15, 1910, as amended-----	A56
15. Mexico:	
a. Customs Tariff (Law of December 27, 1955, as amended)-----	A58
b. Official Journal, dated July 31, 1948-----	A59
Appendix C. The Final List-----	A61

CONTENTS

	<u>Page</u>
Appendix D. Articles designated in the Tariff Schedules of the United States (TSUS) subject to American-selling-price valuation:	
1. Benzenoid chemicals:	
a. TSUS headnote 4, part 1, schedule 4-----	A74
b. TSUS headnote 5, part 1, schedule 4-----	A74
c. Articles listed in part 1, schedule 4, TSUS, that are subject to ad valorem rates-----	A74
2. Canned clams and related products:	
a. TSUS headnote 1, part 3E, schedule 1-----	A80
b. Articles designated by headnote 1, part 3E, schedule 1, TSUS-----	A80
3. Rubber-soled fabric-upper footwear:	
a. TSUS headnote 3(b), part 1A, schedule 7, as amended-----	A80
b. Articles designated by headnote 3(b), part 1A, schedule 7, TSUS, as amended---	A81
4. Wool knit gloves:	
a. TSUS headnote 4, part 1C, schedule 7-----	A82
b. Articles designated by headnote 4, part 1C, schedule 7, TSUS-----	A82
Appendix E. Administrative provisions of the Tariff Act of 1930, as amended, relating to valuation-----	A83
Appendix F. Explanation of the provisional application of the General Agreement on Tariffs and Trade-----	A95
Appendix G. Current bases of valuation of imports used for customs purposes and statistical reporting by foreign countries-----	A97
Appendix H. Letter to the Chairman, United States Tariff Commission, from the Commissioner of Customs, dated November 14, 1966-----	A102

(TC28355)

U.S. Tariff Commission,
February 28, 1967.

INTRODUCTION

On February 9, 1966, the Committee on Finance of the United States Senate directed the Tariff Commission, pursuant to section 332 of the Tariff Act of 1930, to investigate the methods of valuation used by the United States and its principal trading partners to determine the duty applicable to imports. A copy of the Committee's resolution is included in appendix A.

The Finance Committee directed the Commission to prepare both a preliminary and a final report. In its preliminary report, the Commission was to describe the valuation methods used by the United States and its principal trading partners and analyze the effects of the basic differences between such methods. The preliminary report was submitted to the Finance Committee in July 1966. In this, the final report, the Commission was to include suggestions and recommendations for improving the customs valuation laws of the United States, including its views as to the feasibility and desirability of adopting the Brussels definition of value for customs purposes and as to appropriate means for adopting such definition of value with the least practicable effect on trade. Pertinent background information that was in the body and appendix of the preliminary report are included herein.

Notice of the Commission's investigation was issued on February 11, 1966, and published in the Federal Register of February 17, 1966 (31 F.R. 2878). The Commission urged all interested parties to submit written views pertinent to the investigation no later than April 15, 1966; views were received from a substantial number of interested parties. On September 23, 1966, the Commission gave notice of a public hearing to be held in connection with the investigation (31 F.R. 12692); the hearing was held on November 3 and 4, 1966.

The Commission obtained information not only at the public hearing and in written views, but also from its files, from other agencies of the U.S. Government, from various foreign governments through U.S. Embassies, from customs officials of several foreign countries, from the Directorate of the Customs Co-operation Council, and from other interested parties. The Bureau of Customs of the Treasury Department and other U.S. Government agencies cooperated fully with the Commission during the course of its investigation.

In this report, the term "standard" of valuation is used to refer to a set of criteria, customarily established by law, which customs officials must observe in determining the customs (duti-able) value of an article (e.g., "export value" as defined in U.S. law is a valuation standard). Standards that prescribe that goods shall be valued at their value in the country of exportation are frequently termed f.o.b. standards, and the dutiable values derived therefrom, f.o.b. values; those that prescribe that goods shall be valued at the place of entry into the country of importation are frequently termed c.i.f. standards, and the dutiable values derived therefrom, c.i.f. values. These popular references do not accurately describe any of the standards. 1/ For purposes of convenience, however, those terms will be used in this report in the broad sense identified above.

1/ Technically the terms "f.o.b." and "c.i.f." should not be used except in association with a stated place--e.g., f.o.b. factory, c.i.f. place of importation. F.o.b. (free-on-board) refers to a price of an article, loaded on a carrier at a specified place; c.i.f. (cost, insurance, and freight) refers to a price that includes the cost of the goods and transportation and insurance charges to a specified place.

THE COMMISSION'S SUGGESTIONS

The Commission, in the light of the investigation and its cumulative experience, recommends that the United States:

1. Continue its basic policy of valuing imports in the country of exportation.
2. Extend the application of this policy to all imports.
3. Base dutiable value on values at the port of exportation.
4. Apply the basic policy through a valuation system consisting of as few standards of value as possible.

To make these recommendations more specific and to phrase them in terms pertinent to both the Finance Committee's resolution and existing law, the Commission suggests:

1. That the United States not adopt the Brussels definition of value.
2. That section 402a of the Tariff Act of 1930 be repealed (thereby abolishing the "Final List").
3. That the "American selling price" and "United States value" standards in section 402 of the Tariff Act of 1930 be repealed.
4. That the remaining two valuation standards in section 402 (i.e., "export value" and "constructed value") be retained as the primary and alternative standards, respectively; the two standards should be modified, however, so that dutiable values will be uniformly based on values at the port of exportation.

Commissioners Fenn and Thunberg, while they agree that the above suggestions propose desirable modifications and, therefore, are not opposed to them, are convinced that significantly greater improvement can be achieved by the substitution of the following

for item No. 4, immediately above:

The valuation standard should be based on the actual transaction cost (including the value of all considerations given, or to be given, to obtain the article at the point of exportation as of the time of exportation), or a value equivalent thereto if the goods have not been obtained by means of an arms-length purchase.

Any system of customs valuation in a modern industrial nation is bound to be complex and confusing and, as the Commission has found, it is difficult to explain its inner workings without making it appear even more confusing and complex than it really is. Even so, the system of the United States is excessively complex because it consists of nine different standards, assembled into six different "systems." To show the present workings of the U.S. valuation system and, at the same time, to highlight the issues involved in simplifying the system, this report includes a brief review of its historical development (see pages 78-90).

A valuation system not only deals with complex realities but also has to satisfy a number of different needs. The Commission suggests that the following objectives offer appropriate guidelines:

1. A valuation system should be as simple as possible, with the fewest bases of valuation feasible.
2. The criteria specified in a valuation system should be consistent with commercial practices to the greatest extent possible.
3. The criteria should be defined with sufficient precision to minimize differences in interpretation.
4. A system should permit an importer to predict with certainty the dutiable value of an anticipated shipment of goods.

5. A system should, to the greatest extent possible, base the determination of dutiable value upon information readily available to the importer and the customs.
6. A system should provide a procedure for the review of valuation determinations that will be equally available to all parties and afford impartial, equitable, and rapid decisions on appeals.
7. A system should contribute to the ready compilation of reliable import statistics which, with a minimum of adjustment, will serve the wide variety of uses to which modern society puts such data. (Further development of the statistical needs is given on pages 54-58).

If the recommendations and suggestions of the Commission were adopted, the resulting valuation system would be consistent with the aforementioned objectives, while retaining the best of American tradition and experience; would not seriously either disrupt trade or change the amount of duty collected, in total or on any large segment of trade; and would go far toward alleviating some of the present system's major irritants. (The major aspects of the Commission's suggestions are developed in pages 6-37b).

The main features of the Brussels system are discussed in pages 65-74, and those of the systems of our major trading partners (many of whom adhere to the Brussels system but with some variations), in pages 96-104. These sections describe the characteristics of valuation systems of the nations doing the bulk of world trade.

Appendixes A through H present documentary evidence appropriate to the study and analytical material gathered or prepared in the course of the investigation.

Reject the Brussels Definition of Value

The Brussels definition of value is the name popularly used to identify the valuation standard incorporated in the Convention on the Valuation of Goods for Customs Purposes, signed in Brussels in 1950. The definition provides that the dutiable value of imported goods shall be their so-called normal price, i.e., the price they would fetch, delivered to the buyer at the place of importation, at the time the import duty becomes payable, on a sale in the open market between buyer and seller independent of each other.

The Brussels definition embodies three main concepts: First, it creates a c.i.f. standard under which goods are to be valued delivered to the place of importation. It differs little in this respect from most other c.i.f. standards used by countries that are not contracting parties to the Brussels valuation convention. Second, the Brussels definition establishes a "notional" concept of valuation--i.e., the value to be determined is the price that the goods would bring if sold in accordance with specified terms. It is intended that the dutiable value shall correspond to the price at the port of entry, before payment of duty, at which the seller would be freely willing to sell and the buyer freely willing to buy. Third, the definition establishes a single standard of customs valuation that is to be used whenever the dutiable value of merchandise is to be determined.

For more than a century, the United States has, with minor exceptions, valued imports on the basis of their value in the country of exportation. Ad valorem and compound rates of duty, as well as tariff

classifications based on value categories, have been established in the U.S. tariff schedules on the assumption that goods would be valued on this basis. Valuation methods and techniques have been formulated to administer this particular valuation concept. The Commission believes that the precedent and practices of many years should not be lightly abandoned. Nearly a half century ago, when considering another proposal that would have effected a major change in U.S. valuation standards, the Tariff Commission endorsed the following observation: ^{1/}

The experience, the regulations, the decisions, executive and judicial, accumulated during this long period . . . can not be discarded and an untried and merely theoretical system adopted, unless the superior advantages of the latter are so manifest as to be beyond controversy.

The Brussels definition of value, of course, is not an untried system, but the caution thus expressed is still appropriate. Workable rules of practice long tested by experience should not be quickly discarded.

If the United States should adopt the Brussels definition of value or any other standard that values goods at the place of importation into the United States, the dutiable value of most imported goods would be higher than if they had been valued at their value in the country of exportation. In effect, the freight, insurance and other charges incident to the movement of the goods from a point in the foreign country to the place of importation into the United States would be included as part of dutiable value; such charges are excluded when

^{1/} U.S. Tariff Commission, Information Concerning American Valuation as the Basis for Assessing Duties Ad Valorem, 1921, app. I, p. 23.

the goods are valued under current U.S. standards. The extent to which the dutiable values would be higher, however, would vary widely among individual entries, whether measured in relative or absolute terms. For some entries the increase in dutiable value would be negligible or nil; for others the value at the port of importation would be substantially higher than the value in the country of exportation. The amount of the increase for a given entry would depend on a multitude of factors, the more important of which would be the type of product involved, the proximity of the country of exportation, the port of entry, and the mode of transportation.

If the United States should shift to the use of the Brussels definition, the dutiable values of articles whose values are high relative to their bulk and weight would be increased proportionally far less than those of articles low in value relative to their bulk and weight. Assuming that trade was similar to that in 1964, the dutiable value of entries of ball bearings, for example, would be increased very little on the average, perhaps by about 2 percent, while the dutiable value of entries of plywood would be increased materially on the average, probably about 40 percent. Statistical data recently published by the Tariff Commission and the Department of Commerce on freight and insurance on U.S. imports suggest the extent to which the adoption of the Brussels definition would alter dutiable value. 1/

1/ U.S. Tariff Commission, Press Release of Feb. 7, 1967, C.I.F. Value of U.S. Imports, and U.S. Department of Commerce, Bureau of the Census, Press Release CB66-152, Dec. 20, 1966.

If the United States was to adopt the Brussels definition, the dutiable values of goods imported from distant countries would, other factors being equal, be increased more than those of goods imported from suppliers nearer the United States. The dutiable value of goods from Japan, for example, would generally be increased more than that of similar products from the United Kingdom, and the dutiable value of goods from India, more than that of similar articles from the Netherlands. Canada and Mexico presumably would be the least likely to be adversely affected. In fact, for Canadian and Mexican goods now valued f.o.b. port of exportation, the change in dutiable value caused by the shift to a c.i.f. standard would be nil. Many of the entries from Canada and Mexico, however, are now valued on the basis of ex-factory prices; hence, internal transportation costs would be added if the goods were to be valued on the basis of the Brussels definition. Somewhat similarly, the ports at which shipments enter the United States and the mode of transportation used would be affected unequally should the United States shift to the use of the Brussels definition of value.

If the United States should adopt the Brussels definition of value, it would probably attempt to convert present ad valorem rates of duty to counterbalance the resultant increases in dutiable value. Under the General Agreement on Tariffs and Trade, the United States has granted trade-agreement concessions on most of the tariff items in its schedules. It has obligated itself therein not to change its methods of customs valuation in a manner that would impair the value of the concessions it has granted. If the United States should adopt

the Brussels definition, the resulting increases in dutiable value would impair its concessions on items subject to ad valorem or compound duties. Under the GATT rules, the United States could satisfy the claims of other contracting parties for compensation by granting either across-the-board concessions or concessions on items subject to specific rates of duty. More likely, however, the United States would endeavor to convert each of its ad valorem and compound rates of duty to adjust for the increase in dutiable value on individual items. Such conversion would be feasible only if certain expedients were employed--say, that of converting rates of duty on the average for each tariff item for which the rate was ad valorem or compound. Each available expedient, however, could be defended only on the basis of partially valid assumptions. Conversion of rates might adjust in part for the effect of adopting the Brussels definition; nevertheless, even if rates were so adjusted, the effect of adopting the Brussels definition would vary--among products, countries of origin, ports of entry, and modes of transportation.

Some interested parties have suggested that a c.i.f. valuation standard be adopted by the United States because of the need for statistical data based on the landed value of U.S. imports (usually termed c.i.f. statistics). In its statistics, the United States records the customs value of imported goods--a procedure believed to be followed by almost all countries. Since nearly all goods are valued by U.S. customs on the basis of their value in the exporting country, the value data in U.S. statistics generally do not include the costs

of ocean transportation, insurance, and certain other costs. The United States is joined in this practice by a number of countries, but the great majority of the major trading countries record and publish their import statistics on a c.i.f. basis.

Statistical information showing the landed value of U.S. imports would be useful for a number of purposes. Such data would aid in making comparisons of U.S. trade with that of many of its trading partners. They would be useful at times to aid in comparing the dollar volume of U.S. imports with that of domestic production or consumption. Frequently, however, the landed values of imports are not closely comparable with the available value data on production and consumption, which usually are based on selling prices in the country concerned; hence, the usefulness of c.i.f. data for that type of comparison tends to be limited.

For certain purposes, import statistics based on the landed values of imports are less useful than those based on values in the country of exportation. In preparing balance-of-payments statements, the United States and other countries, for example, employ import data based on values at the customs frontier of the exporting country. This method is used by balance-of-payments experts in order that payments for goods may be shown separately from payments for services such as intercountry freight and insurance. Moreover, adjustments must be made to account for whether the relevant freight and insurance payments were made to foreign or domestic recipients. In conformity with the general practice, the International Monetary Fund requests

that the import data supplied to it for inclusion in balance-of-payments statistics be based on values f.o.b. the exporting country. Accordingly, the method currently used by the United States to value imports appears to have some superiority over c.i.f. valuations for balance-of-payments accounting.

A number of interested parties who presented views to the Commission during this investigation expressed concern that the use of the Brussels definition of value might conflict with provisions of the U.S. Constitution. Most of them referred to two clauses in the Constitution:

The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises . . . but all Duties, Imposts and Excises shall be uniform throughout the United States (art. I, sec. 8, cl. 1).

No preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another . . . (art. I, sec. 9, cl. 6).

Under either the Brussels definition of value, or any other standard valuing goods at the port of importation, identical goods (even from the same foreign exporter) entered at the same time at different U.S. ports are likely to be valued at different values because of differences in intercountry transportation costs. Some observers believe that the Constitution requires that the duties collected on like goods entered at the same time must be uniform at every port throughout the United States, and that the Brussels definition of value would be inconsistent with the constitutional intent. Others conclude that the Constitution requires that the method of valuation must be uniform throughout the United States, but not the results (the duties collected). The Commission's suggestions herein would be unaltered

even if the constitutional issue had not been raised. The Commission, of course, is not the appropriate tribunal to decide constitutional issues. Nevertheless, it believes that Congress would wish to be apprised of the differences in views.

The Commission suggests that the Brussels definition of value not be adopted. It does not favor a valuation standard that would base dutiable value on the value of imports at their place of entry into the United States, because of the widespread impact of such an action on the commodity composition, geographic distribution, and pattern of entry of U.S. imports. Without any major advantage to be gained thereby, adoption of the Brussels definition would depart materially from the basic valuation concepts that the United States has followed for more than a century. If it were adopted, the dutiable values of nearly all imported articles subject to ad valorem or compound rates would be increased, but by widely varying proportions. Rates of duty might be converted in an attempt to adjust them to counterbalance the altered valuations. Nevertheless, the change in the valuation rules would unequally and unpredictably affect commodities, U.S. trading partners, ports of entry, and means of transportation.

Abolish the "Final List"

Under the original Tariff Act of 1930, "foreign value" or "export value," whichever was higher, constituted the primary basis on which the United States determined the dutiable value of imported merchandise. If neither could be ascertained, the "United States value" was to be

used, and if that also could not be ascertained, the "cost-of-production" basis was to be employed. In specified circumstances, the "American selling price" basis of valuation was prescribed. Until 1958 these standards were used to determine the customs value of all imported goods.

The amendment of U.S. customs valuation laws by the Customs Simplification Act of 1956 ^{1/} effected a substantial improvement and modernization of U.S. valuation standards. For the valuation of most articles, this act eliminated the "foreign value" basis of valuation and established "export value" as the sole primary valuation standard. It also modified the meaning of "export value" and the alternative bases of valuation largely by defining various terms used therein. The new valuation standard that corresponded to the "cost-of-production" basis of valuation was named "constructed value." These new standards were established as section 402 of the tariff act. The old obsolete standards, however, were retained in a section designated section 402a, and remained applicable to a list of articles specified by the Secretary of the Treasury.

In the 1956 simplification act, the Secretary of the Treasury was instructed to prepare a list of commodities which--if appraised under the new valuation standards--would have been valued at 95 percent or less of the value at which the commodities were actually appraised in the year that ended June 30, 1954. The articles identified were to continue to be valued under the old valuation standards. As published

^{1/} 70 Stat. 943.

by the Treasury Department on January 28, 1958, the "Final List" 1/ included 1,015 classifications of articles. 2/ The valuation provisions of the Customs Simplification Act of 1956 became effective 30 days later.

The overhaul of U.S. customs valuation provisions in 1956 was designed principally to eliminate "foreign value" as a basis of valuation of imported merchandise. In other words, it was designed to advance U.S. practices as far as possible toward the use of a single "export value" concept. During the early 1950's, the administration had sought to eliminate the "foreign value" standard; it was expected that such action would simplify and expedite customs administration, in part by reducing the number of value investigations that would need to be made abroad. In both the 82d and 83d Congresses, the House of Representatives passed a bill intended to eliminate "foreign value," but the Senate did not concur. In the 84th Congress, the House again approved the elimination of "foreign value" as a standard of valuation; the bill in this instance was H.R. 6040, which, with important modifications, became the Customs Simplification Act of 1956. In the course of the consideration of the bill by the Ways and Means Committee, some domestic industries objected to the elimination of "foreign value" on the grounds that such action would reduce the level of protection

1/ The statute called for the promulgation by the Secretary of the Treasury of a preliminary list to which were to be added any additional qualified items brought to the attention of the Secretary by domestic producers; the "Final List" thus included the items on the preliminary list plus the proposed items found to meet the criteria.

2/ T.D. 54521 (see app. C).

against imports of the products of a type that they produced. In reporting to the House, however, the committee emphasized the advantages to be gained from the elimination of "foreign value," although it recognized that some diminution in tariff protection might result from its action.

When the bill was before the Senate Committee on Finance, those opposing its passage again protested that the loss of protection associated with it would substantially harm domestic industries. To meet these objections, the Treasury Department proposed that it prepare a list of articles to which the new valuation standards would not immediately apply. The Treasury suggested this list as a temporary measure that would provide a limited period of respite from any possible loss of protection; the initial list of articles was to have been altered annually by additions and deletions as changed circumstances warranted, and was to have lapsed at the end of 3 years unless the Congress acted to make it permanent. The Committee on Finance approved the concepts of an initial list and of annual changes in it, but did not approve the proposal that it should automatically lapse after a set period of time. By amendment on the floor, the Senate deleted the provision for annual changes. The Senate amendments were made because it was desired to have the Treasury submit proposed changes to the Congress, rather than grant the Secretary authority in advance. The House accepted the Senate amendments, and the bill passed the Congress in the amended form.

With the lapse of 9 years since its adoption, the "Final List" has largely served its purpose. Indeed, because of a variety of factors, such as the great changes in U.S. import trade that have occurred in that period, the "Final List" now gives rise to unintended results. To ascertain the effect of the "Final List," the Bureau of Customs recently conducted a study of imports of articles thereon that were entered in April and September 1965. The Bureau concluded "that much of the effective protection of the Final List has been lost." ^{1/} While the "Final List" originally included those products that would have been valued at least 5 percent lower under the new valuation standards than under the old, the dutiable value of "Final List" items in April and September 1965 would have averaged only 2 percent lower if determined under the new standards rather than under the old.

An analysis of data supplied to the Commission by the Bureau indicates that the existence of the "Final List" today has two results that were not intended. First, in terms of value, four-fifths of the imports of "Final List" articles in April and September 1965 consisted of articles on which the dutiable value would decrease or increase by less than 5 percent if section 402a was repealed.

Second, in terms of value, nearly half of the imports of "Final List" articles in the 2 months studied consisted of articles which would have had a higher (not lower, as anticipated) dutiable value if they had been valued under section 402 rather than under section 402a.

^{1/} Letter of Nov. 14, 1966, from the Commissioner of Customs to the Chairman, U.S. Tariff Commission (app. H).

For the bulk of such imports, the increase in dutiable value would have been only from 1 to 3 percent. Nevertheless, circumstances have so changed that for almost half of the trade involved in "Final List" articles, the effect of repealing section 402a would be to increase dutiable values, not to decrease them.

As a result of changes that have taken place since 1956, less than a fifth of the value of imports of "Final List" articles in the 2 months studied consisted of products on which the dutiable value would decrease by more than 5 percent if section 402a were eliminated. For the bulk of such imports, the decrease in dutiable value would range from 6 to 30 percent; for some, the decline would amount to as much as a third or a half. U.S. imports of the articles involved account for less than 5 percent of total U.S. imports of articles subject to ad valorem and compound duties.

Clearly, the manifold changes in U.S. import trade have made the "Final List" an outmoded scheme. For a period of 9 years, the Bureau of Customs has been required to determine the value of imported merchandise under two sets of valuation provisions. The dual system is anachronistic--a time-consuming and expensive burden on U.S. trade and customs administration. Customs officials must determine under which set of valuation standards the value of an article is to be determined; the decision may be simple in some instances, but is difficult and laborious in others. Customs officials are required to keep abreast of information needed to administer two different groups of standards, including Bureau rulings, court decisions, and a wide

array of commercial information. In making recommendations to the Commission during the course of this inquiry, the Bureau of Customs described the administrative burden as follows:

The continuation of the Final List keeps alive five obsolete bases of value resulting in a total of nine value bases on which to appraise imported merchandise. The five under 402(a) applicable to Final List products are foreign value, export value, United States value, cost of production, and American selling price. The four under 402 are export value, United States value, constructed value, and American selling price. Each of the nine bases has its own distinctive statutory definition which requires different interpretations under the same circumstances of sale. The proper administration of both laws requires a considerable amount of time and a great amount of reference material; the proliferation of value definitions further generates a great deal of confusion, and thereby substantial amounts of correspondence.

The Commission suggests that the Congress repeal section 402a of the Tariff Act of 1930, as amended. Thereby five standards of valuation could be eliminated--standards which are used only to value imports of goods on the "Final List." With the lapse of 9 years, the "Final List" gives rise to unintended results. Its continued use constitutes a substantial burden to those administering the customs, and an onerous handicap to trading interests.

Eliminate "American Selling Price"

Currently, benzenoid chemicals, certain rubber-soled fabric-upper footwear, certain canned clams, and certain wool knit gloves are subject to the "American selling price" (ASP) method of valuation. Under this standard, the dutiable values of benzenoid chemicals are based on the selling prices in the United States of "competitive" domestic

products, and those of the other products involved, on the selling prices of "like" or "similar" domestic articles. If the imported article is in a category to which the ASP standard applies but there is no domestic counterpart, the imported article is valued by using the regular U.S. valuation standards, in specified orders of precedence. Even two definitions of ASP are provided--one of which pertains to specified products on the "Final List" and the other, to certain products not on the "Final List." U.S. imports of articles subject to valuation "systems" in which ASP is the primary standard account ordinarily for about 1 percent of total U.S. imports of articles subject to ad valorem and compound duties.

The ASP standard of customs valuation was first adopted by the United States with the passage of the Fordney-McCumber tariff act in 1922. The Fordney bill, as introduced in the House of Representatives, provided that a so-called American valuation should be the basis of valuation of all imported goods. Under "American valuation," imported goods that had a "comparable and competitive" counterpart produced in the United States were to be valued on the basis of the wholesale selling price of the domestic article--i.e., on an ASP standard. Imported goods which did not have a domestically produced counterpart were to be valued at the equivalent of their wholesale selling price in U.S. markets. On several occasions in the preceding century, essentially the same proposal had been made unsuccessfully to the Congress either by administration officials or domestic business interests. The proponents of "American valuation" claimed that it was needed to

combat extensive fraudulent undervaluation of imported goods and to equalize the amount of duty to be collected on similar articles regardless of variations in foreign market values and depreciation of foreign currencies.

As passed by the House of Representatives, the Fordney bill provided that "American valuation" would be used to value all imported articles. The Senate, however, opposed its use on such an "across-the-board" basis; it proposed instead that the existing U.S. methods of valuing imports on the basis of their value in the exporting country should be continued. In its report, the Committee on Finance suggested that the prevention of undervaluation might be better achieved by efficient customs administration than by the adoption of any particular valuation standard. It indicated further that problems of establishing rates of duty that would apply equitably to both "comparable" and "noncomparable" goods, and of determining comparability between imported and domestic goods appeared insoluble. In conference, the House receded: "American valuation" was not adopted for general use. Nevertheless, for the apparent purpose of providing maximum protection without the use of overtly exorbitant rates of duty, the Congress agreed that certain coal-tar (benzenoid) chemicals would be valued on the basis of the "American selling price" of the competitive domestic article. Further, the President was authorized to use the "American selling price" standard if deemed necessary in taking action under the flexible tariff provision of the 1922 act; the latter provision authorized the President to modify rates of duty to offset differences in

cost of production of specific articles in the United States and abroad.

Adoption of "American valuation" was again strongly urged preceding the enactment of the Tariff Act of 1930. Neither House of Congress, however, approved its use as a general valuation standard. The ASP standard was continued for coal-tar chemicals and again provided for use under the flexible-tariff provision. ^{1/} Thus, despite a century or more of substantial support, the ASP method of valuation has been applied in the United States only to very limited categories of goods.

Protection should not be a function of customs valuation. It is no secret that the ASP method of valuation is a device for affording greater protection to domestic producers than is ordinarily afforded by the conventional methods in use. This fact is recognized in section 336 of the Tariff Act of 1930 where ASP valuation is provided as a method of increasing protection to equalize domestic and foreign costs of production when a 50-percent increase in the statutory rate of ad valorem duty is found to be insufficient to effect the intended upward adjustment. ^{2/} Indeed, ASP valuation was considered to be so effective as a protective device that section 332 provides that when this alternative is resorted to, the statutory rate of duty may not

^{1/} At present, the ASP standard applies, pursuant to action under the flexible-tariff provision, to certain rubber-soled fabric-upper footwear, certain canned clams, and certain wool knit gloves.

^{2/} This circumstance occurred in the sec. 336 case in 1962 relating to brooms.

be increased--although it may be decreased (though by not more than 50 percent).

The ASP standard is not in accord with the basic valuation principles in the General Agreement on Tariffs and Trade (GATT). Article VII in part II of the General Agreement explicitly provides that the contracting parties should not base the dutiable value of imported goods on the value of domestically produced merchandise. The United States, however, is not now obligated because of its GATT commitments to eliminate "American selling price" from its valuation standards. The United States still applies the General Agreement under the Protocol of Provisional Application, which absolves it from complying with provisions of part II of the General Agreement when they are not consistent with domestic legislation in effect at the time it acceded to the agreement. Nevertheless, the framers of the General Agreement anticipated that the GATT members would gradually bring their domestic legislation into conformity with the GATT guidelines. 1/

1/ The United States anticipated the possibility of action to eliminate the ASP standard by including the following in the General Notes to its GATT schedule of concessions: "In the event that the United States adopts any measure which precludes the application of 'American selling price' . . . , it shall be free to adjust any rate of duty . . . assessed on the basis of such 'American selling price' to offset in whole or in part the difference in amount of duty which would otherwise result from the adoption of such measure." In 1950 a customs simplification bill was introduced in the 81st Congress which provided inter alia for the elimination of valuation on the basis of "American selling price" (sec. 14, H.R. 8304), but no action was taken on it. In 1951 a similar bill was introduced in the 82d Congress. The Ways and Means Committee deleted the provisions in that bill dealing with "American selling price"; the House of Representatives approved the proposed legislation as amended, but the Senate Finance Committee did not act on it.

The Congress has already recognized the anomalous nature of "American selling price." When modifying the tariff treatment of protective footwear 1/ and brooms in 1965, the Congress not only refused to extend the scope of ASP valuation, but instead reduced it. Protective footwear made of natural rubber had been made subject to valuation under the ASP standard in the 1930's. As a result of increasing competition in recent years from footwear made of synthetic rubber and plastics, U.S. producers requested Congress to make imported protective footwear of these materials subject to ASP valuation. A number of bills were introduced in the Congress to achieve this purpose. 2/ The Congress, however, not only refused to extend ASP valuation to such footwear, but also withdrew the application of the ASP standard from imported protective footwear made of natural rubber. 3/ The 89th Congress was also unwilling to subject brooms to ASP valuation. In January 1962 the Tariff Commission reported to the President under section 336 that, since the maximum permissible increase in the rate of duty would fail to equalize the differences in cost of production between domestic and imported brooms made of broomcorn, it would be necessary to levy the existing rate of duty on the basis of ASP valuation. When the President did not take such action, the domestic producers requested Congress to do so. Several bills were introduced

1/ Protective footwear consists of rubbers, overshoes, etc. The Congressional action discussed in the text did not affect the ASP valuation of rubber-soled fabric-upper footwear.

2/ See, for example, H.R. 8050, 89th Cong.

3/ Sec. 57 of the Tariff Schedules Technical Amendments Act of 1965 (P.L. 89-241).

to accomplish this purpose. 1/ Congress again refused to approve the use of the ASP standard, and instead granted the domestic producers additional protection by increased rates of duty on imports in excess of a tariff quota. 2/

The Commission suggests that the Congress eliminate the ASP standard of determining the dutiable value of imported goods, and repeal the related provisions of the Tariff Schedules of the United States and of section 336 of the Tariff Act of 1930. 3/ Although the ASP standard has been used by the United States for restricted categories of articles for several decades, recurring proposals that the valuation concept embodied therein should be adopted for general usage have been consistently rejected by the Congress. The standard, moreover, is inconsistent with the valuation principles set forth in the General Agreement on Tariffs and Trade.

Eliminate "United States value"

"United States value" provides a method of approximating the value of imported goods in the country of exportation by working back from selling prices in the United States. Accordingly, the selling price in the principal U.S. market of merchandise identical with or similar to the imported goods being valued is taken as a point of departure; profits, intercountry freight and insurance, duties and

1/ See H.R. 2182 and S. 1083, 89th Cong.

2/ P.L. 89-241, sec. 78.

3/ Sec. 336, which embodies the concept of rate fixing by a comparative cost-of-production formula, has been rarely used since 1934 when Congress forbade its employment in the case of articles on which trade-agreement concessions are in force. The section might well be repealed altogether.

importing expenses are subtracted from such price to approximate the value in the country of exportation. A form of "United States value" was first established by the Dingley tariff act of 1897. For most articles "United States value" is currently the first alternative standard of value to be used if the primary standard cannot be applied. Two "United States value" standards exist; the elimination of section 402a of the tariff act would abolish one of them, and the Commission suggests that the other (in section 402) should also be eliminated.

The elimination of "United States value" would contribute to the reduction in the number of U.S. valuation standards--one of the basic goals suggests by the Commission for the simplification of U.S. valuation methods. Currently, the dutiable value of goods for which "export value" cannot be determined is almost never successfully determined by customs on the basis of "United States value." Customs officials find that, when the "export value" of goods cannot be determined, the identical or similar merchandise is seldom freely offered for sale in U.S. markets--a circumstance that prevents the determination of dutiable value under the "United States value" standard. As an alternative for "export value," therefore, the "United States value" standard is a purposeless administrative burden which could be eliminated by terminating the standard.

Retain "Export Value" and Constructed Value"

As indicated above, the Commission suggests that the U.S. valuation system should consist of "export value" as the primary standard

and "constructed value" as the only alternative standard--retaining both with their definitions modified as indicated below. U.S. valuation methods would thus be greatly simplified and improved. The complexity and confusion arising from the existence of nine individual standards would be ended. Most imported goods would be valued on the basis of the "export value" standard; in those instances that "export value" could not be determined, "constructed value" would provide a workable alternative. Whichever standard was used, moreover, the dutiable value would be in accord with the basic U.S. valuation concept of many years standing--valuing imports at values in the country of exportation.

The current U.S. definitions of "export value" and "constructed value," however, should be modified. Both standards should provide that the appropriate values be those at the port of exportation, with the goods ready for lading on the export carrier (i.e., free-alongside (f.a.s.) the export carrier). ^{1/} This change in definition would provide uniform treatment of all exporters and resolve a major administrative problem for the Bureau of Customs.

Under the current "export value" standard, the dutiable values of goods are generally determined on the basis of either ex-factory or port-of-exportation prices. If the foreign producer offers to sell

^{1/} Through shipments--say, loaded at the factory in Canada or Mexico and unloaded at an inland point in the United States--would not be loaded at the port of exportation. The dutiable value of such shipments, under either "export value" or "constructed value," should be based on the value of the goods at the port of exportation on board the carrier. Air shipments, although frequently originating inland, are almost always loaded at a port of exportation (the airport), and should be valued f.a.s. the export carrier.

only at port-of-exportation prices, the "export value" of the goods is determined on the basis of those prices (thus including delivery costs to the port). But if the foreign producer offers to sell on an ex-factory basis (even if he also sells or offers to sell on a delivered port basis), the "export value" is based on ex-factory prices (thus excluding delivery costs to the port). In practice, the "export values" of imported goods are based on ex-factory prices more often than not. The dutiable values of the bulk of the imports from Japan and Canada valued at "export value" are based on ex-factory prices, while the dutiable values of about half of the imports from other countries are based on such prices.

The Bureau of Customs frequently finds it difficult to determine whether the foreign producer stands ready to sell on an ex-factory basis. The determinations are often time consuming, occasionally require a foreign inquiry, and cause uncertainty and delay.

The most feasible way to place "export value" and "constructed value" on a port-of-export basis would be to require that the necessary additional costs for inland delivery to the port would be added when not already included in the costs on which dutiable value was based. For example, if "export value" was being determined on the basis of the price of the goods delivered to the port ready for lading, no additional amounts would have to be added. But if "export value" was being determined on the basis of ex-factory prices, the inland freight, other delivery expenses, and (if necessary) commissions and brokerage fees would have to be added.

If "export value" and "constructed value" were based on values at the port of exportation, the duties that would be collected on many shipments would be slightly higher than if they had been valued under present standards. Apparently Canada and Japan would be adversely affected more than other countries. The increase in the duty to be collected would generally be minor. Inland delivery and other expenses, though they vary from product to product and shipment to shipment, usually are a small part--say, less than 5 percent--of the cost of foreign products at the port. Though the actual effect on trade would be minor, the change in the valuation standards would violate U.S. obligations in the General Agreement on Tariffs and Trade (GATT). Under article II:3 of the agreement, the United States may not alter its method of determining dutiable values so as to impair any of the concessions it has granted. Under the GATT rules, the United States could, if necessary, grant compensatory concessions to the countries affected.

Reasons of Commissioners Fenn and Thunberg for Suggesting
the Actual-Transaction-Cost Standard

We recommend a shift to an "actual-transaction-cost" standard of valuation because we believe that the United States could thereby move significantly closer to an ideal standard with its benefits of certainty, ease of administration, and availability of information. Further, it appears to us that this improvement could be made with very little impact on the composition of trade or level of revenue, and with a minimum of administrative disruption for the Bureau of Customs.

In making this suggestion, we note that a transaction-type standard was the system instituted by the Congress in the first days of the Republic. It was officially maintained until 1842, although in practice it was probably being gradually replaced during the two preceding decades by a "market value" concept, apparently partly in order to bring the value provisions into line with appraisement provisions and partly because of concern over fraud. We shall return to this point subsequently.

Today, the patterns of world trade are so complex and varied that no valuation standard can meet completely all the goals of an ideal system. Nonetheless, there are various degrees of approximation. In our view, the combination of a revised "export value" standard and a revised "constructed value" standard which has been unanimously suggested by the Commission, while representing a significant improvement over the present nine-standard system, still falls short of what is feasible and thus is a second-best solution. Further, we are impressed by the fact

that the inherent defects of "export value" can pervade the great majority of total U.S. import entries, since roughly 90 percent of them (by value) are subject to valuation according to that standard,^{1/} in contrast to the small percentage which are touched by the seven standards which the Commission suggests be eliminated. Thus it is important to review the workings of "export value" with the utmost care.

As the Commission states on page 4 of this report, a valuation system should maximize simplicity, consistency with commercial practices, precision, predictability, and usefulness of resulting statistics; it should minimize differences in interpretation and difficulties of judicial review. In comparison with an "actual-transaction-cost" standard, as we shall indicate specifically below, "export value" fails to meet these criteria by a considerable margin.

Under the "actual-transaction-cost" standard, the customs value of a particular entry would be the actual cost, including all considerations given or to be given, to obtain the merchandise at the port of exportation, as of the time of exportation, or a value equivalent

^{1/} About two-thirds of the number of U.S. import entries are subject to ad valorem or compound duties of some sort; about one-sixth of the entries are subject to specific duties, and about one-sixth are duty-free. By value, about one-third of U.S. imports are subject to ad valorem or compound duties of some kind; one-third are subject to specific duties and one-third are duty-free. Those imports which are duty-free or subject to specific duty, however, (two-thirds of the total by value) are subject to valuation for statistical purposes primarily according to "export value" and to some unknown degree according to a constructed value.

thereto if the goods have not been obtained in an arms-length transaction. ^{1/} Thus, it represents the prices actually paid for each shipment, whether high or low, rather than a created or theoretical value based on assumptions which may or may not be in accord with the facts of a particular transaction.

This standard, like any other, must make provision for those cases which cannot be valued directly according to its definition. The exceptional cases for which provision must be made include certain of those imports which are shipments on consignment, intra-company transactions or other forms of non-arms-length sales. The development of such special provisions inevitably involves a number of difficulties, but they are no more severe in the case of an "actual-transaction-cost" system than in any other, and do not involve such significant policy decisions that they cannot be left to the drafting experts.

An examination of the "actual-transaction-cost" standard in more detail reveals a number of advantages over the current system.

^{1/} "Export value" may be defined in general as the price, at the time of exportation to the United States of the merchandise undergoing valuation, at which such or similar merchandise is freely sold, or in the absence of sales, offered for sale in the principal markets of the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, for exportation to the United States, plus, when not included in such price, all the costs of preparing the merchandise for export.

This description of export value does not reflect the change suggested to make export value be based on value at the port of exportation.

Predictability

If an importer, in considering a possible transaction, is uncertain about the amount of duty he may incur on the shipment, it is more difficult for him to do business and he may be less inclined to enter into a venture. It is obviously important for him to be able to predict his total costs accurately as he contemplates a purchase.

While he may be able to estimate roughly the range within which the duty will fall, based on the "export value" standard, he cannot determine it with precision because it rests, not upon the price he paid for the goods, but on the "freely offered price" in the "principal market" for such articles sold in "usual wholesale quantities" in the "ordinary course of trade" on the "date of exportation." Even after the day of exportation, he may well not be privy to the actual sales experience of other buyers. Determination of the relevant information would require him to go to the expense and trouble of probing into areas which are not readily accessible to him; further, he may find that he needs confidential business data which will be unavailable to him. Despite these problems, which are more important for the small importer than for the large one, importers must report all facts "necessary to a proper appraisement".

Though an importer can never be absolutely certain that customs officers will accept his figures on the actual transaction, the area of predictability is considerably broadened under our proposed valuation basis

and his ability to enter into the business arrangement with an accurate assessment of his ultimate costs is substantially enhanced.

Ease of Administration

While no valuation system is totally free of administrative complexities and uncertainties, "export value" contains so many theoretical costs that, were Customs officers to implement it literally, the Bureau would require a far larger staff than it now has. Consequently, in practice, it is applied only selectively in cases which involve significant duty questions. Imports which are free of duty, subject to specific rates, or admitted by way of informal entries can be given only scant attention, insofar as their value is concerned, although they represent over two-thirds of all incoming shipments by value. Of the remaining imports, the values of a large percentage are in fact based on invoice prices without precise verification as to whether they meet the "export value" standard. When the standard is implemented literally, lengthy delays are inevitable. It is safe to say that the process could be completed more quickly and easily if the "actual-transaction-cost" standard were to be adopted, to the benefit of both the importer and the customs officer.

Disclosure of confidential data

Like other businessmen, exporters are reluctant to disclose financial details to outsiders, including importers or foreign customs

officers. Yet the literal application of "export value" requires such confidential information as the quantity-price range in which the largest volume of sales is made, while "constructed value" demands such data as prices paid for basic materials or parts, cost of fabrication, general expenses and profits, and cost of containers and coverings. Representatives of foreign governments have criticized the present U.S. system as involving intrusion on the right of privacy of their business communities. If goods were valued on an "actual-transaction-cost" basis, such disclosures would only rarely be necessary.

Judicial review

The traditional American right to judicial review would be strengthened by the adoption of the "actual-transaction-cost" standard. The most reviewable valuation is that based on data readily available to both the importer and to customs officers. If the necessary facts must be obtained in foreign countries and be related to the transactions of other importers, as is the case with valuation based on "export value" and "constructed value", the importer's ability to exercise his right to review is sharply circumscribed. The confidentiality with which other businessmen treat their transactions, the scope of the facts required, and the distance from the source all serve to make it difficult, at best, for the importer to find out what he needs to know to appeal.

Under an "actual-transaction-cost" standard, in those cases requiring review, the importer is better able to produce the requisite

facts from the commercial documents in his possession. Importers could confidently assert customs values based on their costs. In arms-length transactions, importers would seldom have reason to seek a judicial review. In those cases where customs officers disagree with respect to the exclusion from value of a commission or charge, the issues would be more readily joined under our suggested system than under the present system. Incidentally, it may also be that the increased certainty and availability of data would reduce customs litigation to a meaningful degree.

Protection against fraud

A valuation standard should be so designed as to foreclose the ability of an importer to misstate the value of his goods with impunity. A system based on actual transaction costs obligates the importer to report any exchanges of money and other considerations involved in the purchase of the goods. While it is true that the increased reliance on importer-supplied figures under the "actual-transaction-cost" standard might increase the temptation for an importer to misstate figures, it is also true that his declaration that the figures he submits are honest makes him more liable to successful prosecution than he is under the current system. All these facts are within his firsthand knowledge and he cannot truthfully deny their existence. Enforcement thus becomes a matter of determining the validity of the accompanying commercial documents and the basis for a prosecution for fraud is readily available.

Earlier, we mentioned that one apparent reason the Congress abandoned the "actual-transaction-cost" standard which had been established in the first customs administrative act in 1789 was that false invoicing and other impositions on the revenue were suspected. It appears to us, as we have just indicated, that this problem, which may have been serious a century and more ago, is not a valid reason for rejecting the "actual-transaction-cost" standard today.

Accuracy of resulting statistics

Because valuation of imports is presently based either on their actual invoice price, "export value", "American Selling Price", or some constructed equivalent thereof, the resulting U.S. import statistics are lacking in uniformity. A standard stated in terms of actual transaction cost would eliminate this source of inaccuracy and would moreover recognize that the basic de facto valuation concept actually in use is transaction cost. In more accurately measuring the money cost to this country of its imported articles, the resulting data would require less statistical adjustment in a greater variety of uses than is now the case.

Effect on trade

A valuation standard based on the actual transaction costs of an article would yield about the same duties collected as would the suggested "export value". Differences in customs values determined under the two systems would be derived almost wholly from differences in one ingredient--that of commodity price. We estimate that the great

bulk of imports, perhaps 80 percent or more, are "freely sold" in the "principal market" in "usual wholesale quantities" and in the "ordinary course of trade" at the same price as was charged on the date of their purchase. Therefore, the values that would be determined for the great bulk of the imports under the "actual-transaction-cost" standard would be the same as those determined under the "export value" standard in the form the Commission has suggested in this report.

The remainder of imports, which would presently be valued at "export values", are purchased at prices either higher or lower than "usual wholesale quantity" prices or than those prevailing on the date of exportation. In those cases where the "actual-transaction-cost" standard would yield increases in duties, the additional cost to an importer would be mitigated by the value to him of a more certain ability to anticipate dutiable values, by the savings in expenses to him resulting from a speedier customs valuation, and by a lesser need for judicial review. Furthermore, these benefits would accrue to all imports, not just those affected by changes in duties.

To summarize, we believe that the adoption of the "actual-transaction-cost" standard of value would simplify the administration of the customs system, remove some existing obstacles to trade faced by the importer, generate more useful statistics, and buttress the right of judicial review.

BACKGROUND INFORMATION RESPECTING CUSTOMS VALUATION

Character and Purpose of Customs Valuation

Customs valuation--i.e., the determination of the value of merchandise for customs purposes--is essential to the administration of tariff schedules that utilize ad valorem rates of duty. Indeed, the determination of the dutiable values of imported products subject to ad valorem rates is, and should be, the primary purpose of customs valuation. Nevertheless, even if a country imposed no ad valorem duties, it would generally find it necessary to make meaningful determinations respecting the value of its imports. Customs valuation serves a variety of purposes other than the determination of dutiable value--some directly related to the collection of import duties and some vital to other aspects of a country's commercial policy.

The process or act of valuation of imported merchandise is a function of the customs service. Such valuation in most countries is made in accord with detailed rules and criteria prescribed by law. For example, section 488 of the Tariff Act of 1930, as amended, requires that all merchandise imported into the United States be appraised--whether or not dutiable. Sections 402 and 402(a) of the act prescribe criteria to be observed in determining the customs value.

Purposes Served by Customs Valuation

Most of the purposes served by customs valuation are either incidental or secondary to the aforementioned objective of determining the dutiable value of imported goods to which ad valorem rates

of duty are applied. Although no definitive catalog will be presented here, the following purposes are deemed to be representative:

- A. Determining of dutiable value.
- B. Furnishing of data for the compilation of import statistics.
- C. Facilitating customs administration
 - Tourist exemptions
 - Classification for duty purposes
 - Bonding requirements
 - Determination of fines, penalties, and forfeitures
 - Establish rates of duty, e.g., dumping
- D. Implementing trade regulations
 - Import quotas
 - Import licenses
 - Exchange control
 - Clearing agreements

Among the several purposes enumerated above, two are paramount: the determining of dutiable value and the systematic recording of meaningful data from which foreign trade statistics can be compiled. Since much of the report which follows is addressed to these two functions, they are not discussed in detail here.

As indicated by the items listed under C in the above tabulation, most advanced countries require valuations for purposes not related directly to the assessment of ad valorem duties. The tariff classification of some imported items (and, hence, the rate of duty applicable thereto), both in the United States and

elsewhere, is contingent on the customs value of the item itself. In the U.S. tariff schedule, for example, woven fabrics made of nylon are subject to a lower rate of duty if valued at more than \$2 per pound than if valued at not more than that amount. 1/ The amount of additional duties imposed by the United States for failure to conform to prescribed marking regulations depends upon the customs value of the merchandise involved. 2/ The face amount of surety bonds, given in conjunction with the conditional entry of merchandise, often depends upon the value of the merchandise involved. 3/

Items listed under D above relate to the use of customs values in the administration of a country's commercial policy--as with the administration of import quotas, exchange control, and clearing agreements. Most countries having recourse to such controls, however, generally find that direct quantitative limitations are more effective in their administration than are limits based on the value of the merchandise involved. In the administration of import quotas, for example, quantitative limitations are much more widely used than value limitations. Similarly, countries utilizing exchange controls find that value limitations on the amount of exchange allocated for a given import commodity are more effective than value limitations on such imports per se.

1/ TSUS items 338.10 and 338.15.

2/ Sec. 304, Tariff Act of 1930.

3/ Sec. 25.4 of the Customs Regulations.

Interdependence of the Rate and the Rate Base

The burden (duty collected) imposed by any given ad valorem rate of duty is dependent not only on the rate itself, but also on the dutiable value to which it is applied. Obviously, an ad valorem rate of 10 percent applied to an item valued at \$1 will result in only half the burden as the same rate applied to the same item if valued at \$2. With ad valorem duties, therefore, the rate base multiplied by the rate determines the burden imposed. This interdependence of the rate and the rate base is common to many types of taxation. ^{1/} One should be as concerned with the determination of the rate base as the magnitude of the tax rate.

The implication of the foregoing discussion is clear--changes in the method of determining dutiable value can cause far-reaching changes in the burden imposed by ad valorem duties. Both the extent and the severity of trade dislocations resulting therefrom will vary materially, depending in part on the magnitude and direction of changes in duty burdens resulting from the new valuation methods. The protection afforded domestic producers and the competitive positions of exporters and importers, as well as the revenue-raising capacity of the tariff structure, may be materially altered. Tariff commitments previously negotiated with other countries may be violated and difficulties with important trading partners may ensue. Changes

^{1/} For example, the assessed value and tax rate in taxing real property, or the determination of taxable income, before applying tax rates applicable in income taxation.

in the method of valuation may affect the type of carrier on which some goods are shipped, the form in which they are shipped, and the destinations to which they are consigned. The entrepôt positions of some domestic ports may benefit at the expense of others.

The effect of changes in valuation methods that would result in major changes in the burden imposed by ad valorem duties can be compensated for in part by counterbalancing changes in the rate structure. If a new valuation standard doubled the dutiable value of a commodity, for example, the ad valorem rate of duty applicable thereto could be halved; thereby the burden imposed would remain the same. However, the simplicity of that example may mislead. Any major new criteria prescribed for determining dutiable value could have widely differing effects on the dutiable values of different articles, or those of similar articles from different sources, or even those of like articles from the same source imported at different ports. Rates of duty could be adjusted to compensate, on the average, for these effects, but manifold individual deviations from the average would inevitably occur. No method of rate conversion could assure that the burden imposed on every article would continue even approximately unchanged.

Features Common to Most Systems of Customs Valuation

Criteria for determining dutiable value

It does not suffice merely to instruct customs officers to impose a duty of a given percentage on the value of imports of a designated commodity. Generally, the same article of import has a different value at different places, at different times, and at different levels of marketing. Hence, someone has to decide which of the many components of value shall be included in dutiable value, and which shall not. Unless a country is content to leave these decisions to chance-- or at best to a wide variety of common-sense judgments not always consistent with one another--the concept of dutiable value must be carefully defined and its components clearly identified. Customs officers require guidelines to assist them in their determination of dutiable values. If such guidance were not provided by statute, orderly procedure would require that it be developed administratively.

Since the economic circumstances of entries of goods may vary almost infinitely, many choices must be made in defining dutiable value. It is unlikely that the definitions of any two countries using basically the same concept will agree in every detail. In the Commission's judgment, no system of customs valuation that would serve all purposes can be fashioned. Pursuit of such an ideal goal will be far less rewarding than a purposive establishment of criteria that will assure clarity, uniformity, and equity in their application.

The discussion which follows deals with the principal considerations confronting those who would define dutiable value.

Country.--Most customs valuation systems fall into two categories-- (1) those which equate dutiable value with value in the country of importation and (2) those which equate it with value in the country of exportation. ^{1/} Each of these two types has many variants. Some of the names employed in connection with "country of importation" value ^{2/} are: "national" value, value "at the port of entry," "place of importation" value, "home" value, "landed-cost" value, and c.i.f. value. Comparably, some of the names employed in connection with "country of exportation" value are: "foreign market" value, "foreign" value, "export" value, "place from which it was exported" value, and f.o.b. value. At times, the differences between the numerous variants in each of the two categories have been superficial--being a difference largely in the nomenclature employed. More often, differences have been substantial--since they have reflected major differences in the criteria stipulated for determining dutiable value.

More than decisions respecting most other criteria, the choice between an f.o.b. and c.i.f. standard can affect the dutiable value of imported goods. By designating whether c.i.f. or f.o.b.

^{1/} Some countries have recourse to "official" valuations (alternately referred to as "arbitrary," "proclaimed," or "fixed" valuations); they consist largely of an administratively determined schedule of values for duty purposes.

^{2/} Standards which direct valuation on the basis of the selling prices of the domestic counterparts of imported goods in the markets of the importing country could be classified as "country-of-importation" values. Because of their different nature, however, they will be separately identified in this report, as will "official values."

value shall constitute dutiable value, the customs regulations determine in substantial degree what components of value shall be included and what shall be excluded. In particular, the inclusion or exclusion of freight, insurance, and other expenses of moving the merchandise to the port of entry can substantially influence the dutiable value of many goods.

Merchandise valued.--The valuation systems of most countries specify that dutiable value shall reflect either the value of the goods actually being entered or that of identical foreign goods. As a backstop, many systems permit the alternative use of "similar" goods when the value of the actual or identical goods cannot be determined. The determination of customs value is on much firmer ground when the value is based on the actual or identical goods. Although it might appear that the substitution of "similar" would not cause any significant difficulty, customs officers are frequently handicapped by the absence of usable guidelines; customs laws and judicial interpretations are frequently vague as to what goods are to be regarded as "similar" to the imported merchandise.

Countries utilizing their import tariffs primarily to accord protection to domestic producers have at times equated dutiable value (for some imports at least) with the value of competing goods. In such instances, however, the dutiable value of imported goods is generally based on the value of the domestically produced goods that compete with the imported article.

Transaction level.--Prices (values) of identical goods ordinarily vary from the manufacturing level, to the wholesale, and retail levels. Customs regulations which designate at what transaction level goods are to be valued indirectly provide, in part, what components of value shall be included in determining dutiable value--e.g., commissions, markups, and certain transportation and insurance costs.

For the convenience of customs authorities, the regulations of some countries identify dutiable value with the actual cost of the merchandise to the importer--irrespective of whether such merchandise was purchased at the wholesale or retail level. On the other hand, other countries specify that dutiable values shall be based on values at one transaction level only, thereby avoiding the disparate treatment of importers that would arise if dutiable value varied with the chance character of their operations. The regulations adopted by countries, therefore, generally specify that the appraised value reflect either "the actual cost to the importer," "the wholesale price for export," or value at some other "transaction level."

Quantity offered.--Since prices (values) generally vary with the quantities purchased, identification of the quantity to be valued is virtually a sine qua non of many valuation standards. The quantity criterion is closely related to that identifying the transaction level; these two criteria are frequently identified and administered as one--e.g., "in the usual wholesale quantities."

The quantity to be considered when determining dutiable value has been identified variously by different countries. Such stipulations as the following have been used: "the quantity actually being appraised," "the usual wholesale quantities," "wholesale quantity," and "the quantity normally offered." When the quantity specified is that actually being valued, little or no administrative interpretation is required. When the quantity is expressed in general terms, however, administrative interpretation is generally necessary and a body of precedent must be developed to guide importers and appraisers.

Time.--Values and prices often vary materially with time. Prices of some merchandise fluctuate considerably from day to day and from month to month, and price levels often change substantially over longer periods. Moreover, exchange rates between currencies in the importing and the exporting countries are often unstable. Shall the dutiable value of the imported article constitute the value at the time of appraisal, even though the export sale was transacted earlier? Shall it be value at the time of exportation, even though the product was sold for export at an earlier date and cleared through the customs of the importing country at a later date?

Customs laws virtually always specify that value shall be determined at a particular time, such as at the "time of exportation," "time of shipment," or "time of importation." Accordingly, the documents required by the importing countries, when the merchandise is submitted for

entry, often obligate the importer to identify the date appropriate to its valuation procedure.

Character of transaction.--International trade is transacted under widely varying conditions of the market. Given imports may involve sales that had been negotiated under highly competitive conditions, or sales negotiated in markets where administered prices--or even a stronger element of monopoly--prevailed. Some imports result from sales between unrelated parties ("arms length" bargains), and others from transactions between parent companies and their subsidiaries or affiliates.

Ordinarily, the term value is construed as the worth of an article in exchange, as determined by the interplay of economic forces in a given market. Accordingly, the valuation systems of most countries, regardless of other criteria stipulated, base their customs values on competitive commercial transactions. Some valuation standards specify the conditions to be met before a transaction is to be regarded as competitive; others deal with the criterion of competition less directly by using general terms such as normal price or fair market value.

Fortunately, for many imported products, customs valuations can be based on obviously competitive commercial transactions. The method employed by individual countries for converting price data involving noncompetitive transactions to usable data for calculating customs value vary widely; conversions are sometimes made, for example, by administrative adjustment of the invoice price, and sometimes by alternative methods of calculating customs value.

"Notional" and "positive" standards

Whatever the criteria specified in a valuation standard, it can take the form of a "notional" or a "positive" standard.

The customs valuation standard used by countries that have adopted the Brussels definition of value is generally termed a "notional" standard. Under such type of standard, the dutiable value of imported articles is defined as the price goods would bring if sold under specified circumstances. Alternative standards are not provided; the dutiable value of every imported article is determined on the basis of the single notional standard. Nevertheless, the customs officials in countries using such a standard necessarily employ a wide variety of valuation techniques to determine the notional value of imported goods; such techniques, in general, are similar to those used by customs officials in countries using "positive" standards.

Many countries, including the United States, Canada, and Japan, use so-called positive valuation standards. Dutiable values are defined largely in terms of the price at which goods were sold and/or in terms of costs to be included or excluded. Generally, a primary standard and one or more alternative standards are provided; these are to be used by the customs officials in a specified order of precedence. To a substantial degree, the standards dictate the valuation techniques the customs officials must employ.

Review

Since the customs valuation statutes of most countries are generally complex, the dutiable values resulting from their administration are frequently challenged. The facts that must be ascertained, and the determinations made, often become the subject of disagreement between importers and customs officials. These differences may be resolved between the importer and customs officials, by appeals to designated administrative bodies, or by judicial review and decision. The extent of the review procedures available differs from country to country. Generally, however, a valuation can be challenged by appeal to the courts; judicial review may be restricted to specially constituted courts or it may proceed through the regular judicial system. The settlement of valuation disputes by judicial review often results in considerable delay and expense. Traditions and practices vary materially from country to country; in the United States, for example, importers utilize the courts more often than elsewhere.

Ends Desired in a System of Valuation

As described above, the criteria specified in valuation standards can vary widely among countries. Nevertheless, there is broad international consensus respecting the ends desired in a system of customs valuation and some of the principles that ought to be observed to achieve those ends. The Contracting Parties to the General Agreement on Tariffs and Trade, for example, have agreed to certain valuation

principles; those who formulated the Brussels definition of value first established nine principles to guide their work. The guidelines set forth in these international accords are described later in the section on international standards of valuation. The valuation standards of every country should, of course, conform with the international obligations it has assumed.

The ends which the Commission believes are to be desired in a system of valuation are summarized briefly below under three headings--certainty of results, uniformity of policy, and speed and ease of administration.

Certainty of results

International traders, like other businessmen, need prompt and accurate information on the cost of doing business. Ideally, an importer ought to be able to predict with certainty the dutiable value of an anticipated shipment of goods and, hence, the amount of duty that he will be obligated to pay. Uncertainty of valuation results, and delay in valuation decisions, can have a disruptive effect on a country's international trade.

The valuation standards of a country ought to be clearly and explicitly stated so that importers are able to approximate closely, prior to importation, the dutiable value of goods they may import. Generally the facts that must be ascertained to determine dutiable value ought to be those available to the importer and the customs

service, with a minimum of investigation and within a reasonable time period. International trade transactions are, of course, exceptionally diverse in terms and circumstances. Hence, whatever the system of valuation, importers may not be able to predict with equal certainty the anticipated dutiable value of every type of shipment. Nevertheless, a high degree of certainty of results for the bulk of the shipments is an end to be desired.

Uniformity of policy

A system of customs valuation should treat all imported goods uniformly and consistently. When interpretations of valuation criteria are made by customs authorities or the courts, the interpretations should be publicized and uniformly followed. Regardless how clearly and explicitly the valuation criteria are defined, importers and customs officials will differ respecting the dutiable value to be applied to given shipments. Valuation systems, therefore, should provide for review of decisions within the customs service and for appeal of contested valuations to the courts. The review procedure should be available to all parties; it should afford impartial, equitable, and rapid decisions.

Ease of administration

Ease of administration is an end to be desired by both customs officials and those engaged in international trade. Cumbersome and costly valuation procedures may at times be more restrictive of

imports than the rate of duty itself. Arbitrary, capricious, and deliberately dilatory administration in some countries may occasionally be even more burdensome. The following observations by Smith are pertinent at this point: ^{1/}

The most appropriate definition of "administrative protection" as applied to the tariff in general and customs valuation in particular is that additional burden upon importation, over and above the normal pecuniary burden of tariff duties, which results from all administrative measures employed in the collection of duties. This includes both "necessary" and "unnecessary" administrative burdens regardless of whether their origin lies in the [statutes]..., in the regulations of administrators, in the decisions of courts, or in the particular exigencies of day-to-day practice.

....These have included....complicated entrance formalities under pressure of inadequate time; expensive bonding requirements; delays in appraisement for months or even years, creating an uncertain and contingent liability for increased duties which may well threaten an importer's solvency long after the merchandise has been sold; ... expensive and protracted litigation; and a complex of minor legal and equitable anomalies which in some instances have provoked more irritation and antipathy than the major exactions.

Three guidelines ought to be followed to avoid burdensome administrative procedures:

Simplicity--As simple a valuation system as possible, with the fewest bases of valuation as possible.

Clarity--Criteria defined with sufficient precision to minimize differences in interpretation.

Facility--Criteria established consistently with commercial practices to the greatest extent feasible.

^{1/} Smith, R. Elberton, Customs Valuation in the United States (University of Chicago Press, 1948), pp. 14-15.

Relationship Between Customs Valuation and Statistical Needs

Statistics of international trade are widely used--by both individuals and public and private institutions--to help construct balance of payments, measure merchandise trade balances, gauge the extent of the competition of foreign articles in domestic markets, compare the international trade positions of various countries, and analyze concessions granted and received in international tariff negotiations. The United Nations, the International Monetary Fund, and other inter-governmental organizations request member countries to supply regularly certain data on their trade with other countries.

Because a country's foreign trade statistics generally are collected in the course of administering its customs regulations, the valuation standard is of basic importance in determining the degree of usefulness of the resulting data. For statistical purposes a valuation system is good if it yields data which are homogeneous, which accurately measure that which the valuation standard says they measure, and which are useful in the greatest range of analytic problems.

A valuation system which is notional yields import data which measure, not the effective market value of import purchases, but rather an ideal of what the import value would have been under certain specified conditions. Such data are useful for certain purposes, but only for a limited number. Today's policy problems involving foreign trade are in most instances concerned with some aspect of the actual market value of the goods, what they actually did cost the importing country under the conditions prevailing when they were purchased, not under assumed conditions.

Whatever the valuation standard, it is important for statistical purposes that it be uniform in its application in order that the resulting data be internally consistent and comparable. A valuation system which includes conceptually different standards--for example, export value and American selling price--produces data which are not homogeneous in those cases where the American selling price of a commodity is considerably different from the export value of the same article.

A valuation system which is difficult to administer will yield data which are inaccurate in that they will not measure what they claim to. If, for example, the customs determines the value of a shipment on the basis of its actual market value rather than the "normal" market value specified in its valuation standard, the resulting data may differ materially from what they would have been had the "normal" market value been used.

Broadly speaking, two chief bases of value are used in import statistics--values f.o.b. the exporting country and values c.i.f. the importing countries. 1/ The great majority of countries record and publish their import statistics on a c.i.f. basis; the United States, Canada, and a number of other countries, however, use largely an f.o.b. basis. 2/

Statistical information showing the c.i.f. value of imports is useful for a number of purposes. Such information is useful, for

1/ The terms f.o.b. and c.i.f. are used here in the broad sense identified in the introduction to this report.

2/ The practice followed by many countries is shown in appendix G.

example, to compare the import trade of the United States with that of foreign countries valuing their imports on a c.i.f. basis. It is also useful at times to aid in comparing the value of imports with domestic production and consumption. Frequently, however, the c.i.f. value of imports is not closely comparable to available data on production and consumption (which are often valued at selling prices in the country concerned). Hence, even c.i.f. import data are of limited usefulness for that type of comparison.

The United Nations requests its member countries to report import data on a c.i.f. basis and export data on an f.o.b. basis. ^{1/} From one standpoint, this practice is consistent since both the imports and exports of each country are valued at its border. From another standpoint, however, the practice is inconsistent, since the import data include intercountry transportation costs, but the export data do not. Because of this statistical practice, the U.N. data on world trade present an incongruous picture--the value of world imports (measured by U.N. data) are always significantly higher than the value of world exports.

For some purposes, import statistics based on the c.i.f. value of imports are less useful than those based on values in the country of exportation. In preparing balance-of-payments statistics, for example, the import data to be included in the merchandise trade account--i.e., showing the merchandise trade balance--are based on values at the customs frontier of the exporting country. This practice

^{1/} United Nations, Statistical Commission, Report of the Seventh Session, Economic and Social Council, Supp. No. 5, 1953.

is followed universally, primarily for two reasons--intercountry freight and insurance on both imports and exports are classified as "service" (not "trade") items, and adjustments must be made to account for whether the relevant freight and insurance payments were made to foreign or domestic recipients or to foreign countries other than the source of the merchandise. In accordance with the general practice, the International Monetary Fund prefers that import data supplied to it for inclusion in balance-of-payments statistics be based on f.o.b. values. 1/

Especially for balance-of-payment purposes, data that corresponded to the actual value involved in international transactions are needed. Import data based on values determined under the American-selling-price standard used by the United States and "official-value" standards used by some countries frequently differ materially from those that would be recorded if the data were based on the actual value of the imported goods.

For a number of specific needs, the United States has for some time estimated the c.i.f. value of its imports. Estimates have been prepared for trade-agreement negotiations. At times, the Commission has obtained such data respecting imports of specific commodities as part of its investigations under the trade agreements legislation and other provisions of law. The Bureau of Census and the Tariff Commission, with the cooperation of the Bureau of Customs, have been

1/ International Monetary Fund, Balance of Payments Manual, 3d ed., reprinted January 1966.

engaged in extensive complementary studies of c.i.f. import values; the Census Bureau released initial data in December 1966 and the Tariff Commission released its completed study in February 1967. 1/

1/ U.S. Department of Commerce, Bureau of the Census, Press Release CB66-152, Dec. 20, 1966, and U.S. Tariff Commission, Release of Feb. 7, 1967, C.I.F. Value of U.S. Imports.

International Standards of Valuation

As early as the 1920's, the need for international standards of customs valuation was voiced by some countries. The subject was on the agenda of the League of Nations Economic Conferences held in Geneva in 1927 and 1930; though the need for action was agreed to, none resulted. After World War II, international efforts toward the establishment of common valuation standards focused on two major approaches. On the one hand, the Contracting Parties to the General Agreement on Tariffs and Trade (GATT) agreed to certain valuation principles to be observed by all member countries, leaving each country rather broad discretion in the formulation of its national valuation standards. These principles are contained in Articles VII and X of the General Agreement. On the other hand, the European Customs Union Study Group brought into being a comprehensive standard of customs valuation, which participating countries agree to incorporate in toto in their customs law. This standard, known familiarly as the Brussels definition of value for customs purposes, represents an endeavor to create an international standard of valuation. 1/

Commitments of the Contracting Parties to the
General Agreement on Tariffs and Trade

The Contracting Parties to the General Agreement on Tariffs and Trade (GATT) agreed to certain broad valuation principles and to certain individual valuation criteria which each member country undertakes to observe in its customs laws and administration.

1/ The appropriate articles of the General Agreement on Tariffs and Trade and the text of the Brussels definition of value are reproduced in appendix B.

Most of the provisions relating to customs valuation are in part II of the Agreement, which the contracting parties apply only provisionally. ^{1/} As long as a GATT member applies the agreement provisionally, it is not obliged to harmonize with the GATT rules the valuation legislation it employed at the time it acceded to the agreement. Nevertheless, each member is generally obliged not to adopt new legislation and regulations that would violate the GATT provisions. Moreover, the framers of the General Agreement anticipated that the GATT members would gradually bring their domestic legislation into conformity with the GATT guidelines.

Each contracting party is committed not to alter its method of determining dutiable value in a manner that would impair any concessions granted to other contracting parties in GATT negotiations (art. II:3). A change in a contracting party's method of valuation that resulted in an increase in the dutiable value of articles on which it had made concessions would contravene that commitment. Under certain circumstances, however, a contracting party wishing to adopt a new method of customs valuation that increased dutiable values may be permitted to do so without being held in violation of its commitments. Thus, it might seek a waiver from the Contracting Parties. If granted, it might be permitted to adjust some or all of its ad valorem duties on which it had granted concessions to offset an

^{1/} Part II, which contains most of the GATT trade rules, includes articles III through XXIII. A brief discussion of the provisional application of the General Agreement on Tariffs and Trade by the contracting parties is given in appendix F.

increase in dutiable value resulting from the new method of valuation, or it might have to grant compensatory concessions to contracting parties if the conversion of ad valorem rates could not be appropriately effected.

Most of the major trading countries of the world are contracting parties to the General Agreement. In 1966, sixty-six countries were GATT members, and 14 others participated in the agreement in some limited manner. All of the foreign countries whose valuation systems are discussed in this report are GATT members, except Mexico.

GATT valuation principles

The Contracting Parties have agreed that the dutiable value of imported goods should be based on the actual value 1/ of either the imported merchandise on which the duty is assessed or like foreign merchandise, and should not be based on the value of domestic merchandise or on arbitrary or fictitious values.2/ Further, they have agreed that (1) the bases and methods for determining dutiable value should not be subject to frequent change, 3/ (2) valuation laws should be administered in a uniform, impartial, and reasonable manner, 4/ (3) valuation laws, regulations, judicial decisions, and administrative rulings should be published promptly in a manner that will enable interested parties to become acquainted with them, 5/ and (4) independent tribunals

1/ Or nearest ascertainable equivalent.

2/ Art. VII:2(a).

3/ Art. VII:5.

4/ Art. X:3.

5/ Art. X:1.

should be provided to review administrative actions related to customs matters. 1/

In the principles stated above, and in other provisions, the GATT members have, in effect, agreed to a number of valuation criteria which they deem ought to be included in the valuation standards of contracting parties. The GATT provisions, however, do not set forth the criteria of a complete valuation standard. Lacking are certain criteria commonly present in such standards; explicitly or implicitly, the contracting parties are left free to establish those criteria in the manner they wish. For example, the GATT provisions indicate that the place and the time specified in valuation standards of contracting parties should be those provided by the legislation of the country of importation. 2/ The GATT members thus have not expressed a choice between c.i.f. and f.o.b. bases of valuation in the General Agreement.

The valuation criteria dealt with in the provisions of the General Agreement are discussed below.

Goods upon which dutiable value should be based.--As stated above, GATT provides that the dutiable value of imported goods should be based on the actual value of either the imported merchandise on which duty is assessed or like merchandise of foreign origin. 3/ The uniform use of either definition in a valuation standard of an individual contracting party would comply with the GATT provisions. 4/

1/ Art. X:3.

2/ Art. VII:2(b).

3/ Art. VII: 2(a).

4/ Annex I, Ad Art. VII, par. 2:4.

Quantity.--The General Agreement provides that, to the extent the price of merchandise is governed by the quantity in a particular transaction, the price to be considered in determining dutiable value should uniformly be related to either (i) comparable quantities, or (ii) quantities not less favorable to importers than those in which the greater volume of such merchandise is sold in the trade between the countries of exportation and importation. 1/

Internal taxes.--With regard to the treatment of internal taxes in valuation standards, the GATT rules provide no option. The General Agreement provides that the value for customs purposes of imported goods should not include the amount of any internal tax levied in the country of origin or exportation from which the goods concerned either have been excepted or will be relieved. 2/

Fully competitive conditions.--Under GATT provisions, the dutiable value of imported merchandise should be based, among other factors, on sales or offers for sale in the ordinary course of trade under fully competitive conditions. 3/ The Contracting Parties have not defined the above terms. However, interpretative notes in Annex I of the GATT state that goods may be regarded as not having been sold or offered for sale under fully competitive conditions either if the buyer and seller were not independent of each other and price were not the sole consideration, or if the purchase price reflected special discounts limited to exclusive agents. 4/

1/ Art. VII:2(b).

2/ Art. VII:3.

3/ Art. VII:2(b).

4/ Annex I, Ad Art. VII.

Currency conversion.--Several provisions of the General Agreement establish rules for converting currencies when determining the dutiable value of imported goods. The provisions set forth precise rules to be followed in some circumstances, and general guidelines to be followed in others. They are treated briefly below.

The conversion by a contracting party of prices or values expressed in a foreign currency to determine the dutiable value of imported goods in terms of its own currency must be based on the par values of the currencies involved (as established pursuant to the Articles of Agreement of the International Monetary Fund or in accordance with a special exchange agreement entered into pursuant to Article XV of the General Agreement) or on the rate of exchange recognized by the Fund. 1/ In the absence of such established par values or rates of exchange the conversion rate must reflect the current value of the foreign currency in commercial transactions. 2/ A contracting party is not required to alter its method of currency conversion if the method used at the time of its accession to the General Agreement resulted generally in lower amounts of duty payable than would the GATT method.

1/ Art. VII:4.

2/ Article VII:4(c) provides that the Contracting Parties to the General Agreement and the International Monetary Fund shall formulate rules governing the conversion of currencies for which there are multiple rates of exchange. Such rules have never been established. In their absence, contracting parties are permitted by the GATT provisions to use conversion factors which reflect the value of the currency involved in commercial transactions.

Commitments of the Member Nations to the Convention on
the Valuation of Goods for Customs Purposes

In 1949 the European Customs Union Study Group undertook to draft a "model" standard of valuation. This task was undertaken jointly with various other projects prospective of the establishment of a European customs union. As a point of departure, the participants agreed to observe the provisions of the General Agreement on Tariffs and Trade relating to customs valuation, which had only recently been formulated. To guide its work, the Study Group formulated nine principles, as follows: 1/

- I. Dutiable value should be based on equitable and simple principles which do not cut across commercial practice.
- II. The concept of dutiable value should be readily comprehensible to the importer as well as to the Customs.
- III. The system of valuation should not prevent the quick clearance of goods.
- IV. The system of valuation should enable traders to estimate, in advance, with a reasonable degree of certainty, the value for customs purposes.
- V. The system of valuation should protect the honest importer against unfair competition arising from undervaluation, fraudulent or otherwise.

1/ Customs Co-operation Council, Explanatory Notes, p. 35.

- VI. When the Customs consider that the declared value may be incorrect, the verification of essential facts for the determination of dutiable value should be speedy and accurate.
- VII. Valuation should be based to the greatest possible degree on commercial documents.
- VIII. The system of valuation should reduce formalities to a minimum.
- IX. The procedure for dealing with lawsuits between importers and the Customs should be simple, speedy, equitable and impartial.

The Study Group completed the draft of a valuation standard for use with the projected customs union in mid-1949, and then adapted it for general use. The resulting standard, which became known as the Brussels definition of value, was incorporated in an international agreement--the Convention on the Valuation of Goods for Customs Purposes. The Convention, signed in Brussels on December 15, 1950, came into force on July 28, 1953. At the end of 1966, the following 19 countries were contracting parties thereto:

Austria	Ireland	Portugal
Belgium	Italy	Rwanda
Denmark	Luxembourg	Sweden
France	Netherlands	Turkey
Germany	Norway	United Kingdom
Greece	Pakistan	Yugoslavia
Haiti		

The valuation convention was one of three related international agreements--all signed at the same time. The others were a Convention on Nomenclature for the Classification of Goods in Customs Tariffs (the Brussels nomenclature) and a Convention Establishing a

Customs Co-operation Council. Currently, 35 countries (not including the United States) are members of the Council, which supervises the use of the Brussels definition of value and the Brussels nomenclature. No country can accede to either the valuation or nomenclature convention until it has joined the Council.

Obligations of the member nations

Each member nation is obliged to apply the Brussels definition of value within 3 months of its accession to the valuation convention. Each agrees to incorporate the text of the Brussels definition in its national tariff laws. It may alter the text, or add provisions to clarify the purport of the definition, if needed to give it the legal form necessary to make it operative under its domestic law. Further, each member nation is required, in applying the definition, to conform with several Interpretative Notes. Together the texts of the Brussels definition and the Interpretative Notes constitute the valuation criteria that the contracting parties are obligated to observe.

As provided by the Convention, a Valuation Committee of the Customs Co-operation Council prepared an extensive series of Explanatory Notes, for use as a guide to the application of the Brussels definition of value. The notes explain the theory and practice of valuation under the definition, both in general terms and with regard to common specific problems. The Explanatory Notes are not legally binding on the member nations, which, nevertheless, generally accept them.

On its own initiative or on request, the Valuation Committee advises member countries on matters concerning the valuation of goods for customs purposes. ^{1/} The Committee has issued a series of Opinions, Notes, and Studies, related to specific problems raised by member countries. Like the Explanatory Notes, these documents are not legally binding on the member nations, but they are generally accepted by them.

Principal features of the Brussels definition of value

The Brussels definition provides that the customs value of imported goods shall be their so-called normal price, i.e., the price they would fetch, delivered to the buyer at the place of importation, at the time the import duty becomes payable, on a sale in the open market between buyer and seller independent of each other. The seller is assumed to bear all expenses incidental to the delivery of the goods to the place of importation (except recoverable duties and taxes applicable in the country of exportation). If the "normal price" depends on the quantity sold, the quantity to be considered is assumed to be the same as that in the entry being valued.

The Brussels definition thus establishes a c.i.f. standard under which goods are to be valued as delivered to the place of importation; it differs little in this respect from most other c.i.f. standards which are used by countries that are not contracting parties in the Brussels valuation convention. The Brussels definition establishes

^{1/} Article VI (d) of the valuation convention.

a "notional" concept of valuation--i.e., the value to be determined is the price the goods would command if sold in accordance with specified terms. 1/ It is intended to be a single standard, applicable to all entries of goods irrespective of whether the articles are imported under an arms-length contract and regardless of the terms of the contract or arrangement. In every instance, it is intended that the dutiable value shall correspond to the price at the place of entry, before payment of duty, at which the seller would be freely willing to sell and the buyer freely willing to buy.

Like most valuation standards, the Brussels definition must be administered principally on the basis of information respecting the shipment involved and related commercial transactions and conditions. To this end, the architects of the Brussels definition suggest a variety of methods by which the "notional" value may be determined or constructed. These methods are proposed as acceptable, but not mandatory, valuation techniques.

First, the commercial invoice price may be accepted as a valid base for the determination of the dutiable value of the goods being entered. To so qualify, it must be an open competitive price and the circumstances of the sale must conform with the theoretical criteria of the Brussels definition. This method of valuation is probably the most common one used by the customs officials of the Brussels countries.

1/ The High Court of Justice, Queen's Bench Division, of the United Kingdom, stated that the "buyer and seller" were "notional persons," i.e., "imaginary persons" or "ghosts," rather than the actual persons involved in the import transaction. Walter H. Salomon vs. The Commissioners of Customs and Excise, decision dated March 28, 1966.

Second, if certain circumstances of the sale do not accord with the criteria of the Brussels definition, the commercial invoice price may be adjusted to account for the differences. For example, various costs to the importer may be added if not included in the commercial invoice price. These costs might include freight, insurance, purchase and sales commissions, brokerage fees, packing costs, loading and unloading charges, certain foreign taxes, advertising costs which inure to the benefit of the exporter, interest costs or their equivalent on extended prepaid orders, and royalties. Further, if a commercial invoice price is suspect because the sale is between related parties, the customs officer may adjust that price to provide a basis for determining the dutiable value. In such cases the customs service of several countries using the Brussels definition arrive at the dutiable value by "uplifting" the commercial invoice price by from 1 to 10 percent; the size of the "uplifts" used apparently vary from country to country with respect to identical sales. At least one of the countries using the Brussels definition ignores the "uplift" technique on the ground that the administrative cost of determining the "uplift" exceeds the revenue that it generates.

Third, if the use of the commercial invoice price, adjusted or unadjusted, is not deemed appropriate to determine the dutiable value, the Brussels countries may use a variety of other methods. Customs officials may, for example, base dutiable value on the price at which the imported goods are sold or are expected to be sold in the importing country, adjusting such price to a c.i.f. port-of-entry

basis; 1/ this technique is somewhat similar to that on which the U.S. standard of "United States value" is based. Under other circumstances, officials may base dutiable value on the prices of goods comparable to those being imported, the anticipated rental charges during the expected life of leased goods, or the cost of production of the imported goods. 2/ They may also have recourse to valuation by expert appraisal. 3/

As noted earlier, the Brussels definition was drafted with the intention of defining a value for customs purposes. Throughout its development and use, the focus of attention has been on "customs" valuation. Nevertheless, the countries involved have recognized the relationship between the Brussels definition and the need to value imports for statistical purposes. The Interpretative Notes recommend that the member countries value all goods, including those that are duty-free or subject to specific duties, in accordance with the terms of the Brussels definition. The Customs Co-operation Council, moreover, has commented as follows: 4/

It [the Brussels definition] is more precise than the definition of value for imports ("transaction value") laid down for statistical purposes by the Economic and Social Council of the United Nations, but it has been agreed that values assessed under the Brussels definition are valid, without any adjustment, as transaction values under the ECOSOC definition. Countries applying the Brussels definition of value therefore have no problems as regards furnishing data for international trade statistics.

1/ See Explanatory Notes, pp. 51, 161, 169, and 175.

2/ See Explanatory Notes, pp. 161, 167, 171, 173, and 179.

3/ See Explanatory Notes, pp. 169 and 179.

4/ Customs Co-operation Council, The Brussels Definition of Value for Customs Purposes, p. 31.

Extent to which member nations conform to the
Brussels definition

To promote uniformity in the interpretation and application of the Brussels definition, the Customs Co-operation Council is vested with advisory responsibility. As noted, the Convention provided for a Valuation Committee on which each member nation to the Convention has the right to be represented. The Valuation Committee, which meets three times a year, is assigned the following tasks: 1/

To circulate to the member nations information concerning the valuation of goods for customs purposes by each of them;

to study the domestic laws, procedures, and practices of the member nations, and to make recommendations to the Council or the member nations designed to secure uniformity of application of the Brussels definition and standardization of procedures and practices;

to prepare explanatory notes as a guide to the application of the Definition;

on its own initiative or on request, to furnish to member nations information or advice on any matters concerning the valuation of goods for customs purposes;

to submit to the Council proposals for any amendment of the present Convention which it may consider desirable;

to exercise such other powers and functions of the Council in relation to the valuation of goods for customs purposes as the Council may delegate to it.

Under the Convention, member nations having disputes regarding the interpretation and application of the Brussels definition are directed to attempt first to settle them by negotiation. Failing that,

1/ Customs Co-operation Council, The Brussels Definition of Value for Customs Purposes, pp. 21-22.

the Valuation Committee will consider the dispute and make recommendations for its settlement. If that method fails, the Customs Cooperation Council will consider the dispute and endeavor to resolve it; its recommendations are binding only if the countries involved agree in advance to accept them.

The principal trading partners of the United States that use the Brussels definition of value endeavor to administer it uniformly. Nevertheless, differences exist in the manner in which they apply it. As noted earlier, for example, some of the Brussels parties "uplift" invoice prices by certain percentages when appraising entries between related parties or entries by a buyer having exclusive rights. Apparently at times, the percentage "uplift" used--even under similar circumstances--differs from country to country. Further, one country includes only 30 percent of airfreight costs in calculating dutiable value, a matter which temporarily has the tacit sanction of the Brussels countries. Other differences in the application of the Brussels definition relate to whether the countries include in "dutiable value" such costs as unloading charges, interest costs involved in long-term prepaid orders, and airfreight costs from the border to the nearest airport at which the goods may be entered through customs. The countries, moreover, do not consistently treat the time lag that they will permit between the time of purchase and the time of importation before disallowing the commercial invoice price as a valid basis for calculating customs value.

Most of the aforementioned variances in the application of the Brussels definition are viewed by the participating countries as

"tolerances," which do not appreciably affect the stability and certainty with which the Brussels definition is applied. To assure that the variations in treatment are known, each member country is urged by the others to publicize the criteria that it applies to these "tolerance" areas.

Appeals procedures

Neither the texts of the Brussels definition, the Interpretive Notes, nor the Explanatory Notes specify procedures for appealing decisions of customs officials. Presumably these are matters left to the determination of each member country. Appeals from administrative valuations are made much less frequently in the courts of the countries using the Brussels definition than in U.S. courts. The relative rarity of litigation in the Brussels countries probably results from a variety of factors. The notional or theoretical character of the Brussels valuation standard appears to make dutiable values difficult to challenge. Even though the importer could clearly establish the amount of the commercial invoice price and expenses incurred in bringing his goods to the place of importation, such data would not conclusively indicate the notional value to be determined. Further, the loser in litigation in countries using the Brussels definition is generally required to pay the courts' cost plus the expenses of the attorneys for each litigant. Finally, the Brussels countries have not traditionally decided challenged valuations by court appeal, but by appeals to designated officials in the Customs administrative hierarchy.

Valuation Methods Employed by the United States and
its Principal Trading Partners

The Committee on Finance directed the Commission to describe the methods of valuation used by the United States and its principal trading partners. The Commission has selected 14 countries as the principal trading partners of the United States. These countries were chosen largely on the basis of the volume of their trade with the United States; in the aggregate they accounted for about three-fifths of U.S. foreign trade in recent years. The group of countries provides examples of the principal types of valuation methods currently being used.

Ten of those selected have acceded to the Convention on the Valuation of Goods for Customs Purposes, signed at Brussels on December 15, 1950 (Belgium, Denmark, France, Italy, Luxembourg, the Netherlands, Norway, Sweden, West Germany, and the United Kingdom); the others are not signatories to the convention (Brazil, Canada, Japan, and Mexico).

The valuation methods used by the United States and its principal trading partners are exceptionally diverse. The countries using the Brussels definition of value, for example, use a notional c.i.f. standard of valuation. The United States and Canada employ primarily positive f.o.b. standards. Brazil and Japan use positive c.i.f. standards. Mexico relies predominantly on official valuations. However, the practical administration of most of these methods is similar. Customs officers rely materially on commercial invoice prices as the basic source of information for valuing imported goods. Most goods shipped in international trade probably are valued for

customs purposes by the United States and its principal trading partners on the basis of their cost to the buyer in a specified market place.

United States

History of U.S. customs valuation

Notwithstanding that pressures for substantive changes have occurred frequently, the principal features of U.S. valuation methods have remained fairly constant for more than a century. Generally since 1832, the principal basis of assessing ad valorem duties on merchandise imported into the United States has been the value of the respective products in the country of exportation.

Since colonial days, U.S. producers and importers have frequently clashed over various aspects of tariff policy: the need for revenue, the extent of protection, the rates of duty, the determination of dutiable value, and customs administration. On many occasions, fundamental issues regarding the manner of determining dutiable value have been the subject of spirited controversy. Nevertheless, it is often difficult in retrospect to associate the valuation provisions actually adopted with positions held by either protectionist or anti-protectionist forces at the time, or with the arguments of those seeking to increase or decrease government revenue.

Three main periods can be distinguished in the history of U.S. customs valuation: (a) 1789 to 1831, during which period a version of "landed" value was used to determine dutiable value; (b) 1832 to 1882, during most of which time some version of a value

in the country of exportation was used as the sole standard of valuation; and (c) 1883 to 1967, the period during which the basic principle of valuation based on values in the country of exportation was continued while a system of primary and alternative standards was developed.

1789 to 1831: Landed value.--In contrast to the basis employed during the past century, "landed" value constituted the nation's original basis of determining dutiable value. The first customs administration act, 1/ which implemented the first U.S. tariff act, provided that dutiable value--

. . . shall be estimated by adding twenty percent to the actual cost of the goods/, if imported from the Cape of Good Hope, or from any place beyond the same; and ten percent on actual cost thereof, if imported from any other place or country.

Dutiable value was to be computed by ascertaining the actual purchase price of the goods at the port of exportation and by adding thereto an amount equivalent to 10 or 20 percent of the price--to approximate the landed value at the port of importation. Dutiable value, therefore, was intended to approximate crudely c.i.f. values, i.e., values at the place of importation. Tariff laws enacted during the next four decades continued to use the "Rule of Good Hope," i.e., to apply the 10 or 20 percent increment to some variant of value in the country of exportation.

1832 to 1882: Value in country of exportation.--In 1832 a substantive change in the U.S. basis of determining dutiable value was

1/ 1 U.S. Stat. 29, Act of July 31, 1789, sec. 17.

instituted--the Rule of Good Hope was repealed. ^{1/} Congress took such action to afford partial compensation to importers for the protective measures contained in the tariff acts of the two preceding decades. ^{2/} In effect, the elimination of the 10 or 20 percent increment converted the U.S. basis of determining dutiable value from a landed value to a value in the country of exportation, thereby reducing the amount of duties that could be collected at any given ad valorem rate. This event marked the beginning of the U.S. practice of using some variant of f.o.b. value as the principal basis for assessing U.S. duties--a practice that, except for a short interruption in 1842, has since prevailed. From 1832 to 1883, moreover, the United States employed a single standard of valuation under which the dutiable values of imported goods were based on wholesale market prices abroad.

The debates in 1832 marked the beginning of a continuing controversy over the merits of "home value." Both the advocates and opponents, however, exhibited confusion regarding the concept of "home value" itself. To some, it apparently meant the cost of the imported product, ex-duty, at the port of importation (c.i.f. value); others equated it with the selling price of the

^{1/} Tariff Acts passed by Congress of the United States from 1789 to 1895. See Tariff Act of 1832, sec. 4.

^{2/} The tariff acts of 1816, 1824, and 1828 were increasingly protective. They included so-called minimum valuation provisions which gave virtually complete protection to the cotton- and woolen-manufacturing industries. New administrative provisions were also designed to provide increased protection, such as strict penalties for undervaluation.

imported article in the United States (frequently termed "domestic value"); to still others, it appeared to mean the selling price of a similar American-produced article (American selling price in present-day terms).

Although recourse to "home valuation" was advocated repeatedly for more than a century, on only one occasion was it the generally utilized basis of valuation, and then only as a landed (c.i.f.) value and only for an ephemeral period. The so-called Compromise Act of 1833 ^{1/} provided that after June 30, 1842, all goods "shall be assessed upon the value thereof at the port where the same shall be entered, under such regulations as may be prescribed by law." ^{2/} By the time that the law became effective, strong opposition to home valuation had developed. The Tariff Act of 1842 was passed on August 30, restoring market values abroad as the basis of dutiable value.

"Home valuation" was thus employed during a period of only 2 months. Nevertheless, from time to time throughout the following century, its readoption was urged. From the beginning of the controversy over home valuation, high-tariff advocates aligned themselves on the side of home valuation, however defined. Their position followed logically since "home values" would be almost always higher than f.o.b. values.

^{1/} 4 Stat. 630, Act of March 2, 1833, chap. 55, secs. 3 and 4.

^{2/} In defending this provision against violent opposition, Henry Clay pointed out that home valuation restored the landed value concept of valuation, which had so far been the basis of dutiable value in the United States and which had only recently been abandoned by the repeal of the Rule of Good Hope.

Various claims were advanced to support the use of home valuation, particularly as it related to "domestic value" and values based on prices of American articles. Proponents claimed that the verification of values in the foreign country, where the articles originated, was both difficult and needlessly expensive. They held that procedures of ascertaining values abroad lacked uniformity, owing to differences in both the availability of information from different foreign sources and the abilities of the respective appraisers. They maintained that the obstacles to ascertaining dutiable value in the foreign country enabled importers to undervalue their merchandise. 1/ Some claimed that valuations determined on the basis of values abroad were insensitive to the price fluctuations of the imported article in the U.S. markets, with the result that the duties imposed were sometimes too large, or too small, in terms of actual U.S. selling prices. 2/ Problems associated with depreciating foreign currencies were also given as reasons for not using foreign valuation; 3/ it was claimed that such depreciation reduced dutiable values, which, in turn, resulted in a loss of duties themselves.

Opponents of home valuation, on the other hand, alleged that it would be discriminatory and unconstitutional. 4/ The Constitution

1/ Financial Report of 1830, cited by U.S. Tariff Commission, Information Concerning American Valuation as the Basis for Assessing Duties Ad Valorem, 1921, pp. 26-28. See also: Report on Finance, 1849-50, p. 17, cited by U.S. Tariff Commission in the same report, p. 21.

2/ Financial Report of 1830, op cit.

3/ Ibid.

4/ U.S. Congress, Congressional Debates, IX, pt. I, pp. 694-709; U.S. Treasury, Annual Report, 1841, pp. 464-66; and letter of Secretary Guthrie addressed to the chairman of the Committee on Ways and Means on June 7, 1846, cited, U.S. Tariff Commission, Information Concerning American Valuation, pp. 28-32.

provides that duties shall be uniform throughout the nation and that preferences shall not be afforded to ports in one State over those in another. 1/ It was argued that by definition home value generally implied different duties collected at different ports. If home value were defined as the c.i.f. value, it would vary--as will the duties based thereon--according to the costs of landing the article in the respective ports of importation. Should the U.S. selling price of the imported article ("domestic value") be the dutiable value, it might also vary at the different ports of the country. 2/ Home valuation, therefore, was deemed to discriminate against some ports, thereby rendering its use both undesirable and unconstitutional. Another concern of the opponents of home valuation was that duties thus determined would be unstable and unpredictable, since they would be based on widely fluctuating U.S. selling prices of the imported articles. 3/ Home valuation was opposed by some because of the administrative difficulties anticipated in shifting to another system of valuation.

1883 to 1967: Development of primary and alternative standards.--

Although the United States has continued since 1883 to rely predominantly on market values abroad as a basis of determining dutiable value, it has developed a series of "primary" and "alternative" bases of valuation.

1/ U.S. Constitution, art. I, sec. 8, cl. 1 and sec. 9, cl. 6.

2/ Letter of Secretary Guthrie, op. cit.

3/ U.S. Congress, Congressional Debates, VIII, pt. II, p. 3777, and letter of Secretary Guthrie, op. cit.

Cost of production (1883).--Before 1883 dutiable value had generally been determined as a practical means of valuation on the basis of the invoice of the purchased goods, whenever such invoice appeared to the appraisers to be complete and free from fraud. In some instances, however, such as consigned goods, no actual sales had occurred and no invoices could be produced to show the actual prices paid for the articles. This and other problems gave rise to the designation of an alternative basis of valuation. The alternative, called "cost of production," was provided for in the Tariff Act of 1883. Appraisers were required to ascertain the cost of materials used in the imported article and the expense of manufacturing and preparing it for shipment; this estimate of costs, which was an approximation of value in the country of exportation, was taken as dutiable value.

United States value (1897).--The Dingley Act of 1897 provided for recourse to a second alternative standard of value if cost of production could not be established; this alternative became known as "United States value." Whereas the first alternative, cost of production, was to be built up "from below," so that the various cost components would approximate values abroad, United States value was to approximate it "from above." Accordingly, the selling price of the same or similar product in the U.S. market was to be taken as a point of departure; profits, inter-country freight and insurance, and importing expenses were to be subtracted from such price to approximate the value in the country of origin.

By 1897, therefore, the United States had developed a valuation system, which featured one primary valuation standard (a version of foreign market value), a first alternative (cost of production) to be used if the primary standard could not, and a second alternative (United States value) to be employed if neither of the other methods could be used.

Export value (1921).--The U.S. valuation system was further complicated in 1921 with the introduction of "export value"--the selling price abroad for export to the United States--as an alternative primary standard of valuation. Henceforth, goods were to be valued at their foreign market value for home consumption or their "export value," whichever was the higher.

The introduction of export value into the U.S. valuation system was induced by upheavals in world prices and the international monetary system following World War I. With the rapid depreciation of the foreign currencies, export prices of U.S. imports (in U.S. dollars) were frequently higher than the prices of the respective goods for consumption in the exporting country. In other words, the export price was often higher than the foreign market value, which had constituted the primary basis of valuation.

Principally to accord U.S. producers more protection, therefore, the Emergency Tariff Act of 1921 provided that the dutiable value should reflect either the price of the product as exported to the United States, or its price in the market of the exporting country, whichever was

higher. Later, after the Customs Simplification Act of 1956 became effective, this new basis for determining dutiable value, export value, was to become the most important standard in the U.S. valuation system.

Unsuccessful attempt to revive "home value".--Concurrently with the introduction of the export value standard, the use of "home value" (termed "American value") as the primary standard again became an important issue. The subject was discussed extensively in connection with the Fordney-McCumber tariff act (1922)--this time in the context of domestic value and the American selling price. As their predecessors had done, proponents of American value claimed that it was needed not only to eliminate fraudulent undervaluation, but also to avoid the difficulties associated with the depreciation of foreign currencies. ^{1/} Various European currencies had depreciated materially after World War I; such depreciation, in turn, had contributed to both instability and uncertainty in the dutiable values of U.S. imports. These facts were given particular emphasis by protectionist forces--revealing again their strong support of American valuation.

The Fordney bill initially passed by the House provided that the "American selling price" should constitute the dutiable value of all imported products having a "comparable and competitive" counterpart

^{1/} U.S. Congress, House, Committee on Ways and Means, H. Report 248, pt. 1, pp. 21-25, 67th Cong., 1st sess.

in the United States. For other imported articles, dutiable value was to be based on the selling price in the United States of the imported article itself (termed "domestic value"). The bill in this form, however, was not enacted. The Senate found both American selling price and domestic value unsuitable for general application. 1/ American selling price was objected to as a device that disguised a high level of protection, which could only be achieved under a foreign value basis by using extraordinarily high rates of duty. Although some Senators found no fault with the level of protection contemplated, they objected to the use of American selling price because they deemed it to be the wrong means for achieving that end. The objection was also raised that customs officials would encounter great difficulty in determining the comparability of the respective products; hence, the American selling price could be ascertained for only a limited number of unambiguously comparable domestic and foreign products. This situation in turn, it was predicted, would invite litigation by importers and would disrupt trade. The use of domestic value as a basis was opposed largely because it was subject to fluctuation and thereby provided an unstable basis for assessing duties.

Foreign value.--Before 1922 the term "foreign value" rarely appeared in the U.S. Statutes dealing with customs valuation. 2/

1/ U.S. Congress, Senate Finance Committee, S. Report 595, pp. 4-8. 67th Cong., 2d sess.

2/ The Tariff Act of 1842 used the term foreign value largely in a generic sense as synonymous with value in the country of origin. This instance is believed to be the only occasion that the term was used in U.S. valuation laws before 1922.

Generally, U.S. tariff acts provided that some variant of the foreign market value of imported goods, i.e., the market value for domestic consumption in the country of exportation, would be the basis of dutiable value. The dutiable value which resulted, however, was given no specific name. In fact, between 1832 and 1883 there was no particular need for such name, since only one valuation standard existed at a time in this period. After 1883, however, several alternative standards were gradually introduced, and the resultant values were named--e.g., "cost of production," "U.S. value," and "export value."

In the Tariff Act of 1922, the term foreign value was given a statutory meaning which was substantially more refined in its precise wording than in earlier tariff acts. Section 402(b) of the 1922 act defined foreign value essentially as the market value of the respective commodity for domestic consumption in the country of exportation.

American selling price (1922).--Notwithstanding its unwillingness to make American selling price the principal basis of U.S. valuation, the Congress had recourse to this standard in two provisions of the Tariff Act of 1922. The American selling price (ASP) basis of valuation was specified as (1) the primary standard in the valuation of benzenoid chemicals, and (2) a standard that could be applied in the administration of the so-called flexible tariff provision. When ASP was applied, the dutiable value of the merchandise involved was to be the American selling price of the domestically

produced counterpart of the imported article; if no domestic counterpart existed, the regular standards of valuation, in specified order, were to be employed.

Under the flexible tariff provisions (sec. 315 of the Tariff Act of 1922 and sec. 336 of the Tariff Act of 1930), the primary basis of valuation for an imported article could be changed under specified circumstances to ASP by proclamation of the President, after investigation and report by the Tariff Commission respecting the difference between the costs of production of the article in the United States and in the principal competing foreign country. 1/

The special consideration accorded benzenoid chemicals is attributable to the desire to protect the war-stimulated domestic "infant" chemical industry. Use of the ASP for assessing the duties on these imports was prescribed whenever the imports were "competitive" with similar articles produced in the United States. The ASP method of customs valuation in such circumstances was adopted for the avowed purpose of providing maximum protection without the use of overtly exorbitant rates of duty. Owing to the large number of articles as well as the volume of trade involved, the use of ASP

1/ Under sec. 336 of the 1930 act (and similarly under the 1922 act), the President may increase or decrease a duty fixed by statute, in accordance with the Commission's findings, but such increase or decrease may not exceed 50 percent of the rate of duty. If the cost difference cannot be equalized by rate changes, the American selling price may be adopted as the basis of duty assessment. When the basis of valuation is changed to ASP, the statutory rate of duty cannot be increased but may be reduced by not more than 50 percent. Under the trade agreements legislation, the provisions of sec. 336 are inapplicable to any commodity on which a tariff concession is in effect pursuant to a trade agreement.

valuation for benzenoid chemicals has been of much greater importance than that for the other commodities made subject to ASP.

The Tariff Act of 1930.--General use of American valuation was again strongly urged preceding the enactment of the Tariff Act of 1930. Nevertheless, the valuation provisions of this act remained essentially the same as those of the Tariff Act of 1922. 1/ Foreign or export value, whichever was higher, continued to be the primary basis of valuation; 2/ the first and second alternative bases of valuation continued to be United States value and cost of production. As previously indicated, American selling price was also to be used in determining the dutiable value of certain articles.

Customs Simplification Act of 1956.--During the early 1950's, the Treasury Department proposed on several occasions that "foreign value" should be eliminated as a U.S. standard of valuation. An objective of this proposal was to simplify and expedite customs administration. Discontinuation of the use of foreign value would eliminate the necessity of making simultaneous determinations for both

1/ In response to the vigor with which the proposal was advanced that American valuation be made the major basis of U.S. customs valuation, the Congress instructed the U.S. Tariff Commission to compute a set of "converted" rates of duty that might be used in conjunction with domestic valuation (sec. 340, Tariff Act of 1930), and to survey various possible systems of customs valuation (sec. 642). The Commission subsequently submitted two reports--Domestic Value-Conversion Rates (1932) and Methods of Valuation (1933). In its reports, the Commission stated that the goal (under sec. 340) of computing "equivalent" ad valorem rates could not be satisfactorily achieved; it also pointed out that, if domestic valuation were used, a given product could have more than one dutiable value, depending on the particular channel of trade through which it was imported.

2/ Tariff Act of 1930, sec. 402.

export value and foreign value, to ascertain which was higher. Moreover, the determination of export value was much easier than that of the foreign value; usually most of the pertinent information was to be found within the United States.

The Customs Simplification Act of 1956 amended the Tariff Act of 1930, creating, in effect, a new group of valuation standards. For the appraisement of most articles, the foreign value standard was eliminated, and export value was made the primary basis of valuation. With certain changes, both United States value and cost of production (renamed constructed value) were retained as the first and second alternative standards. The meaning of the standards was modified, however, by changes in the statutory language and by the inclusion in the law of definitions of certain terms.

Notwithstanding that substantial administrative advantages were afforded by the elimination of foreign value, the Congress was unwilling to make the change for all imported articles. Because the export values of some imported products were lower than their foreign values, the contemplated change in the valuation system was expected to have a duty-reducing effect. A survey at the time indicated that dutiable values of merchandise subject to ad valorem duties, and the duties collected thereon, would be reduced on the average by about 2 percent.

Although the effect of the proposed change thus appeared to be negligible, the dutiable values of some articles would have been substantially affected. Accordingly, the Secretary of the Treasury was instructed to prepare a list of commodities which, if appraised under the new valuation standards (section 402), would have been valued at 95 percent or less of the value at which they were actually appraised in the 12 months ending June 30, 1954. The articles so identified were included in a "Final List" and were to continue to be appraised under the old standards (now section 402a). The "Final List" was published by the Treasury Department on January 28, 1958, and the valuation provisions of the 1956 act became effective 30 days later.

Current U.S. valuation methods

Current U.S. law establishes nine individual valuation standards. Four standards are provided for in section 402 and five standards, in section 402a of the Tariff Act of 1930, as amended. The nine standards are as follows:

<u>Section 402</u>	<u>Section 402a</u>
Export value	Foreign value
United States value	Export value
Constructed value	United States value
***	Cost of production
American selling price	***
	American selling price

The standards established in section 402 and those provided in section 402a differ significantly; such differences are complicated and involve many legal and administrative niceties. Even those that are identical in name differ in the criteria applied and the results

obtained. The major distinctions between the standards are discussed later in this section. Despite the many variations in valuation resulting from use of the nine standards, however, two common patterns prevail. The seven standards other than the two named American selling price base dutiable value on the value of goods in the country of exportation, while the American-selling-price standards provide that goods will be valued on the basis of the selling price in the United States of the domestic counterpart of the imported article.

The choice of which of the several standards shall be used to value a given entry is specified by law. In effect, six different valuation "systems" are provided, each "system" consisting of a primary standard and two or more alternative standards. Each "system" applies to a different group of articles. Each of the nine individual standards is employed in more than one "system." Indeed, a given individual standard may serve as a primary standard in one "system," but an alternative standard in another; moreover, a standard may serve as the first alternative in one "system" and the second alternative in another.

The category of articles to which each of the six "systems" applies, and the primary and alternative standards (in order of precedence that apply) are as follows:

<u>Articles</u>	<u>Standards</u>
1. Those not on the "Final List" and not subject to ASP valuation	As defined in sec. 402: a. Export value b. United States value c. Constructed value

<u>Articles</u>	<u>Standards</u>
2. Those on the "Final List" and not subject to ASP valuation	As defined in sec. 402a: a. Foreign value or export value, whichever is greater b. United States value c. Cost of production
3. Benzenoid chemicals subject to ASP valuation and not on the "Final List"	As defined in sec. 402: a. American selling price b. United States value c. Export value d. Constructed value
4. Benzenoid chemicals subject to ASP valuation and on the "Final List"	As defined in sec. 402a: a. American selling price b. United States value c. Foreign value or export value, whichever is greater d. Cost of production
5. Those subject to ASP valuation under sec. 336 and not on the "Final List" <u>1/</u>	As defined in sec. 402: a. American selling price b. Export value c. United States value d. Constructed value
6. Those subject to ASP valuation under sec. 336 and on the "Final List" <u>2/</u>	As defined in sec. 402a: a. American selling price b. Foreign value or export value, whichever is greater c. United States value d. Cost of production

The six "systems" are listed above approximately in their order of importance in use. The great bulk--perhaps nine-tenths--of the invoices covering merchandise subject to ad valorem or compound rates

1/ The only articles currently subject to this "system" are canned clams and related products, not including razor clams.

2/ The only articles currently subject to this "system" are rubber-soled fabric-upper footwear and wool knit gloves valued at not over \$1.75 per dozen pairs. No such gloves have been imported in recent years.

of duty are valued under the first "system" listed, and probably the great majority of the remainder are valued under the second. The final four "systems" are those in which American selling price constitutes the primary basis of valuation. Among these four "systems," the two pertaining to benzenoid chemicals together are substantially more important than the other two.

As noted above, four valuation standards are provided for in section 402 of the Tariff Act of 1930, as amended. Four of the five valuation standards in section 402a of that Act are variations of the section 402 standards, but the fifth standard in section 402a (foreign value) does not have a counterpart in section 402. For simplicity, the criteria of each of the section 402 standards and then the chief differences between them and the other five standards will be generally described.

The criteria of the four standards in section 402 are as follows:

a. Export value.--The price, at the time of exportation to the United States, at which merchandise identical with or similar to the imported merchandise is freely sold or offered for sale in the usual wholesale quantities in the principal markets of the country of exportation for export to the United States, packed ready for shipment.

b. United States value.--The price, at the time of exportation of the merchandise being valued, at which merchandise identical with or similar to the imported merchandise is freely sold or offered for sale in the usual wholesale quantities in the principal U.S. market, packed ready for delivery, less (a) the usual commissions or usual profit and general expenses on sales in the United States, (b) the usual cost of shipping it from the point of shipment in the foreign country to the place of delivery in the United States, and (c) all customs duties and other Federal taxes applicable by reason of importation.

c. Constructed value.--The sum, at a time sufficiently before the date of exportation to permit production, of the cost of producing such or similar merchandise and the usual general expenses and profit on sales of such merchandise made in the country of exportation, in the usual wholesale quantities, for export to the United States, packed ready for shipment.

d. American selling price.--The price, at the time of exportation of the imported article to the United States, at which an article 1/ produced in the United States and packed ready for delivery is sold or offered for sale for consumption in the principal U.S. market in the usual wholesale quantities; or the price which a U.S. manufacturer would have received or was willing to receive for it when sold for consumption in the United States.

"Foreign value" is defined generally in section 402a as--

The price, at the time of exportation to the United States, at which such or similar merchandise is freely offered for sale in the usual wholesale quantities for consumption in the exporting country to all purchasers in the principal markets in that country, plus the cost of packing the merchandise for shipment to the United States.

"Foreign value" differs from "export value," as both are defined in section 402a, primarily for one reason--the price at which goods are sold for home consumption in a foreign country may be higher or lower than the price at which such goods are sold for exportation to the United States. The imposition of an internal tax on the sale of the article for home consumption is frequently a major factor which causes the home consumption price to be higher than the export price of the article which usually does not include the tax. The other major factor is, of course, whether the article can or cannot command a price in the foreign market for home consumption which is higher than

1/ Like, similar, or competitive article depending on the class of merchandise; see the headnotes in appendix D.

the world price for such article.

As noted earlier, ^{1/} the four pairs of standards enumerated in sections 402 and 402a appear identical, but differ significantly. Some distinctions between them result from differences in the statutory language and some from differing definitions given to common terms.

The two standards entitled "United States value" differ in their treatment of the amounts that may be deducted from the sale price of the imported merchandise in the United States to allow for commissions, profits, and general expenses of the importer. Section 402a fixes maximum percentages which limit the amount of commissions (6% of the domestic selling price), profits (8%), and general expenses (8%) that may be deducted. Section 402 specifies that the usual commissions, profits, and expenses will be deducted in determining dutiable value. The latter practice (sec. 402) results in a "United States value" which in most instances more closely approximates the commercial price of the article at its source than the 402a standard.

The "cost of production" standard in section 402a is the counterpart of "constructed value" in section 402. Under "cost of production," minimum profits of 8 percent and minimum expenses of 10 percent of the cost of materials, labor, etc., must be included in the dutiable value of an article. Under "constructed value," however, the usual profits and expenses are to be included.

^{1/} See the first paragraphs in this section.

Certain common terminology appearing in the valuation standards of both sections 402 and 402a have different meanings. Section 402 statutorily defines these terms to have meanings that differ from their meanings under section 402a which, lacking statutory definition, have been established by administrative or judicial precedent over a long period of years. The term "usual wholesale quantities" in section 402a, for example, means the price freely offered for quantities in which the largest number of sales are made. Under section 402 it means the price freely offered for quantities in which the largest volume of sales is made. The latter interpretation, of course, frequently results in lower dutiable values than the former. The term "freely offered" in section 402a contemplates the highest price that any willing buyer will pay for the foreign goods in the "usual wholesale quantities." Under section 402 the term means the highest price any industrial user or reseller other than retailer (or retailer if the others do not exist) will pay for the "usual wholesale quantities." Again, when the interpretation of the standard results in differences in dutiable value, that provided for in section 402 results in lower dutiable values. Additional distinctions, of lesser importance, in the meaning of common terms at times result in dutiable values under section 402a that differ from those under section 402.

Principal Trading Partners of the United States

As indicated earlier, the Commission, for purposes of this report, identified 14 countries as the principal trading partners of

the United States. Ten of them use the Brussels definition of value. As required by the Brussels valuation convention, each has implemented the Brussels definition in its national laws. Their individual statutes do not differ significantly from the Brussels criteria. Since the Brussels definition of value was discussed in an earlier section of this report, the laws and regulations of these 10 principal trading partners of the United States will not be discussed here. The valuation methods used by the remaining four countries--Brazil, Canada, Japan, and Mexico--are discussed separately in subsequent sections.

The resolution of the Senate Finance Committee, which initiated this investigation, directed the Commission to describe instances where the valuation methods of the United States or its principal trading partners caused dutiable values to be "in excess of landed values." The Commission has been unable to conduct an exhaustive inquiry on this particular point. The following general comments, however, may be of help to the Committee. Instances in which the dutiable values of imported goods exceed their landed values occur infrequently. Such eventuality could occur under the valuation system of almost any country when such a result was not intended. Certain customs regulations of Brazil, Canada, Mexico, and the United States, however, appear either to provide designedly for the appraisal of goods at values higher than their landed values or to grant administrative authority under which such results could be accomplished. Under the American-selling-price standard, for example,

the dutiable values of benzenoid chemicals and the other products subject thereto are frequently in excess of the landed value of the imported product, although only a very small share of U.S. imports are valued under the American-selling-price standard. The conditions in which dutiable values in excess of landed values may also occur under the Brazilian, Canadian, and Mexican methods of valuation will be discussed in the following sections. The Commission does not, however, have information to indicate how frequently such instances occur.

Brazil

Under the primary standard of valuation used by Brazil, the dutiable value of imported articles is determined by the sum of their "foreign value" and insurance and freight charges to the port of entry (c.i.f. value). The "foreign value" is defined as the wholesale price in the country of exportation at which such or similar goods are offered at the time of exportation, plus packaging costs and delivery expenses to the port of exit, less any internal consumption taxes in the exporting country reimbursable upon export of the goods. If, after inspecting the goods, the Customs official disputes their foreign value as declared by the importer on the invoice, the former has 8 days in which to establish a new value. The new value may then be contested within 30 days by the importer with the Inspector of Customs. If the Inspector does not render a decision within 30 days of the lodging of a complaint, the importer's declared value is temporarily accepted for purposes of clearing the goods but the importer must guarantee or

deposit the claimed difference pending a determination of the legal dutiable value.

When the foreign value of imported goods cannot be verified, the dutiable value is based on the current Brazilian wholesale price of the merchandise, less amounts equivalent to the duties and taxes incident to importation, and after deductions of 30 percent for the importer's profit and expenses. This alternative standard could result in dutiable values in excess of the landed values of the imported goods. In most instances, however, the 30-percent deduction probably counterbalances the difference between the landed duty-paid value and the Brazilian wholesale price.

For some years, the Brazilian Government has had the authority to establish official minimum valuations when it deems that price fluctuations make it difficult to establish dutiable values or that imports are injuring, or threatening to injure, domestic industries. 1/ Apparently this authority has been used infrequently; minimum values were established for certain typewriters (1959), flashlights (1959), flashlight batteries (1963), caustic soda (1966), and certain artificial fibers (1966).

Brazilian customs law and exchange controls have recently been substantially revised, the changes becoming effective early in 1967. 2/ Although these revisions involved major commercial policy changes, they did not appear to modify materially Brazil's system of customs

1/ Art. 9 of Decree Law 3244 of 1957 and art. 6 of Decree Law 63 of 1966 (Airgram A-555, Rio de Janeiro, Dec. 12, 1966).

2/ Decree Law 37 of Nov. 18, 1966; Decree Law 63 of Nov. 21, 1966, and Resolution 41 of the Central Bank, Nov. 25, 1966.

valuation. Nevertheless, the new legislation specifically authorized the Brazilian customs authorities to establish official minimum valuations if needed to protect domestic producers from increased imports that might result from the altered tariff and exchange control regulations. The extent to which the authority will be used cannot, of course, be predicted; Brazilian officials have indicated that it will be used sparingly.

Canada

The Canadian standards of valuation generally equate the dutiable value of imported goods with values in the country of exportation. The primary Canadian standard--so-called fair market value--is based on the value of goods like those imported that are sold for home consumption in the country of export. The criteria for determining "fair market value" is stated in great detail, and a number of alternative criteria are provided. In some instances, the cost of production of the article abroad, plus an allowance for gross profit, may be used to determine dutiable value. Under specified circumstances, moreover, the Governor in Council or the Canadian Minister of National Revenue is authorized to prescribe the manner in which dutiable value is to be determined. Finally, however determined, the dutiable value of imported goods may not be less than the amount for which the goods were sold to the Canadian importer, valued at the border of the exporting country, less any depreciation that may have occurred between the time of purchase and the time of exportation.

Under Canadian law, the "fair market value" of imported goods is the value of like goods at the time and place of export, sold at arms length under competitive conditions for home consumption, to vendors at the same or substantially the same trade level as the importer, in the same or substantially the same quantities, and in the ordinary course of trade. In the event that certain of these conditions cannot be met, alternative criteria delineated in the customs law may be used. For example, if no sales for home consumption were made to purchasers located at the place of exportation, sales to purchasers located nearest thereto may be used; or if no sales occurred at the time of export, the most recent sales prior to the time of exportation that fairly reflect the market value of the goods may be used; or if no sales were made to home purchasers at substantially the same trade level as the importer, sales to home purchasers at the nearest subsequent level may be substituted. If like goods were not sold for home consumption in the country of export or were sold under circumstances that would not meet the criteria of "fair market value" but similar goods were so sold, the value for duty of the imported goods is based on the aggregate of the cost of production of the imported goods and a calculated amount that is the same percentage of that cost as the gross profit on the similar goods was to their cost of production.

If the Minister of National Finance reports to the Governor-in-Council that material injury has been or may be caused to any industry in Canada, or any portion thereof, by reason of the importation of new or unused goods at a value for duty less than the cost of production

thereof, plus a reasonable amount for gross profit, the Governor-in-Council may authorize the cost-of-production standard to be used. Under this standard, the dutiable value is based on the cost of production in the producing country, plus a reasonable amount for gross profit.

Under a variety of circumstances, Canadian law authorizes the Minister of National Revenue to establish the manner in which the dutiable value of imported goods shall be determined. Aside from the authority of the Minister described above, the Minister may establish the manner of determining dutiable value whenever he finds valuation impracticable under the regular standards of valuation. He may also do so if the goods exported to Canada are intended for branch plant use, are obsolete, are not of prime quality goods, or constitute job lots. The dutiable values determined pursuant to such administrative regulations may be higher than the landed value of the imported goods.

Japan

Japanese law provides a primary standard of valuation and a single alternative standard for customs purposes--both of which value imports c.i.f. port of importation. The primary standard equates dutiable value with the price of the imported goods sold in ordinary wholesale quantities and in the ordinary course of trade in the exporting country at the time of exportation, excluding recoverable taxes paid in the country of exportation, and including the ordinary expenses incurred up to the arrival of the goods at the port of

importation. If the value of the imported goods themselves cannot be determined, dutiable value may be based on values of the same kind or similar goods which arrived at the port of importation at or near the arrival time of the goods being entered. If the entered goods are transported by air, the cost of freight and insurance for ocean shipping is used in some instances to determine the dutiable value of the goods.

If dutiable value of the imported goods cannot be determined on the basis of the primary standard, the law provides that valuation shall be based on the domestic wholesale price of the same or similar kinds of goods in Japan, deducting amounts equivalent to customs duties and expenses incidental to delivery from the port of importation to the Japanese wholesale market; reasonable adjustments are to be made in the values thus determined to take into account the differences between the "similar" goods and the goods being appraised.

Mexico

In Mexico's valuation system dutiable values are based largely on official values determined by the government. The primary standard of valuation is the official "price," or the invoice price, whichever is the higher. When no official price has been established, the value for duty is designated as the invoice price or the highest foreign market price among the countries of export. The dutiable value of relatively few imports is determined according to this standard. In most cases, dutiable values are based on the official prices.

Official prices are established by the Secretary of Finance and Public Credit. The Secretary is directed to base such prices, first, on the wholesale price of the imported merchandise in the principal exporting country, or, second, on wholesale prices of equal or similar merchandise in the Mexican market. Furthermore, if the wholesale price in the principal country of export is "notably less" than the price for similar Mexican merchandise or less than the cost of production of similar merchandise in Mexico, the Secretary is directed to fix the official price on the basis of the Mexican wholesale price or the Mexican cost of production. In the absence of other means, the appraiser is directed to estimate the dutiable value of the goods concerned on the basis of whatever information is available to him. As is apparent from the above description, Mexican official prices can in some instances be higher than the landed value of the goods being appraised.

APPENDIXES

UNITED STATES TARIFF COMMISSION
Washington

[332--48]

NOTICE OF INVESTIGATION OF VALUATION LAWS OF THE UNITED STATES
AND OF THE PRINCIPAL TRADING PARTNERS OF THE UNITED STATES --
PUBLIC INVITATION TO COMMENT

In response to a resolution of the Committee on Finance of the United States Senate, dated February 9, 1966, the United States Tariff Commission, under authority of section 332 of the Tariff Act of 1930, as amended (19 U.S.C. 1332), has instituted an investigation to determine the methods of valuation used by the United States and by the principal trading partners of the United States in determining the duty applicable to imports.

The resolution directs the Commission to submit to the Senate Finance Committee not later than June 30, 1966, a preliminary report containing (a) a description of the methods of valuation used by the United States and of the principal trading partners of the United States, (including those instances where valuation is in excess of the landed values) and (b) a comparative analysis of the basic differences between such methods of valuation and the valuation results they produce.

The resolution further directs the Commission to submit a final report not later than February 28, 1967, which shall include suggestions and recommendations for improvement of the customs

valuation laws of the United States, including the Commission's views as to the feasibility and desirability of adopting the Brussels definition of value for customs purposes and as to means appropriate for adopting such definition of value with the least practicable effect on trade. (The Brussels definition of value was established under the Convention on Valuation of Goods for Customs Purposes, signed on December 15, 1950.)

The Commission urges all interested parties to submit written views pertinent to the investigation at the earliest practicable date but no later than April 15, 1966. Because of the large anticipated response to this invitation, the Commission will merely acknowledge the receipt of timely submissions with the assurance that they will be given due consideration.

A public hearing, at which interested parties will be given opportunity to be present and to be heard, will be announced at a date subsequent to the Commission's preliminary report to the Senate Finance Committee.

Copies of the resolution of the Senate Finance Committee and the Brussels Definition of Value for Customs Purposes are appended. Detailed information concerning the definition is contained

A3

in a publication of the Customs Co-operation Council, 40, Rue
Washington, Brussels 5, Belgium, titled "Customs Valuation",
Doc. 7500 (1960).

By direction of the Commission:

A handwritten signature in cursive script, reading "Donn N. Bent".

DONN N. BENT
Secretary

Issued February 11, 1966.

RESOLUTION

Be it resolved by the Committee on Finance, that the United States Tariff Commission is hereby directed, pursuant to section 332 of the Tariff Act of 1930, to make an investigation of the methods of valuation used by the United States and by the principal trading partners of the United States to determine the duty applicable to imports, and to submit to the Senate Finance Committee a preliminary report thereon not later than June 30, 1966, and a final report thereon as soon thereafter as practicable but not later than February 28, 1967.

The preliminary report shall set forth (a) a description of the methods of valuation used by the United States and of the principal trading partners of the United States, (including those instances where valuation is in excess of the landed value) and (b) a comparative analysis of the basic differences between such methods of valuation and the valuation results they produce. The final report shall include suggestions and recommendations for improvement of the customs valuation laws of the United States, including the Commission's views as to the feasibility and desirability of adopting the Brussels definition of value for customs purposes and as to appropriate means for adopting

such definition of value with the least practicable effect on trade. 1/

In the course of this investigation, the Commission shall hold hearings, giving adequate opportunity to interested parties to appear and be heard. It is the Committee's desire that the Treasury Department and other interested government agencies fully cooperate with the Tariff Commission in this investigation.

1/ The text of the Brussels Definition of Value for Customs Purposes appears in the resolution, but it is omitted from this appendix, since it is published in Appendix B.

Appendix B. Excerpts From Texts Setting Forth Standards
of Valuation

1. General Agreement on Tariffs and Trade

Article II

Schedules of Concessions

* * * * *

3. No contracting party shall alter its method of determining dutiable value or of converting currencies so as to impair the value of any of the concessions provided for in the appropriate Schedule annexed to this Agreement.

* * * * *

Article VII

Valuation for Customs Purposes

1. The contracting parties recognize the validity of the general principles of valuation set forth in the following paragraphs of this Article, and they undertake to give effect to such principles, in respect of all products subject to duties or other charges or restrictions on importation and exportation based upon or regulated in any manner by value. Moreover, they shall, upon a request by another contracting party review the operation of any of their laws or regulations relating to value for customs purposes in the light of these principles. The CONTRACTING PARTIES may request from contracting parties reports on steps taken by them in pursuance of the provisions of this Article.

2. (a) The value for customs purposes of imported merchandise should be based on the actual value of the imported merchandise on which duty is assessed, or of like merchandise, and should not be based on the value of merchandise of national origin or on arbitrary or fictitious values.

(b) "Actual value" should be the price at which, at a time and place determined by the legislation of the country of importation, such or like merchandise is sold or offered for sale in the ordinary course of trade under fully competitive conditions. To the extent to which the price of such or like merchandise is governed by the quantity in a particular transaction, the price to be considered should uniformly be related to either (i) comparable quantities, or (ii) quantities not less favorable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation.

(c) When the actual value is not ascertainable in accordance with sub-paragraph (b) of this paragraph, the value for customs purposes should be based on the nearest ascertainable equivalent of such value.

3. The value for customs purposes of any imported product should not include the amount of any internal tax, applicable within the country of origin or export, from which the imported product has been exempted or has been or will be relieved by means of refund.

4. (a) Except as otherwise provided for in this paragraph, where it is necessary for the purposes of paragraph 2 of this Article for a contracting party to convert into its own currency a price expressed in the currency of another country, the conversion rate of exchange to be used shall be based, for each currency involved, on the par value as established pursuant to the Articles of Agreement of the International Monetary Fund or on the rate of exchange recognized by the Fund, or on the par value established in accordance with a special exchange agreement entered into pursuant to Article XV of this Agreement.

(b) Where no such established par value and no such recognized rate of exchange exist, the conversion rate shall reflect effectively the current value of such currency in commercial transactions.

(c) The CONTRACTING PARTIES, in agreement with the International Monetary Fund, shall formulate rules governing the conversion by contracting parties of any foreign currency in respect of which multiple rates of exchange are maintained consistently with the Articles of Agreement of the International Monetary Fund. Any contracting party may apply such rules in respect of such foreign currencies for the purposes of paragraph 2 of this Article as an alternative to the use of par values. Until such rules are adopted by the CONTRACTING PARTIES, any contracting party may employ, in respect of any such foreign currency, rules of conversion for the purposes of paragraph 2 of this Article which are designed to reflect effectively the value of such foreign currency in commercial transactions.

(d) Nothing in this paragraph shall be construed to require any contracting party to alter the method of converting currencies for customs purposes which is applicable in its territory on the date of this Agreement, if such alteration would have the effect of increasing generally the amounts of duty payable.

5. The bases and methods for determining the value of products subject to duties or other charges or restrictions based upon or regulated in any manner by value should be stable and should be given sufficient publicity to enable traders to estimate, with a reasonable degree of certainty, the value for customs purposes.

Article X

Publication and Administration of Trade Regulations

1. Laws, regulations, judicial decisions and administrative rulings of general application, made effective by any contracting party, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use, shall be published promptly in such a manner as to enable governments and traders to become acquainted with them. Agreements affecting international trade policy which are in force between the government or a governmental agency of any contracting party and the government or governmental agency of any other contracting party shall also be published. The provisions of this paragraph shall not require any contracting party to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.
2. No measure of general application taken by any contracting party effecting an advance in a rate of duty or other charge on imports under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports, or on the transfer of payments therefor, shall be enforced before such measure has been officially published.
3. (a) Each contracting party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1 of this Article.
(b) Each contracting party shall maintain, or institute as soon as practicable, judicial, arbitral or administrative tribunals or procedures for the purpose, inter alia, of the prompt review and correction of administrative action relating to customs matters. Such tribunals or procedures shall be independent of the agencies entrusted with administrative enforcement and their decisions shall be implemented by, and shall govern the practice of, such agencies unless an appeal is lodged with a court or tribunal of superior jurisdiction within the time prescribed for appeals to be lodged by importers; Provided that the central administration of such agency may take steps to obtain a review of the matter in another proceeding if there is good cause to believe that the decision is inconsistent with established principles of law or the actual facts.

(c) The provisions of sub-paragraph (b) of this paragraph shall not require the elimination or substitution of procedures in force in the territory of a contracting party on the date of this Agreement which in fact provide for an objective and impartial review of administrative action even though such procedures are not fully or formally independent of the agencies entrusted with administrative enforcement. Any contracting party employing such procedures shall, upon request, furnish the CONTRACTING PARTIES with full information thereon in order that they may determine whether such procedures conform to the requirements of this sub-paragraph.

2. The United States: Tariff Act of 1930, as amended

a. Title IV, sections 402 and 402a

SEC. 402. VALUE.

(a) Basis.--Except as otherwise specifically provided for in this Act, the value of imported merchandise for the purposes of this Act shall be --

- (1) the export value, or
- (2) if the export value cannot be determined satisfactorily, then the United States value, or
- (3) if neither the export value nor the United States value can be determined satisfactorily, then the constructed value;

except that, in the case of an imported article subject to a rate of duty based on the American selling price of a domestic article, such value shall be --

- (4) the American selling price of such domestic article.

(b) Export value.--For the purposes of this section, the export value of imported merchandise shall be the price, at the time of exportation to the United States of the merchandise undergoing appraisement, at which such or similar merchandise is freely sold or, in the absence of sales, offered for sale in the principal markets of the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, for exportation to the United States, plus, when not included in such price, the cost of all containers and coverings of whatever nature and all other expenses incidental to placing the merchandise in condition, packed ready for shipment to the United States.

(c) United States Value.--For the purposes of this section, the United States value of imported merchandise shall be the price, at the time of exportation to the United States of the merchandise undergoing appraisement, at which such or similar merchandise is freely sold or, in the absence of sales, offered for sale in the principal market of the United States for domestic consumption, packed ready for delivery, in the usual wholesale quantities and in the ordinary course of trade, with allowances made for --

- (1) any commission usually paid or agreed to be paid, or the addition for profit and general expenses usually made, in connection with sales in such market of imported merchandise of the same class or kind as the merchandise undergoing appraisement;
- (2) the usual costs of transportation and insurance and other usual expenses incurred with respect to such or similar merchandise from the place of shipment to the place of delivery, not including any expense provided for in subdivision (1); and
- (3) the ordinary customs duties and other Federal taxes currently payable on such or similar merchandise by reason of its importation, and any Federal excise taxes on, or measured by the value of, such or similar merchandise, for which vendors at wholesale in the United States are ordinarily liable.

All

If such or similar merchandise was not so sold or offered at the time of exportation of the merchandise undergoing appraisement, the United States value shall be determined, subject to the foregoing specifications of this subsection, from the price at which such or similar merchandise is so sold or offered at the earliest date after such time of exportation but before the expiration of ninety days after the importation of the merchandise undergoing appraisement.

(d) Constructed Value.--For the purposes of this section, the constructed value of imported merchandise shall be the sum of --

(1) the cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials of their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise undergoing appraisement which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

(2) an amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise undergoing appraisement which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, for shipment to the United States; and

(3) the cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise undergoing appraisement in condition, packed ready for shipment to the United States.

(e) American Selling Price.--For the purpose of this section, the American selling price of any article produced in the United States shall be the price, including the cost of all containers and coverings of whatever nature and all other expenses incidental to placing the article in condition packed ready for delivery, at which such article is freely sold or, in the absence of sales, offered for sale for domestic consumption in the principal market of the United States, in the ordinary course of trade and in the usual wholesale quantities, or the price that the manufacturer, producer, or owner would have received or was willing to receive for such article when sold for domestic consumption in the ordinary course of trade and in the usual wholesale quantities, at the time of exportation of the imported article.

(f) Definitions.--For the purposes of this section--

(1) The term "freely sold or, in the absence of sales, offered for sale" means sold or, in the absence of sales, offered--

(A) to all purchasers at wholesale, or

(B) in the ordinary course of trade to one or more selected purchasers at wholesale at a price which fairly reflects the market value of the merchandise,

without restrictions as to the disposition or use of the merchandise by the purchaser, except restrictions as to such disposition or use which (i) are imposed or required by law, (ii) limit the price at which or the territory in which the merchandise may be resold, or (iii) do not substantially affect the value of the merchandise to usual purchasers at wholesale.

(2) The term "ordinary course of trade" means the conditions and practices which, for a reasonable time prior to the exportation of the merchandise undergoing appraisalment, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise undergoing appraisalment.

(3) The term "purchasers at wholesale" means purchasers who buy in the usual wholesale quantities for industrial use or for resale otherwise than at retail; or, if there are no such purchasers, then all other purchasers for resale who buy in the usual wholesale quantities; or, if there are no purchasers in either of the foregoing categories, then all other purchasers who buy in the usual wholesale quantities.

(4) The term "such or similar merchandise" means merchandise in the first of the following categories in respect of which export value, United States value, or constructed value, as the case may be, can be satisfactorily determined:

(A) The merchandise undergoing appraisalment and other merchandise which is identical in physical characteristics with, and was produced in the same country by the same person as, the merchandise undergoing appraisalment.

(B) Merchandise which is identical in physical characteristics with, and was produced by another person in the same country as, the merchandise undergoing appraisalment.

(C) Merchandise (i) produced in the same country and by the same person as the merchandise undergoing appraisalment, (ii) like the merchandise undergoing appraisalment in component material or materials and in the purposes for which used, and (iii) approximately equal in commercial value to the merchandise undergoing appraisalment.

(D) Merchandise which satisfies all the requirements of subdivision (C) except that it was produced by another person.

(5) The term "usual wholesale quantities", in any case in which the merchandise in respect of which value is being determined is sold in the market under consideration at different prices for different quantities, means the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.

(g) Transactions Between Related Persons.--

(1) For the purposes of subsection (c)(1) or (d), as the case may be, a transaction directly or indirectly between persons

specified in any one of the subdivisions in paragraph (2) of this subsection may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of merchandise of the same general class or kind as the merchandise undergoing appraisal. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, then, for the purposes of subsection (d), the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between persons not specified in any one of the subdivisions in paragraph (2).

(2) The persons referred to in paragraph (1) are:

(A) Members of a family, including brothers and sisters (whether by whole or half blood), spouse, ancestors, and lineal descendants;

(B) Any officer or director of an organization and such organization;

(C) Partners;

(D) Employer and employee;

(E) Any person directly or indirectly owning, controlling, or holding with power to vote, 5 per centum or more of the outstanding voting stock or shares of any organization and such organization; and

(F) Two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.

SEC. 402a. VALUE (ALTERNATIVE).

(a) Basis.--For the purposes of this Act the value of imported articles designated by the Secretary of the Treasury as provided for in section 6(a) of the Customs Simplification Act of 1956 shall be--

(1) The foreign value or the export value, whichever is higher;

(2) If the appraiser determines that neither the foreign value nor the export value can be satisfactorily ascertained, then the United States value;

(3) If the appraiser determines that neither the foreign value, the export value, nor the United States value can be satisfactorily ascertained, then the cost of production;

(4) In the case of an article with respect to which there is in effect under section 336 a rate of duty based upon the American selling price of a domestic article, then the American selling price of such article.

(b) Review of Appraiser's Decision.--A decision of the appraiser that foreign value, export value, or United States value can not be satisfactorily ascertained shall be subject to review in reappraisal proceedings under section 501; but in any such proceedings, an affidavit executed outside of the United States shall not be admitted in evidence

if executed by any person who fails to permit a Treasury attache to inspect his books, papers, records, accounts, documents, or correspondence, pertaining to the value or classification of such merchandise.

(c) Foreign Value.--The foreign value of imported merchandise shall be the market value or the price at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale for home consumption to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade, including the cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States.

(d) Export Value.--The export value of imported merchandise shall be the market value or the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is freely offered for sale to all purchasers in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade, for exportation to the United States, plus, when not included in such price, the cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the merchandise in condition, packed ready for shipment to the United States.

(e) United States Value.--The United States value of imported merchandise shall be the price at which such or similar imported merchandise is freely offered for sale for domestic consumption, packed ready for delivery, in the principal market of the United States to all purchasers, at the time of exportation of the imported merchandise, in the usual wholesale quantities and in the ordinary course of trade, with allowance made for duty, cost of transportation and insurance, and other necessary expenses from the place of shipment to the place of delivery, a commission not exceeding 6 per centum, if any has been paid or contracted to be paid on goods secured otherwise than by purchase, or profits not to exceed 8 per centum and a reasonable allowance for general expenses, not to exceed 8 per centum on purchased goods.

(f) Cost of Production.--For the purpose of this title the cost of production of imported merchandise shall be the sum of--

(1) The cost of materials of, and of fabrication, manipulation, or other process employed in the manufacturing or producing such or similar merchandise, at a time preceding the date of exportation of the particular merchandise under consideration which would ordinarily permit the manufacture or production of the particular merchandise under consideration in the usual course of business;

(2) The usual general expenses (not less than 10 per centum of such cost) in the case of such or similar merchandise;

(3) The cost of all containers and coverings of whatever nature, and all other costs, charges, and expenses incident to placing the particular merchandise under consideration in condition, packed ready for shipment to the United States; and

(4) An addition for profit (not less than 8 per centum of the sum of the amounts found under paragraphs (1) and (2) of this subdivision) equal to the profit which ordinarily is added, in the case of merchandise of the same general character as the particular merchandise under consideration, by manufacturers or producers in the country of manufacture or production who are engaged in the production or manufacture of merchandise of the same class or kind.

(g) American Selling Price.--The American selling price of any article manufactured or produced in the United States shall be the price, including the cost of all containers and coverings of whatever nature and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for delivery, at which such article is freely offered for sale for domestic consumption to all purchasers in the principal market of the United States, in the ordinary course of trade and in the usual wholesale quantities in such market, or the price that the manufacturer, producer, or owner would have received or was willing to receive for such merchandise when sold for domestic consumption in the ordinary course of trade and in the usual wholesale quantities, at the time of exportation of the imported article.

b. Title I - Tariff Schedules of the United States,
general headnote 6

6. Containers or Holders for Imported Merchandise. For the purposes of the tariff schedules, containers or holders are subject to tariff treatment as follows:

* * * * *

(b) Not Imported Empty: Containers or holders if imported containing or holding articles are subject to tariff treatment as follows:

(i) The usual or ordinary types of shipping or transportation containers or holders, if not designed for, or capable of, reuse, and containers of usual types ordinarily sold at retail with their contents, are not subject to treatment as imported articles. Their cost, however, is, under section 402 or 402a of the tariff act, a part of the value of their contents and if their contents are subject to an ad valorem rate of duty such containers or holders are, in effect, dutiable at the same rate as their contents, except that their cost is deductible from dutiable value upon submission of satisfactory proof that they are products of the United States which are being returned without having been advanced in value or improved in condition by any means while abroad.

(ii) The usual or ordinary types of shipping or transportation containers or holders, if designed for, or capable of, reuse, are subject to treatment as imported articles separate and distinct from their contents. Such holders or containers are not part of the dutiable value of their contents and are separately subject to duty upon each and every importation into the customs territory of the United States unless within the scope of a provision specifically exempting them from duty. ^{1/}

(iii) In the absence of context which requires otherwise, all other containers or holders are subject to the same treatment as specified in (ii) above for usual or ordinary types of shipping or transportation containers or holders designed for, or capable of, reuse.

^{1/} See TSUS items 808.00 and 864.45 regarding containers and other packaging entitled to separate duty-free tariff treatment.

3. Customs Cooperation Council: Convention on the Valuation of Goods for Customs Purposes, signed at Brussels on December 15, 1950

a. Annex I. The Definition of Value

ARTICLE I

(1) For the purposes of levying duties of customs, the value of any goods imported for home consumption shall be taken to be the normal price, that is to say, the price which they would fetch at the time when the duty becomes payable on a sale in the open market between buyer and seller independent of each other.

(2) The normal price of any imported goods shall be determined on the following assumptions:

- (a) that the goods are treated as having been delivered to the buyer at the port or place of introduction into the country of importation; and
- (b) that the seller will bear all costs, charges and expenses incidental to the sale and to the delivery of the goods at that port or place; but
- (c) that the buyer will bear any duties or taxes applicable in the country of importation.

ARTICLE II

(1) A sale in the open market between buyer and seller independent of each other pre-supposes:

- (a) that the price is the sole consideration; and
- (b) that the price made is not influenced by any commercial, financial or other relationship, whether by contract or other wise, between the seller or any person associated in business with him (other than the relationship created by the sale of the goods in question); and
- (c) that no part of the proceeds of the subsequent re-sale, use or disposal of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

(2) Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other or both have a common interest in any business or property or some third person has an interest in the business or property of both of them.

ARTICLE III

When the goods to be valued

- (a) are manufactured in accordance with any patented invention or are goods to which any registered design has been applied; or
- (b) are imported under a foreign trade mark or are imported for sale under a foreign trade mark;

the normal price shall be determined on the assumption that the value of the right to use the patent, design or trade mark in respect of the goods is covered by the price.

b. Annex II. Interpretative Notes to the Definition
of Value

Addendum to Article I

Note 1.

"The time when the duty becomes payable" referred to in paragraph (1) of Article I may, in accordance with the legislation of each country, be either the time at which the entry is presented or registered, the time of payment of customs duty or the time of clearance.

Note 2.

The "costs, charges and expenses" mentioned in Article I, paragraph (2)(b) include, inter alia, any of the following:

- carriage and freight;
- insurance;
- commission;
- brokerage;
- costs, charges and expenses of drawing up outside the country of importation documents incidental to the introduction of the goods into the country of importation, including consular fees;
- the net amount (after allowing for repayments made or to be made) of duties and taxes applicable outside the country of importation;

----- cost of containers excluding those which are treated as separate articles for the purpose of levying duties of customs; cost of packing (whether for labour, materials or otherwise);
----- loading charges.

Note 3.

Where the normal price would depend upon the quantity in the sale, it shall be determined on the assumption that the sale is a sale of the quantity to be valued.

Note 4.

Where the determination of the value or of the price paid or payable depends upon factors which are expressed in a currency other than that of the country of importation, the foreign currency shall be converted into the currency of the importing country at the official rate of exchange of that country.

Note 5.

The object of the definition of value is to make it possible in all cases to calculate the duties payable on the basis of the price at which imported goods are freely available to any buyer in the open market at the port or place of introduction into the country of importation. It is a concept for general use and is applicable whether or not the goods are in fact imported under a contract of sale, and whatever the terms of that contract.

But the application of the Definition implies an enquiry into current prices at the time of valuation. In practice, therefore, when imported goods are the subject of a bona fide sale, the price paid or payable on that sale can generally be considered as a valid indication of the normal price mentioned in the Definition. This being so, the price paid or payable can reasonably be used as a basis for valuation, and Customs authorities are recommended to accept this price as the value of the goods in question, subject:

- (a) to proper safeguards aimed at preventing evasion of duty by means of fictitious or colourable contracts or prices; and
- (b) to such adjustment of the contract price as may be considered necessary on account of circumstances differentiating the contract from the notional concept embodied in the Definition of Value.

Addendum to Article III

Note 1.

The provisions of Article III (b) may also be applied to goods imported for sale, after further manufacture, under a foreign trade mark.

Note 2.

Sub-paragraph (b) of Article III. or that sub-paragraph amended in accordance with Note 1 above, may be extended so that it shall not apply to a trade mark registered within the country of importation, unless it is a mark used for the purpose of indicating that goods in relation to which it is used are those of:

- (a) any person by whom the goods to be valued have been grown, produced, manufactured, selected, offered for sale or otherwise dealt with outside the country of importation; or
- (b) a person associated in business with any such person as is referred to in (a) above; or
- (c) a person to whom any such person as is referred to in (a) or (b) above has assigned the goodwill of the business in connection with which the trade mark is used.

General Addendum

It is recommended that the concept of value expressed by the Definition and these Interpretative Notes be employed for the valuing of all goods subject to customs declaration, including duty-free goods and goods liable to specific customs duties.

4. Belgium

a. Preliminary Provisions of the Tariff of Import Duties,
dated January 1, 1948

Chapter II - Value

Paragraph 10

1. For the application of the tariff, the value of any goods shall be taken to be the normal price, that is to say, the price those goods would fetch, on the day upon which entry is made, on a sale in the open market between buyer and seller independent of each other.
2. The normal price shall be determined on the following assumptions:
 - (a) that the goods are treated as having been delivered to the buyer at the first port or place at which they are introduced into the territory of the Contracting Parties or, in the case of goods imported by air, at the place at which they cross the limits of that territory;
 - (b) that the seller will bear all expenses incidental to the sale and to delivery to the port or place referred to in (a) above; such expenses are therefore includable in the price;
 - (c) that the buyer will bear any duties or taxes applicable in the territory of the Contracting Parties; such duties or taxes are therefore not includable in the price.
3. The normal price of the goods shall include such value as they may derive from:
 - (a) designs, plans, patterns or other technical, artistic or scientific creations, or from copyright, patent rights or other similar rights;
 - (b) the right to use a foreign trade mark which has been applied, to the goods, or under which they are to be sold, whether or not after processing or manufacture.

Paragraph 11

1. A sale in the open market between buyer and seller independent of each other presupposes:
 - (a) that the payment of the price of the goods is the sole consideration;
 - (b) that the price made is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him (other than the relationship created by the sale of the goods in question);
 - (c) that no part of the proceeds of the subsequent re-sale, use or disposal of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

2. Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other or both have a common interest in any business or property or some third person has an interest in the business or property of both of them.

Paragraph 12

1. Where goods are delivered under a sale in the open market between buyer and seller independent of each other, the value may be taken to be the purchase price, i.e. the price actually paid or payable, increased by such costs, charges and expenses as are not included therein in accordance with paragraph 10 2 (b), and decreased by all charges, duties and taxes applicable in the territory of the Contracting Parties, in so far as such charges, duties and taxes are included in the price. In addition, the principles laid down by paragraph 10 for determination of the normal price shall apply.

2. The provisions of sub-paragraph 1. above shall not apply if the normal price is higher than the purchase price as determined in accordance with that sub-paragraph.

* * * * *

Paragraph 15

On the proposal of the Customs and Fiscal Commission, the competent Ministers shall lay down such provisions as are required for the implementation of paragraphs 10 to 14. They shall determine, inter alia, the costs, charges and expenses which are to be included in the price in accordance with the provisions of paragraph 10(2)(b).

* * * * *

b. Ministerial Order, dated January 1, 1948

Section 1

Paragraph 1

For the application of the tariff of import duties, the value of the separate parts of a whole, which do not in themselves constitute separate articles of commerce, shall be determined in proportion to the price of the whole of which they are taken to form part.

Paragraph 2

The costs, charges and expenses mentioned in paragraph 10 2 (b) of the Preliminary provisions of the Tariff of import duties include, inter alia, any of the following;

- carriage and freight; insurance; commission; brokerage;
- costs, charges and expenses of drawing up outside the territory of Belgium, Luxembourg and the Netherlands, documents incidental to the importation of the goods, including consular fees;
- the net amount (after allowing for repayments made or to be made) of duties and taxes applicable outside the territory of Belgium, Luxembourg and the Netherlands;
- cost of containers excluding those which are dutiable as separate articles for the purpose of levying duties of customs; cost of packing (whether for labour, materials or otherwise);
- loading charges.

The costs, charges and expenses enumerated above shall not be taken to include charges for unloading the goods from the means of transport on which they were brought from abroad.

5. Denmark: The Customs Act of 28 January 1959, as Amended

Section 136

The value for Customs purposes of goods liable to ad valorem duty shall be the normal price of the goods, that is to say, the price which they would fetch at the time when the goods are entered for clearance on a sale in the open market between buyer and seller independent of each other.

Paragraph 2. The normal price shall be determined on the assumption that the goods are delivered to the buyer at the port or place of introduction into the country of importation, that the seller will bear all costs incidental to the sale and to the delivery of the goods at that port or place, and that the buyer will bear any duties and taxes applicable within the customs area.

Section 137

A sale in the open market between buyer and seller independent of each other presupposes that the price is the sole consideration for the goods, that the price is not influenced by any special relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him, and that no part of the proceeds of the re-sale or use of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

Paragraph 2. Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any financial interest in the business or property of the other or both have a financial interest in any business or property of some third person or some third person has a financial interest in the business or property of both persons.

Section 138

When goods are patented or are of a registered design or are imported under a foreign trade mark or are imported for sale under such trade mark, the normal price shall include the value of the right to use the patent, design or trade mark.

Section 139

When goods are acquired by purchase the contract price shall be used as a basis for valuation; the value for customs purposes shall however be established subject to such adjustments as may be necessary when the goods are purchased on conditions differing from those mentioned in Section 136. Where appropriate, e.g., where goods are imported by subsidiaries or branches, the value may be established after adjustment by reference to the price at which the goods are re-sold by the importer.

Paragraph 2. Any changes in the price of goods acquired on purchase between the time of purchase and the time of clearance of the goods shall not involve any adjustment unless the time interval exceeds 6 months.

Paragraph 3. Adjustments which cannot be made solely on the basis of the invoice and other documents relating to the purchase and to the delivery of the goods shall not however be required where the Customs consider that such adjustments would have no appreciable effect on the amount of duty chargeable.

Section 140

The costs mentioned in paragraph 2 of Section 136 which the seller is assumed to bear and which shall accordingly be included in the value for customs purposes comprise, inter alia, any of the following:

- loading charges;
- carriage and freight, cf. Section 141.
- insurance;
- commission, brokerage and the like;
- costs of drawing up outside the customs area documents incidental to the importation of the goods;
- duties and taxes applicable outside the customs area (after allowing for any repayments of duties and taxes);
- costs of containers, cf. Section 142; and
- labour charges and other costs of packing.

Section 141

The value for customs purposes shall include all carriage and freight to the destination of the goods; if the importer is able to produce satisfactory evidence of the carriage and freight charges to the port or place of introduction such charges alone shall be included in the value.

Paragraph 2. For goods imported by ship or aircraft the first port of call (airport) of the ship (aircraft) within the customs area shall be taken to be the port or place of introduction. For goods imported otherwise the first boundary post in the customs area shall be taken to be the place of introduction.

Section 142

Costs of containers shall not be included in the value of the goods for customs purposes where the containers are treated as separate articles of commerce for the purpose of levying duties of customs, unless the containers are allowed to be imported duty-free in accordance with the provisions of Section 129, paragraph 18. ^{1/}

Paragraph 2. In cases in which the containers have previously been exported from the customs area or are to be exported therefrom within a year from the date of clearance, the costs of containers shall be assessed at the costs paid for using the containers including freight, carriage, and insurance, if such costs are stated separately in the entry by the importer. Otherwise the costs of containers shall be assessed at the value of the containers.

^{1/} According to Section 129, paragraph 18, containers which are considered separate articles of commerce may be allowed to be imported duty-free provided that the containers or containers of the same sort and quantity have either previously been exported by the importer less than a year before the date of import or are to be exported within a year from the date of clearance.

6. France

a. Customs Code of February 7, 1953, as Amended
February 27, 1961, by Decree No. 61-217

* * * * *

Section 35

1. The value to be declared on importation of goods shall be the normal price, that is to say the price they would fetch, at the time and place defined hereafter, on a sale in the open market between buyer and seller independent of each other.

When a sale is made under such conditions, the normal price may be determined from the price shown on the invoice.

2. The normal price of any imported goods shall be determined on the following assumptions:
 - (a) that the time is the time of registration of the entry by the Customs authorities;
 - (b) that the goods are treated as having been delivered to the buyer at the place of introduction into the Customs territory;
 - (c) that the seller will bear and include in the price the expenses of transportation of the goods; and all other costs, charges and expenses incidental to the sale and to the delivery of the goods at the place of introduction into the Customs territory;
 - (d) that the price does not include expenses incidental to transportation within the Customs territory, nor any duties or taxes applicable in that territory.
3. A sale in the open market between buyer and seller independent of each other pre-supposes:
 - (a) that the payment of the price of the goods is the sole consideration of the buyer;

- (b) that the price made is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him (other than the relationship created by the sale of the goods in question);
- (c) that no part of the proceeds of the use or subsequent disposal of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other or both have a common interest in any business or property or some third person has an interest in the business or property of both of them.

4. When the goods to be valued:
- (a) are manufactured in accordance with any patented invention or are goods to which any registered design has been applied;
 - (b) or are imported under a foreign trade mark or are imported for sale under a foreign trade mark;

the normal price shall be determined on the assumption that the value of the right to use the patent, design or trade mark in respect of the goods is included in that price.

* * * * *

8. When the elements taken into consideration for determination of the normal price are expressed in a foreign currency, that currency shall be converted on the basis of the official rate of exchange for the day of registration of the entry.

b. Decree No. 61-217, dated February 27, 1961

Article 6

The provisions of section 35, paragraph 4,b, of the Customs Code are applicable to goods imported for sale, after further manufacture, under a foreign trade mark.

7. Italy: Preliminary Provisions of the Tariff Customs Duties
on Importation, approved by Decree No. 1339 of the
President of the Italian Republic, dated December 21, 1961

Section 1

Customs duties shall be levied regardless of the state in which the goods arrive; they shall not be waived or reduced on account of damage, whatever its cause.

However, the value of damaged goods liable to ad valorem taxation may be determined with due allowance for the damage.

The owner of goods which arrive from abroad in damaged condition may opt for their destruction at his own expense and on such conditions as may be determined by the Customs.

No exemption or relief from duty, other than as provided for in the tariff or the present provisions, shall be granted except by virtue of a law.

* * * * *

Section 18

The imported duty chargeable on goods liable to ad valorem duty shall be calculated on the basis of the dutiable value of such goods.

The dutiable value of such goods shall be their "normal price" as defined in Sections 19 to 22 below.

Subject to the provisions of Section 23, the invoice price may also be taken as the dutiable value.

Section 19

The normal price shall be taken to be the price which the imported goods would fetch on sale in the open market between a buyer and a seller independent of each other, on the date on which customs examination of the goods takes place, after entry has been made as prescribed by Section 16 of the Customs Act No. 1424 of 25th September 1940.

Section 20

A sale in the open market between buyer and seller independent of each other presupposes:

- (a) that the payment of the price of the goods is the sole consideration in the transaction;
- (b) that the price made is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him (other than the relationship created by the sale of the goods in question);
- (c) that no part of the proceeds of the re-sale, of the subsequent disposal or of the use of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business of the other or both have a common interest in any business or some third person has an interest in the business of both of them.

Section 21

Where the normal price depends upon the quantity in the sale, it shall be determined on the assumption that the sale is a sale of the quantity of the goods produced and to be valued.

Section 22

When the goods to be valued:

- (a) are manufactured in accordance with any patented invention or are goods to which any registered design or copyright has been applied;
- (b) are imported under a foreign trade mark or are imported for sale under a foreign trade mark, whether or not after further manufacture;

the normal price shall be determined on the assumption that it includes the value of the right to use the patent, design, copyright or trade mark in respect of the goods.

Section 23

Where the imported goods are the subject of a sale in the open market between buyer and seller independent of each other, the price paid or payable on that sale may be considered as a valid indication of their normal price as defined in Section 19.

Loading charges, carriage and freight, insurance, commissions and all other costs, charges and expenses incidental to the sale, transport and delivery of the goods up to the port or place of introduction into the Customs territory of the Republic (Section 19, paragraph 3, sub-paragraph (b)) shall be added to the invoice price, if they are not already included therein. Any abnormal discount or any special reduction from the ordinary competitive price shall also be included in the dutiable value.

Any discounts or other price reductions granted to sole concessionaires, sole agents or similar intermediaries shall also be taken into consideration with a view to their inclusion in the dutiable value.

Section 24

The costs, charges and expenses mentioned in Section 19, paragraph 3, sub-paragraph (b) include:

- (a) carriage and freight;
- (b) insurance;
- (c) commissions;
- (d) brokerage;
- (e) costs, charges and expenses of drawing up abroad documents incidental to the introduction of the goods into the territory of the Republic, including consular fees;
- (f) the net amount (after allowing for repayments made or to be made) of duties and taxes directly chargeable on the goods abroad;
- (g) loading charges;

- (h) any other expenses incurred in connection with the sale, shipment and delivery of the goods up to the port or place of introduction into the customs territory of the Republic.

The dutiable value of goods shall be taken to include the cost of the internal and external containers and of packagings other than containers and packagings which are treated as separate articles for the purpose of levying duties of customs, and costs of packing (whether for labour, materials or otherwise). However, the value of goods placed in containers which, according to commercial practice, are normally returned to the consignor and as such are granted temporary admission to enable them to be emptied, shall not be taken to include the value of such containers unless the invoice shows their ownership to have been transferred or they are not re-exported.

Section 25

For the purposes of determining carriage and freight, the port or place of introduction into the customs territory of the Republic shall be taken to be:

- (a) in the case of importation by sea, the port at which the goods are unloaded;
- (b) in the case of importation by air, rail, road or lake, the place at which the first customs office is situated.

* * * * *

Section 27

The owner of the goods shall declare to the Customs authorities the dutiable value of the goods determined according to the provisions contained in the previous Sections and shall amend his declaration to take account of price fluctuations should Customs examination of the goods not take place immediately after such declaration has been made.

He shall also provide, in such form as the Administration may consider appropriate, all information and shall produce the invoice, the transport documents and such other commercial

documents (contracts, correspondence, etc.) relating to the sale, shipment and delivery of the goods as the Customs authorities may require in order to ascertain the dutiable value.

The requirements of the two previous paragraphs shall apply in respect of all goods for which an entry is required, including goods exempt from duties of Customs and goods on which specific duties are changeable.

The Finance Administration is empowered to make such inquiries as it may deem necessary to verify dutiable values.

8. Norway: Customs Tariff, as amended January 1, 1963

Section 8

A

1. For the purposes of levying duties of Customs, the value of any goods imported for home consumption shall be taken to be the normal price, that is to say, the price which they would fetch on the day that they are cleared through Customs, on a sale in the open market between buyer and seller independent of each other.

2. When goods to be valued are manufactured in accordance with any patented invention or are goods to which any registered design has been applied or are imported under a foreign trade mark or are imported for sale under a foreign trade mark, whether or not after having been processed or transformed, the normal price shall be determined on the assumption that the value of the right to use the patent, design or trade mark in respect of the goods is covered by the price.

B

1. The normal price of any imported goods shall be determined on the following assumptions:

that the goods are treated as having been delivered to the buyer at the place of importation;

that the seller will bear all costs, charges and expenses incidental to the sale and to the delivery of the goods at the place of importation;

the buyer will bear all duties and taxes applicables in Norway.

The expression, place of importation, shall be taken to be the Customs post or Customhouse at which the goods are disembarked or unloaded or, the case arising, the first Customs post or the first Customhouse at which the goods could virtually have been originally disembarked.

2. The normal price is to be taken to include the costs, charges and expenses entailed by any of the following: carriage and freight; insurance; commission and brokerage; costs, charges and expenses of drawing up outside the country of importation documents incidental to the introduction of the goods into Norway; the net amount (after allowing for repayments made or to be made) of duties and taxes applicable outside the country of importation; costs of containers excluding those which are treated as separate articles for the purpose of levying customs duties, and loading charges.

3. The cost of packaging shall be calculated according to the expenses entailed by the use of the packaging when the packaging or packagings of the corresponding kind and quantity:

- (a) will be re-exported within the year following the date of importation; or
- (b) were exported by the owner of the goods during the year preceding importation, provided such importation was not as defined at (a) above

4. In other cases, the cost of packaging will be calculated according to their value.

C

1. A sale in the open market between buyer and seller independent of each other presupposes:

- (a) that the price is the sole consideration; and
- (b) that the price made is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any other person associated in business with him and the buyer or any person associated in business with him (other than the relationship created by the sale of the goods in question); and
- (c) that no part of the proceeds of the subsequent resale, use or disposal of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

2. Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other or both have a common interest in any business or property or some third person has an interest in the business or property of both of them.

D

1. Where goods covered by a sales contract, the agreed price shall be taken for the establishment of the normal price; however, the necessary adjustments should be made to the agreed price when purchase has been effected in other conditions than those defined under A and B above.

2. As regards goods covered by a sales contract, changes in the prices of such kinds of goods occurring between the date of purchase and the date of entry for clearance through Customs shall not entail a change in the dutiable value unless more than 6 months have elapsed between those two dates. Moreover, in general, adjustments which are not based only on the details given in the invoice and the other documents concerning the purchase and delivery of the goods may not be

made, unless, in the opinion of the Customs, such adjustments do not substantially affect the calculation of the duties. However, the importer shall have the faculty of requesting that the duties and taxes referred to in sub-paragraph B 1, and which he is able to prove, be deducted.

3. Adjustments may be made, in certain circumstances (for example when the goods are imported by branches or subsidiaries), on the basis of the price at which the goods will be re-sold by the importer.

9. Sweden

a. Customs Tariff Ordinance (May 13, 1960)

Section 3

1. The duty chargeable on goods liable to ad valorem duty shall be assessed on the normal price, that is to say, the price which they would fetch at the time when entry is presented on a sale in the open market between buyer and seller independent of each other.

The normal price shall be determined on the assumption that the goods are delivered to the buyer at the port or place of introduction, that the seller will bear all costs, charges and expenses, incidental to the sale and to the delivery of the goods at that port or place, and that the buyer will bear any duties or taxes applicable in Sweden.

2. If the goods have been acquired by purchase, the price paid or payable shall be accepted as the normal price subject to such adjustments as may be necessary when the goods are purchased on conditions differing from those mentioned in subsection 1.

b. Customs Tariff Proclamation (May 13, 1960)

Chapter 3 Valuation

Section 4

A sale in the open market between buyer and seller, independent of each other, as referred to in Section 3, subsection 1 of the Customs Tariff Ordinance presupposes:

- (i) that the price is the sole consideration;
- (ii) that the price made is not influenced by any special relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him; and
- (iii) that no part of the proceeds of the subsequent re-sale, use or disposal of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any financial interest in the business or property of the other or both have a common financial interest in any business or property of some third person or some third person has a financial interest in the business or property of both persons.

Section 5

By port or place of introduction as referred to in Section 3, subsection 1, of the Customs Tariff Ordinance is meant, when goods are imported by ship or by aircraft, the port or the airport to which the goods are consigned or at which they are discharged from the ship or the aircraft for on-carriage to their destination, and when goods are imported otherwise, the frontier place within the Customs area.

Section 6

In the case of goods which are manufactured in accordance with any patented invention or are goods to which any registered design has been applied, or are imported under a foreign trade mark or are imported for sale under a foreign trade mark, the normal price shall be determined on the assumption that the value of the right to use the patent, design, or trade mark in respect of the goods is covered by the price.

Section 7

The "costs, charges and expenses" mentioned in Section 3, subsection 1, second paragraph, of the Customs Tariff Ordinance, include, inter alia, any of the following:

carriage and freight;

insurance

commission;

brokerage

costs, charges and expenses of drawing up, outside Sweden, documents incidental to the introduction of the goods into Sweden;

the net amount (after allowing for repayments made or to be made) of duties and taxes applicable outside Sweden;

cost of containers excluding those which are treated as separate articles; cost of packing the goods; and loading charges.

Carriage and freight incidental to the delivery shall not, however, if they are satisfactorily proved, be included in the normal price at an amount higher than thirty per cent of the normal price excluding the said costs.

Carriage and freight shall be calculated for the transportation of the goods to their destination within the Customs area, unless the carriage and freight to the port or place of introduction are satisfactorily proved.

Cost of containers shall be calculated as equal to the cost incidental to their use if the containers or other containers of the same kind and quantity either have been exported by the importer within one year before the importation (provided that this exportation had not formerly been invoked for determining the costs of packing in the manner now stated) or are intended to be exported by him within one year after the importation; otherwise the cost of containers shall be calculated as equal to their value.

Section 8

In determining the normal price of the goods by application of Section 3, subsection 2, of the Customs Tariff Ordinance, a price adjustment for the reason that the price of goods of the kind in question may have changed during the period between the purchase and the importation of the goods, shall not be considered necessary, unless the time interval exceeds six months.

Otherwise price adjustments shall not be made unless such adjustments would essentially affect the amount of duty chargeable or could be made merely on the basis of the invoice and other documents relating to the purchase and delivery of the goods.

10. United Kingdom:

a. Customs and Excise Act 1952

Part X

Section 258. Valuation of goods for purpose of
ad valorem duties

1. For the purpose of any enactment for the time being in force whereunder a duty of customs is chargeable on goods by reference to their value, the value of any imported goods shall be taken to be that laid down by the Sixth Schedule to this Act, and duty shall be paid on that value:
Provided that, in the case of goods imported under a contract of sale and entered for home use, duty shall be deemed to have been paid on that value if, before the goods are delivered for home use, duty is tendered and accepted on a declared value based on the contract price.
2. For the purpose of the proviso to the foregoing subsection:
 - (a) the declared value of any goods is their value as declared by or on behalf of the importer in making entry of the goods for home use;
 - (b) that value shall be deemed to be based on the contract price if, but only if, it represents that price properly adjusted to take account of circumstances differentiating the contract from such a contract of sale as is contemplated by the Sixth Schedule to this Act;

b. Customs and Excise Act of 1952, Sixth Schedule

Value of imported goods

- 1.-1. The value of any imported goods shall be taken to be the normal price, that is to say the price which they would fetch, at the time when they are entered for home use (or, if they are not so entered, the time of importation), on a sale in the open market between buyer and seller independent of each other.
2. The normal price of any imported goods shall be determined on the following assumptions:
 - (a) that the goods are treated as having been delivered to the buyer at the port or place of importation; and

- (b) that the seller will bear freight, insurance, commission and all other costs, charges and expenses incidental to the sale and the delivery of the goods at that port or place; but
- (c) that the buyer will bear any duty or tax chargeable in the United Kingdom.

2.- A sale in the open market between buyer and seller independent of each other pre-supposes:

- (a) that the price is the sole consideration; and
- (b) that the price made is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him (other than the relationship created by the sale of the goods in question); and
- (c) that no part of the proceeds of the subsequent resale, use or disposal of the goods will accrue either directly or indirectly to the seller or any person associated in business with him.

3.- Where the goods to be valued:

- (a) are manufactured in accordance with any patented invention or are goods to which any registered design has been applied; or
- (b) are imported under a foreign trade mark, or are imported for sale (whether or not after further manufacture) under a foreign trade mark;

the normal price shall be determined on the assumption that the price covers the right to use the patent, design or trade mark in respect of the goods.

4.- For the purpose of the last foregoing paragraph the expression "trade mark" includes a trade name and a get-up, and a foreign trade mark is a trade mark used for the purpose of indicating that goods in relation to which it is used are those of:

- (a) a person by whom the goods to be valued have been grown, produced, manufactured, selected, offered for sale or otherwise dealt with outside the United Kingdom; or

(b) a person associated in business with any such person as is referred to in sub-paragraph (a) of this paragraph; or

(c) a person to whom any such person is mentioned in subparagraph (a) or (b) of this paragraph has assigned the goodwill of the business in connection with which the trade mark is used.

5.- Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other, or both have a common interest in any business or property, or some third person has an interest in the business or property of both of them.

11. West Germany: Customs Act of June 14, 1961

Section 29

Dutiable value; normal price

1. The dutiable value shall be the normal price which the imported goods would fetch at the date taken into account for valuation purposes, on a sale in the open market between buyers and sellers independent of each other (normal price).
2. The normal price shall be determined on the following assumptions:
 - 1 - that the goods are treated as having been delivered to the buyer at the place of introduction; and
 - 2 - that the seller will bear all costs, charges and expenses incidental to the sale and to the delivery of the goods at that place;
 - 3 - that the buyer will bear any import duties or taxes.
3. When the goods to be valued:
 - 1 - are manufactured in accordance with any patented invention or are goods to which any registered design has been applied; or
 - 2 - are imported under a foreign trade mark or are imported for sale under a foreign trade mark, whether or not after further processing,

the normal price of the goods shall include the value of the right to use the patent, design or trade mark.

Section 30

Sale in the open market

1. A sale in the open market between buyers and sellers independent of each other (Section 29-1.) pre-supposes:

- 1 - that the price is the sole consideration passing from the buyer in respect of the goods; and
 - 2 - that no part of the proceeds of the use or subsequent sale of the goods will accrue either directly or indirectly to the seller or any person associated in business with him; and
 - 3 - that the price made is not influenced by any commercial, financial or other relationship, whether by contract or otherwise, between the seller or any person associated in business with him and the buyer or any person associated in business with him (other than the relationship created by the sale of the goods in question).
2. Two persons shall be deemed to be associated in business with one another if, whether directly or indirectly, either of them has any interest in the business or property of the other or some third person has an interest in the business or property of both of them.

Section 31

Acceptance of the price paid or payable as the dutiable value

1. The price paid or payable on a sale shall be accepted as the dutiable value where:
 - 1 - the contract of sale is performed within a period corresponding to commercial usage, and
 - 2 - the said price corresponds to the price which the goods would fetch on a sale in the circumstances specified in Section 29, 1. and 3. above (ordinary competitive price) at the time when the contract is concluded or where the said price is adjusted as necessary, and
 - 3 - the said price does not meet the requirements of Section 29, 2. above but is adjusted as necessary.

Adjustments under paragraph 1. 2 - above may in particular be required with reference to abnormal discounts, reductions in price granted only to sole agents, or any other reduction from the ordinary competitive price.

2. Reductions in price granted only to sole agents shall be taken to be any difference between the price paid or payable and the ordinary competitive price at which the goods would be freely available to any buyer who, over and above the payment of the price paid or payable, gives no other consideration in respect of the imported goods (e.g. advertising or warranty services) in the interest of the seller.
3. The provisions of paragraph 1. above shall not apply where the person concerned requests valuation at the normal price. The Customs may require the person concerned to produce, in support of such request, documentary evidence of the normal price.

Section 32

Dutiable value : special provisions

1. In determining the dutiable value, the ordinary competitive price which the goods would fetch at the place of clearance shall be accepted, where the same terms of delivery apply, as equivalent to the ordinary competitive price which they would fetch at the place of introduction. This provision shall not apply where, under the same terms of delivery, the goods are sold at different prices according to the domicile of the buyer.
2. Any reductions in costs, charges or expenses granted to the buyer (Section 29, 2. 2 - above) shall not be allowed unless reasons are known at the date to be taken into account for valuation purposes.
3. The cost of packings shall be included in the dutiable value of the contained goods if the packings are admitted duty-free under Section 24, (1) 1 c. It shall not be so included if the packings:
 - 1 - are returned to the seller abroad, or
 - 2 - are free of revenue control in the Customs territory and have been supplied by a buyer domiciled either in that territory or in a free port.
4. The Federal Minister of Finance may, by Order:

- 1 - specify, having regard to the requirements of the various modes of transport the place to be regarded as the place of introduction for the purpose of determining the normal price (Section 29, 2. 1 -) and calculating the costs incidental to delivery of the goods (Section 29, 2. 2 -);
- 2 - prescribe that, subject to such conditions as he may determine, the carriage and freight to be included in the dutiable value of samples and goods of little value carried by air shall not be the amounts actually paid but those which would have been paid for surface transport.
5. In the cases envisaged in Section 8, (2) and Section 20, (2), the dutiable value shall be taken to be the proceeds of the sale; in the case envisaged in Section 20, (3), it shall be taken to be the proceeds of the sale less the import duties and taxes.
6. When goods which have not been imported have to be valued, their dutiable value shall be the ordinary competitive price which those goods would fetch in the Customs territory.

12. Brazil: Tariff Law (No. 3,244) of August 14, 1957

Chapter III - Basis of Calculation

Art. 5. -- The ad valorem duty shall be calculated on the basis of the external value of the goods plus the expenses for freight and insurance (CIF value).

The external value of the goods shall be considered as the price at which, at the time of their export, they or other similar goods are normally offered for sale on the wholesale market of the exporting country, plus the cost of any container or packaging and the expenses connected with transport to the port of exportation to Brazil, minus, when the case applies, the internal consumption taxes of the exporting country which are normally recovered on export of the goods.

Art. 6. -- The external value shall be indicated by the importer on the import declaration.

If, after checking the goods, the Customs official has any reason to question the declaration of the importer, he must, within a period of 8 days, by means of signed documents, establish the new value under which clearance may proceed.

Having been notified of the new value, the importer shall have 30 days in which to lodge his claim with the Inspector of Customs, who shall give his decision within the period of 30 days counted from the date of receiving the claim.

In the absence of a decision within the time established in the preceding paragraph, the value declared by the importer shall be temporarily accepted, merely for the purpose of releasing the goods and upon guarantee or deposit of the claimed difference, in accordance with the provisions of Article 14 and the paragraphs thereto of Decree Law No. 607, of August 10, 1938.

Recourse may be had against this decision under the terms of the legislation in force.

Art. 7. -- When the external value cannot be duly verified, the calculation for the duty shall be made on the basis of the domestic wholesale market, after deducting 30 percent for profit and expenses, as well as the duties incident upon the import.

Art. 8. -- In the calculation of the duty no distinction shall be made that has not already been established by Law or in the Tariff, between goods new or used, finished or partially finished, complete or incomplete, assembled or unassembled.

In the event of damage or intrinsic depreciation, casual or from means beyond control, a discount shall be granted on the external value of the goods in accordance with the prior appraisal made by the competent authorities.

Art. 9. -- A guide may be established for the minimum value of a product for which it is difficult to fix the external value because it is not regularly quoted on the national or international market, or which has been exported to Brazil under a dumping regime, in this case without prejudice to the provision of Paragraph 2 of Article 3 of this Law.

13. Canada: Customs Tariff

VALUATION FOR DUTY

Determination of value for duty.

35. (1) The value for duty of goods imported shall be determined in accordance with the provisions of sections 36 to 41A.

(2) In this section and sections 36 to 41A, with reference to any goods,

- (a) "country of export" means the country from which the goods were shipped directly to Canada;
- (b) "cost of production" means an amount that in accordance with good business principles and practices fairly reflects the manufacturing or production costs of the goods at the time of shipment to Canada; and
- (c) "gross profit" means the fair market value of the goods when sold in the circumstances described in section 36, minus the cost of production thereof. Memo D43.

Valuation for duty.

36. (1) Subject to section 38, the value for duty shall, notwithstanding any invoice or affidavit to the contrary, be the fair market value, at the time when and place from which the goods were shipped directly to Canada, of like goods when sold

- (a) to purchasers located at that place with whom the vendor deals at arm's length and who are at the same or substantially the same trade level as the importer, and
- (b) in the same or substantially the same quantities for home consumption in the ordinary course of trade under competitive conditions.

Rules to be applied in ascertaining value.

- (2) The following rules apply in the application of subsection (1):
 - (a) if there were no sales at the time when the goods were shipped to Canada, there shall be substituted therefor the most recent sales prior to the time of shipment that fairly reflect the market value of the goods at the time of shipment;
 - (b) if there were no purchasers located at the place from which the goods were shipped to Canada, there shall be substituted therefor sales to the purchasers located nearest thereto;
 - (c) where goods imported into Canada and goods sold for home consumption are like goods except only that the goods sold for home consumption have applied to them a trade mark, as defined in the Trade Marks Act, that is not applied to the goods imported into Canada, and goods like the goods imported are not sold for

home consumption, the goods imported and the goods sold for home consumption shall be deemed to be like goods for the purposes of this section, if, in the opinion of the Minister,

- (i) the goods are being imported into Canada without that trade mark applied to them in order to avoid the operation of subsection (1), and
- (ii) it is probable that there will be applied to the goods, subsequent to their importation into Canada, that trade mark or any other mark so closely resembling that trade mark that it is likely to be taken therefor:

- (d) regard shall not be had to a sale for home consumption to a purchaser by a vendor who did not, at the same or substantially the same time, sell like goods in the ordinary course of trade to other persons in the country of export, not controlled by or in control of or otherwise related to the purchaser; and
- (e) where goods were not sold in the same or substantially the same quantities for home consumption
 - (i) if the quantity shipped to Canada is larger than the largest quantity sold for home consumption, those quantities shall be deemed to be the same quantities,
 - (ii) if the quantity shipped to Canada is smaller than the smallest quantity sold for home consumption, the value for duty shall be based on the amount for which, in the opinion of the Minister, having regard to that trade, such smaller quantities would have been sold if they had been sold for home consumption.

(3) Where the value for duty cannot be determined under subsections (1) and (2) for the reason that

- (a) there were no purchasers in the country of export (in this subsection called "home purchasers") who were at the same or substantially the same trade level as the importer, or
- (b) although there were home purchasers who were at the same or substantially the same trade level as the importer, there were no sales to them in the circumstances described in subsections (1) and (2),

the home purchasers, if any, at the trade level nearest and subsequent to that of the importer to whom sales were made in the circumstances described in subsections (1) and (2) shall, for the purposes of those subsections, be deemed to have been at the same trade level as the importer.

When value for duty to be cost of production
plus profit.

37. Subject to section 38, where like goods were not sold for home consumption, or were not sold for home consumption in the circumstances

described in section 36, but similar goods were so sold, the value for duty shall, notwithstanding any invoice or affidavit to the contrary, be the aggregate of

- (a) the cost of production of the goods imported; and
- (b) an amount that is the same percentage of the cost of production of the goods imported as the gross profit on the similar goods is of the cost of production of the similar goods.

37A. Where the Governor in Council is satisfied, on a report from the Minister, that the application of subparagraph (1) of paragraph (e) of subsection (2) of section 36 or subsection (3) of section 36 is inequitable in that it results in discrimination against the importation of goods of a class from any country, as compared with the importation of goods of that class from any other country, the Governor in Council may prescribe the manner in which the value for duty of goods of that class, as determined under section 36 or 37, shall be reduced; but the value for duty of any imported goods upon being reduced as provided in this section shall not be less than an amount equal to the cost of production of the goods plus such amount for gross profit as is deemed reasonable by the Governor in Council.

Special cases.

38. Where in any case or class of cases

- (a) the value for duty cannot be determined under section 36 or 37 for the reason that like or similar goods are not sold in the country of export or are not sold in such country in the circumstances described in those sections,
 - (b) the goods imported
 - (i) are intended to be assembled, packaged or further manufactured in Canada or are intended to enter into the course of manufacture in Canada,
 - (ii) are used or obsolete goods,
 - (iii) are not prime quality goods as known in the trade, or are known in the trade as remnants, close-outs or discontinued lines or are surplus goods,
 - (iv) constitute a job lot, or
 - (v) are intended to be used directly in the process of manufacture or production of goods and like goods are not sold in the country of export,
 - (c) like goods are leased but not sold in the country of export, or
 - (d) the Minister is of opinion that by reason of unusual circumstances the application of sections 36 and 37 is impracticable,
- the value for duty shall be determined in such manner as the Minister prescribes.

Cost plus reasonable profit.

39. (1) Where the Minister is satisfied that material injury has been or may be caused to any industry in Canada, or any portion thereof, by reason of the importation of any new or unused goods or class of such goods at a value for duty less than the cost of production thereof, plus a reasonable amount for gross profit, he may so report to the Governor in Council, and, notwithstanding anything in this Act, the Governor in Council may order that the value for duty of those goods or that class of goods shall be increased to an amount equal to the cost of production thereof plus a reasonable amount for gross profit, having regard to the gross profit generally earned in that trade in the country of export, to be determined in the manner prescribed in section 37.

(2) The Governor in Council may at any time revoke an order made under subsection (1) and, unless sooner revoked, an order made under subsection (1) expires at the end of one year after the making thereof.

Determination of cost of production,
gross profit, etc.

40. Where sufficient information has not been furnished or is not available to enable the determination of cost of production, gross profit or fair market value under section 36, 37 or 39, the cost of production, gross profit or fair market value, as the case may be, shall be determined in such manner as the Minister prescribes.

Minimum value.

40A (1) Notwithstanding anything in this Act, where the value for duty as determined under sections 36 to 40 is less than the amount for which the goods were sold to the purchaser in Canada, exclusive of all charges thereon after their shipment from the country of export, the value for duty shall be the amount for which the goods were sold, less the amount, if any, by which the fair market value of the goods has decreased between the time of purchase and the time of exportation.

(2) The amount of any internal tax imposed within the country of export or origin on any goods imported into Canada, from which such goods have been exempted or have been or will be relieved by means of a refund or drawback, shall be deducted from the value for duty of such goods as determined under sections 36 to 40.

(3) The Governor in Council may order that such import duties imposed within the country of export or origin as he specifies shall be deducted, in whole or in part, from the value for duty of any goods as determined under sections 36 to 40.

Discounts.

(4) In determining the value for duty of any goods, no discount or deduction shall be allowed that is not shown, allowed and deducted on invoices covering sales for home consumption in the country of export, in the ordinary course of trade.

Any Department rulings to the contrary, which authorized the deduction of a portion of the domestic credit terms on customs invoices as a trade discount, and allowable when deriving the value for ordinary duty purposes, are cancelled effective 1st August 1960. Memo D 50-58.

Value of best article in package.

(5) In determining the value for duty of goods of the same material, or of a similar kind but a different quality, that are shipped in the same package, and were invoiced or sold at an average price, the value for duty of the best article contained in such package shall be deemed to be the average value of all the goods.

Goods on consignment.

- (6) For the purposes of sections 36 to 40, where goods are shipped to Canada on consignment,
- (a) if the goods were sold in the course of transit before importation, the person to whom such goods are sold shall be deemed to be the importer, and
 - (b) in all other cases, the consignee shall be deemed to be the importer.

Value for duty where market price has declined.

- (7) Notwithstanding anything in this Act,
- (a) where the market price of any manufactured goods in the country of export has, as the result of the advance of the season or the marketing period, declined to levels that do not reflect in the opinion of the Minister their normal price, the value for duty shall be the amount determined and declared by the Minister to be the average price, weighted as to quantity, at which the like or similar goods were sold for consumption in the country of export during a reasonable period, having regard to that trade, immediately preceding the date of shipment of the goods to Canada,
 - (b) where the market price in the country of export of any fresh fruit or vegetable of a class or kind produced in Canada has, as a result of the advance of the season or the marketing period declined to levels that do not reflect in the opinion

- of the Minister their normal price, the value for duty of such fresh fruit or vegetable, when imported into such region or part of Canada and during such period as the Minister may specify, shall be the amount determined and declared by him to be the average value, weighted as to quantity, at which like fresh fruits or vegetables were imported during the three-year period immediately preceding the date of shipment to Canada, and
- (c) where at any time it appears to the satisfaction of the Governor in Council on a report from the Minister that goods of any kind not entitled to entry under the British Preferential tariff or any lower tariff are being imported into Canada under such conditions as prejudicially or injuriously to affect the interests of Canadian producers or manufacturers, the Governor in Council may authorize the Minister to determine the value for duty of any class or kind of such goods, imported into such region or part of Canada and during such period as the Minister may specify, or may authorize the Minister to prescribe the manner in which such value for duty shall be determined, and the value so determined shall be deemed to be fair market value of such goods.

Additions.

40B. (1) If the value for duty as determined under sections 36 to 40A does not include,

- (a) the amount of any subsidy or drawback of Customs duty that has been allowed by the Government of any other country, or
- (b) the amount or money value of any so-called royalty, rent or charge for use of any machine or goods of any description, that the seller or proprietor does or would usually charge thereon when the same are sold or leased or rented for use in the country of export,

such amount shall be added thereto.

(2) There shall be added to the value for duty as determined under sections 36 to 40A the amount of consideration or money value of any special arrangement between the exporter and the importer, or between any persons interested therein, because of the exportation or intended exportation of such goods, or the right to territorial limits for the sale or use thereof."

Goods exported to Canada through another country.

41. Goods bona fide exported to Canada from any country but passing in transit through another shall, upon such terms and conditions as to shipment, documentation, warehousing, trans-shipment or the like as the Governor in Council may prescribe, be valued for duty as if they were imported direct from such first mentioned country.

- 41A. In the case of any imported goods that
- (a) were shipped indirectly to Canada from the country of origin through one or more other countries; and
 - (b) would, but for this section, be valued for duty under sections 36 to 40B at less than the value for duty of such goods would be if the country of export were the country of origin; the goods shall, notwithstanding subsection (1) of section 36, upon such terms and conditions as to shipment, documentation, warehousing, transshipment or the like as the Governor in Council may prescribe, be valued for duty as if they were imported direct from the country of origin at the time they were first shipped from that country.

14. Japan: Tariff Customs Law (Law No. 54) of April 15, 1910, as amended

Value for customs duty

Article 4. The value as the basis of assessment (hereinafter referred to as "value for customs duty") of the imported goods chargeable with customs duty on the basis of value (hereinafter referred to as "ad valorem duty goods") or on the basis of value and quantity (hereinafter referred to as "ad valorem and specific duty goods") shall be taken to be the price of such goods or the goods of the same kind when sold in the ordinary wholesale quantity and in the ordinary course of trade in the exporting country at the time of exportation (exclusive of internal excise taxes to be reduced, exempted, or refunded at the time of their exportation) plus the ordinary expenses incurred prior and incidental to the loading of such goods on board the vessel at the port of exportation (including duties and charges thereon, if any) as well as the ordinary freight and insurance incurred up to the arrival of the goods at the port of importation (in case of such goods transported by air as may be prescribed by a Cabinet Order, freight and insurance for usual means of transportation other than air shall be taken).

2. The value for customs duty in the preceding paragraph shall, if it can be determined on the basis of invoice or any other documents accompanying import declaration, be determined on the basis of such documents.

3. When neither invoice nor other document is produced to the Customs at the time of import declaration, where the statement in such documents is not acceptable as a true account of the goods, or when there is reason to believe that these documents cannot be regarded as reliable, the value for customs duty shall be determined on the basis of such value for customs duty as has been determined under the preceding paragraph, if any, in respect of the goods of the same kind or similar goods recently arrived at the port of importation, or shall, if there arises any difference in prices of such goods owing to changes in the nature of the goods, the time of their importation, or some other situations, be determined on the basis of such value for customs duty, with such adjustments as may be deemed reasonable and necessary to be made for such price fluctuation.

4. In cases where there is a long period between the time of arrival of the goods at a port of importation and the import permit of such goods (or the approval, if a delivery of the goods has been approved under Paragraph 1 of Article 73 "Delivery of goods prior to import permit" of the Customs Law) and in cases where Paragraph 1 of Article 10 shall apply, and there arises in either case so great fluctuation in their price during such period that it is found extremely improper to determine the value for customs duty on such goods under the provisions of Paragraph 2, the value for customs duty on such goods shall be determined in the same way as provided for in the preceding paragraph.

5. When the value for customs duty cannot be determined under any of the preceding paragraphs, the value for customs duty shall be determined at the domestic wholesale price of the goods of the same kind or similar goods in Japan, minus the amount of customs duty and any other duties as well as charges which would be imposed or charged upon such goods, if imported into Japan, and ordinary expenses incidental to delivery of such goods from the port of importation to the domestic wholesale market, with such adjustment as may be deemed reasonable and necessary to be made for price fluctuation resulting from changes in nature of such goods and others.

15. Mexicoa. Customs Tariff (Law of December 27, 1955, as amended)

Rule No. 20.

Art. 3. -- For the purpose of applying the ad valorem duty, the Ministry of Finance and Public Credit shall fix officially, on the advice of the Tariff Commission, the price of the various goods.

These official prices shall be published in the "Diario Oficial" of the Federation and shall enter into force on the date indicated in each case by the Ministry of Finance.

For the determination of the official prices being the subject of this Article, the Ministry of Finance shall comply with the rules published in the "Diario Oficial" of July 31, 1948, and completed by the provisions published in the "Diario Oficial" of May 4, 1951, for as long as such rules and provisions are not modified by the Executive Powers.

Art. 4. -- The ad valorem duty indicated in the Tariff is applied on the official price assigned to the goods in question unless the price appearing on the trade invoice exceeds the official price, in which case the ad valorem duty shall be calculated on the invoice price.

When no official price has been fixed, the ad valorem duty is levied on the price shown on the invoice.

In the case where no trade invoice exists or when the production thereof is not enforced by the provisions of the Customs Code, the value of the goods shall be fixed by the examiner entrusted with the Customs verification, who, for this purpose, shall use as basis the sales notes, statistics, catalogues and other documents which may be presented to him by the party concerned or, in the absence of such, shall fix the value by estimation.

The same procedure shall be followed when there is reason to suspect that the value stated in the invoice is not the true value and, if the inaccuracy is confirmed, the examiner shall make a report to be attached to the required administrative file relating to the investigations of the case.

Art. 5. -- The trade invoices covering the imported goods shall state the marked value of such goods at the place of purchase, no deduction being allowed except for freight and for insurance premiums. When other expenses or charges are included in the invoice, the amount thereof shall be divided proportionally to the value of each article specified in such invoice.

In the cases provided by law or when so deemed fit by the Ministry of Finance and Public Credit, the trade invoice shall bear a declaration under oath to tell the truth, made by the importer or the consignee and attesting that the price indicated in the said invoice is the marked price of the goods in question at the place of purchase. Any false declaration shall expose the declarant to the penalties legally laid down, without prejudice to the right of the Ministry of Finance to demand the payment of the duties in applying the ad valorem duty on the market value of the goods.

b. Official Journal, dated July 31, 1948

Official Prices and Commercial Invoices

Rules proclaimed July 13, 1948, which the Secretariat of Finance and Public Credit should observe in fixing prices for the application of the ad valorem quotas established in the General Import Tariff (Tariff of General Duty on Imports).

Based on the third article of the decree establishing the General Import Duty, I have proclaimed the following

RULES which the Treasury Department should observe in fixing prices for the application of the ad valorem quotas established in that Tariff:

First.--The wholesale price of the imported merchandise in the country of origin, of the principal country exporting such goods to Mexico, will be used.

Second.--In defining the wholesale price, the prevailing price of the merchandise under consideration in the market of origin will be taken into account. In order to do this, prices published in the daily newspapers, trade publications, catalogs or price lists generally available to the public will be taken into consideration. There also will be taken into account the official prices for certain merchandise made known by the respective Governments or in their official publications.

Third.--In case foreign publications which may serve as a base to determine these prices are not available, it will be necessary to request information directly from important foreign commercial establishments or to have the Mexican consulates furnish such information.

Fourth.--In case foreign prices cannot be obtained neither in publications nor in direct form as previously indicated, price estimates will have to be made with regard to the value(s) of equal or similar

merchandise in the national market. In order to do this, the current wholesale price in Mexico City will first be taken into consideration and if these are not available, those of other important markets in the Republic. For this purpose, prices published in periodicals, trade magazines, catalogs or price lists of important commercial establishments will be taken into account.

Fifth.--The Secretary of the Department of Finance and Credit will modify the official prices each time there is a change of 10 percent in a price previously fixed.

Sixth.--While studies are being completed and necessary adjustments are being made to fix prices in conformity with the aforementioned rules, these prices will be fixed by taking as a base the statistical average unit value of the merchandise included in each section of the Import Tariff of 1947, increased in relation to the price indices calculated for the current year, with the exception of the sections included in the Commercial Treaty with the United States.

In order to fix prices in accordance with the aforementioned conditions, for the merchandise included in the pertinent sections of this Treaty, the statistical average unit price for the first quarter of 1948 will be taken as the base.

Seventh.--Added by Executive Order of March 30, 1951, as published in the Official Journal of May 4, 1951⁷.--In those instances in which the foreign wholesale price, on which the regulation applies, is notably less than that for similar merchandise in the domestic market or when it is less than the cost of production in this country, the Treasury Department shall fix official prices based on the wholesale prices or on the cost of domestic production.

Appendix C. The Final List

(T. D. 54521)

VALUATION OF IMPORTS

Final list published by the Secretary of the Treasury pursuant to section 6 (a), Public Law 927, 84th Congress

TREASURY DEPARTMENT,
Washington, D. C., January 20, 1958.

To Collectors of Customs and Others Concerned:

The Secretary of the Treasury has determined and hereby makes public the list of articles set forth below as the final list required by section 6 (a) of the Customs Simplification Act of 1956, approved August 2, 1956, 70 Stat. 948 (Public Law 927, 84th Cong.).

Every article not specified in such final list which is entered, or withdrawn from warehouse, for consumption on or after the thirtieth day after the date of publication of such final list in the Federal Register, shall be appraised in accordance with the new valuation provisions of section 402 of the Tariff Act of 1930, as added by section 2 of the Customs Simplification Act of 1956.

Every article specified in such final list which is entered, or withdrawn from warehouse, for consumption on or after the thirtieth day after the date of publication of such final list in the Federal Register, shall be appraised in accordance with the provisions of section 402a of the Tariff Act of 1930, as amended.

The 30th day after the date of publication of this final list will be February 27, 1958.

Considerations of convenience to the public have suggested a listing with some deviations from existing principles of tariff classification, although the names and the order of the statutory schedules are maintained in the divisions of the list. It is to be emphasized that the order or position of any given article on this list does not in any sense represent an attempt to state, or affect, the classification of any article for tariff purposes.

Articles specified in this final list which were not specified in the preliminary list published in the Federal Register dated August 23, 1957 (22 F. R. 6842), but which have been added after investigation of timely representations made by manufacturers, producers, or wholesalers in the United States as provided for under section 6 (a) of the act, are marked with an asterisk (*). The asterisk identification is made solely for the purpose of information to the public and is not intended to have any effect upon the classification of any article for tariff purposes.

CHEMICALS, OILS AND PAINTS

Coal-Tar Products

Colors, Dyes, Stains, Color Acids, Bases, and Similar Products

*Acetosol green BLS
Acid anthracene red 3BL
*Acid anthralan red HGK
*Acid golden yellow 2R
Acid leather brown GBL
*Acid leather brown N3G
*Acid leather brown S
Acid leather dark brown G
Acid leather dark brown R
Acid light scarlet GL
*Acid magenta
Acid magenta FB extra
*Acid pure blue BR

CHEMICALS, OILS AND PAINTS—Continued

Coal-Tar Products—Continued

Colors, Dyes, Stains, Color Acids, Bases, and Similar Products—Con.

Acid pure blue R supra I
Acid red 3BL
*Acid red HGK
*Acid red XB
*Aciderm Havana SM
*Acramin black FBRK
*Acramin blue FFG
*Acramin golden yellow FGR
*Acramin green FB
*Acramin red FITR
*Acramin violet FFR
Alcian blue 8GN
*Alizarine fast blue BE
Alizarine fast brown G
*Alizarine fast violet FRL
*Alizarine geranol B
*Alizarine light blue 5GL
Alizarine light blue ESE
Alizarine light blue FG
Alizarine light blue HR
*Alizarine light blue HRL
Alizarine light brown BL
*Alizarine light red violet 3RL
Alizarine light violet RCN
Alizarine milling green B
Alizarine pure blue BL
Alizarine supra blue SES
*Aluminum steel gray BM
*Anodal light black new
*Anodal light gray
Anodal light orange
*Anodal light orange #3
Anthraquinone violet
Anthraquinone violet D
Anthrasol golden yellow IRK
*Artisil blue GFL
Artisil direct blue GFL
Artisil direct orange RFL
*Artisil orange RFL
*Azoic black 3582
*Azöic golden yellow IFG
*BASF discharge blue 3G
*Benzamine brilliant blue BBLs
*Benzamine brilliant green 6G
*Benzamine dark blue BLS
*Benzamine green 3GS
*Benzo brilliant green GLS
*Benzo brilliant green L3G
*Benzo orange BS
*Benzyl fast orange G
*Benzyl fast red 2BL

CHEMICALS, OILS AND PAINTS—Continued

Coal-Tar Products—Continued

Colors, Dyes, Stains, Color Acids, Bases, and Similar Products—Con.

*Benzyl fast rubine 4BN
 *Benzyl fast yellow GW
 *Benzyl red 3B
 *Benzyl red BN
 *Benzyl red R
 Bleachers tint
 Brilliant alizarine light blue 3F
 Brilliant alizarine light red 4B
 Brilliant alizarine milling blue FGL
 Brilliant alizarine milling blue G
 Brilliant alizarine milling red FBL
 Brilliant alizarine milling violet FBL
 Brilliant alizarine sky blue 2GS
 Brilliant direct pink 3B
 Brilliant direct pink B
 Brilliant kiton red B
 Brilliant sky blue 8G
 Brilliant sky blue RRM
 Brilliant sulfon red 5B
 *Carbolan brilliant blue 2RS
 Carbolan crimson BS
 *Carbolan yellow 4G
 Chloramine brilliant green BN
 *Chloramine copper red 5BL
 Chloramine fast brown 2R
 Chloramine fast brown 4RL
 Chloramine fast brown R
 Chloramine light gray B
 Chloramine light gray R
 Chlorantine fast blue 2BLL
 *Chlorantine fast brilliant blue 2GLL
 Chlorantine fast brown 4RL
 Chlorantine fast brown 6GLL
 *Chlorantine fast gray 2BLL
 Chlorantine fast gray GLL
 Chlorantine fast gray NGLL
 *Chlorantine fast green F2GLL
 *Chlorantine fast navy blue RLL
 Chlorantine fast olive GLL
 Chlorantine fast orange 2RL
 Chlorantine fast red 5GL
 *Chlorantine fast red 5GLL
 Chlorantine fast rubine RNLL
 Chlorantine fast scarlet BNLL
 Chlorantine light gray B
 Chrome fast bordeaux FBL
 *Ciba pink BG
 *Cibacete blue 3GN
 *Cibalan black BGL
 Cibalan blue BL
 Cibalan bordeaux 3BL
 Cibalan bordeaux GRL
 *Cibalan brilliant blue G
 *Cibalan brilliant blue GL
 Cibalan brilliant yellow 3GL
 Cibalan brown 5RL
 Cibalan brown BL
 Cibalan brown TL
 Cibalan corinth BL

CHEMICALS, OILS AND PAINTS—Continued

Coal-Tar Products—Continued

Colors, Dyes, Stains, Color Acids, Bases, and Similar Products—Con.

Cibalan gray 2GL
 Cibalan gray BL
 Cibalan green GL
 Cibalan red 2GL
 Cibalan scarlet GL
 Cibalan violet RL
 *Cibalan yellow 2BRL
 Cibalan yellow GRL
 *Cibanone blue 2R
 Cibanon violet 6B
 Cibanon yellow 2GR
 Cloth fast bordeaux B
 Cloth fast brilliant red
 Cloth fast brilliant violet
 Cloth fast orange G
 Cloth fast red 2BL
 Cloth fast red 3B
 Cloth fast yellow 2G
 Coprantine black RLL
 Coprantine blue GLL
 Coprantine blue RLL
 Coprantine bordeaux 2RLL
 *Coprantine gray 2GL
 Coprantine gray 2RLL
 Coprantine green G
 Coprantine green 3GLL
 *Coprantine orange 2BRL
 Coprantine yellow 2G
 Coprantine yellow GRL
 *Coprantine yellow brown GLL
 Cuprofix brown CRL
 Cuprofix gray 3LB
 Cuprofix navy blue CBL
 Cuprophenyl black RL
 Cuprophenyl brilliant blue 2BL
 Cuprophenyl brown GL
 Cuprophenyl brown 2GL
 Cuprophenyl brown 2RL
 *Cuprophenyl gray 2BL
 Cuprophenyl gray GRL
 Cuprophenyl navy blue BL
 Cuprophenyl navy blue RL
 Cuprophenyl red BL
 Cuprophenyl rubine RL
 *Cuprophenyl yellow 3GL
 Cuprophenyl yellow RL
 Cuprophenyl yellow brown RGL
 *Deorlene brilliant blue RL
 *Deorlene brilliant red R
 Derma blue 2B
 Derma carbon B
 *Derma carbon black B
 Derma carbon GTS
 Derma gray LL
 Diamine orange F
 *Diamond chrome brilliant violet SB
 Diazamine fast bordeaux 2BWL
 Diazamine fast scarlet RWL
 *Diazo brilliant green 6G

CHEMICALS, OILS AND PAINTS—Continued

Coal-Tar Products—Continued

Colors, Dyes, Stains, Color Acids, Bases, and Similar Products—Con.

Diazo brown BWA
 *Diazo fast blue 6GW
 *Diazo fast green BL
 *Diazo trikot fast blue BL
 Diazophenyl blue 8GW
 Diazophenyl brilliant green G
 Diazophenyl fast blue GL supra I
 Diazophenyl fast green 2GL
 Diazophenyl fast green GLN
 *Diazophenyl fast scarlet GL
 Diorlene blue 5G
 *Diorlene brilliant blue RL
 Diorlene brilliant red 3B
 Diphenyl brown BBN supra I
 Diphenyl fast blue 10GL
 Diphenyl fast blue green BL
 *Diphenyl fast bronze GL
 Diphenyl fast brown 2RL
 Diphenyl fast orange 3RL
 Diphenyl fast orange GRW
 Diphenyl fast red GL
 *Direct brilliant pink G
 *Erganil gray BC
 *Erganil light brown C
 Erio fast brown 5GL
 Erio fast brown 5RL
 Eriochrome azural G
 Eriochrome blue 2GK supra I
 *Eriochrome brown 5GL
 Eriochrome brilliant green GL
 Eriochrome brilliant violet B supra II
 Eriochrome brilliant violet R supra I
 Eriochrome geranol R supra I
 Eriochrome red G
 *Erioglauoine X
 Fast blue IM
 Fast jet black 2BRE
 Fast leather black CL
 *Fast leather brown CB
 Fast leather dark blue BR
 Fast silk sky blue
 Grasol blue R
 Grasol fast black G
 Grasol fast brilliant red BL
 Helizarine brilliant orange G
 Helizarine gold yellow G
 Helizarine gray B
 Helizarine olive green G
 Helizarine orange R
 Helizarine red B
 Helizarine red GR
 Helizarine red R
 Helizarine yellow G
 *Immedial new blue FBL
 *Indanthrene brilliant orange RR
 *Indigosol brilliant orange IRK
 Indocyanine B
 *Irgacet brown 2GL
 *Irgacet brown 7RL

CHEMICALS, OILS AND PAINTS—Continued

Coal-Tar Products—Continued

Colors, Dyes, Stains, Color Acids, Bases, and Similar Products—Con.

*Irgacet gray BL
 *Irgacet orange RL
 *Irgacet red 3GL
 *Irgacet rubine RL
 *Irgacet yellow 2RL
 *Irgacet yellow GL
 Irgalan blue GL
 *Irgalan blue RL
 Irgalan bordeaux 2BL
 *Irgalan brilliant green 3GL
 Irgalan brown 2GL
 Irgalan brown 2RL
 Irgalan brown 3BL
 Irgalan brown 7RL
 Irgalan brown violet DL
 Irgalan dark brown 5R
 Irgalan gray BL
 Irgalan olive BGL
 Irgalan orange RL
 Irgalan red 3G
 *Irgalan red 3GN
 Irgalan rubine RL
 Irgalan violet 5RL
 Irgalan yellow GL
 Irganol green BLS
 Irganol red BLS
 Irganol yellow 5GLS
 *Kiton brown R
 *Kiton green A
 *Kiton rhodamine B
 Lanasyn brown RL
 Lanasyn brown 3RL
 Lanasyn orange RLN
 *Lanasyn red BL
 *Lanasyn yellow GL
 Leucophor B
 Leucophor BS
 Leucophor WS
 *Levacen blue GE
 *Levachrome brilliant violet SB
 *Levamine yellow GW
 *Levanol fast orange GS
 *Levanthrene red brown GR
 *Lugatol brown NGR
 *Lumatex black T
 *Lumatex blue B
 *Lumatex blue R
 *Lumatex brilliant orange G
 *Lumatex gray B
 *Lumatex olive green G
 *Lumatex orange R
 Lumicrease green 3LB
 Lumicrease yellow 3LG
 *Lunergan medium brown C
 *Lurantine supra turquoise blue FBL
 Luxanthol red R
 *Metachrome yellow KE
 Metomega chrome bordeaux 2BL
 Metomega chrome brown PGL

CHEMICALS, OILS AND PAINTS—Continued

Coal-Tar Products—Continued

Colors, Dyes, Stains, Color Acids, Bases, and Similar Products—Con.

Metomega chrome brown PRL
 Metomega chrome gray BLC
 *Metomega chrome green BLL
 *Metomega chrome red 2GLL
 Methyl Lyons blue, salt-free
 Microsol brilliant blue G
 *Microsol brown GR
 *Monolite fast brown BVS
 Naphthochrome violet R
 *Neolan flavine GFE
 *Neolan light brown C
 *Neolan red R
 Neolan yellow 8GE
 Neutral orange GX
 Neutral orange RX
 Neutral yellow GX
 Neutral yellow RX
 *Nigrosine T
 *Oil brown B
 *Oil red 3R
 *Oil red BB
 *Omega chrome brown G
 *Omega chrome olive GL
 Orange G dye for nitro cellulose lacquers
 *Orasol brilliant fast red RG
 *Orasol orange G
 *Orasol scarlet GR
 *Ortolan blue G
 *Oxanal black RLN
 *Oxanal red BL
 Oxanol turquoise blue FGLL
 Palanthrene cyanine B
 Paper fast bordeaux B
 *Pigment carmine FBB
 *Pigment fast black TW
 *Pigment fast carmine G
 *Pigment fast marine RLW
 *Pigment fast red R
 *Pigment red toner HR
 *Pigment yellow HR
 *Pilate fast navy blue RDN
 *Pilate fast red RN
 Polar blue G supra I
 Polar brilliant blue GAW
 Polar brilliant red B
 Polar brilliant red 3B
 Polar brilliant red BN
 Polar brilliant red 3BN
 Polar brilliant red 10B
 Polar brilliant violet BL
 Polar brown 2GL
 Polar gray
 Polar maroon V
 Polar red RL
 *Polar yellow 5GN
 *PV fast violet BL
 *PV fast yellow HR
 *Pyrazol discharge orange 3LG
 *Pyrazol fast blue FGL

CHEMICALS, OILS AND PAINTS—Continued

Coal-Tar Products—Continued

Colors, Dyes, Stains, Color Acids, Bases, and Similar Products—Con.

*Pyrazol fast blue 2GLN
 *Pyrazol fast brown RLN
 *Pyrazol fast gray 2BL
 Pyrazol fast orange GLL
 Red B dye for nitro cellulose lacquers
 Red dye for nitro cellulose lacquers
 *Resoline blue FBL
 *Resoline blue RRL
 Rigan sky blue G
 *Ronagen black IL
 *Sandocryl orange RLCI
 *Sandocryl violet BLCI
 Sella acid brown B supra I
 Sella acid brown G supra I
 Sella acid brown R supra I
 Sella fast black FF
 *Sella fast brown DGR
 *Sella fast brown DR
 Setacyl blue for discharge G
 *Setacyl blue green BBN
 *Setacyl blue green BSN
 Setacyl brown 2GR
 Setacyl orange 2R
 Setacyl red GBN
 Setacyl violet 2R
 Setacyl violet BR
 Setopaline supra I
 *Shirosol
 Silk brown 3R
 Sirius black L
 Sirius supra brown G
 *Sirius supra brown 5G
 *Sirius supra gray GG
 *Sirius supra orange RRL
 Solar blue 2GLN
 *Solar blue F
 Solar blue FGL
 Solar brown RLN
 Solar discharge orange 3LG
 Solar gray 2BL
 Solophenyl bordeaux 2RL
 Solophenyl brown BL
 Solophenyl brown GL
 Solophenyl brown GRL
 Solophenyl brown RL
 Solophenyl dark green GBL
 Solophenyl gray 4GL
 Solophenyl olive GL
 Solophenyl orange 2RL
 Solophenyl red 4BL
 *Solophenyl rubine 3BL
 *Solophenyl turquoise blue GRL
 Sulfonine brilliant red 3B
 Sulfonine gray BWL
 Sulfonine gray G
 Sulfonine scarlet GWL
 Supramine red B
 *Telon brown GRL
 Tinopal SP

CHEMICALS, OILS AND PAINTS—Continued

Coal-Tar Products—Continued

Colors, Dyes, Stains, Color Acids, Bases, and Similar Products—Con.

Tinopal WR
 Uvitex GS
 Uvitex RI
 Uvitex RT
 Uvitex SI
 *Vat black brown NT
 *Vat brilliant scarlet RK
 *Verogen brilliant red AN-B
 *Verogen red AN-IFG
 Viscofil blue BL
 Viscofil blue green BL
 Viscofil green 2GL
 *Viscofil orange GL
 Viscofil red BL
 Viscofil yellow 3GL
 Viscolan fast brown 3G
 *Vulcan fast orange GG
 *Vulcan fast pink G
 *Vulcan fast yellow 5G
 Wool fast blue FBL
 Xylene cyanol FF
 Xylene fast orange P
 Xylene fast red P
 Xylene light yellow R
 Xylene milling yellow
 Xylene red B
 *Zapon fast scarlet CR

Intermediates

Adipic acid
 *Agent 31-11
 *Aniline hydrochloride (salt)
 *Beta naphthol
 Brenthol BA
 Caprolactum
 Carbazole
 *Cassopar GL
 Diketoinoline (isatin)
 *Edolan A
 Epsilon amino caprolactum
 Epsilon caprolactum
 Fast black ANS salt
 Fast black K salt
 Fast blue RT salt
 *Fast blue VRT salt
 Fast corinth V salt
 Fast garnet GC base
 Fast red base
 Fast red RBE base
 Fast red SW base
 *Fast scarlet LG base
 *Gentisic acid
 1-Hydroxycyclohexyl hydroperoxide-1
 Metacresol—90% or more pure
 Naphthol AS-S
 *2-Nitro-p-phenylenediamine
 *Nonex WSL
 *Nonex WSP
 *Nonox
 Parachlormetacresol

CHEMICALS, OILS AND PAINTS—Continued

Coal-Tar Products—Continued

Intermediates—Continued

Textile assistants (coal-tar intermediates other than colors, dyes, stains, color acids, and bases)
 *Vinyl carbazole (mono)

Medicinals

Acetarsol
 *Anthraien (1,8-dihydroxyanthranol)
 *Methylacetanilide
 *3-Nitro-4 hydroxyphenyl arsonic acid
 *Pentazolium
 *Sulfaguanidine U. S. P.
 Sodium thialbarbitone

Other Finished Products

Chemicals, photographic, coal-tar
 Irgatan LV
 *Koresin
 *Monoline

Non-Coal-Tar Drugs and Medicinals

*Adenosine-5-phosphoric acid, not in medicinal doses
 *Adenosine triphosphate, crystalline disodium, not in medicinal doses
 Aloin, not in medicinal doses
 Ascorbic acid, (vitamin C), not in medicinal doses
 Atropine methyl nitrate, not in medicinal doses
 Atropine sulphate, not in medicinal doses
 Calciferol (vitamin D-2), not in medicinal doses
 Calcium lactate, not in medicinal doses
 Chloral hydrate, not in medicinal doses
 Cortisone acetate, not in medicinal doses
 Desoxycorticosterone acetate, not in medicinal doses
 Digitoxin, not in medicinal doses
 Ephedrine hydrochloride, natural, not in medicinal doses
 Estrone, not in medicinal doses
 Ethinyl estradiol, not in medicinal doses
 *Hydrocortisone, not in medicinal doses
 Hyoscyamine hydrobromide, not in medicinal doses
 Hyoscyamine sulphate, not in medicinal doses
 Licorice extract in paste, rolls, or any form other than in medicinal doses
 Lobeline hydrochloride, not in medicinal doses
 Methyl testosterone, not in medicinal doses
 Khellin, not in medicinal doses
 Mustard oil, genuine, not in medicinal doses
 Nucleic acid, not in medicinal doses
 Physostigmine sulphate, not in medicinal doses
 Pilocarpine hydrochloride, not in medicinal doses
 Pilocarpine nitrate, not in medicinal doses
 *Piperazine hexahydrate, not in medicinal doses
 *Sodium nucleate, not in medicinal doses
 Rauwolfia extract, not in medicinal doses
 Rutin, not in medicinal doses
 Scopolamine methyl nitrate, not in medicinal doses
 Testosterone, not in medicinal doses
 Testosterone enanthate, not in medicinal doses
 Testosterone propionate, not in medicinal doses
 Theophylline, not in medicinal doses
 Thymol, not in medicinal doses

CHEMICALS, OILS AND PAINTS—Continued**Non-Coal-Tar Drugs and Medicinals—Continued**

Vitamin B-1 hydrochloride (thiamine hydrochloride) (B-thiazol compound), not in medicinal doses
 Vitamin B-6 hydrochloride (pyridoxine hydrochloride), not in medicinal doses

Industrial Chemicals

*Allyl isothiocyanate, (volatile oil of mustard, NF VIII, synthetic)
 Aluminum chloride, anhydrous
 Ammonium bifluoride
 Ammonium persulphate
 Brucine alkaloid
 Brucine sulphate
 Chalk, whitening, or paris white, precipitated
 Chemical products chiefly used as assistants in preparing or finishing textiles
 Chlorine, liquid
 Chlorophyll
 Decyl alcohol derived from coconut oil
 Ergosterol, unirradiated
 Ethyl silicate
 Eucalyptol
 *Glutathione, oxidized
 Lauryl alcohol, derived from coconut oil, not sulphated
 *Melamine
 Nicotine alkaloid
 Nicotine sulphate
 Ore, manganese, activated
 Peroxide, hydrogen
 *Polyvinyl methyl ether, 100% strength
 *Polyvinyl methyl ether, 70% strength
 *Polyvinyl pyrrolidone
 Potassium chromium sulphate (chrome alum)
 Potassium metabisulphate
 Potassium persulphate
 Resin, synthetic, polyethylene
 Sodium alginate
 *Sodium chlorite
 Sodium perborate
 *Thiourea
 Trichloroethylene
 Vinyl acetate, unpolymerized

Medicinal and Pharmaceutical Preparations

Cortisone, hydrocortisone, and compounds thereof, in capsules, pills, tablets, lozenges, troches, ampoules, jubes, or similar forms, including powders, put up in medicinal doses
 Plasters, healing or curative
 Throat lozenges and similar forms, not of animal origin, non-coal tar

Miscellaneous Products

Extract, flavoring, orange and lemon mixture, containing more than 50% alcohol
 Extract, tanning, chestnut (solid and powdered)
 Extract, tanning, valonia
 Gelatin, edible, valued less than 40 cents per pound
 Glue of animal origin, excluding glue size and fish glue, valued over 12 cents per pound and under 40 cents per pound

CHEMICALS, OILS AND PAINTS—Continued**Miscellaneous Products—Continued**

Ink, drawing, liquid
 Polish, boot or shoe, non-alcoholic
 Polish, metal, liquid, non-alcoholic
 Shopping reminders, composed of a synthetic resin plastic, synthetic resin not chief binding agent, (an item designed to remind housewives of articles to be purchased when marketing)
 Tape, recording, of cellulose acetate

Oils, Distilled or Essential

Oakmoss, absolute, natural essence of, concentrated, not containing alcohol
 Oil, eucalyptus, not containing alcohol
 Oil, ocotea cymbarum, not containing alcohol
 Oil, sage, not containing alcohol
 Oil, vetiver, not mixed or compounded with or containing alcohol
 Oil, violet leaf, not containing alcohol

Pigments, Paints and Varnishes

Acetylene black
 Carbon black, in paste form
 Chrome yellow, chrome green (chromic oxide), and all other chromium colors
 Paint, temperature indicating
 Pigments, synthetic, iron oxide or iron hydroxide

Soap and Toilet Preparations

Cream, face
 Perfumery, including cologne and toilet waters, containing alcohol
 Perfumery, not containing alcohol
 Pomade, hair
 Powder, dusting, perfumed
 Powder, shampoo
 Tint, hair, cream
 Toilet waters, not containing alcohol

EARTHS, EARTHENWARE AND GLASSWARE**Earthenware**

Beer steins, earthenware, composed of a nonvitrified absorbent body, colored, enameled, gilded, ornamented, painted, printed, stained, tinted or decorated in any manner, and valued over \$3 per dozen
 Tiles, earthenware, floor and wall, glazed, valued not over 40 cents per square foot, 20 cm. x 20 cm., other than cement, ceramic mosaic, or quarry tiles

Earthy or Mineral Substances or Articles

Carbons, lighting, of all materials, ½ inch or more in diameter, for photocopying purposes
 Grease, lubricating, in part of graphite
 Talc, ground, valued over \$14 per ton
 Tubes (except gauge glass tubes), of fused quartz or fused silica
 Wheels, discs, handlaps, and similar diamond tools for cutting, grinding or polishing, metal bonded, in chief value of diamond, but not including truing tools
 Wool, mineral, granulated (red top granulated wool)

EARTHS, EARTHENWARE AND GLASS-WARE—Continued

Glassware

Bell jars, glass
 Cloth, woven, glass
 Desiccators and parts thereof, glass
 Laminated glass, and manufactures thereof
 Museum jars, glass
 Plate glass, $\frac{1}{2}$ inch or more in thickness, and over 1008 square inches in area
 Sheet glass, colored, blown

Optical Goods

Colorimeters and polarimeters
 Colposcopes
 Condenser lenses, "plano-convex"
 Endoscopes
 Goggles, and frames, mountings, and parts thereof, to be used in conjunction with underwater swimming, and valued over \$2.50 per dozen
 Microscopes, toolmakers', valued \$25 each and over
 Optical flat reflectors and reflector carriages, designed for use with microptic automatic collimators
 Optical squares in mounts designed for use with microptic automatic collimators
 *Sunglasses, with plastic frames, valued not over \$0.65 per dozen pair
 Polygons, glass, designed for use with microptic automatic collimators
 Telescopes, valued over \$20 each
 Viewers, stereoscopic, miniature, having self-contained subject matter

METALS AND MANUFACTURES OF

Bearings and Parts, Ball and Roller

Balls and rollers for bearings, anti-friction, except balls 1 millimeter in diameter
 Bearings, ball, metal, and parts thereof (including cages)
 Bearings, roller, metal, and parts thereof

Bullions, Metal Threads, Lame or Lahn, and Articles Made Therefrom

Lame, or lahn, of gold, silver, or other metal
 Ribbons, tassels, and woven fabrics, wholly or in chief value of tinsel wire, metal thread, bullions, lame or lahn, or any of the foregoing combined with rubber
 Wire, tinsel, of gold, silver, or other metal

Electric Articles and Parts Other Than Machinery

Detectors, gamma ray
 Flashlights and flashlight cases wholly or in chief value of metal
 Heaters, electric (simulated fireplace logs)
 Irons, ultrasonic soldering
 Loud speakers
 Motors, electric, not over 75 horsepower
 Radio phonographs, wholly or in chief value of metal
 Repeaters, ship steering
 Resistors, specially designed for electric compasses, metal chief value
 Switches, radio, electrical, escapement type

METALS AND MANUFACTURES OF—Continued

Electric Articles and Parts Other Than Machinery—Continued

Telephone apparatus and parts, wholly or in chief value of metal
 Television apparatus, and parts thereof (except cameras), wholly or in chief value of metal
 Testers for electric motors
 Testers, insulation
 Tubes, radio receiving
 Welders, spot gun, electrical

Household, Kitchen, and Table Utensils

Boards, ironing, steel
 Bowls, platters, and similar table, household, or kitchen utensils or holloware of stainless steel, used in preparation or service of food
 Colanders, household, of iron or steel
 Graters or shredders, household (other than meat grinders), revolving disk or drum type, wholly or in chief value of iron or steel
 Letter openers, gold-plated
 Racks, wine bottle, wire
 Spoons (tea, soup, or dessert), of stainless steel
 Table, household, or kitchen utensils, of iron or steel, enameled or glazed with vitreous glasses

Knives, Including Machine Knives, and Cutlery

Cutlery, table (forks, knives, and steels), under 4 inches in length exclusive of handle, with handles of nickel silver
 Forks, table, under 4 inches in length exclusive of handle, with handles of austenitic steel
 Forks, table, under 4 inches in length exclusive of handle, with handles of china, earthenware, or other ceramic material, valued over \$3.75 per dozen
 Knives, folding, stiletto type, with simple opening or switch blade, valued over \$6.00 per dozen
 Knives, for meat-chopping or grinding machines
 Knives, table, under 4 inches in length exclusive of handle, with handles of austenitic steel
 Knives, table, under 4 inches in length exclusive of handle, with handles of china, earthenware, or other ceramic material, valued over \$3.75 per dozen

Machines, Machinery, and Parts Thereof

Apparatus, breathing, underwater, incorporating a mechanical contrivance, not having as an essential feature an electrical element or device
 Closers, door, mechanical, not having as an essential feature an electrical element or device
 Collets and chucks for machine tools
 Comparators, dial, not having as an essential feature an electrical element or device
 Compressors, air and gas, not having as an essential feature an electrical element or device, parts of
 Cream separators, valued at more than \$100 each
 Cream separators, valued at more than \$100 each, parts of, wholly or in chief value of metal or porcelain
 Drills, portable (hobby shop type), having as an essential feature an electrical element or device

METALS AND MANUFACTURES OF—Continued

Machines, Machinery, and Parts Thereof—Con.

Drivers, screw, pneumatic, not having as an essential feature an electrical element or device

Engines, internal-combustion, carburetor type, having as an essential feature an electrical element or device

Guns, airplane riveting

Guns, paint spray, having as an essential feature an electrical element or device

Lathes (except watch and toolmakers')

Machinery, bookbinding (three-knife trimmers only)

Machinery, cotton spinning, parts of

Machinery, cotton twisting, parts of

Machinery, for bleaching, printing, dyeing, or finishing textiles and parts thereof

Machinery, printing presses, rotary type, for printing on paper, and other than duplicating machines

Machinery, wool spinning, parts of

Machines, adding, having as an essential feature an electrical element or device

Machines, automatic, numbering

Machines, automatic, silk screen printing

Machines, bag filling and closing, not having as an essential feature an electrical element or device, and parts thereof

Machines, bag making, not having as an essential feature an electrical element or device, and parts thereof

Machines, bakery dough mixing, having as an essential feature an electrical element or device

Machines, boring and milling

Machines, brewing, not having as an essential feature an electrical element or device, and parts thereof

Machines, calculating, having as an essential feature an electrical element or device, parts of, of a type specially constructed for multiplying and dividing

Machines, calculating, not having as an essential feature an electrical element or device, and parts thereof, specially constructed for multiplying and dividing, and of the full keyboard rotary type, not key driven

Machines, calibration, for calibrating magnetometers, not having as an essential feature an electrical element or device.

Machines, candy wrapping

Machines, centrifugal, and parts thereof, other than cream separators, for separation of liquids or liquids and solids

Machines, chain making

Machines, chalk marking, not having as an essential feature an electrical element or device

Machines, chocolate covering, confectionery, having as an essential feature an electrical element or device

Machines, coil winding, not having as an essential feature an electrical element or device

Machines, combination candy cutting and wrapping

Machines, combination jig-boring and milling

Machines, cookie depositor, having as an essential feature an electrical element or device

Machines, flour and grain milling, not having as an essential feature an electrical element or device, parts of

Machines for electro-polishing metal, having as an essential feature an electrical element or device

Machines, glass ampoule cutting, having as an essential feature an electrical element or device

Machines, grinding, tool and cutter

METALS AND MANUFACTURES OF—Continued

Machines, Machinery, and Parts Thereof—Con.

Machines, grinding, twist drill

Machines, indexing, metal engraving

Machines, jolt squeeze turnover molding (foundry type), not having as an essential feature an electrical element or device

Machines, knitting, automatic flat ("V"-bed type)

Machines, knitting, flat bed (hand knitting type) not having as an essential feature an electrical element or device

Machines, lens grinding, having as an essential feature an electrical element or device

Machines, lifting and pulling, (similar to chain hoists), not having as an essential feature an electrical element or device

Machines, macaroni conveyor and dryer, having as an essential feature an electrical element or device

Machines, macaroni making, having as an essential feature an electrical element or device

Machines, metal thread cutting

Machines, milk pasteurizing, plate type (heat exchangers), not having as an essential feature an electrical element or device

Machines, noodle cutting, having as an essential feature an electrical element or device

Machines, pantograph, die-sinking

Machines, paper bag cutting, not having as an essential feature an electrical element or device

Machines, paper box, and parts thereof

Machines, paper cutting, (other than bookbinding), having as an essential feature an electrical element or device

Machines, paper shredding, having as an essential feature an electrical element or device

Machines, photocopying, having as an essential feature an electrical element or device

Machines, pie-making, having as an essential feature an electrical element or device

Machines, pleating, having as an essential feature an electrical element or device

Machines, rod-casting, not having as an essential feature an electrical element or device

Machines, rust chipping

Machines, semi-jig boring

Machines, tablet counting and filling, not having as an essential feature an electrical element or device

Machines, testing, other than laboratory, for determining the hardness of metals or metal articles, having as an essential feature an electrical element or device, and parts thereof

Machines, textile yardage measuring, and parts thereof

Machines, vinegar making, having as an essential feature an electrical element or device

Machines, wood chip vibration screening, not having as an essential feature an electrical element or device

Magnetometers, not having as an essential feature an electrical element or device

Presses, drill

Pumps, submersible, having as an essential feature an electrical element or device

Shapers, metal working

Sieves, having as an essential feature an electrical element or device

Turbochargers, gas, not having as an essential feature an electrical element or device

Winddrums, not having as an essential feature an electrical element or device, and parts thereof

METALS AND MANUFACTURES OF—Continued

Mill Products

Aluminum

Tubing, aluminum
Wire, zipper, wholly or in chief value of aluminum or aluminum alloy

Nickel

Anodes, bars, castings (except machine parts), electrodes, plates, rods, sheets, strands, strips, or wire, wholly of nickel
Anodes, bars, castings (except machine parts), rods, sheets, strands, strips, or wire, of nickel alloys (except those provided for in paragraph 302 or 380)

Steel

Steel, feeler gauge, cold rolled, hardened, tempered and bright polished, thicker than 1/100 inch and not thicker than 5/100 inch, not over 8 inches wide
Steel, needle cutter, not thicker than 1/100 inch, not over 8 inches wide, alloyed
Steel, razor blade, alloyed, .881 inch by .005 inch
Steel, razor blade, alloyed, .750 inch by .009 inch
Steel, razor blade, cold rolled, .881 inch by .005 inch
Steel, strip, hot rolled, commercial quality, mill edge, specification 1055-F, thicker than 5/100 inch but not thicker than 23/100 inch, and over 8 inches but not over 16 inches wide
Steel, wood band saw, cold rolled, tempered, not over 8 inches wide, thicker than 1/100 inch but not thicker than 5/100 inch, and alloyed under the provisions of paragraph 305, Tariff Act of 1930
Tubing, steel, seamless, cold drawn
Wire, steel, flat, galvanized or coated with any metal, not over 8 inches wide, thicker than 1/100 inch and not over 5/100 inch

Miscellaneous Metal Articles

Assemblies and subassemblies of watch hands
Bolts and latches, panic, (of a type similar to those used on theater exit doors), and parts thereof, in chief value of metal
Calcium metal, in crowns, flattened
Chains and parts, of iron or steel, for the transmission of power, having not more than 2-inch pitch and more than three parts per pitch
Clips, aluminum, specially designed for use in packaging clothing or as bag closures
Cyclometers, for measuring distance, valued at not more than \$1.10 each
Darts, throwing, in chief value of steel or lead
Dials, watch—less than 1 77/100 inches wide—imported separately
Emblems, automobile, chief value iron or steel
Grease seals and washers, in chief value of metal
Grippers, for holding metal sheets, in chief value of metal
Lighters, pipe, valued over \$5 per dozen
Locks, luggage, metal, not plated with platinum, gold, or silver
Magnets, chief value of iron or steel, except electromagnets and except those designed for use as machine parts of electrical apparatus
Metallic packing, wholly or in chief value of lead
Pedestals, for ball or roller bearings, (not including machine parts), in chief value of iron or steel
Pillow blocks and parts thereof, (for ball or roller bearings), in chief value of iron or steel

METALS AND MANUFACTURES OF—Continued

Miscellaneous Metal Articles—Continued

Pins, sealing, aluminum, for airplanes
Pistols, automatic or magazine, and revolvers, valued over \$8 each
Plaques, wall, brass, not plated with platinum, gold, or silver, or gold lacquered
Pulleys, lamp, in chief value of metal
Racks, drying, printers, in chief value of iron or steel
Rivets, bifurcated, steel, machined
Rivets, tubular, aluminum, machined, plain or anodized
*Rivets, tubular, brass, brake lining, lathed, machined, or brightened
*Rivets, tubular shoe, steel or brass, lathed, machined, or brightened
Sashes or frames of structural iron or steel, louvre (Jalousie) type
*Screws, machine, brass, having shanks or threads 1/8 inch or over in diameter but not exceeding 24/100 inch or over in diameter
*Screws, machine, steel, having shanks or threads 1/8 inch or over in diameter but not exceeding 24/100 inch or over in diameter
Sharpeners, pencil, in chief value of metal
Shores, building, and parts, in chief value of metal
Skids, roller, in chief value of metal
Studs, horseshoe, in chief value of metal
Testers, freeness, for use in pulp making, in chief value of metal
Watch cases, parts of, in chief value of any base metal

Needles

Needles, embroidery machine
Needles, latch, for knitting machines
Needles or hooks, crochet, of iron or steel
Needles, sewing machine, household type
Needles, sewing machine, industrial type
Needles, shoe machine
Needles, surgical

Scientific, Laboratory, and Professional Apparatus, Instruments, and Equipment

Apparatus, laboratory, for analytical determination of gluten
Balances, analytical, and parts thereof
Burs, dental
Electrophoresis equipment
Instruments and parts, laboratory, sound measuring
Instruments, laboratory, dissecting
Machines, therapy, ultrasonic, and accessories
Mills, laboratory
Sphygmomanometers
Thermobalances, laboratory

Tools and Gages

Calipers and parts thereof, which are hand tools of metal and capable of measuring finer than 1/32 of an inch
Gages, hand, stop and go type, chief value iron or steel
Gages, height, vernier, in chief value of metal
Saw blades, for bow saws
Saws, hand, in sets, with interchangeable blades, and universal handle
Saws, pocket, wire, (outdoorsman's or camper's)

METALS AND MANUFACTURES OF—Continued**Vehicles, Vessels, and Parts**

Airplanes, seating six passengers or less, not including seaplanes, amphibians, or aircraft other than airplanes
 Automobile parts, finished
 Automobiles
 Boats, pleasure, sail, steam or motor propelled, of fiberglass construction, valued at not more than \$15,000 each
 Engines, parts of, internal combustion, carburetor type, for pleasure boats
 Motorcycles, parts of
 Motorscooters
 Motorscooters, parts of
 Pins, pip release (airplane parts)
 Spokes, bicycle
 Trucks, automobile, valued at \$1,000 or more each
 Winches, sheet, for yachts, metal, bottom handle

WOOD AND MANUFACTURES OF

Barrels or kegs, beer, wooden
 Blocks, wooden, hat
 Figures, wooden, whistling
 Flooring, hardwood, of maple (except Japanese), birch, or beech
 Handles, wood, fan
 Osier or willow, including chip and split willow, prepared for basket makers' use
 Plywood, birch, including door panels

SUGAR, MOLASSES, AND MANUFACTURES OF

Candy, sugar, and all confectionery, valued at six cents or more per pound

AGRICULTURAL PRODUCTS AND PROVISIONS**Baked Articles**

Biscuits, cake, cakes, wafers, and similar baked articles other than puddings or rice crackers; all the foregoing by whatever name known, whether or not containing chocolate, fruits, nuts, or confectionery of any kind

Dairy Products

Cheese, cheddar, whether or not in original loaves, but not processed otherwise than by division into pieces, having a score of 92 or more

Fruits and Preparations

Jelly, currant, red or black, four pound pack
 Mixtures of two or more fruits, prepared or preserved, other than mincemeat

Fodders and Feeds

Dog food, unfit for human consumption, canned and dried, and containing a substantial amount of grain products
 Feeds, mixed

Meat Products

Beef, brisket, canned, two pound pack and four pound pack
 Beef, corned, canned, four pound pack and six pound pack
 Beef, roast, canned, twelve ounce pack and five pound pack

AGRICULTURAL PRODUCTS AND PROVISIONS—Continued**Meat Products—Continued**

Meatballs, cocktail, packed in celery sauce, in curry sauce, or in brine, in one pound cans
 Sausages, cocktail, pork with beef, in 4½ ounce cans

Other Edible Preparations

Millet, hulled, for human consumption
 Peppers, packed in brine or vinegar
 Snails, other than marine, edible, canned
 Soup mix, dehydrated, for human consumption
 Soups, soup rolls, soup tablets or cubes, and other soup preparations
 *Wheat gluten, vitalized

Nursery and Greenhouse Stock

Buds, lily (heads only), fresh cut
 Bulbs, Begonia
 Bulbs, Gloxinia
 Corms and bulbs, Anemone

COTTON MANUFACTURES

Belts and belting, for conveyor machinery, of vegetable fiber and rubber, valued at 40 cents or more per pound
 Cases or covers, for underwater fishing guns, wholly or in chief value of cotton
 Covers, adding machine and cash register, wholly or in chief value of cotton
 Cottons, embroidery, put up for hand work, in lengths not exceeding 840 yards
 Felt, dryer, paper makers', wholly or in chief value of cotton, not in part of India rubber, and used as belts or belting on paper making machinery
 Handbags, ladies, wholly or in chief value of cotton
 Measures, tape, wholly or in chief value of cotton
 Mop cloths, cotton, not pile fabric
 Packing, mechanical, molded, cotton and rubber, chief value cotton
 Tapestries, needlework, unfinished, wholly or in chief value of cotton
 Tapestries and other Jacquard-figured upholstery cloth (not including bed ticking or pile fabric), in the piece, in chief value of cotton, and containing 17% or more by weight of wool
 Velvets, other than upholstery velvets, cut or uncut, whether or not the pile covers the entire surface, wholly or in chief value of cotton

FLAX, HEMP, JUTE, AND MANUFACTURES OF

Canvas, flax, waterproof, brown
 Cloth, lapping, woven, in chief value of vegetable fiber other than cotton or jute, containing over 17% by weight of wool, but not including woven fabrics of flax, hemp, or ramie, with woven or printed colored stripes in the warp
 Floor coverings, felt base, including only those which are made with an asphalt impregnated paper felt or paper and rag felt base
 Matting, sisal (not cut to specific size or shape), in rolls
 Packing, mechanical, molded, linen and rubber, chief value linen
 Tapestries, needlepoint, unfinished, wholly or in chief value of vegetable fibers other than cotton

WOOL AND MANUFACTURES OF

- Blankets, wholly or in chief value of wool, not exceeding 3 yards in length, valued not over \$1 per pound, not handwoven
- Carpets, wool, of oriental weave, produced on a power driven loom
- Felts, belts, blankets, jackets, or other articles of machine clothing, for papermaking, printing, or other machines, wholly or in chief value of wool, woven as units or in the piece, finished or unfinished
- Gloves and mittens, knit, finished or unfinished, wholly or in chief value of wool, valued as defined in subdivisions (c), (d), (e), and (f) of redesignated section 402a of the Tariff Act of 1930, in the order specified in section 402a (a) at not more than \$1.75 per dozen pairs
- Sweaters, men's and women's, including pullovers, slipovers, cardigans, and similar articles, wholly or in part of cashmere, knit or crocheted, valued over \$5 per pound
- Yarns, wholly or in chief value of wool or other hair (including mohair), fancies (including nub, flamme, slub, and similar types), valued over \$1.50 per pound

SILK MANUFACTURES

- Fabrics, silk, woven, in the piece, except pile, exceeding 30 inches in width, jacquard-figured, bleached, printed, dyed, or yarn dyed, valued over \$14 per pound
- Ribbons, velvet, silk pile

MANUFACTURES OF RAYON AND OTHER SYNTHETIC TEXTILES

- Fabrics, pile (including velvets, chenilles, and plushes), wholly or in chief value of rayon or other synthetic textile
- Filaments, other than waste, synthetic, not exceeding 30 inches in length, noncellulosic, for textile use
- Gloves, composed of 15 denier knit nylon fabric, valued over \$1.50 per dozen pair
- Ribbon, derived from pile fabrics, pile partly cut, in chief value of rayon or other synthetic textile
- Ribbons, pile fabric, with pile wholly cut or wholly uncut, wholly or in chief value of rayon or other synthetic textiles
- Yarn, fancy, composed of cotton and rayon, in chief value of rayon
- Yarns, rayon, plied, having not more than 20 turns twist per inch and weighing 150 deniers or more
- Yarns, rayon, singles, having not more than 20 turns twist per inch, weighing less than 150 deniers per length of 450 meters
- *Yarns, spun, of rayon or other synthetic textile, plied
- *Yarns, spun, of rayon or other synthetic textile, singles

PAPER AND BOOKS -

Books and Other Printed Matter

- Books, bound or unbound, of bona fide foreign authorship (not including catalogues, manuals and instruction books for automobiles, trucks, machinery or similar equipment, prayer books or books bound wholly or in part of leather)
- Books, bound or unbound, not of bona fide foreign authorship (not including catalogues, manuals and instruction books for automobiles, trucks, machinery or similar equipment, prayer books, or books bound wholly or in part of leather)

PAPER AND BOOKS—Continued

Books and Other Printed Matter—Continued

- Cards, greeting (other than valentines, tally cards, place cards, and all other social and gift cards, including folders, booklets, and cutouts), with greeting, title or other wording
- Cards, social and gift, without greeting, title or other wording
- Literature, tourist, of bona fide foreign authorship (not lithographically printed)
- Music, in books or sheets, of bona fide foreign authorship

Papers

- Carbon paper, uncoated
- Coarse paper, uncoated, embossed
- Decalcomania paper, simplex, not printed
- Filter paper, in sheets, valued at \$0.75 or more per pound, not cut, die cut, or stamped into designs or shapes for articles
- Filter paper, cut, die cut, or stamped into designs or shapes
- Linmaster paper, uncoated, embossed
- Newsprint paper, heavyweight, white, over .004 inches thick, over 35 pounds weight per ream, in rolls or sheets
- Newsprint paper, novel news, white, .005 inches and over thick, 32 pounds to 35 pounds weight per ream, in rolls or sheets
- Newsprint paper, trim news, white or colored, under 15 inches width, not over .004 inches thick, 32 pounds to 35 pounds weight per ream, in rolls only
- Newsprint paper, various colors, not over .004 inches thick, 32 to 35 pounds weight per ream, in sheets only
- Newsprint paper, yellow or canary color, 15 inches width or over, not over .004 inches thick, 32 pounds to 35 pounds weight per ream, in rolls only (includes pencil tablet paper)
- Photographic paper, unsensitized, baryta coated
- Roofing paper, felt
- Sensitized paper to be used in photography
- Surface coated paper, covered partly or wholly with metal or its solutions, weighing 15 pounds or more per ream (basis 20 x 25 inch sheet)
- Unsensitized paper, basic, to be sensitized for use in photography
- Vegetable parchment paper.

Board Products

- Boards, wood pulp, including beer mat board (not plate finished, supercalendered, friction calendered, laminated by means of an adhesive substance, coated, surface stained or dyed, lined or vat-lined, embossed, printed, decorated or ornamented in any manner, or cut into shapes for boxes or other articles)
- Boxboard, lined, folding
- Container board of a bursting strength over 60 pounds per square inch by the Mullen or Webb test
- Hardboard, plate-finished, in sheets
- *Insulation board, asphalt impregnated or coated, $\frac{3}{16}$ inch and over in thickness
- Paperboards, over 0.012 inches thick, for use as corrugating media (not coated, cut into shapes for boxes or other articles, decorated or ornamented in any manner, embossed, friction calendered or super-calendered, laminated by means of an adhesive substance, lined or vat-lined, plate-finished, printed, nor surface stained or dyed)
- Test board of a bursting strength over 60 pounds per square inch by the Mullen or Webb test

PAPER AND BOOKS—Continued

Other Paper Articles

- Dart boards of paper
- Decalcomanias, in ceramic colors, weighing over 100 pounds per 1,000 sheets on the basis of 20 by 30 inches
- Envelopes, filled or unfilled, plain, of writing paper, under 110 square inches in area
- Napkins made of crepe paper, plain or printed (but not lithographed), and packed in bulk
- Seat sets, toilet, chief value pulp
- Thimbles, extraction, chief value pulp

SUNDRIES

Cameras and Photographic Supplies

- Camera accessories in chief value of metal, consisting of lens hoods, holding arms, neck chains, lens caps, tripods, clips for cameras, close-up focussing attachments, extension tubes for close-up photography, adapters for auxiliary lenses, or trigger handles
- Cameras and parts, photographic, lens not chief value, folding type, valued under \$10 each, and not including motion-picture or box type (set focus)
- Cameras, lens chief value, parts of (other than photographic lenses imported separately)
- Cameras, photographic, fixed focus, box type, of which the lens is not the component of chief value, and other than those specially constructed for use in aerial surveying
- Cameras, photographic, lens not chief value, other than motion-picture, not box type (set focus), and valued at \$10 or more each
- Cases, camera, leather, (other than reptile)
- Film, motion-picture, sensitized, not exposed or developed, less than one inch in width
- Film, photographic, cartridge or roll, (except motion-picture film one inch or more wide) sensitized, but not exposed or developed
- Films, photographic (except motion-picture film one inch or more wide), sensitized, but not exposed or developed, and other than cartridge, roll, or x-ray film, but including film packs
- Films, photographic, x-ray, sensitized, but not exposed or developed
- Meters, exposure
- Plates, photographic, dry
- Range finders to be used with photographic cameras

Furs and Manufactures

- Bodies, coat, unfinished, made of lamb fur pieces
- Fur, coney or rabbit, dressed, not dyed
- Fur, moleskins, dyed
- Furs, hatters', or furs not on the skin, prepared for hatters' use, including fur skins, carroted
- Plates, fur, made of ermine pieces, dressed, undyed
- Plates, fur, made of mink pieces, dressed, undyed

Leather and Manufactures

- Helmets, crash, wholly or in chief value of leather other than reptile, (of the type used predominately by motor-cyclists and racing car drivers)
- Leather, made from hides or skins of cattle of the bovine species, other than calf or kip, processed by graining
- Leather, patent, imitation, made of polyvinyl chloride

SUNDRIES—Continued

Leather and Manufactures—Continued

- Leather, shell-cordovan, made from hides of animals of the horse family
- Leather, sole, (other than flexible bend splits and offal), made from hides or skins of cattle of the bovine species
- Leather, upper, calf or kip, made from hides or skins of cattle of the bovine species

Miscellaneous Articles

- Brushes, toilet, not including tooth brushes, valued over 40 cents each, and having handles or backs of material other than cellulose compounds, and other than gold, silver, or platinum
- Construction sets, toy, wholly or in chief value of metal, valued 30 cents or more per pound, and other than model airplane construction sets in chief value of metal valued at 75 cents or more each
- Extract, seaweed, manufactured
- Fiber, istle or Tampico, dressed or manufactured
- *Flasks, vacuum, finished, (thermostatic bottles) not over one pint capacity
- Insulating articles and products, electrical, high density, not laminated, composed of wood flour and having a synthetic resin or resin-like substance as chief binding agent
- Leads, pencil, colored or crayon
- Paper or cloth, or combinations thereof, coated with sand, emery, or other natural or artificial abrasives
- Pencils, lead or crayon, of wood or other material except metal
- Pencils, wood, stamped with names other than the manufacturer's name, trade name or trade mark
- Plumes, chief value of feathers
- Polyisobutylene
- Powder, ficin
- Spangles, gelatin
- Spangles, rhodoid
- Waste, mustard bran
- Wax, sealing

Musical Instruments or Articles

- Bassoons
- Carillons, containing not more than 34 bells, and parts thereof
- Metronomes
- Music boxes, in the form of a feathered bird in a cage
- Pianos, upright, non-player type, having 64 keys (5 1/3 octaves)

Ornamented or Embroidered Fabrics and Articles, and Laces, Nets, and Veilings

- Fabrics, embroidered, wholly or in chief value of wool
- Gloves, composed of 15 denier sheer knit nylon fabric and in part of all-overs, edgings, flouncings, flutings, fringes, galloons, insertings, ornaments, quillings, ruchings, trimmings, or tuckings
- Gloves, embroidered (whether or not the embroidery is on a scalloped edge), tamboured, appliqued, ornamented with beads, bugles, or spangles, or from which threads have been omitted, drawn, punched, or cut, and with threads introduced after weaving to finish or ornament the open work, not including one row of straight hemstitching adjoining the hem, composed of 15 denier sheer knit nylon fabric

SUNDRIES—Continued

Ornamented or Embroidered Fabrics and Articles,
and Laces, Nets, and Veilings—Continued

Laces, lace fabrics and lace articles, wholly or in chief value of wool (except veils and veilings) made on a leyers (including go-through) lace machine (whether or not embroidered and whether or not made full gauge on a machine of 12 point or finer)

Napkins, of cotton, in chief value of lace made in designs or patterns formed wholly by joining machine made materials by handwork

Nets and nettings, wholly or in chief value of silk, not embroidered, made on other than a bobbinet machine

Tablecloths, of cotton, in chief value of lace made in designs or patterns formed wholly by joining machine made materials by handwork

Trimmings, in part of cotton, chief value of beads.

Veilings, dyed or colored, wholly or in chief value of rayon or other synthetic textiles, made on any lace or net machine, whether or not embroidered, in bolt length, suitable for cutting to veil size

Veilings, dyed or colored, wholly or in chief value of silk, made on any lace or net machine, whether or not embroidered, in bolt length suitable for cutting to veil size

Rubber Articles

Boots, shoes, or other footwear (including athletic or sporting boots and shoes but not including footwear commonly known as "Tabi" or "Jikatabi"), the uppers of which are composed wholly or in chief value of wool, cotton, ramie, animal hair, fiber, rayon or other synthetic textile, silk or substitutes for any of the foregoing, with soles composed wholly or in chief value of India rubber or substitutes for rubber

Boots, shoes, overshoes, or other footwear, wholly or in chief value of India rubber or substitutes for rubber

Catheters, wholly or in chief value of rubber

Combs, hard rubber, household and pocket type, valued over \$4.50 per gross

Gloves, rubber

SUNDRIES—Continued

Rubber Articles—Continued

Hose and tubing, polyethylene or polyvinyl chloride, having an inside diameter of less than $\frac{3}{8}$ inch

Hose and tubing, rubber, not made of hard rubber, having at no point an inside diameter of less than $\frac{3}{8}$ inch

Insulating material, rigid, in sheet or board form, chief value rubber

Matting, rubber, floor, corrugated, in rolls

Packing, rubber, in sheets

Powder, rubber, chlorinated

Rubber, synthetic

Sheeting, rubber, designed for use in facing table tennis paddles

Suits, rubber, designed for underwater use

Tires and tubes, pneumatic, wholly or in chief value of rubber or substitutes for rubber, except bicycle tires and tubes

Tissue, gutta percha

Sporting and Fishing Equipment

Balls, lawn-tennis

Balls, table tennis

Bands, wholly or in chief value of rubber, suitable for underwater fishing guns

Fins, swim, composed wholly or in chief value of rubber

Floats, cork, for fish nets

Floats, trawl, aluminum

Frames, tennis racket, wood chief value, not in part of bamboo, osier or willow, or rattan, valued over \$3 each

Guns, fishing, underwater

Leaders, fishing, knotless, tapered, made of synthetic monofilament

Line, fishing, nylon

Shinguards, soccer

Spoons, fishing

Sticks, field hockey

Sticks, ice-hockey, wholly or in chief value of wood

Swivels, fishing

Tees, golf, brass

A. GILMORE FLUES,
Acting Secretary of the Treasury.

Appendix D. Articles Designated in the Tariff Schedules of the United States (TSUS) Subject to American-Selling-Price Valuation

1. Benzenoid chemicals:

- a. TSUS headnote 4, part 1, schedule 4. The ad valorem rates provided in this part shall be based upon the American selling price, as defined in section 402 or 402a of this Act, of any similar competitive article manufactured or produced in the United States. If there is no similar competitive article manufactured or produced in the United States then the ad valorem rate shall be based upon the United States value, as defined in the said section 402 or 402a.
- b. TSUS headnote 5, part 1, schedule 4. For the purposes of this part, any product provided for in this part shall be considered similar to, or competitive with, any imported product which accomplishes results substantially equal to those accomplished by the domestic product when used in substantially the same manner.
- c. Articles listed in part 1, schedule 4, TSUS, that are subject to ad valorem rates

<u>Item</u>	<u>Articles</u>
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Subpart B. - Industrial Organic Chemicals

	Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure, not provided for in subpart A or C of this part:
403.02	Anthracene having a purity of 30% or more by weight
403.04	Carbazole having a purity of 65% or more by weight
403.06	Naphthalene which after the removal of all water present has a solidifying point of 79°C. or above
403.08	Phthalic anhydride
403.10	Styrene
	All distillates of coal tar, blast-furnace tar, oil-gas tar, and water-gas tar, which on being subjected to distillation yield in the portion distilling below 190°C. a quantity of tar acids equal to or more than 5% by weight of the original distillate or which on being subjected to distillation yield in the portion distilling below 215°C. a quantity of tar acids equal to or more than 75% by weight of the original distillate:
403.40	Phenol (Carbolic acid) which on being subjected to distillation yields in the portion distilling below 190°C. a quantity of tar acids equal to or more than 5% by weight of the original distillate

<u>Item</u>	<u>Articles</u>
403.42	Cresylic acid which on being subjected to distillation yields in the portion distilling below 215°C. a quantity of tar acids equal to or more than 75% by weight of the original distillate
403.44	Metacresol, orthocresol, paracresol, and metaparcresol, all the foregoing having a purity of 75% or more by weight
403.46	Other
403.48	Cyclic organic chemical products, etc. (con.): 2-Acetamido-3-chloroanthraquinone; o-Acetoacetanilide; o-Acetoacetotoluidide; 2',4'-Acetoacetoxylidide; 3'-Aminoacetophenone; 1-Amino-5-benzamidoanthraquinone; o-Anisidine; p-Anisidine; 6-Chloro-m-cresol $\sqrt{\text{OH}=1}$; m-Diethylaminophenol; 4-Chloro-2,5-dimethoxyaniline $\sqrt{\text{NH}_2=1}$; 1,8-Dihydroxy-4,5-dinitroanthraquinone; 2,4-Dimethoxyaniline; 3-Ethylamino-p-cresol; Iminodanthraquinone; 5-Methoxy-m-phenylenediamine; N-Methylaniline; dl-Phenylephrine base; Phenylsulfone; 2-Pyridinecarboxaldehyde; Sodium tetraphenylboron; 2,4,6-Trimethylaniline (mesidine); and Vinylcarbazole, mono
403.50	p-Aminobenzoic acid; 7-Amino-1,3-naphthalenedisulfonic acid and its salts; 5-Amino-2-naphthalenesulfonic acid and its salts; 8-Amino-1-naphthalenesulfonic acid and its salts; 8-Amino-2-naphthalenesulfonic acid and its salts; 6-Amino-1-naphthol-3-sulfonic acid and its salts; 8-Amino-1-naphthol-5-sulfonic acid and its salts; 4-Amino-2-stilbenesulfonic acid and its salts; Biligrafin acid; 3,5-Diacetamido-2,4,6-triiodobenzoic acid; 2,3-Dichloro-1,4-naphthoquinone; m-Dimethylaminophenol; Gentisic acid; p-Hydroxybenzoic acid; 1-Hydroxy-2-carbazolecarboxylic acid; Hydroxycinnamic acid and its salts; 2-Hydroxy-3-dibenzofurancarboxylic acid; 2-Naphthol-3,6-disulfonic acid and its salts; 7-Nitronaphth $\sqrt{1,2}$ /oxadiazole-5-sulfonic acid and its salts; p-Nitrotoluene; p-Phenctidine; m-Phenylenediamine; o-Phenylenediamine; N-Phenyl-2-naphthylamine; 2,4,4',5'-Tetrachlorophenylsulfone; Toluene-2,4-diamine; o-Toluenesulfonamide; and 2,4-Xylidine
403.60	Other

ItemArticles

All other products, by whatever name known, not provided for in subpart A or C of this part, including acyclic organic chemical products, which are obtained, derived, or manufactured in whole or in part from any of the cyclic products having a benzenoid, quinoid, or modified benzenoid structure provided for in the foregoing provisions of this subpart or in subpart A of this part:

403.70	Caprolactam monomer
403.75	Hexamethylene adipamide
403.78	Methylcyclohexanone
403.80	Other
403.90	Mixtures in whole or in part of any of the products provided for in this subpart

Subpart C. - Finished Organic Chemical Products

Products obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part:

405.05	Explosives
405.10	Ink powders
405.15	Pesticides
405.20	Photographic chemicals
405.25	Plastics materials
405.30	Products chiefly used as assistants in preparing or finishing textiles
405.35	Products (except those in item 405.30) chiefly used for any one or combination of the following purposes: as detergents, wetting agents, emulsifiers, dispersants, or foaming agents
405.40	Products chiefly used as plasticizers
405.45	Sodium benzoate
405.55	Synthetic tanning materials

<u>Item</u>	<u>Articles</u>
406.02	Colors, dyes, stains, and related products: Sulfur black, "Colour Index Nos. 53185, 53190, and 53195"
406.04	Vat blue 1 (synthetic indigo), "Colour Index No. 73000"
406.10	Acid black 31, 50, 94, 129; acid blue 45, 54, 106, 127, 129, 143; acid brown 44, 46, 48, 58, 188, 189; acid green 40; acid red 130, 145, 174, 211; acid violet 19, 31, 41, 48; acid yellow 2, 75, 116; basic blue 3; basic orange 22; basic red 13, 14; basic yellow 1, 11, 13; direct black 62, 91; direct blue 86, 92, 106, 108, 109, 160, 172; direct brown 103, 115, 116; direct green 5, 29, 31; direct orange 37; direct red 83; direct yellow 28; disperse blue 30; disperse red 4; fluorescent brightening agent 18, 24, 32; ingrain blue 2; mordant black 8; mordant green 47; mordant red 17, 27; reactive black 1; reactive blue 1, 2, 4; reactive orange 1; reactive red 1, 2, 3, 5, 6; reactive yellow 1; solvent orange 11; solvent yellow 25; vat blue 2; vat brown 3; vat orange 2, 7; vat red 44; vat violet 9, 13; vat solubilized orange 3; and vat yellow 4, 20; all the foregoing obtained, derived, or manufac- tured in whole or in part from any product pro- vided for in subpart A or B of this part
406.50	Colors, dyes, and stains (except toners), whether soluble or not in water, obtained, derived, or manufactured in whole or in part from any pro- duct provided for in subpart A or B of this part
406.60	Natural alizarin and natural indigo; colors, dyes, and stains (except toners), whether soluble or not in water, obtained, derived, or manufactured in whole or in part from natural alizarin or natural indigo; color acids, color bases, indoxyl, indoxyl compounds, and leuco-compounds (whether colorless or not), obtained, derived, or manufactured in whole or in part from natural alizarin, natural indigo, or any product provided for in subpart A or B of this part
406.70	Color lakes and toners, obtained, derived, or manufactured in whole or in part from natural alizarin, natural indigo, or any product pro- vided for in subpart A or B of this part
406.80	Fast color bases, fast color salts, and Naphthol AS and its derivatives.

ItemArticles

Products suitable for medicinal use, and drugs:
Obtained, derived, or manufactured in whole or
in part from any product provided for in sub-
part A or B of this part:

<u>Item</u>	<u>Articles</u>
	Products suitable for medicinal use:
407.02	Acetanilide
407.04	Benzaldehyde
407.06	Benzoic acid
407.08	2-Naphthol (Beta-naphthol)
407.10	Resorcinol
407.12	Salicylic acid and its salts
	Drugs:
407.20	Acetphenetidine (Phenacetin)
407.25	Acetylsalicylic acid (Aspirin)
407.30	Antipyrine
407.32	5-Chloro-7-iodo-8-quinolinol and 2 $\sqrt{1}$ -(p-chlorophenyl)-3-dimethyl- aminopropyl/pyridine maleate
407.35	Diethylaminoacetoxylidide (Xylocaine)
407.40	5-Ethyl-5-phenylhexahydropyrimidine- 4,6-dione
	Hydantoin derivatives:
407.45	Methylphenethylhydantoin
407.50	Other
	Imidazoline derivatives:
407.55	2-Benzyl-4,5-imidazoline hydrochloride
407.60	Phenylbenzylaminoethylimid- azoline hydrochloride
407.70	Other
407.72	Phenylephrine hydrochloride; sulfadiazine; sulfaguanidine; sulfamerazine; sulfamethazine; sulfapyridine; and salicylazosulfapyridine
407.75	Phenolphthalein
407.80	Salol
407.85	Other
	Drugs, from whatever source obtained, produced, or manufactured:
407.90	Guaiacol and its derivatives

ItemArticles

Aromatic or odoriferous compounds including flavors, not marketable as cosmetics, perfumery, or toilet preparations, and not mixed, and not containing alcohol:

Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A or B of this part:

408.05	Benzyl acetate
408.10	Benzyl benzoate
408.15	Diphenyl oxide
408.20	Heliotropin
408.25	Methyl anthranilate
408.30	Musk, artificial
408.35	Phenylacetaldehyde
408.40	Phenethyl alcohol
408.45	Saccharin
408.60	Other compounds

From whatever source obtained, derived, or manufactured:

408.70	Coumarin
408.75	Methyl salicylate
408.80	Vanillin

409.00 Mixtures in whole or in part of any of the products provided for in this subpart

2. Canned clams and related products:

a. TSUS headnote 1, part 3E, schedule 1. Subject to the provisions of section 336(f) of this Act, the merchandise provided for in item 114.05 shall be subject to duty upon the basis of the American selling price of like or similar articles produced in the United States.

b. Articles designated by headnote 1, part 3E, schedule 1, TSUS:

<u>Item</u>	<u>Articles</u>
	Shellfish, fresh, chilled, frozen, prepared, or preserved (including pastes and sauces):
	Clams:
	In airtight containers:
114.01	Razor clams (<u>Siliqua patula</u>)
114.05	Other

3. Rubber-soled fabric-upper footwear:

a. TSUS headnote 3(b), part 1A, schedule 7, as amended. Subject to the provisions of section 336(f) of this Act, the merchandise in item 700.60 shall be subject to duty upon the basis of the American selling price, as defined in section 402 or 402a of this Act, of like or similar articles manufactured or produced in the United States.

b. Articles designated by headnote 3(b), part 1A, schedule 7, TSUS, as amended:

<u>Item</u>	<u>Articles</u>
	Footwear (whether or not described elsewhere in this subpart) which is over 50 percent by weight of rubber or plastics or over 50 percent by weight of fibers and rubber or plastics with at least 10 percent by weight being rubber or plastics:
	Hunting boots, galoshes, rainwear, and other footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease, or chemicals or cold or inclement weather, all the foregoing having soles and uppers of which over 90 percent of the exterior surface area is rubber or plastics (except footwear with uppers of nonmolded construction formed by sewing the parts thereof together and having exposed on the outer surface a substantial portion of functional stitching):
700.51	Having soles and uppers of which over 90 percent of the exterior surface area is polyvinyl chloride, whether or not supported or lined with polyvinyl chloride but not otherwise supported or lined
700.52	Footwear (except footwear provided for in item 700.51), the uppers of which do not extend above the ankle, designed for use without closures, whether or not supported or lined
700.53	Other
	Other footwear (except footwear having uppers of which over 50 percent of the exterior surface area is leather):
700.55	Having uppers of which over 90 percent of the exterior surface area is rubber or plastics (except footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper)
700.60	Other

4. Wool knit gloves:

a. TSUS headnote 4, part 1C, schedule 7. Subject to the provisions of section 336(f) of this Act, the merchandise provided for in item 704.55 shall be subject to duty upon the basis of the American selling price, as defined in section 402 or 402a of this Act, of like or similar articles manufactured or produced in the United States.

b. Articles designated by headnote 4, part 1C, schedule 7, TSUS:

<u>Item</u>	<u>Articles</u>
	Gloves and glove linings, of textile materials:
	Gloves not of lace or net and not ornamented, and glove linings:
	Of wool:
	Gloves:
	Valued not over \$1.75 per dozen pairs:
704.55	Knit

Appendix E. Administrative Provisions of the Tariff Act of
1930, as amended, Relating to Valuation

SEC. 481. INVOICE--CONTENTS.

(a) In General.-- All invoices of merchandise to be imported into the United States shall set forth--

- (1) The port of entry to which the merchandise is destined;
- (2) The time when, the place where, and the person by whom and the person to whom the merchandise is sold or agreed to be sold, or if to be imported otherwise than in pursuance of a purchase, the place from which shipped, the time when and the person to whom and the person by whom it is shipped;
- (3) A detailed description of the merchandise, including the name by which each item is known, the grade or quality, and the marks, numbers, or symbols under which sold by the seller or manufacturer to the trade in the country of exportation, together with the marks and numbers of the packages in which the merchandise is packed;
- (4) The quantities in the weights and measures of the country or place from which the merchandise is shipped, or in the weights and measures of the United States;
- (5) The purchase price of each item in the currency of the purchase, if the merchandise is shipped in pursuance of a purchase or an agreement to purchase;
- (6) If the merchandise is shipped otherwise than in pursuance of a purchase or an agreement to purchase, the value for each item, in the currency in which the transactions are usually made, or, in the absence of such value, the price in such currency that the manufacturer, seller, shipper, or owner would have received, or was willing to receive, for such merchandise if sold in the ordinary course of trade and in the usual wholesale quantities in the country of exportation;
- (7) The kind of currency, whether gold, silver, or paper;
- (8) All charges upon the merchandise, itemized by name and amount when known to the seller or shipper; or all charges by name (including commissions, insurance, freight, cases, containers, coverings, and cost of packing) included in the invoice prices when the amounts for such charges are unknown to the seller or shipper;
- (9) All rebates, drawbacks, and bounties, separately itemized, allowed upon the exportation of the merchandise; and
- (10) Any other facts deemed necessary to a proper appraisal, examination, and classification of the merchandise that the Secretary of the Treasury may require.

(b) Shipments Not Purchased and Not Shipped by Manufacturer.-- If the merchandise is shipped to a person in the United States by a person other than the manufacturer, otherwise than by purchase, such person shall state on the invoice the time when, the place where, the person from whom such merchandise was purchased, and the price paid therefor in the currency of the purchase, stating whether gold, silver, or paper.

(c) Purchases in Different Consular Districts.-- When the merchandise has been purchased in different consular districts for shipment to the United States and is assembled for shipment and embraced in a single invoice which is produced for certification under the provisions of paragraph (2) of subdivision (a) of section 482 of this Act, the invoice shall have attached thereto the original bills or invoices received by the shipper, or extracts therefrom, showing the actual prices paid or to be paid for such merchandise. The consular officer to whom the invoice is so produced for certification may require that any such original bill or invoice be certified by the consular officer for the district in which the merchandise was purchased.

(d) Exceptions by Regulations.-- The Secretary of the Treasury may by regulations provide for such exceptions from the requirements of this section as he deems advisable.

SEC. 482. CERTIFIED INVOICE.

(a) Certification in General.-- Every invoice required pursuant to section 484(b) of this Act to be certified shall, at or before the time of the shipment of the merchandise, or as soon thereafter as the conditions will permit, be produced for certification to the consular officer of the United States--

(1) For the consular district in which the merchandise was manufactured, or purchased, or from which it was to be delivered pursuant to contract;

(2) For the consular district in which the merchandise is assembled and repacked for shipment to the United States, if it has been purchased in different consular districts.

(b) Declaration.-- Such invoices shall have indorsed thereon, when so produced, a verified declaration, in a form prescribed by the Secretary of the Treasury, stating whether the merchandise is sold or agreed to be sold, or whether it is shipped otherwise than in pursuance of a purchase or an agreement to purchase, that there is no other invoice differing from the invoice so produced, and that all the statements contained in such invoice and in such declaration are true and correct.

(c) Making and Signing.-- Every certified invoice shall be made out in triplicate, or, for merchandise intended for immediate transportation under the provisions of section 552 of this Act, in quadruplicate, if desired by the shipper, and shall be signed by the

seller or shipper, or the agent of either; but a person who has no interest in the merchandise except as broker or forwarder shall not be competent to sign any such invoice. Where any such invoice is signed by an agent, he shall state thereon the name of his principal.

(d) Certified Under Existing Law.-- Such invoices shall be certified in accordance with the provisions of existing law.

(e) Disposition.-- The original of the invoice and, if made, the quadruplicate shall be delivered to the exporter, to be forwarded to the consignee for use in making entry of the merchandise, and the triplicate shall be promptly transmitted by the consular officer to the collector of customs at the port of entry named in the invoice. The duplicate shall be filed in the office of the consular officer by whom the invoice was certified, to be there kept until no longer needed in conducting the current business of the consular office, at which time it may be disposed of as provided by law.

(f) Certification by Others than American Consul.-- When merchandise is to be shipped from a place so remote from an American consulate as to render impracticable certification of the invoice by an American consular officer, such invoice may be certified by a consular officer of a nation at the time in amity with the United States, or if there be no such consular officer available such invoice shall be executed before a notary public or other officer having authority to administer oaths and having an official seal: Provided, That invoices for merchandise shipped to the United States from the Virgin Islands, American Samoa, the island of Guam, or the Canal Zone may be certified by the collector of customs or the person acting as such, or by his deputy.

* * * * *

SEC. 484. ENTRY OF MERCHANDISE.

(a) Requirement and Time.-- Except as provided in sections 490, 498, 552, and 553 and in subdivision (j) of section 336 of this Act, and in subdivisions (h) and (i) of this section, the consignee of imported merchandise shall make entry therefor either in person or by an agent authorized by him in writing under such regulations as the Secretary of the Treasury may prescribe. Such entry shall be made at the customhouse within five days, exclusive of Sundays and holidays, after the entry of the importing vessel or report of the vehicle, or after the arrival at the port of destination in the case of merchandise transported in bond, unless the collector authorizes in writing a longer time.

(b) Production of Certified Invoice.-- The Secretary of the Treasury shall provide by regulation for the production of a certified invoice with respect to such merchandise as he deems advisable and for the terms and conditions under which such merchandise may be permitted entry under the provisions of this section without the production of a certified invoice.

(c) Production of Bill of Lading.-- The consignee shall produce the bill of lading at the time of making entry, except that--

(1) if the collector is satisfied that no bill of lading has been issued, the shipping receipt or other evidence satisfactory to the collector may be accepted in lieu thereof;

(2) The collector is authorized to permit entry and to release merchandise from customs custody without the production of the bill of lading if the person making such entry gives a bond satisfactory to the collector, in a sum equal to not less than one and one-half times the invoice value of the merchandise, to produce such bill of lading, to relieve the collector of all liability, to indemnify the collector against loss, to defend every action brought upon a claim for loss or damage, by reason of such release from customs custody or a failure to produce such bill of lading and to entitle any person injured by reason of such release from customs custody to sue on such bond in his own name, without making the collector a party thereto. Any person so injured by such release may sue on such bond to recover any damages so sustained by him; and

(3) The provisions of this subdivision shall not apply in the case of an entry under subdivision (h) or (i) of this section (relating to entry on carrier's certificate and on duplicate bill of lading, respectively).

(d) Signing and Contents.-- Such entry shall be signed by the consignee, or his agent, and shall set forth such facts in regard to the importation as the Secretary of the Treasury may require for the purpose of assessing duties and to secure a proper examination, inspection, appraisement, and liquidation, and shall be accompanied by such invoices, bills of lading, certificates, and documents as are required by law and regulations promulgated thereunder.

(e) Statistical Enumeration.-- The Secretary of the Treasury, the Secretary of Commerce, and the Chairman of the United States Tariff Commission are authorized and directed to establish from time to time for statistical purposes an enumeration of articles in such detail as in their judgment may be necessary, comprehending all merchandise imported into the United States, and as a part of the entry there shall be attached thereto or included therein an accurate statement specifying, in terms of such detailed enumeration, the kinds and quantities of all merchandise imported and the value of the total quantity of each kind of article.

* * * * *

(g) Statement of Cost of Production.-- Under such regulations as the Secretary of the Treasury may prescribe, the collector or the appraiser may require a verified statement from the manufacturer or producer showing the cost of production of the imported merchandise, when necessary to the appraisement of such merchandise.

* * * * *

SEC. 485. DECLARATION.

(a) Requirement--Form and Contents.-- Every consignee making an entry under the provisions of section 484 of this Act shall make and file therewith, in a form to be prescribed by the Secretary of the Treasury, a declaration under oath, stating--

(1) Whether the merchandise is imported in pursuance of a purchase or an agreement to purchase, or whether it is imported otherwise than in pursuance of a purchase or agreement to purchase;

(2) That the prices set forth in the invoice are true, in the case of merchandise purchased or agreed to be purchased; or in the case of merchandise secured otherwise than by purchase or agreement to purchase, that the statements in such invoice as to value or price are true to the best of his knowledge and belief;

(3) That all other statements in the invoice or other documents filed with the entry, or in the entry itself, are true and correct; and

* * * * *

(e) Separate Forms for Purchase and Nonpurchase Importations.-- The Secretary of the Treasury shall prescribe separate forms for the declaration in the case of merchandise which is imported in pursuance of a purchase or agreement to purchase and merchandise which is imported otherwise than in pursuance of a purchase or agreement to purchase.

* * * * *

SEC. 487. VALUE IN ENTRY--AMENDMENT.

The consignee or his agent may, under such regulations as the Secretary of the Treasury may prescribe, at the time entry is made, make in the entry such additions to or deductions from the cost or value given in the invoice as, in his opinion, may raise or lower the same to the value of such merchandise.

SEC. 488. APPRAISEMENT OF MERCHANDISE.

The collector within whose district any merchandise is entered shall cause such merchandise to be appraised.

* * * * *

SEC. 500. DUTIES OF APPRAISING OFFICERS. ^{1/}

(a) Appraiser.-- It shall be the duty of the appraiser under such rules and regulations as the Secretary of the Treasury may prescribe--

(1) To appraise the merchandise in the unit of quantity in which the merchandise is usually bought and sold by ascertaining or estimating the value thereof by all reasonable ways and means in his power, any statement of cost or cost of production in any invoice, affidavit, declaration, or other document to the contrary notwithstanding;

(2) To ascertain the number of yards, parcels, or quantities of the merchandise ordered or designated for examination;

(3) To ascertain whether the merchandise has been truly and correctly invoiced;

(4) To describe the merchandise in order that the collector may determine the dutiable classification thereof; and

(5) To report his decisions to the collector.

(b) Reports of Appraiser's Subordinates.-- The appraiser shall have power to review, revise, and correct the reports of his subordinate officers.

(c) Chief Assistant and Deputy Appraisers.-- The duties of the chief assistant appraiser and deputy appraisers shall be prescribed by the Secretary of the Treasury. During the absence or disability of the appraiser, or in the event that there is no appraiser, the chief assistant appraiser shall exercise the powers and perform the duties of the appraiser.

^{1/} Pursuant to Presidential Reorganization Plan No. 1 of 1965, the functions of collectors and appraisers were delegated to the various District Directors of Customs.

(d) Assistant Appraisers.-- It shall be the duty of an assistant appraiser--

(1) To examine and inspect such merchandise as the appraiser may direct, and to report to him the value thereof;

(2) To revise and correct the reports and to supervise and direct the work of such examiners and other employees as the appraiser may designate; and

(3) To assist the appraiser, under such regulations as the Secretary of the Treasury or the appraiser may prescribe.

(e) Examiners.-- It shall be the duty of an examiner to examine and inspect the merchandise and report the value and such other facts as the appraiser may require in his appraisal or report, and to perform such other duties as may be prescribed by rules and regulations of the Secretary of the Treasury or the appraiser.

(f) Acting Appraiser.-- The Secretary of the Treasury is authorized to designate an officer of the customs as acting appraiser at a port where there is no appraiser. Such acting appraiser shall perform all the duties and possess all the powers of an appraiser. The Secretary of the Treasury may appoint an officer of the customs who shall perform the functions of acting appraiser during the absence or disability of such acting appraiser.

SEC. 501. NOTICE OF APPRAISEMENT--REAPPRAISEMENT.

The collector shall give written notice of appraisal to the consignee, his agent, or his attorney, if (1) the appraised value is higher than the entered value, or (2) a change in the classification of the merchandise results from the appraiser's determination of value, or (3) in any case, if the consignee, his agent, or his attorney requests such notice in writing before appraisal, setting forth a substantial reason for requesting the notice. The decision of the appraiser, including all determinations entering into the same, shall be final and conclusive upon all parties unless a written appeal for a reappraisal is filed with or mailed to the United States Customs Court by the collector within sixty days after the date of the appraiser's report, or filed by the consignee or his agent with the collector within thirty days after the date of personal delivery, or if mailed the date of mailing of written notice of appraisal to the consignee, his agent, or his attorney. Every such appeal shall be transmitted with the entry and the accompanying papers by the collector to the United States Customs Court.

SEC. 502. REGULATIONS FOR APPRAISEMENT AND CLASSIFICATION.

(a) Powers of Secretary of the Treasury.-- The Secretary of the Treasury shall establish and promulgate such rules and regulations not inconsistent with the law, and may disseminate such information as may be necessary to secure a just, impartial, and uniform appraisement of imported merchandise and the classification and assessment of duties thereon at the various ports of entry, and may direct any appraiser, deputy appraiser, assistant appraiser, or examiner of merchandise to go from one port of entry to another for the purpose of appraising or assisting in appraising merchandise imported at such port.

(b) Reversal of Secretary's Rulings.-- No ruling or decision once made by the Secretary of the Treasury, giving construction to any law imposing customs duties, shall be reversed or modified adversely to the United States, by the same or a succeeding Secretary, except in concurrence with an opinion of the Attorney General recommending the same, or a final decision of the United States Customs Court.

(c) Duties of Customs Officers.-- It shall be the duty of all officers of the customs to execute and carry into effect all instructions of the Secretary of the Treasury relative to the execution of the revenue laws; and in case any difficulty arises as to the true construction or meaning of any part of the revenue laws, the decision of the Secretary shall be binding upon all officers of the customs.

SEC. 503. DUTIABLE VALUE.

(a) General Rule.-- Except as provided in section 562 of this Act (relating to withdrawal from manipulating warehouses), the basis for the assessment of duties on imported merchandise subject to ad valorem rates of duty shall be the final appraised value.

(b) Basis of Rate.-- For the purpose of determining the rate of duty to be assessed upon any merchandise when the rate is based upon or regulated in any manner by the value of the merchandise, the final appraised value shall (except as provided in section 562 of this Act) be taken to be the value of the merchandise.

* * * * *

SEC. 509. EXAMINATION OF IMPORTER AND OTHERS.

Collectors and appraisers may cite to appear before them or any of them and to examine upon oath, which said officers or any of them are hereby authorized to administer, any owner, importer consignee, agent, or other person upon any matter or thing which they, or any of them, may deem material respecting any imported merchandise then under consideration or previously imported within one year, in ascertaining the classification or the value thereof or the rate or amount of duty; and they, or any of them, may require the production of any letters, accounts, contracts, invoices, or other documents relating to said merchandise, and may require such testimony to be reduced to writing, and when so taken it shall be filed and preserved, under such rules as the United States Customs Court may prescribe, and such evidence may be given consideration in subsequent proceedings relating to such merchandise.

SEC. 510. PENALTIES FOR REFUSAL TO GIVE TESTIMONY.

If any person so cited to appear shall neglect or refuse to attend, or shall decline to answer, or shall refuse to answer in writing any interrogatories, and subscribe his name to his deposition, or to produce such papers when so required by a judge of the United States Customs Court, or a division of such court, or an appraiser, or a collector, he shall be liable to a penalty of not less than \$20 nor more than \$500; and if such person be the owner, importer, or consignee, the appraisement last made of such merchandise, whether made by an appraiser, a judge of the United States Customs Court, or a division of such court, shall be final and conclusive against such person; and any person who shall willfully and corruptly swear falsely on an examination before any judge of the United States Customs Court, or division of such court, or appraiser or collector, shall be deemed guilty of perjury; and if he is the owner, importer, or consignee, the merchandise shall be forfeited or the value thereof may be recovered from him.

SEC. 511. INSPECTION OF IMPORTER'S BOOKS.

If any person importing merchandise into the United States or dealing in imported merchandise fails, at the request of the Secretary of the Treasury, or an appraiser, or person acting as appraiser, or a collector, or the United States Customs Court, or a judge of such court, as the case may be, to permit a duly accredited officer of the United States to inspect his books, papers, records, accounts, documents, or correspondence, pertaining to the value or classification of such merchandise, then while such failure continues the Secretary of the Treasury, under regulations prescribed by him, (1) shall prohibit the importation of merchandise into the United States by or for the account of such person, and (2) shall instruct the collectors to withhold delivery of merchandise imported by or for the account of such person. If such failure continues for a period of one year from the date of such instructions the collector shall cause the merchandise, unless previously exported, to be sold at public auction as in the case of forfeited merchandise.

* * * * *

SEC. 516. APPEAL OR PROTEST BY AMERICAN PRODUCERS.

(a) Value.-- Whenever an American manufacturer, producer, or wholesaler believes that the appraised value of any imported merchandise of a class or kind manufactured, produced, or sold at wholesale by him is too low, he may file with the Secretary of the Treasury a complaint setting forth the value at which he believes the merchandise should be appraised and the facts upon which he bases his belief. The Secretary shall thereupon transmit a copy of such complaint to the appraiser at each port of entry where the merchandise is usually imported. Until otherwise directed by the Secretary, the appraiser shall report each subsequent importation of the merchandise giving the entry number, the name of the importer, the appraised value, and his reasons for the appraisal. If the Secretary does not agree with the action of the appraiser, he shall instruct the collector to file an appeal for a reappraisal as provided in section 501 of this Act, and such manufacturer, producer, or wholesaler shall have the right to appear and to be heard as a party in interest under such rules as the United States Customs Court may prescribe. The Secretary shall notify such manufacturer, producer, or wholesaler of the action taken by such appraiser, giving the port of entry, the entry number, and the appraised value of such merchandise and the action he has taken thereon. If the appraiser advances the entered value of merchandise upon the information furnished by the American manufacturer, producer, or wholesaler, and an appeal is taken by the consignee, such manufacturer, producer, or wholesaler shall have the right to appear and to be heard as a party in interest, under such rules as the United States Customs Court may prescribe. If the American manufacturer, producer, or wholesaler is not satisfied with the action of the Secretary, or the action of the appraiser thereon, he may file, within thirty days after the date of the mailing of the Secretary's notice, an appeal for a reappraisal in the same manner and with the same effect as an appeal by a consignee under the provisions of section 501 of this Act.

* * * * *

SEC. 522. CONVERSION OF CURRENCY.

(a) Value of Foreign Coin Proclaimed by Secretary of Treasury.-- Section 25 of the Act of August 27, 1894, entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", as amended, is reenacted without change as follows:

Sec. 25. That the value of foreign coin as expressed in the money of account of the United States shall be that of the pure metal of such coin of standard value; and the values of the standard coins in circulation of the various nations of the world shall be estimated quarterly by the Director of the Mint and be proclaimed by the Secretary of the Treasury quarterly on the 1st day of January, April, July, and October in each year.

(b) Proclaimed Value Basis of Conversion.-- For the purpose of the assessment and collection of duties upon merchandise imported into the United States on or after the day of the enactment of this Act, whenever it is necessary to convert foreign currency into currency of the United States, such conversion, except as provided in subdivision (c), shall be made at the values proclaimed by the Secretary of the Treasury under the provisions of section 25 of such Act of August 27, 1894, as amended, for the quarter in which the merchandise was exported.

(c) Market Rate When No Proclamation.--

(1) If no value has been proclaimed under subsection (a) for the quarter in which the merchandise was exported, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate at noon on the day of exportation, then conversion of the foreign currency involved shall be made--

(A) at a value measured by such buying rate, or

(B) if the Secretary of the Treasury shall by regulation so prescribe with respect to the particular foreign currency, at a value measured by the buying rate first certified under this subsection for a day in the quarter in which the day of exportation falls (but only if the buying rate at noon on the day of exportation does not vary by 5 per centum or more from such first-certified buying rate).

(2) For the purposes of this subsection the term "buying rate" means the buying rate in the New York market for cable transfers payable in the foreign currency so to be converted. Such rate shall be determined by the Federal Reserve Bank of New York and certified to the Secretary of the Treasury, who shall make it public at such times and to such extent as he deems necessary. In ascertaining such buying rate, the Federal Reserve Bank of New York may, in its discretion--

(A) take into consideration the last ascertainable transactions and quotations, whether direct or through exchange of other currencies, and

(B) if there is no market buying rate for such cable transfers, calculate such rate (i) from actual transactions and quotations in demand or time bills of exchange, or (ii) from the last ascertainable transactions and quotations outside the United States in or for exchange payable in United States currency or other currency.

(3) For the purposes of this subsection, if the day of exportation is one on which banks are generally closed in New York City, then the buying rate at noon on the last preceding business day shall be considered the buying rate at noon on the day of exportation.

Appendix F. Explanation of the Provisional Application of the General Agreement on Tariffs and Trade

Article XXVI of the General Agreement on Tariffs and Trade provides that the agreement shall enter into force when it has been accepted by contracting parties that account for 85 percent of the total foreign trade of all contracting parties. The General Agreement, however, has never definitively entered into force under the provisions of article XXVI. It has been accepted pursuant to a protocol of provisional application, which requires that the signatories apply Parts I and III of the agreement fully, and Part II (which contains most of the trade rules) to the fullest extent not inconsistent with their domestic legislation existing at the time of their accession.

Originally, if contracting parties desired to accept the agreement definitively pursuant to article XXVI, they were required to modify immediately any domestic legislation that was inconsistent with the provisions of the agreement. Although the Contracting Parties have desired definitive acceptance of the General Agreement as soon as possible, they have recognized that it would not be practicable for certain contracting parties to bring their domestic legislation into conformity with Part II of the agreement immediately after such acceptance. To surmount this obstacle, the Contracting Parties, at their Ninth Session in 1954-55, prepared a resolution which provided that an acceptance of the agreement pursuant to article XXVI would be valid even if accompanied by a reservation that legislation acceptable under the provisional application of the agreement would be excepted from the

effect of the definitive application of the agreement. 1/ The resolution provided, however, that the Contracting Parties would periodically review the progress that contracting parties had made in bringing such "excepted" legislation into conformity with the General Agreement.

During the 11th Session of the Contracting Parties (1956), the resolution was agreed to by all the contracting parties. Earlier Haiti had notified the Secretary General of the United Nations of its acceptance of the General Agreement under article XXVI, but no other country has done so either with or without reservations.

1/ Contracting Parties to the General Agreement on Tariffs and Trade, Basic Instruments and Selected Documents, 3rd supp., 1955, pp. 48-49.

Appendix G. Current Bases of Valuation of Imports Used for Customs Purposes and Statistical Reporting by Foreign Countries

The following tabulation presents the current bases of valuation of imports used for customs purposes and statistical reporting by 156 foreign countries. The term "f.o.b." is used to indicate methods of valuing goods in the country of exportation (e.g., ex-factory, port-of-exportation, etc.). The term "c.i.f." is used to indicate methods of valuing goods at the point of entry into the country of importation. A few countries employ more than one basis of valuation. The United States, for example, values most goods for customs purposes on an f.o.b. basis, but values some on an "American-selling-price" basis (the price of similar or competitive domestic goods in the U.S. market). In those instances, one method is generally used predominantly, and that method is shown in the table.

To the extent possible, the information in the tabulation was obtained from copies of the customs laws and official foreign trade statistics of the countries concerned. Other sources used included the translations of customs laws published by the International Customs Tariffs Bureau, Brussels, Belgium; Bureau of International Commerce, U.S. Department of Commerce, Overseas Business Reports; Office of Territories, U.S. Department of the Interior; United Nations, Statistical Yearbook; and International Monetary Fund, International Financial Statistics.

Data are not given on the tabulation on the bases of valuation of exports by the countries concerned; all of the 156 countries are believed to value exports for statistical purposes f.o.b. port of exportation.

Region and country	Basis of import valuation for--	
	Customs purposes	Statistical reporting
North America:		
Antigua-----	f.o.b.	c.i.f.
Bahama Islands-----	c.i.f.	c.i.f.
Barbados-----	c.i.f.	c.i.f.
Bermuda-----	f.o.b.	f.o.b.
British Honduras-----	c.i.f.	c.i.f.
Canada-----	f.o.b.	f.o.b.
Costa Rica-----	c.i.f.	c.i.f.
Cuba-----	<u>1/</u>	c.i.f.
Dominican Republic-----	f.o.b.	f.o.b.
El Salvador-----	c.i.f.	c.i.f.
Greenland-----	<u>1/</u>	c.i.f.
Guadaloupe-----	c.i.f.	c.i.f.
Guatemala-----	c.i.f.	c.i.f.
Haiti-----	c.i.f.	c.i.f.
Honduras-----	c.i.f.	c.i.f.
Jamaica-----	c.i.f.	c.i.f.
Martinique-----	c.i.f.	c.i.f.
Mexico-----	<u>2/</u>	c.i.f.
Monsterrat-----	f.o.b.	c.i.f.
Netherlands Antilles-----	f.o.b.	f.o.b.
Nicaragua-----	c.i.f.	c.i.f.
Panama-----	f.o.b.	f.o.b.
Puerto Rico-----	f.o.b.	f.o.b.
St. Vincent-----	c.i.f.	c.i.f.
Virgin Islands (Br.)-----	f.o.b.	c.i.f.
Virgin Islands (U.S.)-----	f.o.b.	f.o.b.
South America:		
Argentina-----	c.i.f.	c.i.f.
Bolivia-----	c.i.f.	c.i.f.
Brazil-----	c.i.f.	c.i.f.
Chile-----	c.i.f.	c.i.f.
Colombia-----	c.i.f.	c.i.f.
Equador-----	c.i.f.	c.i.f.
French Guiana-----	c.i.f.	<u>1/</u>
Guyana-----	c.i.f.	c.i.f.
Paraguay-----	c.i.f. <u>3/</u>	f.o.b.
Peru-----	c.i.f.	c.i.f.
Surinam-----	c.i.f.	c.i.f.
Trinidad and Tobago-----	c.i.f.	c.i.f.
Uruguay-----	c.i.f.	c.i.f.
Venezuela-----	f.o.b.	f.o.b.
Europe:		
Albania-----	<u>1/</u>	f.o.b.
Austria-----	c.i.f.	c.i.f.
Belgium-----	c.i.f.	c.i.f.

Region and country	Basis of import valuation for--	
	Customs purposes	Statistical reporting
Bulgaria-----	1/	f.o.b.
Czechoslovakia-----	1/	f.o.b.
Denmark-----	c.i.f.	c.i.f.
Finland-----	c.i.f.	c.i.f.
France-----	c.i.f.	c.i.f.
Germany (East)-----	1/	f.o.b.
Germany (West)-----	c.i.f.	c.i.f.
Gibraltar-----	c.i.f.	c.i.f.
Greece-----	c.i.f.	c.i.f.
Hungary-----	1/	c.i.f.
Iceland-----	c.i.f.	c.i.f.
Ireland-----	c.i.f.	c.i.f.
Italy-----	c.i.f.	c.i.f.
Luxembourg-----	c.i.f.	c.i.f.
Netherlands-----	c.i.f.	c.i.f.
Norway-----	c.i.f.	c.i.f.
Poland-----	1/	f.o.b.
Portugal-----	c.i.f.	c.i.f.
Romania-----	1/	c.i.f.
Spain-----	c.i.f.	c.i.f.
Sweden-----	c.i.f.	c.i.f.
Switzerland-----	c.i.f.	c.i.f.
United Kingdom-----	c.i.f.	c.i.f.
Yugoslavia-----	c.i.f.	c.i.f.
Africa:		
Algeria-----	c.i.f.	c.i.f.
Angola-----	c.i.f.	c.i.f.
Botswana-----	f.o.b. 4/	1/
Burundi-----	c.i.f.	1/
Cameroon-----	c.i.f.	c.i.f.
Central African Republic-----	c.i.f.	c.i.f.
Chad-----	c.i.f.	c.i.f.
Congo (Democratic Republic)-----	c.i.f.	c.i.f.
Congo (Kinshasa)-----	c.i.f.	c.i.f.
Dahomey-----	c.i.f.	c.i.f.
Ethiopia-----	c.i.f.	c.i.f.
French Somaliland-----	5/	c.i.f.
Gabon-----	c.i.f.	c.i.f.
Gambia-----	c.i.f.	c.i.f.
Ghana-----	f.o.b.	c.i.f.
Guinea-----	c.i.f.	c.i.f.
Ivory Coast-----	c.i.f.	c.i.f.
Kenya-----	c.i.f.	c.i.f.
Lesotho-----	f.o.b. 6/	1/
Liberia-----	c.i.f.	c.i.f.
Libya-----	c.i.f.	c.i.f.
Malagasy Republic-----	c.i.f.	c.i.f.

Region and country	Basis of import valuation for--	
	Customs purposes	Statistical reporting
Malawi-----	1/	f.o.b.
Mali-----	c.i.f.	c.i.f.
Mauritania-----	c.i.f.	c.i.f.
Mauritius-----	c.i.f.	c.i.f.
Morocco-----	c.i.f.	c.i.f.
Mozambique-----	c.i.f.	c.i.f.
Niger-----	c.i.f.	c.i.f.
Nigeria-----	c.i.f.	c.i.f.
Portuguese Guinea-----	1/	c.i.f.
Rhodesia-----	f.o.b.	1/
Rwanda-----	c.i.f.	1/
Senegal-----	c.i.f.	c.i.f.
Sierra Leone-----	c.i.f.	c.i.f.
Somalia-----	c.i.f.	c.i.f.
South Africa-----	f.o.b.	f.o.b.
South-West Africa-----	f.o.b.	1/
Sudan-----	c.i.f.	c.i.f.
Tanzania-----	c.i.f.	c.i.f.
Togo-----	c.i.f.	c.i.f.
Tunisia-----	c.i.f.	c.i.f.
Uganda-----	c.i.f.	c.i.f.
Upper Volta-----	c.i.f.	c.i.f.
Zambia-----	f.o.b.	f.o.b.
Middle East:		
Aden-----	c.i.f.	c.i.f.
Bahrain-----	c.i.f.	1/
Cyprus-----	c.i.f.	c.i.f.
Iran-----	c.i.f.	c.i.f.
Iraq-----	c.& f.	c.i.f.
Israel-----	c.i.f.	c.i.f.
Jordan-----	c.i.f.	c.i.f.
Kuwait-----	c.i.f.	c.i.f.
Lebanon-----	c.i.f.	c.i.f.
Muscat and Oman-----	c.i.f.	1/
Qatar-----	c.i.f.	1/
Saudi Arabia-----	c.i.f.	c.i.f.
Syria-----	c.i.f.	c.i.f.
Turkey-----	c.i.f.	c.i.f.
U.A.R.-----	c.i.f.	c.i.f.
Asia:		
Afghanistan-----	c.i.f.	c.i.f.
Brunei-----	c.i.f.	c.i.f.
Burma-----	c.i.f.	c.i.f.
Cambodia-----	c.i.f.	c.i.f.
Ceylon-----	c.i.f.	c.i.f.

Region and country	Basis of import valuation for--	
	Customs purposes	Statistical reporting
China (Taiwan)-----	c.i.f.	c.i.f.
Hong Kong-----	5/	c.i.f.
India-----	c.i.f.	c.i.f.
Indonesia-----	c. & f.	c.i.f.
Japan-----	c.i.f.	c.i.f.
Korea (South)-----	c.i.f.	c.i.f.
Laos-----	c.i.f.	c.i.f.
Malaysia-----	c.i.f.	c.i.f.
Nepal-----	c.i.f.	1/
Pakistan-----	c.i.f.	c.i.f.
Phillipines-----	c.i.f.	f.o.b.
Ryukyu Islands-----	5/	c.i.f.
Singapore-----	c.i.f.	c.i.f.
Thailand-----	c.i.f.	c.i.f.
U.S.S.R.-----	1/	f.o.b.
Viet Nam (South)-----	c.i.f.	c.i.f.
Oceania:		
Australia-----	f.o.b.	f.o.b.
Fiji Islands-----	c.i.f.	c.i.f.
Guam-----	5/	c.i.f.
New Caledonia-----	c.i.f.	c.i.f.
New Guinea-----	1/	f.o.b.
New Zealand-----	f.o.b.	f.o.b.
Tonga-----	c.i.f.	c.i.f.
Western Samoa-----	c.i.f. 7/	1/

1/ Current information is not available.

2/ Mexico primarily utilizes the official (fixed) value to determine dutiable value.

3/ Customs value is based on the f.o.b. port of export (invoice) price, plus 10 percent on shipments from neighboring countries and 20 percent on shipments from other countries.

4/ Customs value was on a f.o.b. basis when Botswana was a British protectorate--before September 1966 (Bechuanaland). The method of valuation has apparently not been changed.

5/ The tariff contains no ad valorem duties.

6/ Customs value was on a f.o.b. basis before April 1966 when Lesotho was a British protectorate (Basutoland). The method of valuation has apparently not been changed.

7/ Customs value is f.o.b. port-of-export plus 10 percent.

Appendix H. Letter to the Chairman, United States Tariff Commission, from the
Commissioner of Customs, dated November 14, 1966

TREASURY DEPARTMENT

BUREAU OF CUSTOMS

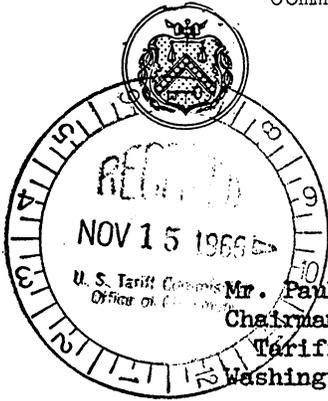
WASHINGTON



NOV 14 1966

REFER TO

AAS 332.1-A



Mr. Paul Kaplowitz
Chairman, United States
Tariff Commission
Washington, D. C. 20436

Dear Mr. Kaplowitz:

In your letter of October 4, 1966, you requested the Bureau to submit a statement setting forth suggestions and recommendations for the improvement of the customs valuation laws of the United States. The proposals would be taken into consideration by the Commission in conjunction with its investigation of the methods of valuation used by the United States and by the principal trading partners of the United States in determining duty applicable to imports. The study by the Commission was instituted in response to a resolution of the Committee on Finance of the United States Senate which directed the Tariff Commission to submit a report which would include suggestions and recommendations for the improvement of the customs valuation laws of the United States, including the Commission's views as to the feasibility and desirability of adopting the Brussels definition of value for customs purposes and as to appropriate means for adopting such value with the least practicable effect on trade.

The United States employs at this time nine bases of value, more than any other major trading nation, for the purpose of assessing duties on imported merchandise. The Bureau has for some time realized that the valuation provisions of the Tariff Act need improvement. Studies were undertaken for the purpose of introducing legislation which would amend existing law in order to simplify customs valuation methods.

The Bureau submits the following proposals for the improvement of customs valuation laws:

1. Elimination of Section 402(a) and the Final List.
2. Retention of export value as the basic standard with revision of the definition to reflect the value f.o.b. port of shipment or border of exporting country.
3. Modification of constructed value to include f.o.b. costs. This should remain as the only value to be used as an alternative to export value.

These recommendations are submitted from the administrative point of view and do not necessarily reflect the policy of the Treasury Department. The adoption of these proposals will remove some of the difficulties encountered by customs officers in administering present valuation provisions. Detailed analysis of the proposals and their effect follows.

1. Elimination of Section 402(a) and Final List

The Customs Simplification Act of 1956 amended section 402 of the Tariff Act by eliminating foreign value and redefining the remaining bases in accordance with commercial trade practices. In addition, the Congress instructed the Secretary of the Treasury to prepare a list of commodities which, under the provision of the new law, would be appraised at a value of 95 percent or less than the value at which such article was actually appraised in fiscal year 1954. Such articles would continue to be appraised under section 402 which was redesignated section 402(a). The list contains 1,015 items and is referred to as the "Final List." Additions to or deletions from this list can be made only by Congressional action.

In 1965, the Bureau of Customs conducted a study of importations occurring during the months of April and September to ascertain the current effectiveness of the Final List. In addition to the necessary valuation of Final List products under section 402(a), a second informative valuation was made on the basis of the new provision, section 402. The study revealed that much of the effective protection of the Final List has been lost. While it was originally intended to include those products which would have been appraised at least 5 percent lower under the new provisions, the study demonstrated that the list items averaged only 2.1 percent lower for the combined months of April and September. Of no less importance is the fact that several products on the list now would be appraised at higher values under the present section 402 than accrue through the present appraisalment under section 402(a).

Attached are two charts (marked Exhibits A and B) illustrating the results of the April and September study. Chart A shows general comparisons while Chart B is more detailed and the results are shown by tariff schedules. It might be noted that the reduction in revenue does not parallel the reduction in value, for the revenue reduction is 1 percent less while the value reduction is 1.4 percent less for the month of April. The passage of time, in effect, has nullified the Final List and its intended purpose is no longer served. The list now possesses no other identity

than that of a group of ad valorem commodities subject to special appraisement having little relationship to its initial purpose for coming into existence. As a result, the list remains only as an administrative burden.

The continuation of the Final List keeps alive five obsolete bases of value resulting in a total of nine value bases on which to appraise imported merchandise. The five under 402(a) applicable to Final List products are foreign value, export value, United States value, cost of production, and American selling price. The four under 402 are export value, United States value, constructed value, and American selling price. Each of the nine bases has its own distinctive statutory definition which requires different interpretations under the same circumstances of sale. The proper administration of both laws requires a considerable amount of time and a great amount of reference material; the proliferation of value definitions further generates a great deal of confusion, and thereby substantial amounts of correspondence.

Each imported commodity must be identified as being a Final List product or not. The actual number of commodities appraised under 402(a) is much larger than the number of products appearing on the Final List, since such "products" are in many cases generic terms covering a wide variety of goods. For instance, one of the Final List products is: "Boots, shoes, overshoes or other footwear, wholly or in chief value of india rubber or substitutes for rubber." This covers a wide variety of commodities and in connection with specific shipments, requires a determination as to whether the imported product is, in fact, in chief value of the designated components and whether a particular component is a substitute for rubber. The solution to problems such as the foregoing requires a considerable amount of time and effort. In addition, judicial decisions under each law must be noted by appraising officers. It is interesting to note that the number of foreign inquiries over the last 6 years averaged 240 per year. Each such report averages about 6 months to complete. Since a substantial portion of these are concerned with the determination of foreign value, many of these reports would be unnecessary in the absence of the Final List.

The valuation system applicable to Final List products increases the revenue by only one tenth of one percent, while the number of entries of Final List products required to produce this revenue amounts to 6.6 percent of the total entries. The time and effort spent in establishing 402(a) values for such a volume

of entries is far out of proportion to the benefits realized. In addition, the special problems and delays encountered in connection with the valuation of Final List products materially increases the uncertainties facing the trading community and generates problems of an administrative nature all out of proportion to the relative importance of the commodities in the overall trade picture. Under these circumstances and in the interest of improving efficiency, reducing costs and providing better service to the public, it is recommended that section 402(a) of the tariff act be repealed, and the Final List eliminated.

2. Retention of export value as the basic standard with revision of the definition to reflect the value f.o.b. port of shipment or border of exporting country.

The elimination of the Final List and its related five bases of appraisement would leave the four standards of appraisement specified in section 402 for the determination of value for assessment of duties. These are export value, United States value, constructed value, and American selling price. The value most often used is export value. A study conducted by the Bureau in 1961 indicated that approximately 96 percent of all the invoices received were appraised on the basis of export value.

In recent years, one of the major difficulties encountered by customs officers in determining export value is the ascertaining of whether the dutiable value should be based on ex-factory or f.o.b. price.

Under existing value provisions, merchandise can be appraised on either of the two prices, depending upon how it is sold in the principal markets in the country of exportation. If the importer has the option of buying the merchandise at the price prevailing at the factory (ex-factory) or at the price including shipping and handling charges to the port of shipment (f.o.b.), the merchandise is appraised at the ex-factory price. In such a case inland charges are not part of the dutiable value. However, if the importer can only buy at a price including delivery costs to the port of shipment, the merchandise is appraised at the f.o.b. price and the inland charges become a part of the dutiable value. In order to arrive at the correct dutiable value, customs officers must determine which of these conditions exists. Such a determination is time consuming, at times requires foreign inquiries, causes numerous differences of opinion among customs officers which require resolution by the Bureau, causes administrative difficulties, and adds considerable uncertainty to appraisement.

One of the greatest difficulties encountered by customs officers is the determination as to whether articles imported from Japan are sold on the basis of ex-factory price or f.o.b. port of shipment price. In order to achieve uniformity and expedite appraisalment, the Bureau compiled a list of manufacturers and sellers who submitted evidence that they sell at an ex-factory price.

In order to be included on such a list a manufacturer need only furnish an affidavit that he sells or offers to sell at an ex-factory price, together with a confirmation of an order to this effect. Many manufacturers as well as importers resort at times to fraudulent practices in order to have their merchandise from a particular source appraised on an ex-factory basis. Enclosed (marked Exhibit C) is a letter which came into the possession of customs officers in Seattle indicating some of the fraudulent methods employed by importers for the purpose of establishing sales on an ex-factory basis.*

Since so many manufacturers submitted evidence of sales on an ex-factory basis, the majority of merchandise imported from Japan is appraised on such basis. However, many individuals who are familiar with the trade practices in Japan claim that most of the merchandise exported from Japan is sold on an f.o.b. basis.

Appraisalment of merchandise from most of the other countries of the world is evenly divided between ex-factory and f.o.b. basis.

The recent management study report entitled "Evaluation of the Mission, Organization and Management of the Bureau of Customs," in discussing the problem of ex-factory vs. f.o.b. appraisalment (the report recommended adoption of appraisalment on an f.o.b. basis), estimated that a change to f.o.b. basis would result in a gain in duties of between 7.5 million dollars and 12.4 million dollars, or approximately less than one tenth of one percent of total duties collected. This gain in duties would offset the loss in revenue resulting from the elimination of the Final List and appraisalment on the basis of value provisions of section 402(a).

The only change in the present definition of export value to implement appraisalment on a full f.o.b. basis would be the addition to the definition of the inclusion of such charges as inland freight, insurance, commissions, brokerage and other such costs, whether incurred by the seller or the importer in exporting the merchandise to the United States.

The Bureau believes that the adoption of this standard of value based on an export value geared to appraisalment on a full f.o.b. price would (1) be easier to administer than the present definition, (2) expedite appraisalment, and (3) have a minimal effect on the trading community.

* At the request of the Bureau of Customs, the Commission is not publishing Exhibit C.

3. Modification of "constructed value" as the only alternative value.

In the event export value cannot be ascertained (for example, because the price does not fairly reflect the market value of the goods or because an element of value is missing), the Bureau regards constructed value as provided for in section 402(d) as a suitable alternate value and believes that it should be the only one so used. For the sake of consistency, however, the constructed value definition of the present law should be modified to include costs to f.o.b. port or to the border of the exporting country.

The adoption of the proposed export value as the primary basis of value and the modified constructed value as the only alternate value would eliminate the present provisions of the United States value and American selling price. United States value is applied infrequently to imported merchandise and is arrived at through an inquiry in the American market to determine the application of certain deductions to the price at which the imported item is sold. This derived value is directed at finding an equivalent for export value and should be essentially the same as the value arrived at through the application of the alternate value described above.

As to the retention or elimination of American selling price in the valuation laws of the United States, this subject is at the present time receiving consideration by other agencies of the Government. The Bureau has no comment regarding this basis except for the observation that it represents an additional value basis which value is not readily derivable from the normal sources of value inquiry available to those dealing in international transactions.

The Brussels definition of value.

No specific recommendation is made regarding the Brussels definition of value. Since, for the most part, the questions involved are not administrative in nature, the Bureau hesitates to comment on them. However, we would anticipate that adoption of the Brussels definition would present no unusual administrative problems other than those which might be encountered during a transitional period.

We invite your attention, however, to the fact that the adoption of a c.i.f. valuation standard, such as that followed in the Brussels definition, may give rise to serious Constitutional

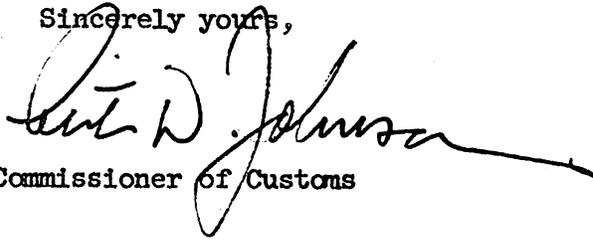
problems. As you know, Article I, section 8, clause 1, of the Constitution requires that all duties shall be uniform throughout the United States. The cost of transportation will obviously vary for goods which are bought under identical circumstances, at the same prices, and from the same foreign country, but which are shipped to different United States ports. If the transportation costs are added to value computations on goods subject to an ad valorem rate of duty, the result will be the assessment of higher duties on merchandise imported at one port over identical merchandise imported at another port.

Recommendations

The Bureau submits these recommendations for the improvement of the customs valuation laws of the United States, and hopes that the Commission will include these proposals in its final report to the Senate Finance Committee and recommend their adoption.

No effort has been made herein to devise specific language to implement our recommendations. It is believed that this could best be done after the Tariff Commission has completed its study. At that time the Bureau will be glad to give assistance in this respect if the Tariff Commission desires that we do so.

Sincerely yours,


Commissioner of Customs

Enclosures

Exhibits 'A'

COMPARISON OF 402a AND 402 VALUES OF IMPORTS DURING THE MONTHS OF APRIL AND SEPTEMBER 1965

	Total value of all products	Total 402a value of Final List Products	Total value if appraised under 402	Difference	Percent Difference	Total formal entries all products	Total formal entries Final List Products
APRIL	\$1,820,661,216	\$142,110,513	\$140,122,684	(-) \$1,987,829	(-) 1.4%	164,791	11,622
SEPTEMBER	\$1,794,926,419	\$131,567,210	\$127,749,225	(-) \$3,817,985	(-) 2.9%	168,717	10,506
Total	\$3,615,567,635	\$273,677,723 or 7.6% of total imports	\$267,871,909	(-) \$5,805,814	(-) 2.1%	333,508	22,128 or 6.6% of all entries

The above value differences between the two provisions are the composite of increases and decreases in value. This is illustrated below.

APRIL

(-) \$4,642,199
(+) \$2,654,370
(-) \$1,987,829

SEPTEMBER

(-) \$5,137,023
(+) \$1,319,038
(-) \$3,817,985

Exhibit B

DETAILED COMPARISON OF 402a AND 402 VALUES FOR APRIL 1965 BY SCHEDULE

Schedule	402a Value	402 Value	Difference	Duty on 402a Value	Duty on 402 Value	Difference	Percent Difference
1	\$ 5,271,907	\$ 5,132,016	(-) \$ 139,891	\$ 674,585	\$ 658,185	(-) \$ 16,400	(-) 2.4%
2	\$ 6,808,419	\$ 6,205,752	(-) 602,667	\$ 609,295	\$ 587,866	(-) 21,429	(-) 3.5%
3	\$ 2,107,221	\$ 2,081,714	(-) 25,507	\$ 382,856	\$ 376,192	(-) 6,664	(-) 1.7%
4	\$ 5,932,827	\$ 5,302,812	(-) 550,015	\$ 702,963	\$ 634,443	(-) 68,520	(-) 9.7%
5	\$ 692,787	\$ 598,248	(-) 94,539	\$ 87,534	\$ 78,106	(-) 9,428	(-) 10.8%
6	\$104,497,374	\$104,978,035	(+) 480,661	\$8,744,319	\$ 8,772,725	(+) 28,406	(+) 0.3%
7	\$ 16,799,978	\$ 15,744,107	(-) 1,055,871	\$2,465,381	\$ 2,420,166	(-) 45,215	(-) 1.7%
Total	\$142,110,513	\$140,122,684	(-) 1,987,829 or (-) 1.4%	\$13,666,933	\$13,527,683	(-) \$167,656 (+) 28,406 or (-) \$139,252	(-) 1.0%

The total duties on all products for this month amounted to \$138,654,684. The reduction in duty of \$139,252 represents a reduction of one-tenth of one percent.

