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Agreements Being Negotiated at the Multilateral Trade Negotiations in Geneva—U.S. International Trade Commission Investigation No. 332-101

Analysis of Nontariff Agreements

Customs Valuation Agreement
Agreement on Import Licensing Procedures

A Report Prepared at the Request of the

COMMITTEE ON FINANCE
UNITED STATES SENATE

RUSSELL B. LONG, *Chairman*

SUBCOMMITTEE ON INTERNATIONAL TRADE

ABRAHAM RIBICOFF, *Chairman*

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INTRODUCTION

In response to requests by the Senate Finance Committee and the House Ways and Means Committee, the United States International Trade Commission on September 1, 1978, instituted an investigation, under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), for the purpose of submitting a series of reports analyzing the effects on U.S. industrial and agricultural sectors of nontariff measure agreements and tariff reductions recently negotiated at the Multilateral Trade Negotiations (MTN) in Geneva.

This report analyzes the effects of the nontariff measure agreement on customs valuation (hereinafter referred to as the proposed code or the proposed agreement). It is divided into 8 major parts which deal with the various aspects of the proposed code and its probable impact on U.S. industrial and agricultural sectors and U.S. customs administration.

Part 1 of the report concentrates on the structure and principles of the proposed code and gives its background and origin and current status. Part 2 discusses current valuation requirements with an emphasis on the valuation principles of the General Agreement on Tariffs and Trade (GATT), the U.S. valuation system, the Brussels Definition of Value (BDV) and the Candian valuation system. Part 3 consists of a detailed comparative analysis of the proposed code with the current U.S. system, the BDV and the Canadian system. Part 4 compares the proposed code with principles which the Commission considers a uniform standard of customs valuation should satisfy. Part 5 assesses the overall probable economic effect of adoption of the proposed code on U.S. imports and on domestic industry. Part 5, in particular, concentrates on the effect on articles currently appraised on the basis of American selling price and articles currently

on the Final List, and the effect of adopting the proposed code on a c.i.f basis. Part 6 of the report deals with the overall probable economic effect on U.S. exports of the adoption of the proposed code by our major trading partners. Part 7 covers the effect of adoption of the proposed code on U.S. customs administration. Finally, part 8 briefly addresses the legal aspects of U.S. implementation of the proposed code.

The report also contains an executive summary highlighting the most important sections of the report, a detailed summary keyed to the body of the report, and an appendix containing comprehensive background materials, including the schedule of converted rates of duty transmitted to the Special Representative for Trade Negotiations as part of the Commission's June 1978 report on customs valuation (investigation No. 332-98), which formed the basis for the offers of U.S. tariff concessions made at the MTN.

EXECUTIVE SUMMARY

The proposed valuation code, was originally tabled (formally offered for consideration) at the Multilateral Trade Negotiations (MTN) in Geneva by the European Community in November 1977. It was prompted, in large part, by longstanding complaints about U.S. valuation practices and by the desire to establish an international valuation system which would be used by all of the world's major trading countries. The code is intended to be used for determining the valuation of imported articles for customs duty purposes, and, if adopted, would replace existing customs valuation laws of the United States and other signatories to the code.

The proposed code establishes a positive valuation system consisting of a number of standards to be applied in a hierarchical order. It consists of a primary standard based on the transaction value of the imported goods and several alternative standards which are resorted to in the prescribed order whenever a value cannot be determined under the next higher ranking standard. Regardless of which standard is used, the dutiable value is determined either as of the place of exportation (f.o.b.) or the place of importation (c.i.f.) at the option of each individual country which accedes to the code.

It is the judgement of the Commission that the overall probable economic effect on U.S imports and on domestic industry of U.S. adoption of the code would be minimal since the valuation methods provided for in the proposed code are very similar to the valuation methods currently provided for in section 402 of the Tariff Act of 1930, which are used to value more than 80 percent of all customs entries. The primary practical effect of U.S. adoption of the proposed code would be the elimination of the methods of valuation currently provided for in section 402a of the Tariff Act of 1930 (which apply to articles on the Final

List) and the elimination of the American selling price (ASP) bases of valuation. 1/

Certain articles which are either on the Final List (e.g., ball and roller bearings and parts thereof and certain pneumatic tires) or are currently appraised on the basis of ASP (benzenoid chemicals, certain footwear, and certain canned clams) could be adversely affected by U.S. adoption of the proposed code. However, the effect would be minimized by the fact that the Special Representative for Trade Negotiations has used the Commission's schedule of converted duty rates, which were prepared as a part of the Commission's June 1978 report on customs valuation (investigation No. 332-98), as the basis for negotiation at the MTN. The converted rates were designed to provide an amount of duty substantially equivalent to that collected under the ASP system or section 402a.

Data are generally not available with respect to the probable economic effect of adoption of the proposed code on U.S. exports. However, based on the Commission's comparative analysis of the proposed code with the BDV, it appears that the overall economic effect on exports would not be significant.

Adoption of the proposed code would have a positive effect on customs administration as a result of the elimination of the foreign value and ASP bases of valuation and in view of the similarity between the proposed valuation methods and those provided in section 402 of the Tariff Act.

The Commission supports the concept of a transaction-value-based international valuation code and notes that the preamble to the proposed code enumerates certain principles of valuation which comply with the Commission's

1/ The remaining 20 percent of customs entries are accounted for by these methods of customs valuation.

seven basic principles of customs valuation enunciated in its March 1973 report to the Senate Finance Committee and its Subcommittee on International Trade. However, the Commission questions whether the proposed code could constitute a uniform international standard of customs valuation when the question of place (that is, c.i.f. as opposed to f.o.b.) is left to the discretion of individual countries.

SUMMARY

Background and Current Status of Proposed Code (Pages 1 to 2)

The proposed valuation code evolved from an initial draft which was tabled by the European Economic Community (EC) in November 1977 for consideration by the Customs Matters Subgroup on Non-Tariff Measures at the Multilateral Trade Negotiations (MTN) in Geneva. The code, which has been modified substantially through negotiations, is intended to be used in determining the valuation of imported articles for customs duty purposes and, if adopted, would replace existing customs valuation laws of the United States and other signatories to the code.

On April 12, 1979, a number of developed countries, including the United States, the EC, Japan, the Nordic countries, and Canada, 1/ formally expressed their intention to accede to the valuation agreement and implement its provisions in their domestic law by initialing the proposed agreement. However no developing country chose to initial the agreement. Many developing countries are seeking to amend the proposed agreement to provide additional "special provisions to meet the trade, financial and development needs of such countries", and have circulated a document at the MTN providing for such amendments (see Appendix J). It appears that most developing countries have decided to initial this "alternative document"

1/ It appears that Canada agreed to initial the proposed agreement, without a formal reservation, only after receiving assurances from the United States, the EC, and other key participants in the negotiations that Canada--

i) would have up to four years from the date of entry into force of the agreement to implement the agreement;
ii) would be able to adjust its tariff rates (without paying compensation to other parties) to maintain existing levels of tariff protection in those cases where implementation of the agreement would reduce such protection;
iii) could take reasonable measures to deal with "unfair and predatory trading practices"; and
iv) could take reasonable and appropriate measures to deal with so-called special valuation cases (i.e., used goods, off - quality goods, etc.) which have been identified by Canada at the MTN.

rather than the proposed code, and it is not clear at this time how the reconciliation of this "alternative document" with the proposed code will be achieved.

Structure and Principles of Proposed Code (Page 3 to 13)

In addition to a preamble and three annexes, the proposed agreement consists of four major parts: Part I, containing rules on customs valuation (Articles 1-17); Part II, providing for administration and dispute resolution (Articles 18-20); Part III, dealing with special and differential treatment for developing countries (Article 21); and Part IV, the final provisions (Articles 22-31).

The proposed code is basically a positive system 1/ which provides a primary standard based on the transaction value of the imported goods, determined either at the place of exportation or place of importation (as determined by each country acceding to the agreement), and several alternative valuation standards to be used when the actual conditions of the next higher ranking standard are not met.

If the transaction value of the imported goods (the primary standard of Article 1) is rejected as the basis of valuation, the transaction value of identical goods (Article 2) would be used as the basis of valuation, with appropriate adjustments for differences in quantities and/or commercial levels. If the value cannot be determined under this method, the transaction value of similar goods (Article 3) would be used (again with appropriate adjustments)

1/ A positive standard defines customs valuation in terms of the price at which goods are sold under specified conditions. Because it bases valuation on actual sales under specified conditions, it requires, in ranking order, one or more additional standards to provide alternatives for valuation when the actual conditions of the next higher ranking standard are not met.

and if a value still cannot be found, the deductive method found in Article 5, which is based on the resale price of the imported goods, would be used. If the value cannot be determined by any of the foregoing methods, the computed value method provided for in Article 6 would form the basis of valuation. Article 4 of the proposed code allows the importer to elect to reverse Article 5 with Article 6 in order of precedence. Finally, when a value cannot be determined under any of the valuation methods prescribed in Articles 1 through 6 of the code, Article 7 provides that "the value shall be determined using reasonable means consistent with the principles and general provisions of this code and Article VII of the General Agreement." An interpretative note to this Article provides that the methods of valuation to be used are those provided in Articles 1 through 6, but with a reasonable flexibility in their application. Further, the note provides that the customs values determined under this article "should be based to the greatest possible extent on previously determined customs values".

The transaction price of the imported goods may be rejected as the basis of appraisement under four circumstances, which are provided for in Article 1. The most significant concerns the relationship of the buyer and seller. If the buyer and seller are related, the transaction value may be used only if the circumstances surrounding the sale demonstrate that such relationship did not influence the price (Article 1(2)(a)), or the importer demonstrates that the transaction value closely approximates one of several other enumerated values (Article 1(2)(b)).

The other three circumstances which may cause the transaction value of the imported goods to be rejected as the basis of appraisement are--

i) if there are restrictions as to the disposition or use of the goods by the buyer (other than those which are required by law, or limit the geographical area where goods may be sold, or don't substantially affect the value of the goods);

ii) if the sale or price is subject to some condition or consideration for which a value cannot be determined; and

iii) if part of the proceeds of the resale of the goods by the buyer will accrue directly or indirectly to the seller.

Although the first three methods of valuation set forth in part I of the proposed valuation code establish "the price paid or payable" or the actual transaction price of designated goods as the basis of valuation, article 8 provides for a number of adjustments to this price for such items as place (e.g., adjust c.i.f. price to f.o.b.), the value of additional consideration which the buyer is obliged to discharge, selling commissions, brokerage fees, and assists.

Comparative Analysis of Proposed Code With U.S. Valuation System (Pages 17 to 28 and 34 to 46)

The current U.S. valuation system, like the proposed valuation code, is basically positive in concept, but is composed of two separate and distinct laws of appraisement set forth in sections 402 and 402a of the Tariff Act of 1930, as amended. Section 402 contains four bases of valuation (export value, U.S. value, constructed value, and American selling price), and section 402a contains five bases of valuation (foreign value, export value, U.S. value, cost of production, and American selling price). Although the terms describing the different bases of valuation under section 402 and 402a may be the same or similar, they often differ in definition. The definitions under section 402a

were developed through administrative rulings and judicial decisions. In creating section 402, the Congress redefined certain of these terms. Articles listed in Treasury Decision (T.D.) 54521, the so-called Final List, are subject to appraisement in accordance with the provisions of section 402a; imports of such articles made up less than 15 percent of all U.S. customs entries in 1976. All other articles are appraised under section 402.

With the exception of the American selling price (ASP) basis of appraisement, the valuation methods of section 402, which are used more than 80 percent of the time in the United States, are similar in many respects to the valuation methods provided for in the proposed valuation code. With respect to the key valuation elements of merchandise valued and place of valuation, the proposed standards are either similar to or can accommodate the existing U.S. standard with little measurable difference. With respect to quantity, U.S. law requires valuation on the basis of the "usual wholesale quantities", while the proposed code bases valuation on the quantity of goods undergoing appraisement. Since customs officers usually accept the actual transaction quantity as the "usual wholesale quantity", this difference in the standard would have little practical effect. The U.S. standards specify that valuation is to be made at the wholesale level; the proposed code employs the transaction level as the relevant level for valuation. Finally, whereas the customs value under the proposed code is based on the price applicable at the time of contract or transaction, U.S. law uses the time of exportation. For most transactions, the practical effect is the same.

Although there are many similarities between the two systems with respect to the element of "competitive conditions", the proposed code appears to be more liberal in providing for acceptance of a related-party transaction for purposes

of Article 1 than U.S. law is in accepting such transactions for export-value purposes. For example, tests ii, iii, and iv in paragraph 2(b) of Article 1 are not acceptable tests in current U.S. law for determining whether a price to a related buyer "fairly reflects market value". The thrust of Article 1 and of the entire code seems to be to accept the transaction value whenever possible. It would therefore appear that U.S. adoption of the code would be likely to result in more frequent utilization of the transaction price between related parties as the basis for determining the customs value of imported merchandise.

The two valuation systems are very similar in technique. The first three bases of valuation under the proposed code (Articles 1, 2, and 3), taken together, are analogous to U.S. export value. Under both systems, the starting point is the price of the actual transaction, which may be adjusted in several respects. In addition to the adjustments in charges necessary to express the price in terms of the proper place (e.g., adjust c.i.f. price to f.o.b.), the proposed rules provide for additions to the price paid or payable for the cost of selling commissions, brokerage, containers, and packing, and for certain "assists" 1/ which are provided to the seller by the importer without charge or at a reduced cost, to the extent that such amounts are incurred but not included in such price.

For the most part, all these adjustments are made in a similar manner under U.S. valuation law. The only exception is that, whereas all assists are dutiable under U.S. law regardless of their source, assists consisting of engineering, development, art work, design work, and plans and sketches are to be added to the price paid or payable in determining the customs value under the proposed code only when "they are undertaken elsewhere than in the country of importation".

1/ The term "assists" refers to assets, such as blueprints, dies, molds, parts, components or tooling.

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Under both systems, similar adjustments are made to the transaction price of identical or similar merchandise when the price of the goods being valued cannot be used.

The valuation techniques for U.S. value (section 402) and the valuation method prescribed in Article 4 are very similar. Both start with the resale price in the country of importation of the goods being appraised and provide for adjustments for commissions and/or general expenses and profit, transportation expenses, duties, and other charges. Finally, the U.S.-constructed-value method and the computed-value method provided for in Article 5 provide for similar valuation techniques. Both attempt to construct a dutiable value by adding the cost or value of materials, fabrication, profit, and general expenses.

Comparative Analysis of Proposed Code With Brussels Definition of Value (BDV) (Pages 29 to 32 and 46 to 51)

The major difference between the BDV, which is used by all the world's major trading countries except the United States and Canada, and the proposed valuation code is that whereas the BDV is notional in concept, i.e., with a single valuation standard based on a price which merchandise <u>would</u> fetch under certain ideal conditions, the proposed code is a positive system with a primary standard based on the transaction price at which the merchandise <u>is</u> sold under specified conditions and with several alternative standards which are used when those conditions do not exist.

The BDV provides, without exception, that the customs value of imported goods shall be their "normal price", i.e., the price the goods 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 a buyer and a seller independent of each other. The seller is assumed to bear all expenses incidental

to the delivery of the goods to the port of importation (except recoverable duties and taxes, e.g., drawbacks, applicable in the country of exportation). If certain circumstances of the sale are not in accord with the elements of the BDV, the transaction price is adjusted (or "uplifted") to account for the differences.

Notwithstanding the basic conceptual differences between the two valuation systems, there are some similarities between them. With respect to the merchandise valued, the explanatory notes to the BDV recommend that the actual transaction price - the imported goods be accepted as the basis for valuation, 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.

In practice, it appears that the transaction price of the imported merchandise is the basis for customs valuation in most cases under the BDV. Further, both the BDV and the proposed code base valuation on the quantity and transaction level of the imported merchandise. The material time and place for valuing merchandise under the BDV are the "time when the duty becomes payable" and the place of importation. The proposed code allows use of the place of importation, but implicitly provides for the use of the time of transaction rather than the time when the duty becomes payable.

The BDV and the proposed code are also somewhat similar in valuation technique in that they both look primarily to the transaction price of the

imported goods as the basis of valuation and then make appropriate adjustments to that price. The proposed code, however, requires strict adherence to the hierarchy of valuation standards (Articles 2-7) when the actual transaction price cannot be used, whereas the BDV allows a great deal of flexibility and arbitrariness in determining the customs value, and places heavy emphasis on customs/importer consultations.

Comparative Analysis of Proposed Code With Canadian Valuation System (Pages 32 to 33 and 51 to 52)

Of the three existing valuation systems under discussion, the Canadian system is the most dissimilar to the proposed code in that it bases valuation for most importations on the "fair market value", that is, the price of like goods for home consumption in the country of exportation, rather than on the transaction value of the imported goods, which is the primary basis for valuation under the proposed code, the U.S. system, and the BDV. The Canadian system uses the time of exportation and the place from which the goods were shipped directly to Canada in determining dutiable value.

Both the Canadian system and the proposed code base valuation on the actual quantity and transaction level of the imported goods. Whereas the Canadian valuation system requires that the "fair market value" be a price at which the goods are sold in the ordinary course of trade to persons "not controlled by or in control of or otherwise related to the purchaser", the proposed code would allow transactions between related parties to be used as the basis for valuation if it could be demonstrated that such relationship did not influence the transaction price.

As a result of the differences discussed above, the valuation technique utilized under the Canadian valuation system differs greatly from that of the proposed code .

The Proposed Code as an International Standard (Page 53)

The Commission supports the concept of a transaction-value-based international valuation code and notes that the preamble to the proposed valuation code enumerates certain principles of valuation which comply with the Commission's seven basic principles of customs valuation enunciated in its March 1973 report to the Senate Finance Committee and its Subcommittee on International Trade. However, the Commission questions whether the proposed code could constitute a uniform international standard of customs valuation when the question of place (that is, c.i.f. as opposed to f.o.b.) is left to the discretion of individual countries.

Overall Probable Economic Effect on Imports and on Domestic Industry of Adopting the Proposed Code (Pages 54 to 55)

The proposed code would allow each signatory to decide whether to adopt the code on an f.o.b. or a c.i.f. basis. Since most U.S. imports are currently appraised on an f.o.b. basis, it has been assumed, for the purpose of analyzing the overall probable economic effect of adopting the code and identifying import-sensitive industries particularly affected by its adoption, that the United States, should it decide to adopt the code, would continue its current practice in this regard. A subsequent section of this report addresses the probable economic effect of U.S. adoption of the proposed code on a c.i.f. basis.

In view of the fact that the methods of valuation provided for in Part I of the proposed code are similar in many respects to the current U.S. standards of export value, U.S. value, and constructed value as defined by section 402 of

the Tariff Act, the primary practical effect of U.S. adoption of the code would be the elimination of the ASP bases of appraisement and the methods of appraisement provided for in section 402a of the Tariff Act, the most noteworthy of which is foreign value. Since less than 5 percent of current U.S. customs entries are appraised on the basis of ASP or foreign value, it is the Commission's judgment that the overall probable economic effect on imports and on domestic industry of U.S. adoption of the proposed code would be minimal.

Import-Sensitive Industries Affected by U.S. Adoption of the Proposed Valuation System (Pages 55 to 56)

The domestic industries which would be most affected by the adoption of the proposed valuation code are those whose products are protected by the American selling price bases of valuation (e.g., benzenoid chemicals, certain footwear, and certain clams) and those currently protected by the foreign-value basis of valuation under section 402a of the Tariff Act.

In order to minimize the impact of the adoption of the proposed valuation code on these industries, the Special Representative for Trade Negotiations (STR) asked the Commission to prepare a schedule of converted rates of duty which would have provided an amount of duty on imports of the affected products during a recent representative period substantially equivalent to the amount collected on articles subject to the ASP system and on articles on the Final List. The Commission transmitted a schedule of converted rates to STR in June 1978; a copy of that schedule is attached in appendix G. The Commission's schedule of converted rates has been used by STR as the basis for U.S. offers of tariff reductions in the MTN.

Effect on articles currently appraised on the basis of American selling price (Pages 56 to 57)

Under the ASP method of appraisement, the rate of duty for a particular imported article is applied on the basis of the value of a U.S.-produced article

like or similar to, or competitive with, the imported article, regardless of the actual transaction value of the imported product. The result is a flexible, dynamic tariff system under which articles that are competitive with U.S. products may be assessed duties several times higher than those assessed on other articles classified in the same tariff provision, but for which there are no competitive U.S. products.

The articles currently subject to duty under the ASP bases of valuation are benzenoid chemicals, certain plastic- or rubber-soled footwear with fabric uppers, certain canned clams, and wool knit gloves and mittens valued not over $1.75 per dozen pairs.

Degree of equivalency of protection achieved by the converted rates (Pages 57 to 59).--Although no converted rates of duty could be devised which would provide protection "equivalent" to that afforded by the ASP system, the converted rates of duty provide a substantially equivalent degree of protection on an overall basis for the domestic industries producing articles like or similar to those currently receiving ASP protection.

A unique feature of the ASP system of valuation is that the appraised value is based on the American selling price of a competitive domestic product irrespective of the actual transaction value. Under conventional methods of valuation the appraisal is based on the transaction value or an approximation thereof. Thus, the ASP system in effect permits the U.S. producer to set the value on which his competitor's (the importer's) products will be appraised and gives to the domestic industry the opportunity to achieve a duty increase by merely going into competition with the imported product. In addition, the amount of duty collected automatically responds to price changes by U.S. producers. Contrary to conventional methods of valuation, under the ASP system a change in the export

price by a foreign supplier has no effect on the duty. Any change to a basis of valuation other than the ASP system eliminates these key features and thus lessens the degree of protection.

The converted rates represent the Commission's best effort to determine rates of duty applicable to products subject to ASP valuation which, in the absence of the ASP system, would have provided an amount of revenue equivalent to that collected in a recent representative period on the basis of the ASP system. It should, however, be remembered that the degree of protection achieved by the converted rates will differ from the present level of protection since (1) no matter what base period is chosen, whether it be any 1 year or any series of years, no future period will ever be exactly the same, especially in the mix and unit prices of imports, and (2) the combination of various chemical compounds in "basket" classes necessarily involved balancing increases and decreases, of varying degree, in the equivalent converted rates of individual compounds.

Benzenoid chemicals (Pages 59 to 64).--The benzenoid chemicals and products subject to ASP provisions are certain cyclic organic chemicals and products having a benzenoid, quinoid, or modified benzenoid structure, as well as certain cyclic and acyclic chemicals and products which are obtained, derived, or manufactured in whole or in part from cyclic products having a benzenoid, quinoid, or modified benzenoid structure. Benzenoid chemical crudes, benzenoid elastomers, and most benzenoid chemicals produced from naturally occurring animal or vegetable products are not subject to the ASP provisions. Data on U.S. production and sales, domestic producers, employment, exports, and imports of benzenoid chemicals are contained in the body of this report.

Adoption of the proposed code in conjunction with the converted rates should have no appreciable effect on total imports of benzenoid chemicals and products or on domestic industries producing like or directly competitive chemicals or products.

Footwear (Pages 64 to 80).--Footwear classified under item 700.60 of the TSUS is subject to valuation under the ASP method of appraisement. Most of the footwear classified under that item has uppers of fabric and soles of rubber or plastics. However, item 700.60 also includes footwear having uppers of fabric and plastics in which less than 90 percent of the exterior surface area of the upper is rubber or plastics. Included in this provision is footwear commonly referred to as sneakers (also known as tennis shoes or basketball shoes) as well as certain athletic shoes, joggers, casual shoes designed for leisure, street, or beachwear, slippers, sandals, and boots such as snowmobile and fishing boots. Data on U.S. consumption, U.S. production, and imports of footwear are set out in the body of this report.

Proposed U. S. offer (Pages 76 to 78).--Under the U.S. tariff offer, which is described on pages 76 to 78 of this report, item 700.60 would be divided into nine separate provisions with duty rates ranging from the current 20 percent ad valorem to 48 percent ad valorem.

Degree to which the converted rates would provide equivalent protection (Pages 78 to 80).-- The proposed U.S. offer of converted rates differs from the rates proposed by the Commission in its report to STR, which were considered to afford substantially equivalent protection, on an overall basis, to that afforded by the ASP method of valuation.

The Commission has concluded, however, on the basis of its analysis of the U.S. offer (see pages 78 to 80), that the adoption of the proposed code in conjunction

with the U.S. tariff offer of converted rates should not have an appreciable effect on imports or on the domestic industry producing like or directly competitive footwear.

Clams (Pages 80 to 83).--TSUS item 114.05 covers clams in airtight containers other than razor clams (but including clam pastes and sauces). About one-half of the imports under item 114.05 are estimated to be appraised on the basis of ASP. Boiled whole baby clams make up the bulk of these imports, the remainder consisting mostly of canned minced or chopped clams. Data on U.S. imports, production, and consumption of clams may be found in the body of the report.

The proposed converted rates closely reflect the current effective rates of duty applicable to clams subject to ASP valuation. Therefore, adoption of the proposed valuation code in conjunction with the converted rates shou have no appreciable effect on imports of clams currently subject to ASP valuation or on domestic industries producing like or directly competitive clams.

Wool knit gloves (Page 82).--As a result of a Commission investigation under section 336 of the Tariff Act of 1930, gloves and mittens, finished or unfinished, wholly or in chief value of wool, valued at not more than $1.75 per dozen pairs, if knit, became subject to duty on the basis of the American selling price of like or similar domestic articles, effective March 22, 1936. These gloves and mittens are currently provided for in TSUS item 704.55 at the column 1 rate of duty of 30 cents per pound plus 26 percent ad valorem and the column 2 rate of duty of 40 cents per pound plus 35 percent ad valorem.

Importations of wool knit gloves and mittens valued at not more than $1.75 per dozen pairs virtually ceased in the late 1930's. The value limitation of item 704.55 (less than 15 cents per pair) would preclude any imports under it even if

the ASP provision were not in existence. The current cost of even low-grade wool yarn and the rise in labor costs since the 1930's make imports of this item most improbable. The proposed converted rates of duty for TSUS item 704.55 are therefore the existing rates.

Effect on articles currently on the Final List (Page 83 to 87)

Articles listed in T.D. 54521 (see Appendix B) are subject to appraisement in accordance with the provisions of section 402a of the Tariff Act of 1930, as amended. This so-called Final List was established by section 6(a) of the Customs Simplification Act of 1956.

Final List articles which would be significantly affected (Pages 83 to 86).— Articles subject to appraisement under section 402a include such major imported commodities as automobiles (TSUS item 692.10), televisions (item 685.20), tires (item 772.51), cameras (item 722.16), and ball bearings (item 680.35). There are more than 1,000 Final List descriptions, and Final List articles account for approximately 10 percent of the value of U.S. imports.

The Commission determined, in its report on investigation No. 332-98, that ball and roller bearings and parts thereof (TSUS item 680.35) and certain pneumatic tires (TSUS item 772.51) are the only articles on the Final List for which U.S. adoption of the proposed code would result in a change in the amount of duty collected large enough to have a significant economic effect on imports of those products, or on the domestic industry producing like or directly competitive products. Both of these articles are currently appraised on the basis of foreign value. The converted rates of duty which were provided to STR for those articles and which formed the basis for U.S. offers on these articles at the MTN are as follows:

TSUS Item No.	Description	Current col. 1 rate of duty	Proposed col. 1 rate of duty
680.35	Ball and roller bearings and parts thereof.	1.7¢ per lb + 7.5% ad val.	1.7¢ per lb + 10.9% ad val.
772.51	Certain pneumatic tires.	4% ad val.	5.7% ad val.

Adoption of the proposed code in conjunction with the converted rates of duty will have little total effect on the domestic industries concerned.

Effect of Adopting the Proposed System on a C.I.F. Basis (Pages 88 to 91)

Overall effect (Pages 88 to 90)

Since articles imported into the United States are currently appraised on either an f.o.b. or ex-factory basis, ocean freight, insurance, and other charges incurred in bringing the merchandise from the country of exportation to the port of entry in the United States are not considered part of dutiable value. The adoption of the proposed code on a c.i.f. basis would therefore result in an increase in duty for those articles which are subject to ad valorem or compound duty rates, since such transportation charges would become dutiable. The following table illustrates what would have happened to the cost of 1976 imports if they had been valued according to the c.i.f. method: importers would have paid $133,496,778,000 for 1976 imports instead of $133,203,725,000.

Total cost of 1976 imports under the present method of valuation and under the c.i.f. method

(In thousands of Dollars)

	Present method of valuation	C.i.f. method of valuation
Imports	121,120,869	121,120,869
Freight, insurance, and other charges	7,408,149	7,408,149
Duties	4,674,707	4,967,760
Total cost of importation	$133,203,725	$133,496,778

The difference in cost is $293,053,000, and results from the increased duty collection; it is equal to 0.22 percent of the cost of all 1976 imports. This 0.22 percent increase is not considered substantial and should not have an economic impact on the overall level of imports, especially since more than 60 percent of U.S. imports are currently free or subject to specific rates of duty and, therefore, are unaffected by c.i.f. valuation.

Impact on countries of origin (Pages 90 to 91)

Since transportation charges are higher on imports from distant countries than on imports from nearby countries, it would be expected that changing from the present method of valuation to the c.i.f. method would cause greater increases in the cost of imports from distant countries. Although the cost of imports from distant countries would, in fact, increase more than that of imports from near countries, the difference is so small that its effect would not be noticeable. If only imports subject to ad valorem duties are considered, the cost increase resulting from higher transportation and insurance costs is less than 1 percent for most commodities entering the United States, regardless of source. The increase for distant areas such as Japan and for less distant areas such as the EC, other European countries, and the Middle East is small--0.5 percent, 0.4 percent,

0.5 percent, and 0.3 percent, respectively--compared with a smaller increase of 0.01 percent for the contiguous countries, Canada and Mexico. The cost increase for Asia, which would be slightly above 1 percent, results in large part from the high ad valorem rates of duty on textiles.

Probable Economic Effect on U.S. Exports of Adoption of the Proposed Code by Our Major Trading Partners (Pages 92 to 95)

In view of the fact that all our major trading partners except Canada use some form of the BDV for valuing imported merchandise, this analysis will concentrate on the probable economic effect on U.S. exports of adoption of the proposed code by countries currently using the BDV.

Although sufficient data are not available to provide the committees with a detailed economic analysis of the probable effect on U.S. exports of adoption of the proposed code by our major trading partners currently using the BDV, certain observations may be made.

First, it appears that current U.S. exports to BDV countries which do not involve transactions between related parties would continue to be appraised on the basis of the transaction value under the proposed code. In addition, it is likely that some related-party transactions now subject to "uplift" would be valued on the basis of the transaction value.

It is likely that related-party shipments to developed countries would be appraised under the proposed code at a value that approximates the appraised value under the BDV, since many developed countries currently use some form of the proposed alternative standards as a basis for determining the amount of uplift. However, it is our understanding that with respect to the valuation practices of a number of developing countries, the uplift determination is more arbitrary. In

this regard, the adoption of the proposed valuation code by our major trading partners would provide U.S. exporters with the assurance that exported merchandise will be subject to customs valuation in accordance with a reasonable and equitable valuation standard. In addition, the use of a single international code would enable exporters which frequently ship their goods to a number of countries to more easily predict the customs valuation of their merchandise in those countries which employ the international code. Market planning would be simplified for those companies.

Potential Effect of Adoption of the Proposed Valuation Code on U.S. Customs Administration (Pages 96 to 98)

The practical effect of U.S. adoption of the proposed code would be the elimination of the ASP bases of appraisement, the foreign-value, and other methods of valuation provided for in section 402a of the Tariff Act, which apply to articles on the Final List, and the elimination of such terms as "freely offered", "principal market", "usual wholesale quantities", and "ordinary course of trade" from U.S. law.

The elimination of the ASP bases of appraisement would have a beneficial effect on U.S. customs administration, since it is the most difficult U.S. valuation method for Customs to administer. Customs must currently make a determination with respect to every imported article which is potentially subject to ASP valuation as to whether a domestically produced product which is like or similar to the imported product is being freely offered for sale in the United States. Often there may be several such products available, and Customs must determine which such product is most similar to the imported product. This is a time-consuming process which requires a subjective judgment to be made by the customs officer.

The adoption of the proposed code would eliminate the need to have a Final List since it would provide a single set of valuation methods which are analogous to those provided in section 402 of the Tariff Act. It would eliminate the need for U.S. customs officers to familiarize themselves with two separate sets of customs laws which are very similar on their face but have very subtle differences in application. It would also eliminate foreign value, which must be determined under section 402a for every importation so that it may be compared with the export value as determined under section 402a. The foreign value method requires Customs to ascertain the price at which such or similar merchandise is being sold in the home market of the country of exportation. This delays the appraisement process since Customs is usually unable to appraise the merchandise on the basis of documents provided with the entry itself. Frequently a time-consuming foreign investigation must be instituted by Customs in order to get the necessary data to appraise merchandise on the basis of foreign value.

Finally, the elimination of terms such as "freely offered" and "usual wholesale quantities" from U.S. law should facilitate the appraisement process for Customs.

U. S. Implementation of the Proposed Code (Page 99)

In order for the United States to implement the proposed valuation code, it would be necessary for Congress to repeal current sections 402 and 402a of the Tariff Act of 1930 (19 U.S.C. 1401a and 1402) and to enact the substantive sections of part I of the proposed code, which contains the rules of customs valuation, in lieu thereof. Conforming amendments would also have to be made in all Federal statutes which make reference to current sections 402 and 402a of

the Tariff Act, such as the Tariff Schedules of tne United States (19 U.S.C. 1202). Appropriate amendments would also have to be made to those parts of section 336 of the Tariff Act (19 U.S.C. 1336) which refer to ASP, and some modification may have to be made to section 500 of the Tariff Act (19 U.S.C. 1500), which sets cut appraisement, classification, and liquidation procedures.

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PART 1. PROPOSED VALUATION CODE

Background and Origin

In November 1977, the European Community (EC) tabled a "draft valuation code" for consideration by the Customs Matters Subgroup on Non-Tariff Measures at the Multilateral Trade Negotiations (MTN) in Geneva. The proposed code was prompted, in large part, by longstanding complaints about U.S. valuation practices--their complexity, the use of the American selling price (ASP) method of valuation and the Final List--and by the desire to establish a fair and uniform valuation system which would be used by all of the world's major trading countries and would conform to the principles provided in Article VII of the General Agreement on Tariffs and Trade (GATT).

The final text of the proposed valuation agreement (GATT document MTN/NTM/W/229, Corr. 1, 2 April 1979, which is attached as Appendix A) differs substantially in many respects from that which was originally tabled in 1977 as the result of many months of detailed negotiations among the United States, the EC, Japan, the Nordic countries, Canada, and a number of developing countries. However, the basic premise of the agreement--that the customs value should, to the greatest extent possible, be based on the transaction value of the imported merchandise--has remained intact since the beginning of the negotiations, and is embodied in the preamble and Article 1 of the proposed agreement.

Current Status

On April 12, 1979, a number of developed countries, including the United States, the EC, Japan, the Nordic countries, and Canada, formally expressed their intention to accede to the valuation agreement and implement its provisions in their domestic law by initialing the proposed agreement. However, no developing country chose to initial the agreement. Many developing countries are seeking

to amend the proposed agreement to provide additional "special provisions to meet the trade, financial and development needs of such countries", and have circulated a document at the MTN providing for such amendments. 1/ It appears that most developing countries have decided to initial this "alternative document" rather than the proposed code. It is not clear at this time how the reconciliation of this alternative document with the proposed code will be achieved.

There had been serious question as to whether Canada would accede to the proposed agreement. Canada has maintained since the outset of the negotiations that [illegible]tion of a valuation system based on transaction value would result in a su[illegible]al decline in Canadian customs revenues and would adversely affect Ca[illegible]dustries. It appears that Canada agreed to initial the proposed agreement, without a formal reservation, only after receiving assurances from the United States, the EC, and other key participants in the negotiations that Canada--

i) would have up to four years from the date of entry into force of the agreement to implement the agreement;

ii) would be able to adjust its tariff rates (without paying compensation to other parties) to maintain existing levels of tariff protection in those cases where implementation of the agreement would reduce such protection; 2/

iii) could take reasonable measures to deal with "unfair and predatory trading practices"; 3/ and

iv) could take reasonable and appropriate measures to deal with so-called special valuation cases (i.e. used goods, off-quality goods, etc.) which have been identified by Canada at the MTN. 4/

1/ This document (MTN/NTM/W/222/Rev. 1, 27 March 1979) is set out in Appendix J.

2/ Canada recognizes the rights of other parties under the GATT to seek redress if such adjustments appear to be excessive.

3/ Any valuation measures taken by Canada must be consistent with the valuation agreement and any other measures must be consistent with Canada's obligations under other international agreements.

4/ Such measures should not provide protection any greater than that which is currently provided.

Structure and Principles of Proposed Code

The proposed valuation code, the full text of which appears in Appendix A, is basically a positive system 1/ which provides a primary standard based on the transaction value of the imported goods, and several alternative valuation standards to be used in a hierarchical order when the actual conditions of the next higher ranking standard are not met.

In addition to a preamble and three annexes, 2/ the agreement consists of four major parts: Part I, containing rules on customs valuation (Articles 1-17); Part II, providing for administration and dispute resolution (Articles 18-20); Part III, dealing with special and differential treatment for developing countries (Article 21); and Part IV, the final provisions (Articles 22-31).

Preamble

The preamble briefly sets out some of the objectives and principles of the agreement, such as--

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1/ Most of the standards in use today are based on one or both of two valuation concepts--positive and notional. A positive standard defines customs valuation in terms of the price at which goods are sold under specified conditions. Because it bases valuation on actual sales under specified conditions, it requires, in ranking order, one or more additional standards to provide alternatives for valuation when the actual conditions of the next higher ranking standard are not met. Thus, a system of two or more standards is required under the positive concept for valuation of imported goods.

A notional standard, on the other hand, defines customs valuation in terms of the price at which goods would be sold under specified conditions. Because the notional standard bases valuation on a hypothetical set of circumstances, it permits the customs officer to make modifications or adjustments in the appraisement, as required, to meet the standard. Thus, one notional standard may constitute an entire valuation system. The Brussels Definition of Value (BDV) is an example of a notional valuation system.

To insure complete coverage of all valuation possibilities, positive valuation systems may have residual standards which are notional in concept.

2/ Annex I contains interpretative notes to the agreement, Annex II sets out the responsibilities and rules of procedure for the "Technical Committee on Customs Valuation" and Annex III sets forth the procedures for "ad hoc panels".

i) to further the objectives of the GATT and to benefit the international trade of developing countries;

ii) to establish rules to implement Article VII of the GATT which would provide for greater uniformity and certainty; and

iii) to establish a fair, uniform and neutral valuation system which is based on simple and equitable criteria consistent with commercial practices.

The preamble further provides that valuation procedures should not be used to combat dumping and that the transaction value of the imported goods, should, to the greatest extent possible, be the basis for customs value.

Part I--Rules on customs valuation

Part I of the proposed valuation agreement (Articles 1-17) contains the substantive rules for valuing imported merchandise under the code. Articles 1 through 8 establish the methods of customs valuation which are to be applied in a hierarchical manner (i.e. the valuation method provided for in Article 2 may only be used if a valid customs value cannot be established using the valuation method prescribed in Article 1, and so on). Articles 9 through 17 contain miscellaneous provisions dealing with matters such as currency conversion, importers' right of appeal, confidentiality of information supplied to Customs, and definitions of terms used in Articles 1 through 8.

Methods of customs valuation.-- The proposed valuation code establishes five basic methods of customs valuation. Each of the alternative valuation methods is summarized briefly below in the order in which they should be applied:

1. The transaction value, which is defined as the price actually paid or payable for the imported goods with adjustments for certain costs, charges, and expenses specified in Article 8 of the code, which are incurred but not reflected in the price actually paid or payable for the goods.

2. The transaction value of identical goods 1/ sold for export to the same country, and exported at or about the same time as the imported goods.

3. The transaction value of similar goods 2/ sold for export to the same country and exported at or about the same time as the imported goods.

4. The price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to unrelated persons in the country of importation in the same condition as imported, 3/ subject to deductions for commissions or profit and general expenses, transport and insurance costs, customs duties and certain other costs, charges and expenses incurred as a result of reselling the goods.

5. The computed value of the imported goods which is determined by summing the cost of producing the article, an amount for general expenses and profit, and the cost or value of all other expenses necessary to reflect the valuation option (i.e., f.o.b. or c.i.f.) chosen by the signatory under Article 8(2).

Hierarchical application of the methods of valuation.--As mentioned above, the proposed code provides that the various valuation methods are to be applied in a hierarchical fashion. If, as explained below, the primary standard which is based on the transaction value of the imported goods (Article 1) is rejected as the basis of valuation, the transaction value of identical goods would be used as the basis of valuation (Article 2), based on a customs value which has already been accepted under Article 1 with appropriate adjustments

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1/ The term "identical goods" is defined in Article 15 of the code to mean goods which are the same as the imported goods in all respects, including physical characteristics, quality and reputation and which were produced in the same country. Goods produced by the same person take precedence over goods produced by a different person.

2/ The term "similar goods" means goods which have like characteristics and like component materials, which enable them to perform the same functions and to be commercially interchangeable with the imported goods. As with "identical goods", the goods must have been produced in the same country as the imported goods and goods produced by the same person take precedence over goods produced by a different person.

3/ If the imported or identical or similar goods are not sold in the country of importation in the condition as imported, the importer may still choose to have his merchandise valued by Customs using this valuation method, with due allowance being made for the value added by the processing performed in the country of importation.

for differences in quantities and/or commercial levels. If the value cannot be determined under this method, the transaction value of similar goods would be used (Article 3) (again based on a customs value which has already been accepted under Article 1 with appropriate adjustments), and if a value still cannot be found, the deductive method found in Article 5, which is based on the resale price in the importing country of the imported goods, would be used provided that the goods were not processed in the country of importation prior to resale. If the imported goods were so processed, this method may still be used, if the importer so chooses, with "due allowance being made for the value added by such processing". If the value cannot be determined by any of the foregoing methods, the computed value method of Article 6 would form the basis of valuation. Finally, in those rare instances where a value cannot be determined under any of the valuation methods prescribed in Articles 1 through 6 of the code, Article 7 provides that "the customs value shall be determined using reasonable means consistent with the principles and general provisions of this code and Article VII of the General Agreement on Tariffs and Trade, hereinafter referred to as the GATT, and on the basis of data available in the country of importation". Several valuation methods are specifically precluded from being used as a basis for determining customs value under this article, including the American selling price (ASP) and foreign value methods which are currently used in the United States. An interpretative note to this article provides that the methods of valuation to be used are those laid down in Articles 1 through 6, but with a reasonable flexibility in their application 1/ and that the customs values determined under this article "should be based to the greatest possible extent on previously determined customs values".

1/ Several examples of "reasonable flexibility" are provided in the note, such as accepting the transaction value of identical goods produced in a country other than the country of exportation of the goods being valued as the basis for valuation.

Article 4 of the code provides for a departure from the code's hierarchical structure by allowing the order of application of the valuation methods provided in Article 5 (deductive method) and Article 6 (computed value) to be reversed at the option of the importer.

Circumstances under which the transaction value may be rejected.--There are four sets of circumstances provided in Article 1, which could result in the rejection of the transaction value as the basis of valuation.

The most significant concerns the relationship of the buyer and seller. If the buyer and seller are related, the transaction value may be accepted only if an examination of the circumstances surrounding the sale demonstrates that such relationship did not influence the price 1/, or the importer demonstrates that the transaction value closely approximates one of several other enumerated values 2/.

The other three circumstances which may cause the transaction value of the imported goods to be rejected as a basis of valuation are:

1/ For example, the buyer and seller may be able to demonstrate that, even though they are related, they are totally separate profit centers and their agreed price was the subject of arms' length negotiations.

2/ These values, which are enumerated in Article 1 (2)(b) are as follows:

i) the transaction value in sales to unrelated buyers of identical or similar goods for export to the same country of importation;

ii) the customs value of identical or similar goods as determined under the provisions of Article 5.

iii) the customs value of identical or similar goods as determined under the provisions of Article 6;

iv) the transaction value in sales to unrelated buyers for export to the same country of importation of goods which would be identical or similar to the imported goods except for having a different country of production provided that the sellers in the two transactions are not related.

i) if there are restrictions as to the disposition or use of the goods by the buyer (other than those which are required by law, or limit the geographical area where goods may be sold, or don't substantially affect the value of the goods);

ii) if the sale or price is subject to some condition or consideration for which a value cannot be determined; and

iii) if part of the proceeds of the resale of the goods by the buyer will accrue directly or indirectly to the seller (unless an appropriate adjustment can be made in accordance with Article 8).

Adjustments to the price paid or payable.—As noted above, the term "transaction value", as used in Article 1, means "the price actually paid or payable for the goods when sold for export to the country of importation; *adjusted in accordance with the provisions of Article 8*" (Emphasis added). Article 8 provides for a number of adjustments to be made to the price paid or payable.

Article 8(1)(a) provides for additions to be made to the price paid or payable for commissions and brokerage (except buying commissions), the cost of containers, and packing costs, to the extent that such costs are incurred by the buyer but not included in the price to the importer.

Article 8(1)(b) provides for the addition of the value of certain goods and services which are supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods (commonly referred to as "assists") to the extent that such value has not been included in the price paid or payable. Among the goods and services which should be included in the customs value are materials, components, tools, dies, molds, and similar items which are incorporated, used, or consumed in the production of the imported goods. The cost or value of engineering, development, artwork, design work and plans and sketches are to be included in

the customs value only if they are "undertaken elsewhere than in the country of importation and necessary for the production of the imported goods".

Also to be included in the transaction value of imported goods, pursuant to Article 8(1), are royalties and license fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued and the value of any part of the proceeds of any subsequent resale of the goods that accrues directly or indirectly to the seller.

Article 8(2) allows each party to the agreement to provide either for the inclusion in or the exclusion from the customs value, in whole or in part, of freight, insurance, loading, unloading, and handling charges to the port or place of importation. 1/

Other provisions in Part I.--A summary of the remaining provisions in Part I of the proposed agreement is set forth below:

> Article 9.--Rates of exchange shall be published by authorities in the country of importation and shall reflect the current values of the currencies involved (either at the time of exportation or the time of importation as provided by each party).
>
> Article 10.--All confidential information submitted for valuation purposes shall be treated as such and not disclosed without specific permission of the submitting party, unless required by domestic legislation or judicial proceedings.
>
> Article 11.--Domestic legislation of each party shall provide for a right of appeal (ultimately to a judicial authority) for customs value determinations.
>
> Article 12.--All laws and legal instruments giving effect to the proposed rules should be published in conformity with Article X of the GATT.

1/ This has the effect of allowing parties to adopt the code on either an f.o.b. (free-on-board), c.i.f. (cost, insurance and freight), or ex-factory basis, as will be discussed later in this report.

Article 13.--Delays in determining the customs value of goods, shall not prevent importers from obtaining their goods, if sufficient guarantee (such as a bond) covering the ultimate payment of customs duties is provided.

Article 14.--The three annexes form an integral part of the agreement, and the Articles of the Agreement are to be read and applied in conjunction with their respective notes in Annex I.

Article 15.--Provides definitions for the terms "customs value of imported goods", "country of importation", "identical goods", "similar goods" and "goods of the same class or kind", which are used in Part I of the agreement, and also indicates the circumstances under which persons are "deemed to be related", for purposes of the agreement.

Article 16.--Importer, upon written request, has right to written explanation of customs value determination.

Article 17.--The agreement does not restrict customs administrations from satisfying themselves as to the truth or accuracy of any submission for valuation purposes.

Part II--Administration and dispute resolution

Part II (Articles 18-20) establishes two committees -- a "Committee on Customs Valuation" (referred to as "the Committee") and a "Technical Committee on Customs Valuation" (referred to as the "Technical Committee") -- to administer the agreement and creates a mechanism for resolving disputes between parties to the agreement.

Agreement administration.--The Committee, which is to be composed of representatives from each of the parties, will meet annually "to consult on matters relating to the administration of the customs valuation system by any party to Agreement as it might affect the operation of this Agreement or the furtherance of its objectives, and to carry out such other responsibilities as may be assigned to it by the parties". The GATT secretariat will act as the secretariat to the Committee.

The Technical Committee would be created under the auspices of the Customs Cooperation Council (CCC) to carry out the responsibilities assigned to it by the parties and set forth in Annex II to the agreement with a view towards achieving uniformity in interpretation and application of the agreement at the technical level. Among the responsibilities assigned to the Technical Committee are --

1) To examine specific technical problems arising in the administration of the customs valuation systems and to give advisory opinions offering solutions to such problems;

ii) to study, as requested and prepare reports on valuation laws, procedures and practices as they relate to the agreement; and

iii) to furnish such information and advice on customs valuation matters as may be requested by parties to the agreement.

Dispute resolution.--Several steps are provided for a party to follow if it considers that any benefit accruing to it under the agreement is being nullified or impaired or if any objectives of the agreement are being impeded by the actions of another party. First, the aggrieved party should request consultations with the party in question with a view to reaching a mutually satisfactory solution.

If no mutually satisfactory solution is reached between the parties within a reasonably short period of time, the Committee shall meet at the request of either party (within 30 days of receiving such request) and attempt to facilitate a mutally satisfactory solution. If the dispute is of a technical nature, the Technical Committee will be asked to examine the matter and report to the Committee within three months.

In the absence of a mutually agreeable solution from the Committee up to this point, the Committee shall, upon the request of either party, establish a panel (within three months from the date of the parties' request for the Committee to investigate where the matter is not referred to the Technical

Committee, otherwise within one month from the date of the Technical Committee's report) to examine the matter and make such finding as will assist the Committee in making recommendations or giving a ruling on the matter. 1/

After the investigation is complete, the Committee shall take appropriate action (in the form of recommendations or rulings). If the Committee considers the circumstances to be serious enough, it may authorize one or more parties to suspend the application to any other party of obligations under the valuation agreement.

Part III--Special and differential treatment

Part III of the proposed agreement (Article 21) allows developing countries which are party to the agreement--

i) to delay application of its provisions for a period of five years from the date the agreement enters into force;

ii) to delay application of articles 1, 2(b)(iii) and 6 (both of which provide for a determination of the computed value of imported goods) for a period of three years; and

iii) to receive technical assistance (such as training of personnel, assistance in preparing implementation measures and advice on the application of the agreement's provisions) upon request, from developed countries party to the agreement.

Part IV--Final provisions

Articles 22 through 31 in Part IV of the agreement are the so-called final provisions and deal with matters such as --

i) acceptance and accession of the agreement;

ii) reservations (they may not be entered without the consent of all parties);

iii) date agreement will enter into force (January 1, 1981, for parties who have accepted by then);

1/ The functioning of a panel is governed by the procedures set forth in Annex III to the agreement.

iv) conformity of national legislation;

v) review (Committee shall review operation of agreement annually);

vi) amendments (may be proposed by any party at any time but require unanimous consent of all parties);

vii) withdrawal (any party may withdraw at any time after giving 90 days notice); and

viii) servicing of the agreement (by GATT Secretariat, except Technical Committee which will be serviced by the CCC).

PART 2. CURRENT VALUATION REQUIREMENTS

General Agreement on Tariffs and Trade (GATT)

Commitments of the contracting parties to GATT

The contracting parties to the GATT agreed to certain broad valuation principles and to certain individual elements of value which each member country undertakes to observe in its customs laws and administration. Most of the major trading countries of the world are contracting parties to the General Agreement.

Most of the provisions relating to customs valuation are in Part II of the agreement, which nearly all contracting parties, including the United States, apply only provisionally. Under the provisional commitments, each country agreed to abide by the terms of the valuation provisions in the General Agreement to the fullest extent not inconistent with its existing legislation (i.e., as of October 30, 1947). Nevertheless, each member is obliged not to adopt new legislation or regulations that would violate the GATT provisions. Moreover, the framers of the General Agreement anticipated that the members would gradually bring their domestic legislation into conformity with the GATT guidelines.

GATT valuation principles

The GATT valuation principles, most of which are contained in Articles VII and X of the GATT 1/ are discussed below.

Goods upon which dutiable value should be based.—The GATT provides that the dutiable value of imported goods should be based on the actual value, or the nearest ascertainable equivalent, of either the imported merchandise on which duty is assessed or like merchandise of foreign origin. It should not be

1/ See Appendix I for the full text of these GATT provisions.

based on the value of domestic merchandise nor on arbitrary or fictitious values. The uniform use of either the imported merchandise or like foreign merchandise would comply with the GATT provision.

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 comparable quantities or quantities not less favorable to importers than those in which the greater volume of such mechandise is sold in the trade between the countries of exportation and importation.

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.

Fully competitive conditions.--Under GATT provisions, the dutiable value of imported merchandise should be based on sales or offers for sale in the ordinary course of trade under fully competitive conditions. 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 if the buyer and seller were not independent of each other and price was not the sole consideration, or if the purchase price reflected special discounts limited to exclusive agents.

Currency conversion.--Several provisions of the General Agreement establish rules for converting currencies when determining the dutiable value of imported goods. They are treated briefly below.

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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. 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. 1/

Additional provisions.--The GATT further provides that the bases and methods for determining dutiable value should be stable; that valuation laws should be administered in a uniform, impartial, and reasonable manner; that 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; and that independent tribunals should be provided to review administrative actions related to customs matters.

In the principles stated above, the GATT members have, in effect, agreed on a number of conceptual elements of value which they deem ought to be included in the valuation standards of the contracting parties. The GATT provisions, however, do not set forth the elements of a complete valuation standard. Lacking are certain elements commonly present in such standards which the contracting parties are left free to define as they wish. For

1/ Article VII:4(c) shown in Appendix I 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.

example, the GATT provisions do not restrict the contracting parties in their choice of time and place. Thus, the General Agreement does not make a choice between c.i.f. and f.o.b. valuation. Likewise, the GATT permits valuation based on the actual quantity under appraisement or on the usual wholesale quantity.

Structure and Principles of the Current U.S. System

Structure

The current U.S. valuation system, which is composed of two separate and distinct laws of appraisement, as provided for in sections 402 and 402a of the Tariff Act of 1930, as amended, 1/ consists of several primary standards with alternative subordinate standards. Although the U.S. system is basically positive in concept, certain notional elements are incorporated.

The five standards in section 402a are the valuation standards established by the original section 402 of the Tariff Act. Section 2 of the Customs Simplification Act of 1956 redesignated section 402 as section 402a of the Tariff Act and added a new section 402 containing four additional standards. Past administrations had sought legislation to substitute the new set of standards for the original standards. However, the original standards were retained for use in appraising those articles, known as "Final List" articles, 2/

1/ 19 U.S.C. 1401a and 1402.

2/ A list published by the Secretary of Treasury in 1958 pursuant to section 6(a) of the Customs Simplification Act of 1956 (Public Law 927, 84th Cong.). This list was published in T.D. 54521, which is reproduced in Appendix B to this report. The 1956 act directed the Secretary to list all articles for which the new standards would result in a reduction of 5 percent or more in appraised value (based on imports in fiscal 1954), and directed that such listed articles be appraised under the old law standards now set forth in section 402a.

on which the dutiable values for fiscal year 1954 would have been smaller by 5 percent or more if appraised under the new section 402 standards.

For all imported articles other than those specific articles enumerated in the headnotes of the TSUS which are subject to the American selling price (ASP) bases of appraisement, the U.S. valuation standards are used only in the following order of precedence:

Section 402 (Articles not on Final List)

1. The export value, or
2. If export value cannot be determined satisfactorily, then the United States value, or
3. If neither of the foregoing can be determined satisfactorily, then constructed value.

Section 402a (Articles on Final List)

1. The foreign value or export value, whichever is higher, or
2. If neither the foreign value nor export value can be satisfactorily ascertained, then the United States value;
3. If none of the foregoing can be satisfactorily ascertained, then the cost of production.

Both sections 402 and 402a provide for an ASP method of appraisement. For the four groups of products which are currently subject to appraisement on the basis of ASP (certain clams, benzenoid chemicals, footwear, and wool knit gloves), the progression of bases of value is as follows:

Certain Clams 1/

1. American selling price, or

2. If no ASP, then export value, or

3. If no ASP or export value, then U.S. value , or

4. If no ASP, export value, or U.S. value, then constructed value.

Benzenoid Chemicals

Chemicals on Final List	Chemicals not on Final List
1. American selling price, or	1. American selling price, or
2. If no ASP, then U.S. value, or	2. If no ASP, then U.S. value, or
3. If no ASP, or U.S. value, then the foreign value or export value whichever is higher, or	3. If no ASP or U.S. value then export value, or
4. If no ASP, U.S. value, foreign value or export value, then cost of production.	4. If no ASP, U.S. value, or export value, the constructed value.

Certain Footwear and Gloves 2/

1. American selling price, or

2. If no ASP, then the foreign value or export value, whichever is higher, or

3. If no ASP, foreign value, or export value, then U.S. value, or

4. If no ASP, foreign value, export value, or U.S. value, then cost of production.

Laws of appraisement

This section briefly describes and explains the nine bases of valuation and indicates their approximate frequency of use.

1/ Clams are not on the Final List.
2/ The footwear and gloves which are subject to ASP are on the Final List.

Although the names describing the different bases of valuation under sections 402 and 402a are either the same (export value, U.S. value, American selling price) or almost the same (cost of production, constructed value), they often differ significantly by reason of definition. Standards that are identical or kindred in name and description differ because terms used in section 402a, which had acquired meanings through administrative rulings and judicial decisions, were statutorily redefined for the purposes of section 402 valuation. Abbreviated definitions for each of the nine standards are given below 1/ along with explanations of the key terms which are used in each definition.

Section 402a.--According to a survey of U.S. customs import specialists throughout the country, only about 14 percent of all import entries in 1977 were appraised according to the valuation methods provided for in section 402a of the Tariff Act. 2/

> Export Value.--The price, at the time of exportation to the United States, at which such or similar merchandise, packed ready for shipment to the United States, is freely offered for sale to all purchasers in the usual wholesale quantities, in the principal markets of the exporting country, for export to the United States.

Export value, as defined by section 402a, bases valuation on the transaction price of the imported goods so long as that transaction price is consistent in all respects with each of the elements of the definition. However, some of the terms of the statute have been defined so rigidly that in many instances when export value does apply, the appraised value is often higher than the transaction price. The two terms which most commonly result in appraisement

1/ Complete statutory definitions are provided in Appendix C.
2/ See table 1, Appendix D.

higher than the transaction price are "freely offered for sale to all purchasers", and "usual wholesale quantities". The "freely offered" requirement has been interpreted to mean that if merchandise is sold to different classes of purchasers, for example wholesalers and retailers, only the price to the least preferred is acceptable, since that is the only "freely offered" price. Therefore, all shipments of that merchandise are appraised at the higher price, regardless of the individual transaction price of the imported goods. The "usual wholesale quantities" term is used for situations where the price of an article decreases as the purchased quantity increases. The usual wholesale quantity has been held to be determined by the greatest number of sales in wholesale quantities. This procedure can also result in imported articles being appraised at values higher than the transaction price.

Other stringent requirements of the statute have the effect of precluding the use of export value for a large number of importations. The terms "freely offered for sale to all purchasers" and "ordinary course of trade" have been interpreted literally by the courts to the extent that "freely offered" prices can have no restrictions attached limiting the use, disposition, or resale price of the merchandise, and that a refusal to sell to a purchaser or to a class of purchasers constitutes a restricted market and is, therefore, not within the meaning of the terms "ordinary course of trade" and "freely offered to all purchasers". The effect of these interpretations has been to preclude export value from being applied for all transactions involving selected and/or related purchasers. As a result of these conditions, less than one-third of the customs entries appraised under section 402a in 1977 were appraised on the basis of export value. 1/

1/ See table 1, Appendix D.

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

Foreign value, as its name implies, bases valuation on the price of merchandise for sale in the home market of the country of exportation which is "such or similar" to the imported merchandise. Since the primary standard under section 402a provides for the use of export value or foreign value, whichever is higher, the application of foreign value as the basis of appraisement usually results in an appraised value higher than the transaction price. As is the case with export value, the definition of certain terms in the foreign value standard often precludes its application. The phrase "freely offered to all purchasers" has the same definition as for export value and has the same result, i.e., appraisement at the price paid to the least-favored purchaser. For some commodities, conditions of sale in the home market are such that the statutory foreign value is sometimes determined on the basis of sales at virtually the retail level. This can cause the appraised foreign value to be more than double the transaction price for export to the United States.

In addition to the preclusion of foreign value for selected and/or related purchasers under the "freely offered" and "ordinary course of trade" definitions, the determination of "such or similar merchandise" has resulted in numerous instances where a foreign value is found not to exist. In order for home market sales to be considered in the determination of foreign value, the exported article and the domestic article must be either such (identical) or similar ((1) made of approximately the same materials, (2) commercially interchangeable, (3) adapted to substantially the same uses, and (4) so used). Using these guidelines, ball

bearings, for example, imported in metric sizes have a "such or similar" product sold in the home market and a foreign value can be established. However, ball bearings imported in other than metric sizes may not be sold in the home market, so there may be no "similar" product and, thus, no foreign value. Subtle product differences such as this, have prevented the establishment of foreign value for many other major commodities, including automobiles and televisions. Foreign value was the basis of appraisement on less than one-fourth of the customs entries appraised under section 402a in 1977 (see table 1, Appendix D).

> United States Value --The price, at the time of exportation of the merchandise being valued, at which such or similar imported merchandise, packed ready for delivery, is freely offered for sale to all purchasers in the usual wholesale quantities in the principal U.S. market for domestic consumption, less (a) a commission not exceeding 6 percent or profits not exceeding 8 percent and general expenses not exceeding 8 percent, (b) transportation, insurance, and other necessary expenses from the place of shipment to the place of delivery, and (c) the import duty.

U.S. value is a deductive valuation method which starts with the resale price of the imported merchandise in the United States and then deducts from that price all of the costs and expenses incurred subsequent to the exportation of the goods (such as ocean freight and insurance charges, import duty and commissions or profit realized in the resale of the goods in the United States).

As the first alternative in the section 402a progression, U.S. value is seldom used as a basis of appraisement due primarily to difficulties in determining whether "such or similar" merchandise is "freely offered". As with export value and foreign value, restrictions with respect to purchaser, use, disposition, or resale price preclude finding a statutory U.S. value. Since these restrictions are fairly common business practices, U.S. value under

section 402a can rarely be used. Also, the provision for such or similar merchandise requires that the article be resold in the United States in its imported condition. Therefore many raw materials and semifinished articles are also excluded from any U.S. value appraisement because they are generally further processed before being resold in the United States. Less than 3 percent of the customs entries valued under section 402a in 1977 were appraised on the basis of U.S. value (see table 1, Appendix D).

> Cost of production --The sum of (a) the cost of producing such or similar merchandise at a time before the date of exportation which would permit production, (b) the usual general expenses (but not less than 10 percent of the cost of production) and the usual profit (but not less that 8 percent of the sum of the cost of production and the allowance for general expenses) made by producers in the country of manufacture on sales of such or similar merchandise, and (c) the cost of packing the merchandise for shipment to the United States.

The cost of production method of valuation, as its name implies, attempts to arrive at the appraised value of imported goods by aggregating all the costs and expenses associated with placing the merchandise in a packed condition ready for shipment to the United States.

Due to the strict conditions and definitions contained in the export value, foreign value, and U.S. value standards in section 402a, over one-third of Final List importations are appraised on the basis of cost of production (see table 1, Appendix D). Cost of production is often the basis of appraisement in related-party transactions when the transaction price between the buyer and seller includes little or no profit or does not include the cost of "assists" which have been supplied by the buyer to the seller. The appraised value under the cost of production method would include an amount for profit of not less than 8 percent of the sum of materials, fabrication, and general expenses and would

include the cost of all assists. Most items subject to cost of production valuation result in an appraised value greater than the transaction price.

Section 402.--Nearly 83 percent of all 1977 customs entries were appraised according to the valuation methods provided for in section 402 of the Tariff Act. 1/

> Export value.--The price, at the time of exportation to the United States, at which such or similar merchandise, packed ready for shipment to the United States, is freely sold or offered for sale in the usual wholesale quantities in the principal market of the exporting country for export to the United States.

Almost all articles valued under export value as defined by section 402 are appraised at the actual transaction price, or at a value that is not significantly different from the transaction price. The definitions of terms for export value under section 402 are much less rigid than the judicial interpretations of the terms used in section 402a and reflect an attempt to correct some of the deficiencies of section 402a and to establish valuation rules which reasonably conform to business practices. Sales to selected purchasers (including related-party transactions) can be accepted as representing export value as long as Customs determines that the price "fairly reflects market value". The term "freely offered" is defined so that if price differentials exist between classes of purchasers, the price to all purchasers at the wholesale level is accepted as the appraised value. When the price differs with respect to the quantity purchased, the term "usual wholesale quantities" means the price at which the greatest aggregate volume is sold, and the price associated with that quantity is the price to be used for appraisement. Given the more realistic conditions for determining export value under the "new law",

1/ See table 1, Appendix D.

nearly 70 percent of all entries and over 80 percent of the entries subject to valuation under section 402 are appraised on the basis of export value (see table 1, Appendix D). Importations precluded from export value appraisement are generally sales to selected purchasers which are found not to "fairly reflect market value". These transactions are almost always related-party transactions for which Customs considers an element of value to be either missing or understated in the transaction value. Customs has established that if a price does not include all normal elements of value, the missing element cannot simply be added to "create" an export value. Also precluded from export value appraisement are importations that have no transaction value, such as articles shipped on consignment. Although consignment shipments were once common, their use today is negligible.

> United States Value --The price, at the time of exportation of the merchandise being valued, at which such or similar imported merchandise, packed ready for delivery, is freely sold or offered for sale in the usual wholesale quantities in the principal U.S. market for domestic consumption, less (a) the usual commission or usual profit and general expenses, (b) transportation, insurance, and other necessary expenses from the place of shipment to the place of delivery, and (c) all customs duties and other Federal taxes payable by reason of importation.

The definitions of the major terms of U.S. value under section 402 are the same as the definitions for export value under section 402, and the calculation is the same as the calculation of U.S. value under section 402a, except that under section 402 there are no statutory maximums for general expenses and profit. U.S. value is rarely used as the basis of valuation, comprising only 2 percent of the entries appraised under section 402 (see table 1, Appendix D).

Constructed Value --The sum of (a) the cost of producing such or similar merchandise at a time before the date of exportation which would permit production, (b) the usual general expenses and profit made by producers in the exporting country on sales of such or similar merchandise in the usual wholesale quantities for export to the United States, and (c) the cost of packing the merchandise for shipment to the United States.

Constructed value is very similar to the cost of production standard previously described except that it does not prescribe statutory minimums for general expenses and profit.

Due to the minimal use of U.S. value and the large number of related-party transactions that are found not to "fairly reflect market value", over 12 percent of the customs entries valued under the provisions of section 402 are appraised on the basis of constructed value (see table 1, Appendix D). Most constructed value appraisements are made at values higher than the transaction price. Usually this increase in value is due to an adjustment by Customs of three major cost areas of a constructed value appraisement--assists, general expenses, and profits. In many transactions, particularly those involving related parties, the U.S. firm will supply the foreign manufacturer with goods or services free of charge or at a reduced cost to assist that company in the manufacture of the U.S. firm's ordered product. The value of these "assists" is not usually included in the transaction price. If Customs determines that the assist is dutiable, an upward adjustment to the transaction value is made to arrive at the dutiable constructed value. Also, many related parties employ a "transfer price" for intra-company transactions. This transfer price may bear little or no relationship to the actual cost of the goods, or may cover only costs, with no allowance for profit. In these cases, Customs must determine the direct costs of materials, and fabrication, then determine the usual general expenses and profits associated with the manufacture of similar articles

by all manufacturers in the country of exportation. Under these circumstances, many constructed value appraisements are significantly higher than the transaction price.

American selling price.--Since American selling price appraisement is virtually identical under both sections 402a and 402, the definition and explanation are only considered once.

> American selling price.--The American selling price of any article manufactured or produced in the United States shall be the price at which such article is freely offered for sale for domestic consumption, or the price that the manufacturer, producer, or owner would have received or was willing to receive for such merchandise at the time of exportation of the imported article.

As stated previously, only selected articles are appraised on the basis of ASP (benzenoid chemicals and certain footwear, clams, and gloves). Entries appraised on the basis of the American selling price (sections 402 and 402a) account for less than 2 percent of the entries handled by Customs (see table 1, Appendix D). Virtually all ASP entries have an appraised value that is higher than the transaction price. This is because the appraised value is based on the selling price of a U.S. manufactured article which is like or similar to the imported article and the actual transaction price of the imported article has no bearing on the appraised value. For example, an imported pair of shoes subject to ASP appraisement may have a transaction value of $2.00 per pair. If Customs determines that there is a competitive U.S. product with a price of $6.00 per pair, the appraised value would be $6.00 per pair, and the duty rate of 20 percent ad valorem would be assessed on that value.

Structure and Principles of the Brussels Definition of Value (BDV)

The BDV was incorporated in the Convention on the Valuation of Goods for Customs Purposes, which was signed in Brussels on December 15, 1950, and came into force on July 28, 1953. 1/ As of June 1977, 30 countries had acceded to the Valuation Convention and an additional 74 countries at least nominally applied the BDV, without being contracting parties to the Valuation Convention. All the major trading partners of the United States, except Canada, apply the BDV.

The BDV provides, without exception, that the customs value of imported goods shall be their "normal price", i.e., the price the goods 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 a buyer and a seller independent of each other. The seller is assumed to bear all expenses incidental to the delivery of the goods to the port of importation (except recoverable duties and taxes, e.g., drawbacks, 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 shipment being valued.

The BDV thus establishes a standard based on value at the place of importation. It establishes 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. It is a single standard, applicable to all goods irrespective of whether the articles are obtained under a transaction in the open market between a buyer and a seller independent of each other and regardless of the terms of the contract, sale, or arrangement. In every instance, it is intended that the dutiable value shall correspond to the price for the imported mer-

1/ The text of the BDV and Interpretative Notes are set out in Appendix E.

chandise being valued at the place of importation, before payment of duty, at which a seller would be freely willing to sell and a buyer freely willing to buy.

Like most valuation standards, the BDV must be administered principally on the basis of information respecting the shipment involved and related commercial transactions and conditions. To this end, the interpretative and explanatory notes to the BDV suggest a variety of methods by which the notional value may be determined or constructed. Apart from certain specific recommendations, these methods are proposed as acceptable, but not mandatory, valuation techniques.

The actual transaction price is recommended for acceptance as a valid base for the determination of the customs value of the goods being entered. To be accepted without adjustment, it must be equivalent to an open-market competitive price and the circumstances of the sale must conform with the elements of the BDV as construed in the interpretative notes.

If certain circumstances of the sale do not accord with the elements of the BDV, the transaction price is adjusted to account for the differences. For example, various costs to the importer associated with delivery to the place of importation are added if not included in the transaction price. These costs might include freight, insurance, buying and selling commissions, brokerage fees, packing costs, loading and unloading charges, and certain foreign taxes. Adjustments to the commercial invoice price for a difference in time may include interest costs or their equivalent on extended prepaid orders or an adjustment for a significant change in price between the time of the purchase and the time of importation. Information on which adjustments of this nature may be based is generally available to Customs from commercial documents of other import transactions.

A more complicated type of adjustment of the transaction price may be used for importations by selected purchasers, sole concessionnaires or franchise buyers or for importations where an importer and an exporter are related. This type of adjustment to the invoice price is popularly termed "uplift". For example, if the buyer, in consideration of his assumption of responsibility for advertising, promoting, or servicing trade-marked items, has obtained special rebates or reductions in price which are not freely or generally available to all buyers, the price may be adjusted upward to the level at which the goods would be generally available to all buyers by disallowing any discounts for services which benefit the exporter. Likewise if the buyer makes royalty payments in addition to the purchase price, the purchase price is adjusted upward to include such royalties. If the transaction or purchase price is suspect because the sale is between related parties, the customs officer may make an upward adjustment in the declared price to the level that he believes would prevail in the open market between a buyer and a seller independent of each other. The adjusted or unadjusted price is used as the basis for valuation of the vast majority of entries in countries which are contracting parties to the Valuation Convention.

If the use of the transaction price, adjusted or unadjusted, is not an appropriate base for determining dutiable value, as in consignment shipments, for example, the primary base used is actual or expected realization--the price at which the imported article is sold or is expected to be sold in the importing country, adjusted to a landed cost equivalent. This procedure is similar to that which is employed in the U.S. value standard. When this procedure is not appropriate, dutiable value may be based on prices of comparable imported goods. Under rare circumstances, customs officials may resort to the cost of

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production of the imported goods, or to valuation by expert appraisal. In the case of some leased goods the anticipated rental charges during their expected life may be used as a basis for valuation.

Structure and Principles of the Canadian Valuation System 1/

Canada is the only major trading country other than the United States which does not use some form of the BDV for valuing imported merchandise. Canadian valuation standards generally equate dutiable value with value in the country of exportation. The primary Canadian standard--known as "fair market value"--is based on the price of like goods sold for domestic consumption at the time when, and place from which, the goods were shipped directly to Canada. When fair market value cannot be determined, dutiable value is based on the cost of production plus an allowance for gross profit. Under specified circumstances the Governor in Council or the Minister of National Revenue is authorized to prescribe the manner in which dutiable value is to be determined. However determined, the dutiable value may not be less than the price at which the goods were sold to the Canadian importer at the time and place of direct shipment to Canada, less any decline in the fair market value of the goods between the time of purchase and the time of shipment.

Canadian law defines fair market value as the value of like goods at the time and place of export sold at arm's length under competitive conditions for domestic consumption to a buyer at the same or substantially the same trade level as the importer, in the same or substantially the same quantity, and in the ordinary course of trade. The place of export is defined as the point where the goods begin their continuous journey consigned to a point in Canada. If the conditions necessary for the determination of fair market value cannot

1/ See Appendix F for the text of the Canadian valuation system.

be met, the Canadian customs law provides alternate techniques. For example, if no sales for domestic consumption were made to buyers located at the place of exportation, prices to buyers located nearest thereto may be used; or if no sales occured at the time of export, the most recent sales price prior to the time of exportation that fairly reflects the market value of the goods may be used. If no sales were made to domestic purchasers at substantially the same trade level as the importer, prices at the nearest subsequent level may be substituted. In this case, however, the price is adjusted to reflect the differences in commercial charges payable by purchasers at each of the two trade levels concerned.

When like goods are not sold for domestic consumption in the country of export (or are sold under conditions which preclude determination of fair market value), but similar goods are sold, dutiable value is based on the cost of production of the imported goods plus an allowance for gross profit based on the percentage of profit earned on the similar goods.

Under a variety of circumstances, Canadian law authorizes the Minister of National Revenue to prescribe the manner in which the dutiable value is to be determined. He may do so whenever he finds valuation impracticable under the regular valuation standards. He may also do so if the imported goods are intended for packaging, assembly, or further manufacture in Canada; are used or obsolete; are not of prime quality; or constitute job lots.

For example, used goods are generally appraised on the basis of the current replacement price new in the country of export (in some instances on the original prices new) with adjustments for obsolescence, depreciation and condition. The appraised value is then compared with both the certified fair market value and the selling price and duty is assessed on the highest of the three amounts.

PART 3. COMPARATIVE ANALYSIS OF PROPOSED VALUATION CODE WITH U.S. VALUATION SYSTEM, BDV, AND CANADIAN VALUATION SYSTEM

Comparative Analysis of U.S. Valuation System and Proposed Valuation Code

Both the current U.S. valuation system and the proposed valuation code are basically positive systems with several individual bases of valuation arranged in a hierarchical structure. Whereas the U.S. system currently has nine individual bases of valuation, the proposed code has five major bases of valuation. These five bases of valuation bear close resemblance to the three U.S. bases of valuation (other than ASP) that are provided for in section 402 of the Tariff Act--i.e., export value, U.S. value and constructed value. Thus, as a practical matter, the major effect that U.S. adoption of the proposed code would have on U.S. valuation law would be the elimination of the ASP bases of appraisement and the more-restrictively defined valuation standards which are provided for in section 402a of the Tariff Act. It also would result in the elimination of terms such as "freely offered," "ordinary course of trade," "principal markets" and "usual wholesale quantities", which tend to complicate the determination of a customs value.

Since more than 80 percent of all customs entries in the United States are valued under the bases of section 402 1/, this section of the report will focus on U.S. valuation standards as defined in section 402 (other than ASP) in comparing the proposed valuation code with current U.S. law. Subsequent sections of this report will deal with the probable economic effect of eliminating ASP and the Final List.

1/ Based on questionnaires completed by customs import specialists at all major ports of entry, it was estimated that approximately 82 percent of all customs entries are appraised on the basis of section 402. See table 1, Appendix D.

Comparison of key elements of dutiable value

If a standard--whether positive or notional--is to serve its purpose, it must identify and define clearly the elements which describe the dutiable value intended. These elements include (1) the goods to be used as the basis for determining the customs value (e.g., the particular goods imported or identical or similar goods); (2) the time and (3) place as of which the price of those goods is to determined (e.g., the time and place of exportation or the time and place of importation); (4) the quantity and (5) transaction level which are to be considered in determining the price of those goods (e.g., the usual wholesale quantity or the quantity and transaction level which pertain to the particular goods under appraisement); and (6) the competitive conditions to be required in a transaction price used as a basis for determining the customs value (e.g., a transaction between a buyer and seller who are not related to each other). These six elements, taken together, define the value contemplated by a standard.

The table on page 43 provides a brief comparison of the proposed valuation code with the current U.S. system for each of these six elements. A close analysis of the two systems with respect to each important element of value reveals that, notwithstanding differences in terminology, the two systems are, quite similar in many respects. There follows below a discussion of each of the six elements which attempts to highlight both the similarities and the dissimilarities between the two systems.

Merchandise valued.--With respect to the merchandise valued, the primary U.S. standard, export value, bases valuation on "such or similar merchandise", which is defined as being the first applicable of the following four categories:

1) the goods under appraisement and identical goods produced by the same person;

2) identical goods produced by another person,

3) similar goods produced by the same person, and

4) similar goods produced by another person.

Although the term "such or similar merchandise" is not used in the proposed code, virtually the same hierarchy is provided for with respect to the merchandise valued. Article 1 provides for merchandise to be appraised on the basis of the transaction value of the imported goods; Article 2 bases the customs value on the transaction value of identical goods; and Article 3 is based on the value of similar goods. Finally, Article 15(2)(e) provides--

> Goods produced by a different person shall be taken into account only when there are not identical goods or similar goods, as the case may be, produced by the same person as the good being valued.

Time.--Since the value of an article being imported may vary between the time it is ordered and the time it is delivered, a time for determining value is generally specified as an element of a customs value standard. Whereas the U.S. standards specify the time of export as the material time for valuing imported merchandise, the proposed system implicitly provides for the time of the transaction, or time of contract, as the material time for valuation since the code is designed to accept the actual transaction value as the basis of value in as many instances as possible. There are several other references to time in the code, however. For example, Article 9(2) allows each party to the code to decide whether rates of exchange to be used for converting currencies should be those in effect at the time of importation or the time of exportation. Further, Articles 2 and 3 look to the transaction values of identical or similar goods "exported at or about the same time as the goods being valued" and Article 5 looks to the price of goods sold in the importing country "at or about the time of the importation of the goods being valued" in determining the customs value of imported goods.

Place.--Because the value of goods is likely to be increased by the accumulation of expenses and related costs as the imported merchandise moves from its place of production to markets in importing countries, valuation standards generally include an element specifying the place as of which the value of imported goods is to be determined. The most significant expenses associated with place are the costs of freight, insurance, and loading and unloading charges. Article 8(2) of the proposed code allows each party to provide for the inclusion in or the exclusion from the customs value of such expenses, in whole or part. The effect of this section is to give each country the option of adopting the proposed code on a c.i.f. basis (by including all such expenses in dutiable value) or an f.o.b. or other basis (by excluding such expenses, in whole or in part, from dutiable value).

All U.S. standards except American selling price have the effect of determining value as of the principal markets of the country of exportation. 1/ In effect, most U.S. imports are appraised on an f.o.b. basis. However, when it is established that a particular seller "freely offers" his merchandise for sale to the United States at the factory in the country of exportation, such merchandise may be appraised on an ex-factory basis.

While under the proposed code it would appear that the United States would be able to appraise f.o.b. transactions on an f.o.b. basis and ex-factory transactions on an ex-factory basis, f.o.b. or c.i.f. transactions could not be adjusted to an ex-factory basis (as under the U.S. "freely offered" concept) unless the United States were to appraise all transaction on an ex-factory basis.

1/ Although the U. S. value basis of appraisement specifies place as the principal wholesale market of the United States, it provides for a deduction for profits and general expenses as well as for direct charges such as transportation, commissions and duty in order to reach what is, in effect, the value in the country of exportation.

This is because the U.S. "freely offered" concept is not consistent with the transaction value concept of the proposed code.

Quantity.--Since prices may vary according to the quantity purchased, valuation standards usually specify the quantity to be considered in valuing merchandise. The primary standard under the proposed code provides for the quantity of the goods being valued to be the basis of appraisement, whereas the United States standards specify "usual wholesale quantities". Under the current U.S. system, if the quantity is less than the usual wholesale quantities, Customs will ascertain the price applicable to the usual wholesale quantities and appraise on that basis whenever the duty is materially affected. However, as a practical matter, Customs usually accepts the actual quantity of the entry since "usual wholesale quantities" is determined with respect to the exports of a particular firm. Thus, although the two systems differ conceptually with respect to quantity, in practice, the two systems are not substantially different.

It is noted that Articles 2 and 3 of the proposed code seek to use sales of identical or similar goods "at the same commercial level and in substantially the same quantity as the goods being valued" to establish the customs value. Where no such sale is found, the transaction value of identical or similar goods sold at different commercial levels and/or in different quantities may be used only if it can be adjusted on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment. No such requirement for adjustments exists in U.S. law, however, since, under the usual wholesale quantity concept, all merchandise theoretically is appraised at the price which applies to the usual wholesale quantity, regardless of the quantity or transaction level involved in the actual shipment.

Transaction level.--A specification defining the transaction level contemplated is important in establishing customs value because prices generally increase as an article passes from the manufacturer through the distributor, wholesaler, and retailer to the ultimate consumer.

Whereas U.S. standards specify that valuation is to be made at the wholesale level, which generally means sales to industrial users or wholesalers the proposed code provides for valuation to be determined on the basis of the actual transaction level. This could result in a higher appraised value for retail and other non-wholesale transactions if the United States were to adopt the proposed code. We understand, however, that in practice, most commercial entries are valued at the actual transaction level in the United States, and therefore the impact of this proposed "change" would be minimized.

As previously noted, adjustments for differences in "commercial level" are provided for under the secondary and tertiary standards of the proposed code when identical or similar goods provide the basis for appraisement.

Competitive conditions.--The conditions of competition under which transactions take place vary widely and can cause considerable differences in price. The invoice price in a given transaction, depending on the degree of competition present, may or may not reflect all of the considerations involved in the transfer of the goods from exporter to importer. Transactions that frequently include the exchange of considerations which are often not reflected in the invoice price are those between a parent company and its subsidiary and those involving patents, trademarks, and exclusive franchises.

With respect to competitive conditions, there are both similarities and dissimilarities between current U.S. law and the proposed code. Under the proposed code, the transaction price of the imported goods can only be used as a basis for determining the customs value of such goods if--

1) there are no restrictions as to the disposition or use of the goods other than those which are imposed or required by law, limit the geographical area in which the goods may be resold, or do not substantially affect the value of goods;

2) the sale or price is not subject to some condition or consideration for which a value cannot be determined;

3) part of the proceeds of any subsequent resale by the importer will not accrue directly or indirectly to the seller, unless adjustments can be made under Article 9; and

4) the buyer and seller are not related, or where the buyer and seller are related, if the transaction value is acceptable under paragraph (2) of Article 1.

With respect to the acceptance of a related-party transaction, paragraph (2) of Article 1 provides that the fact that the buyer and seller are related is not in itself grounds for not accepting the transaction value as the basis for the customs value. Rather the circumstances surrounding the sale should be examined and the transaction value accepted whenever it is demonstrated that the relationship did not influence the price. Paragraph 2(b) of Article 1 provides for the acceptance of the transaction value if the importer demonstrates that such value approximates one of the following:

i) the transaction value in sales to unrelated buyers of identical or similar goods for export to the same country of importation;

ii) the customs value of identical or similar goods as determined under the provisions of Article 5;

iii) the customs value of identical or similar goods as determined under the provisions of Article 6;

iv) the transaction value in sales to unrelated buyers for export to the same country of importation of goods which would be identical to the imported goods except for having a different country of production provided that the sellers in the two transactions are not related.

With respect to competitive conditions, U.S. law simply provides that the price of the imported goods must be a price at which the merchandise is "freely

sold or in the absence of sales, offered for sale". As defined in section 402(f) of the Tariff Act, the term "freely sold or in the absence of sales, offered for sale" requires the merchandise to be sold or 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.

The restrictions allowable under the above definition are identical to those which are allowable under Article 1(a) of the proposed code. Further, in accordance with the above definition, sales to selected purchasers, such as a related buyer, are acceptable as the basis for customs valuation in the United States if Customs determines that the price "fairly reflects market value". The prices which Customs currently looks to in making this determination are the transaction prices of identical or similar goods in sales to unrelated buyers in the United States, which is the first test enumerated in paragraph 2(b) of Article 1 of the proposed code. Finally, the current practice of the U.S. Customs Service is to reject a price as not being "freely sold or in the absence of sales, offered for sale" if the price is subject to some condition or consideration for which a value cannot be determined (similar to Article 1(b)) or if part of the proceeds of any subsequent resale by the importer accrues directly or indirectly to the seller (similar to Article 1(c)).

Notwithstanding the similarities discussed above, the proposed code appears to be more liberal in providing for acceptance of a related-party transaction for purposes of Article 1 than U.S. law is in accepting such

transactions for export value purposes. For example, tests ii, iii, and iv in paragraph 2(b) of Article 1 (which are set out above) are not acceptable tests in current U.S. law for determining whether a price to a related buyer "fairly reflects market value". The thrust of Article 1 and of the entire code seems to be to accept the transaction value whenever possible. It would therefore appear that U.S. adoption of the code would be likely to result in more frequent ultilization of the transaction price between related parties as the basis for determining the customs value of imported merchandise.

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Comparison of U.S. Value System (Section 402) With Proposed Valuation Code by Elements of Dutiable Value

Element of Dutiable Value	U.S. Value System (Section 402)	Proposed Value System
Merchandise Valued	1. Goods under appraisement and identical goods produced by same person 2. Identical goods produced by another person 3. Similar goods produced by same person 4. Similar goods produced by another person 1/	1. Goods under appraisement (Art. 1) 2. Identical goods produced by the same person (Art. 2) 3. Identical goods produced by another person (Art.2) 4. Similar goods produced by the same person (Art. 3) 5. Similar goods produced by another person (Art. 3) 1/
Time	Date of export	Date of transaction (currency conversion based on date of export or date of import, as determined by country of importation)
Place	The principal markets of the country of export (f.o.b. or ex-factory, as appropriate)	At some point in country of export (f.o.b. or ex-factory) or at the port of importation (c.i.f.) as determined by the country of importation
Quantity	Usual wholesale quantities 2/	Quantity of goods being valued
Transaction level	At the wholesale level	At the actual transaction level
Competitive conditions	Goods must have been "freely sold or in the absence of sales, offered for sale" (Sales to selected purchasers may be used as the basis of valuation if the price "fairly reflects market value".)	1. There can be no restrictions which substantially affect the value of goods; 2. Sale must not be subject to condition or consideration for which a value can't be determined; 3. Part of the proceeds of resale must not accrue directly or indirectly to the seller; 4. Buyer and seller must not be related, or if related, such relationship must not have influenced the price.

1/ These are hierarchical progressions. The first listed categories for which an acceptable value can be found would be used.

2/ That quantity in which the greatest aggregate volume of the merchandise is sold. In practice however, this usually turns out to be quantity of the goods under appraisement.

Comparison of valuation techniques

In order to ascertain the dutiable value defined by the valuation law, Customs must apply a specific valuation technique, which generally consists of two steps: first, an appropriate transaction price, cost of production, or other value is established for the merchandise to be valued; and second, the value so established is then adjusted, if necessary, by adding dutiable charges not included and subtracting non-dutiable charges in order to arrive at the value defined by the standard. The valuation technique of the proposed code is very similar in many respects to that for the current U.S. system, notwithstanding the many differences in terminology.

As previously indicated the first three bases of valuation under the proposed code (Articles 1, 2 and 3), taken together, are analogous to U.S. export value. Under both systems, the starting point is the price of the actual transaction which may be adjusted in several respects. In addition to the adjustments in charges necessary to express the price in terms of the proper place (e.g., adjust c.i.f. price to f.o.b., etc.), Article 8 of the proposed code provides for additions to the price paid or payable for the following items, to the extent that they are incurred by the buyer but are not included in the price:

i) commissions and brokerage, except buying commissions

ii) cost of containers; and

iii) cost of packing.

For the most part, all of these adjustments are made in a similar manner under U.S. valuation law. Under both the proposed code and U.S. law, additional adjustments are made to the transaction price for the cost of certain "assists"

(e.g., such as materials, components, parts, dies, molds, tooling, and printing plates when furnished free or at a reduced cost to the seller by the importer either directly or indirectly). 1/ However, the proposed code differs from current U.S. law with respect to the dutiablity of the cost of certain other assists, viz., those involving engineering, development, artwork, design work and plans and sketches. Under U.S. law these costs are unconditionally part of dutiable value; however, under the proposed code they are to be added to the price paid or payable only if they are "undertaken elsewhere than in the country of importation".

Under both the proposed code and U.S. valuation law, royalties and license fees related to the imported goods that the buyer must pay, either directly or indirectly, as a condition of the goods being valued are to be included in the dutiable value of imported goods.

Under both systems, similar adjustments are made to the transaction price of identical or similar merchandise when the price of the goods being valued cannot be used.

Article 8(1)(d) of the proposed code provides for the addition to the price paid or payable of the value of any part of the proceeds of any subsequent resale of the imported goods that accrues directly or indirectly to the seller. Although U.S. law does not have a similar provision, the accrual of any proceeds of a resale of the imported goods to the seller would probably not be considered by Customs to be "in the ordinary course of trade"; nor would the

1/ When certain adjustments (such as those for "assists") which are not specifically provided for within the definition of export value, are made to a transaction price, the basis of appraisement is technically characterized by Customs as constructed value not export value, since, as previously mentioned, a missing element of value cannot be added to "construct" an export value.

transaction price be likely to be considered "freely sold". Thus, the merchandise would not be appraised on the basis of the transaction price but would be based on the price of identical or similar merchandise, if available, or on the basis of U.S. value or constructed value.

The valuation techniques for U.S. value (section 402) and the valuation method prescribed in Article 5 are very similar. Both start with the resale price in the country of importation of the goods being appraised and provide for adjustments for commissions and/or general expenses and profit, transportation expenses, duties and other charges. The proposed code differs from the U.S. value standard however, in that Article (5)(2) permits (at the importers request) the use of this deductive valuation method for articles which have been processed in the country of importation before being sold in that country, with due allowance being made for the cost of such processing, whereas the U.S. value standard is applicable only to articles which are sold in their imported condition.

Finally, the U.S. constructed value method and the computed value method provided in Article 6 provide for the same valuation techniques. Both attempt to construct a dutiable value by adding the cost or value of materials, fabrication, profit and general expenses. The proposed code provision should be somewhat easier for Customs to administer, however, since it provides for the use of the producer's costs rather than the costs of producing "such or similar merchandise, as is the case in U.S. law.

Comparative Analysis of BDV and Proposed Valuation Code

The major difference between the BDV and the proposed valuation code is that whereas the BDV is notional in concept, with a single valuation standard

based on a price which merchandise would fetch under certain ideal conditions, the proposed code is a positive system with a primary standard based on the transaction price at which the merchandise is sold under specified conditions, and several alternative standards which are used when those conditions do not exist.

Comparison of key elements of dutiable value

Merchandise valued.--Although the BDV is a notional system, its explanatory notes recommend that the actual transaction price be accepted as the basis for valuation, 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." 1/

In practice, it appears that the transaction price of the imported merchandise is the basis for customs valuation in most cases. Frequently, it is necessary to adjust or "uplift" this base price when the circumstances of the sale do not accord with all of the elements of the BDV.

As previously indicated, the transaction value of the imported merchandise is also the primary basis of valuation under the proposed code. However, when all of the elements of the primary standard are not satisfied, it is necessary to resort to the secondary standard, which is based on the transaction price of identical merchandise. The tertiary standard, which is used when the secondary standard does not work, bases value on the transaction price of similar goods. Under both the secondary and tertiary standards merchandise produced by the person who manufactured the merchandise undergoing appraisement taken precedence over merchandise produced by anyone else.

1/ See Note 5 to Article 1 in Appendix E.

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Time.--The material time for valuing mechandise under the BDV is "the time when the duty becomes payable". Interpretative note 1 to the BDV provides that the time referred to "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". We understand that the BDV countries usually accept the actual transaction prices if there is timely delivery in due course of trade (usually interpreted as within 6 months).

The proposed code uses the date of the transaction as the material time for valuation and allows individual countries to choose between the time of exportation and the time of importation as the material time for making currency conversions.

Place.--The BDV specifies that the "normal price" should be determined on the assumption that the goods have been delivered to the buyer "at the port or place of introduction into the country of importation" and 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". Thus, it is a c.i.f. system, and any transaction which does not reflect a c.i.f. price would be adjusted by adding ocean freight and insurance and other charges to the transaction price.

Article 8(2) of the proposed code provides each signatory the option of adopting the port or place of importation as the applicable place for valuation purposes by adding loading and unloading charges, cost of transport to the place of importation, and insurance charges to the price paid or payable.

Quantity.--Both the BDV and the proposed code base valuation on the actual quantity of the merchandise in the shipment which is being appraised.

Transaction level.--Again, under both the BDV and the proposed code, most commercial entries would be valued at the actual transaction level.

Competitive conditions.--The BDV looks to a price which the imported merchandise would fetch on a sale "in the open market between buyer and seller independent of each other" as the basis for customs valuation. When the buyer and seller are related, the transaction price is adjusted (or "uplifted") to a price which, in the customs official's opinion, would have existed had the parties not been related.

As previously discussed, the proposed code calls for an examination of the circumstances surrounding a sale between related parties and the rejection of such a price unless it is demonstrated that the relationship did not influence the price. If such transaction is rejected, the valuation standard in the prescribed hierarchy for which a value can be determined, would be the basis for valuation.

Comparison of valuation techniques

The valuation technique generally employed under the BDV is to accept the actual price paid for imports as a basis for valuation and to adjust that price, when necessary, so that it reflects a sale in the open market between a buyer and a seller independent of one another.

Customs officials find little need to base valuation on anything other than transaction prices and usually accept available commercial documents for such adjustments as may be necessary with respect to time and place. The BDV specifies valuation at the price at the time the duty becomes payable. The interpretative and explanatory notes make it clear that the actual price paid usually constitutes an accurate basis for valuation. In practice, customs authorities accept this price provided there is timely delivery in due course of trade and there has been no abnormal fluctuation between the price actually paid and the price at the time the duty becomes payable.

Problems common to any valuation system based upon open market transactions confront customs officials in placing a value on imports not freely offered to all buyers and transactions between related parties. Nevertheless, the techniques used under the BDV enable customs authorities to use transaction prices, either with or or without adjustments, for most importations of this nature. For example, the customs officer may make upward adjustments for services, such as advertising or repairs made under a warranty, performed by a selected purchaser for the benefit of the exporter.

If a transaction between related parties is suspect, customs officials usually use what is popularly described as the subtractive or deductive method of looking to the expected realization from sales in the market of the importing country, less duty, value added by further processing, marketing costs, and profits, to determine if the invoice price may reasonably be accepted as a basis for valuation. If this method indicates the invoice price is too low, a compensating adjustment or uplift may be applied to make it acceptable. The value of comparable goods may also be used to determine whether an uplift should be applied to a price between related parties.

Customs officials seldom use expected realization or prices of comparable goods except as benchmarks to test the authenticity of the invoice price, so that the reasons for any differences can be identified and appropriate adjustments applied.

Most countries using the BDV encourage consultation between importers and customs officials to resolve disagreements. Consultation enables importers and Customs to reach a common understanding of the facts of the case and sometimes to arrive at a mutually acceptable compromise. Consultation most frequently concerns the problems of uplift.

In practice, most uplifts are calculated for specific products of specific importers. Once calculated, they are then automatically applied to subsequent importations of that product by that importer until either Customs or the importer seeks a change through further consultation.

Thus, although the BDV and the proposed valuation code differ greatly in concept, there are some similarities in valuation technique between the two in that they both look primarily to the transaction price of the imported goods as the basis of valuation and then make appropriate adjustments to that price. However, the proposed code, requires strict adherence to the hierarchy of valuation standards (Articles 2-7) when the actual transaction price cannot be used, whereas the BDV allows a great deal of flexibility and arbitrariness in determining the customs value, and places a heavy emphasis on customs/importer consultations.

Comparative Analyis of Canadian Valuation System and Proposed Valuation Code

Of the three current valuation systems which have been discussed (i.e., the U.S. system, the BDV and the Canadian system), the Canadian system is the most dissimilar to the proposed code in that it bases valuation for most importations on the "fair market value" (the price of like goods for home consumption in the country of exportation) rather than on the transaction value of the imported goods, which is the primary basis for valuation under the proposed code, the U.S. system, and the BDV.

The Canadian system uses the time of exportation and the place from which the goods were shipped directly to Canada (f.o.b.)in determining dutiable value. As previously discussed, the proposed code provides each importing country with the option of utilizing either the place of importation or the place of

exportation but uses the time of the contract for valuation purposes. As a practical matter, however, the price seldom varies between the date of the contract and the date the merchandise is exported.

Both the Canadian system and the proposed code base valuation on the actual quantity and transaction level of the imported goods. Whereas the Canadian system requires that the "fair market value" be a price at which the goods are sold in the ordinary course of trade to persons "not controlled by or in control of or otherwise related to the purchaser", the proposed code would allow transactions between related parties to be used as the basis for valuation if it could be demonstrated that such relationship did not influence the transaction price.

The valuation technique utilized under the Canadian valuation system differs greatly from that of the proposed code since, as previously indicated, it relies principally on prices for domestic consumption in the exporting country rather than on the import transaction price as the basis of valuation. Thus, it is necessary for Canadian customs to make numerous inquiries to ascertain foreign market prices under the Canadian system. When foreign values cannot be determined for some reason, the Canadian system looks to the cost of production of the imported article plus the profit of similar goods as the basis for valuation. This valuation method also requires Canadian customs officials to gather information with respect to foreign costs and prices. The proposed valuation code, on the other hand, allows Customs to determine the dutiable value for most importations on the basis of information which is available in the country of importation.

PART 4. THE PROPOSED VALUATION CODE AS AN INTERNATIONAL STANDARD

In April 1971, the Senate Finance Commmittee and its Subcommittee on International Trade asked the Commission to undertake a study of the customs valuation procedures of foreign countries and those of the United States with a view to developing and suggesting uniform standards of customs valuation which would operate fairly among all classes of shippers in international trade. After studying the valuation principles set forth in the GATT, the European Customs Union Study Group, and the principles and procedures of foreign countries and the United States, the Commission enunciated seven basic principles which a uniform standard of customs valuation should satisfy. They are--

1. Fairness to all classes of shippers in international trade;
2. Consistency with commercial practice;
3. Simplicity;
4. Precision;
5. Predictability of results;
6. Ready availability of needed information to importers and Customs;
7. Provision for equitable review procedures.

The Commission supports the concept of a transaction-value-based international valuation code and notes that the preamble to the proposed code enumerates certain principles of valuation which fully comply with and support the Commission's seven basic principles of customs valuation. However, the Commission questions whether the proposed code could constitute a <u>uniform</u> international standard of customs valuation when the question of place (that is, c.i.f. as opposed to f.o.b.) is left to the discretion of individual countries. In this regard, we note that the comments received on this issue by the Commission during its 1978 investigation on customs valuation for STR (Investigation No. 332-98) favored the use of the f.o.b. basis.

Part 5. PROBABLE ECONOMIC EFFECT OF ADOPTION OF THE PROPOSED VALUATION CODE ON IMPORTS AND ON DOMESTIC INDUSTRY

Overall Probable Economic Effect of Adopting the Proposed Code

The proposed valuation code would allow each signatory to decide whether to adopt the code on an f.o.b. or a c.i.f. basis. Since most U.S. imports are currently appraised on an f.o.b. basis, 1/ it has been assumed, for the purpose of analyzing the overall probable economic effect of adopting the code and identifying import-sensitive industries particularly affected by its adoption, that the United States, should it decide to adopt the code, would continue its current practice in this regard. A subsequent section of this report addresses the probable economic effect of U.S. adoption of the proposed code on a c.i.f. basis.

In view of the fact that the methods of valuation provided for in Part I of the proposed code are similar in many respects to the current U.S. standards of export value, U.S. value and constructed value as defined by section 402 of the Tariff Act, 2/ the primary practical effect of U.S. adoption of the code would be the elimination of the ASP bases of appraisement and the methods of appraisement provided for in section 402a of the Tariff Act, the most noteworthy of which is foreign value. 3/ Since less than 5 percent of current U.S. customs entries are appraised on the basis of ASP or foreign value, 4/ it is the Commission's judgment that viewed on an overall basis the probable economic effect of U.S. adoption of the proposed code would be minimal. U.S. Customs

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1/ Some imports are appraised on an ex-factory basis.

2/ See "Comparative Analysis of U.S. Valuation System and Proposed Valuation Code" on page 34 of this report.

3/ The other bases of appraisement provided for in section 402a of the Tariff Act are export value, U.S. value and cost of production which are similar to export value, U.S. value and constructed value as defined by section 402 of the Tariff Act.

4/ See Table 1, Appendix D.

accepted the invoice or transaction price of the imported goods in nearly 70 percent of its entries in 1977, 1/ and this practice would be likely to continue, or even increase, under the proposed code.

It is not expected that an increase in the use of the transaction price as the basis for valuation would have a significant effect on dutiable values, however, since Article 1 of the proposed codes provides for a number of adjustments to be made to the transaction price which are not allowed to be made under export value in U.S. law. After such adjustments are made, it is very likely that the customs value under Article 1 of the proposed code would approximate what the customs value would have been using constructed value in current U.S. law for most such transactions.

Although the overall economic effect of U.S. adoption of the proposed code would be minimal, there are certain articles, especially those currently appraised on the basis of ASP or foreign value, which as a result of U.S. adoption of the proposed code would be likely to experience a dramatic decline in their dutiable value. The following section of this report addresses the probable economic effect that U.S. adoption of the proposed code would be likely to have on industries producing and/or importing such articles.

Import-Sensitive Industries Affected by U.S. Adoption of the Proposed Valuation System

As stated previously, only articles currently appraised on the basis of ASP or foreign value would be significantly affected by U.S. adoption of the proposed valuation system. The Commission has determined that only the benzenoid chemical, footwear, and canned clam industries protected by the American selling price bases of valuation and the ball bearing and tire industries

1/ See Table 1, Appendix D.

currently protected by the foreign-value basis of valuation would be significantly affected by adoption of the proposed valuation code.

In order to minimize or perhaps even eliminate the adverse impact of the adoption of the proposed valuation code on industries producing articles which compete with imported articles subject to ASP and those on the Final List, STR asked the Commission to prepare a schedule of converted rates of duty which would have provided an amount of duty on imports of the affected products during a recent representative period substantially equivalent to the amount collected on articles subject to the ASP system and on articles on the Final List. The Commission transmitted a schedule of converted rates to STR in June 1978; a copy of that schedule is attached in Appendix G. We understand that, with certain modifications, the Commission's schedule of converted rates has been used by STR as the basis for U.S. offers of tariff reductions in the MTN. The affected import commodities, the affected U.S. industries, and the proposed converted tariff rates are given detailed consideration in the following sections of this report.

Effect on articles currently appraised on the basis of American selling price

The American selling price method of customs valuation was devised as a means of providing additional tariff protection for selected U.S. industries not adequately protected by existing tariff rates. Under the ASP method of appraisement the rate of duty for a particular imported article is applied to the value of a U.S.-produced article like or similar to, or competitive with, the imported article, regardless of the actual transaction value of the imported product. The result is a flexible, dynamic tariff system under which articles that are competitive with U.S. products may be assessed duties several times higher than that assessed on other articles classified in the same tariff provision, but for which there are no competitive U.S. products.

The articles currently subject to duty under the ASP bases of valuation are benzenoid chemicals, certain plastic- or rubber-soled footwear with fabric uppers, certain canned clams, and wool knit gloves and mittens valued not over $1.75 per dozen pairs.

The use of ASP as a basis for customs valuation of imported goods was established by the Tariff Act of 1922. In that act, coal-tar products (which are included within the meaning of the term "benzenoid chemicals and products") were identified as being subject to American selling price appraisement, as defined in section 402(f) of the act. The Tariff Act of 1922 also gave the President of the United States the power to proclaim additional articles subject to ASP valuation, in order to equalize cost of production differences between foreign and domestic goods. This authority was continued under section 336 of the Tariff Act of 1930, and during the 1930's Presidential proclamations providing for ASP appraisement were issued for footwear (1933), canned clams (1934), and wool knit gloves (1936) as a result of Commission investigations conducted under that section. There have been no additions 1/ since the 1930's. Protective rubber footwear (TSUS items 700.51, 700.52, and 700.53) was made dutiable at rates converted from ASP valuation in 1965 2/.

Degree of equivalency of protection achieved by the converted rates.— Although no converted rates of duty could be devised which would provide protection "equivalent" to that afforded by the ASP system, the converted rates of duty provide a substantially equivalent degree of protection on an overall basis

1/ In January 1962, the Commission, after investigation, reported to the President that it was necessary under section 336, Tariff Act of 1930, to apply ASP valuation to brooms of broom corn. In February 1963, the President disagreed. Subsequently, increased protection was enacted in the form of a tariff-rate quota (TSUS items 750.26-.33). Pub. L. 89-241, sec. 78, approved October 7, 1965; 79 Stat. 948.

2/ Pub. L. 89-241, sec. 57, approved October 7, 1965; 79 Stat. 945.

for the domestic industries producing articles like or similar to those currently receiving ASP treatment.

A unique feature of the ASP system of valuation is that the appraised value is based on the American selling price of a competitive domestic product irrespective of the actual transaction value. Under conventional methods of valuation the appraisal is based on the transaction value or an approximation thereof. Thus, the ASP system in effect permits the U.S. producer to set the value on which his competitor's (the importer's) products will be appraised and gives to the domestic industry the opportunity to achieve a duty increase by merely going into competition with the imported product. In addition, the amount of duty collected automatically responds to price changes by U.S. producers. Contrary to conventional methods of valuation, under the ASP system a change in the export price by a foreign supplier has no effect on the duty. Any change to a basis of valuation other than the ASP system eliminates these key features and thus lessens the degree of protection.

The converted rates represent the Commission's best effort to determine rates of duty applicable to products subject to ASP valuation which, in the absence of the ASP system, would have provided an amount of revenue equivalent to that collected in a recent representative period on the basis of the ASP system. Every effort was made to recognize products significant in trade and to segregate products within residual groupings where there was a significant difference in applicable rates of duty. Where appropriate, competitive and noncompetitive products, as defined by 1976 imports, were segregated. This, of course, resulted in a large increase in the number of products named and a substantial increase in the number of rate provisions.

It should, however, be remembered that the degree of protection achieved by the converted rates will differ from the present level of protection since (1) no matter what base period is chosen, whether it be any 1 year or any series of years, no future period will ever be exactly the same, especially in the mix and unit prices of imports, and (2) the combination of various chemical compounds in "basket" classes necessarily involved balancing increases and decreases, of varying degree, in the equivalent converted rates of individual compounds.

Benzenoid chemicals.--The benzenoid chemicals and products subject to ASP provisions are certain cyclic organic chemicals and products having a benzenoid, quinoid, or modified benzenoid structure, as well as certain cyclic and acyclic chemicals and products which are obtained, derived, or manufactured in whole or in part from cyclic products having a benzenoid, quinoid, or modified benzenoid structure. Benzenoid chemical crudes, benzenoid elastomers, and most benzenoid chemicals produced from naturally occurring animal or vegetable products are not subject to the ASP provisions.

Chemicals provided for in schedule 4, part 1, subpart B of the TSUS consist chiefly of benzenoid intermediates and small quantities of acyclic compounds which are derived in whole or in part from benzenoid compounds. The intermediates are benzenoid chemicals that have progressed only part way in the manufacturing process toward finished products. Derived from coal tar and petroleum crudes (which enter free of duty under schedule 4, part 1, subpart A of the TSUS), they are generally used to make more advanced products. Small quantities of finished products, such as rubber-processing chemicals and mixtures containing a benzenoid product, are included under subpart B.

The chemicals provided for in schedule 4, part 1, subpart C of the TSUS are finished benzenoid products derived chiefly from benzenoid crudes and

intermediates. They include such products as dyes, azoic dye components, synthetic organic pigments, medicinals and pharmaceuticals, flavor and perfume materials, synthetic resins, photographic chemicals, and synthetic tanning materials. Other groups of finished benzenoid products included in this subpart are the fast color bases, fast color salts, Naphthol AS and derivatives, pesticides, and textile assistants.

U.S. production and sales of benzenoid chemicals.--In 1976 output of benzenoid chemicals and products subject to the American selling price bases of valuation (when imported) totaled 48.3 billion pounds; sales totaled 24.3 billion pounds, valued at $10.3 billion (see Appendix D, table 2). This output was 27 percent above 1969 when production of these benzenoid chemicals and products amounted to 38.1 billion pounds and sales to 17.9 billion pounds, valued at $4.5 billion. Sales of all synthetic organic chemicals and products in 1976 totaled an estimated $34 billion. Thus sales in 1976 of benzenoid chemicals and chemical products subject to the American selling price method of valuation (when imported) were equivalent to about one-third of the value of sales of all synthetic organic chemicals.

Domestic producers.--In 1976 there were about 250 domestic producers of benzenoid chemicals and products. They ranged in size from very large, highly diversified manufacturers to very small single-product producers. Several dozen of the very large producers with broad product lines produced almost all of the principal benzenoid product groupings; many of these have plants abroad and also manufacture other chemicals as well as nonchemical products. More than a hundred medium-to-large sized firms--less diversified than the foregoing--produce a more limited number of benzenoid products. Some of these are subsidiaries of large holding companies, conglomerates, or subsidiaries of large foreign producers.

About 100 concerns are small to very small in size and usually produce a small number of specialized products. For some of these, benzenoid chemicals and products are an important, and often a major source of income. Some of the medium-sized firms have production facilities abroad. Few, if any, of the small-sized producers have plants or capacity abroad, although some of these producers are sole sales agents for foreign chemical producers.

Employment.--It is estimated that in 1976 employment in the domestic benzenoid chemical industry was about 140,000, or 25 percent higher than in 1964, the last year for which data are available. Surveys by trade associations of certain segments of the benzenoid chemical industry in 1977 and 1978 accounted for 57,406 employees, as follows: dyes, 13,171; organic pigments, 5,235; and industrial organic chemicals (benzenoid intermediates) 39,000. According to the surveys, employment in the Northeastern states of Connecticut, Delaware, Massachusetts, New Jersey, New York, Pennsylvania and Rhode Island as a percentage of the total was, as follows: dyes, 66 percent; pigments, 55 percent; and intermediates, 31 percent. The Southern and Southwestern states and Puerto Rico accounted for 43 percent of employment in the production of benzenoid intermediates, and 31 percent of employment in the production of dyes. In 1964, an employment survey by the Commission among producers of benzenoid chemicals subject to the American selling price bases of appraisement counted about 111,500 employees. The following categories accounted for three-fourths of the total 1964 employment by such producers: plastics and resin materials (29,700 employees); intermediates (20,300); medicinal chemicals (15,000); and dyes (9,300). Output of benzenoid chemicals in 1964 was reported in 42 states, with New Jersey, Texas, New York, West Virginia, Pennsylvania, and Michigan being the largest employers.

Exports.--U.S. exports 1/ of benzenoid chemicals greatly exceed imports and are estimated to have increased to $1,955.7 million in 1976 from $713 million in 1969 (see Appendix D, tables 3 and 4). About one-half of the exports in 1976 were benzenoid industrial chemicals and the remainder bulk and compounded finished organic chemical products.

Approximately 40 percent of the exports of benzenoid industrial chemicals in 1976 went to the Netherlands, Canada, Mexico and Brazil. The principal products exported were styrene, lube oil additives, toluene diisocyanates, rubber-processing chemicals, detergent alkylates, and cyclohexane.

The principal markets for large volume finished benzenoid products in 1976 were as follows: dyes, Canada, Belgium, the United Kingdom, and Hong Kong; medicinals, Canada, Switzerland, Japan and Spain; plastics and resins, Canada, the Netherlands, Japan, and Brazil; and pesticides, Canada, Belgium, Switzerland, and Brazil.

Imports.--Imports of benzenoid chemicals and products dutiable under the ASP provisions, although small compared with exports, have increased sharply during 1969-76. They totaled $218 million in 1969, $509 million in 1973, and $848 million in 1976 (see Appendix D, tables 3 and 4). In 1976, about 500 companies imported benzenoid chemicals and products. Imports by 27 of these companies, subsidiaries of foreign manufacturers, accounted for 82 percent of the invoice value of organic pigments, 78 percent of the value of all dyes, 33 percent of the value of industrial organic chemicals, and 14 percent of the value of all medicinals and pharmaceuticals. In 1976, about a third of the imports were industrial organic chemicals and the remainder finished organic chemicals, including mixtures and formulations.

1/ Export statistics on benzenoid chemicals and products are not strictly comparable with the data on production and sales since exports include sizable amounts (some estimates are as high as 30-40 percent) of mixtures and preparations containing only small amounts of the active ingredient.

Proportion of imports subject to ASP, U.S. value, and other valuation bases, and year-to-year changes in the product mix of imports.--The following tabulation shows the imports of benzenoid intermediates (TSUS schedule 4, part 1, subpart B) and of finished benzenoid products (TSUS schedule 4, part 1, subpart C) imported in 1976 by competitive status. Approximately 78 percent of the intermediates and 56 percent of the finished products were imported as "competitive;" that is, the duty was assessed on the American selling price bases of valuation.

Status	TSUS schedule 4, Part 1, subpart B		TSUS schedule 4, Part 1, subpart C		Total	
	Foreign invoice value	Percent of total	Foreign invoice value	Percent of total	Foreign invoice value	Percent of Total
	1,000 dollars		1,000 dollars		1,000 dollars	
Competitive (duty based on ASP)	142,575	78	171,124	56	313,699	64
Noncompetitive (duty based on U.S. value)	23,302	13	62,426	20	85,728	17
Noncompetitive (duty based on foreign or export value)	12,393	7	69,236	22	81,629	17
Competitive status not available	3,801	2	7,153	2	10,954	2
Total	182,071	100	309,939	100	492,010	100

Changes from 1 year to another in the mix of benzenoid products imported have been substantial. For example, comparison of the Commission report on

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Imports of Benzenoid Chemicals and Products for 1974 with that for 1973 reveals that 496 new items (i.e., benzenoid chemical imports which had not previously been reported by the Commission) were added and 342 former import items were deleted. In 1975, 421 new items were added, but 826 items reported in 1974 were not in the 1975 report. In 1976, there was a net gain of 202 in the number of items imported, compared with 1975. New items added to the 1976 report amounted to 223.

Probable economic effect.--Adoption of the proposed code in conjunction with the converted rates should have no appreciable effect on total imports of benzenoid chemicals and products or on domestic industries producing like or directly competitive chemicals or products.

Footwear.--Footwear classified under TSUS item 700.60 is subject to valuation under the ASP method of appraisement. Most of the footwear classified under that item has uppers of fabric and soles of rubber or plastics. However, item 700.60 also includes footwear having uppers of fabric and plastics in which less than 90 percent of the exterior surface area of the upper is rubber or plastics. Included in this provision is footwear commonly referred to as sneakers (also known as tennis shoes or basketball shoes) as well as certain athletic shoes, joggers, casual shoes designed for leisure, street, or beachwear, slippers, sandals, and boots such as snowmobile and fishing boots.

Footwear classified in item 700.60 for which Customs finds no qualified like or similar domestic product is subject to valuation generally on the basis of export value. With respect to imports of footwear subject to ASP valuation, during 1976 and the first 6 months of 1977, sneakers accounted for about 93 percent (by quantity), joggers and athletic footwear accounted for 4 percent, while slippers and casual shoes accounted for the remaining 3 percent. During

the same period, slippers and other casual shoes accounted for about 60 percent (by quantity) of the total non-ASP imports classified in item 700.60; sneakers and boots each accounting for about 15 percent with joggers accounting for the remainder.

U.S. consumption.--U.S. consumption of footwear with uppers of fabric and soles of rubber or plastics (production of footwear with soles vulcanized or injection molded to fabric uppers reported under Standard Industrial Classification (SIC) No. 3021 plus all imports entered under TSUS item 700.60) fluctuated during the period 1973-77. Consumption ranged from a peak of 231 million pairs in 1976, principally because of the significant increase in imports that year, to a low of 190 million pairs in 1977, when both production and imports declined. Imports as a percentage of consumption ranged from 31 percent in 1974 to 56 percent in 1977.

U.S. production and producers.--Domestic production of footwear "like or similar" to that entered under TSUS item 700.60 and valued on the ASP basis of valuation is produced principally by the rubber and plastics footwear industry (SIC No. 3021), which includes establishments "primarily engaged in manufacturing all rubber and plastics footwear, waterproof fabric-upper footwear, and other fabric-upper footwear having rubber or plastic soles vulcanized to the uppers." Production of certain footwear having uppers of fabric and injection-molded soles are also reported in this SIC number. Such footwear consists of sneakers, joggers, other athletic footwear, protective boots and some casual footwear. Slippers, sandals, espadrilles, and other casual shoes are produced primarily by the nonrubber footwear industry (SIC Nos. 3142-3149).

Production of footwear which is like or similar to that entered under item 700.60 has been on a downward trend during the past decade. During the years

1974-77, production of such footwear dropped sharply from 147 million pairs to an estimated 84 million pairs--or by 43 percent. During this same period, production of nonrubber footwear declined by 15 percent. The value of shipments of such footwear reported in 1976 was $360 million. Data on production of such footwear, imports for consumption entered under item 700.60, and apparent consumption during 1973-77 are shown in the following table.

Year	Production 1/	Imports 2/	Apparent consumption 3/	Ratio of imports to consumption
	1,000 pairs	1,000 pairs	1,000 pairs	Percent
1973	143,077	66,291	209,368	32
1974	146,500	67,222	213,772	31
1975	131,155	74,107	205,262	36
1976	115,354	115,355	230,709	50
1977	89,051	106,012	189,630	56

1/ Complied from data reported in SIC No. 3021.
2/ Imports entered under item 700.60.
3/ Production plus imports without an allowance for exports, which are negligible.

Currently, about 45 plants, located principally in the Northeast and South, produce footwear similar to that provided for in item 700.60 compared with an estimated 50 in 1973. Six firms are believed to account for about one-half to two-thirds of annual output. The average number of workers producing such footwear is estimated to have dropped from about 20,000 in 1973 to 15,000 in 1977. The decline has continued in 1978. Domestic shipments for 1975 and 1976 are shown in the following table.

Domestic shipments of footwear having uppers of fabric and soles of rubber or plastics (SIC No. 3021) by types, 1975-76

Year and type	U.S. shipments		Average
	Quantity	Value	Unit value
	1,000 pairs	1,000 dollars	Per pair
1975:			
Men's	41,722	138,141	$3.31
Youth's and boys'	36,517	103,866	2.84
Women's and misses'	30,330	77,282	2.55
All other	24,307	49,662	2.04
Total	132,876	368,945	2.78
1976:			
Men's	35,320	137,202	3.88
Youth's and boys'	37,885	104,596	2.76
Women's and misses'	28,938	82,412	2.85
All other	17,628	35,638	2.02
Total	119,771	359,848	3.00

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

U.S. imports and importers.--Total annual U.S. imports of footwear classified under TSUS item 700.60 increased from 66.3 million pairs in 1973 to a peak of 115.4 million pairs in 1976, then declined to 106 million pairs in 1977. During the 1973-77 period the peak amount reached was in 1976, when imports were 74 percent higher than in 1973; the 1977 total was 60 percent higher than in 1973. Based on data collected from customs import documents, two importers (Mitsubishi International Corp. and Morse Shoes) accounted for about two-thirds of the total imports entered in 1976, which were appraised on the basis of ASP.

In recent years, Taiwan and the Republic of Korea have been the principal suppliers of footwear under item 700.60. In 1977, Taiwan accounted for about 60 percent of the total pairs imported, and Korea, about 25 percent.

Imports from these two countries rose steadily during the 1970's, while imports from Japan, a major supplier in the early 1970's trended downward.

Tables 5 through 7 in Appendix D show quantity, f.a.s. value, 1/ and average unit value of footwear imports under item 700.60, by country of origin for the years 1975-77. Table 5 shows total imports under item 700.60, table 6 shows imports under item 700.60 which are subject to ASP and table 7 shows item 700.60 imports which are not subject to ASP. Table 8 in Appendix D shows U.S. imports for consumption of footwear with uppers of fabric and soles of rubber or plastics by TSUSA item number for the years 1973-77.

Ratios of imports subject to ASP and those not subject to ASP to total imports.--U.S. imports of footwear dutiable on the ASP basis under item 700.60 fluctuated during the 1970's. During the 1973-77 period, annual imports ranged from a low of 24 million pairs in both 1973 and 1977 to a peak of 32 million pairs in 1976.

U.S. imports of footwear subject to ASP and those not subject to ASP, 1973-77

Year	Dutiable on ASP basis	Not dutiable on ASP basis	Total	Ratio of imports to total-- Dutiable on ASP basis	Not dutiable on ASP basis	Total
	1,000 pairs	1,000 pairs	1,000 pairs	Percent	Percent	Percent
1973------	24,184	42,107	66,291	36	64	100
1974------	26,266	41,356	67,222	39	61	100
1975------	23,607	50,500	74,107	32	68	100
1976------	31,941	83,414	115,355	28	72	100
1977------	24,165	84,846	106,012	23	77	100

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

Note. --Figures may not add to the totals shown because of rounding.

1/ The f.a.s. value represents the transaction value of imports at the foreign port of exportation.

The ratio of ASP-valued imports to all imports entered under item 700.60 has trended downward during the 1973-77 period--from 39 percent in 1974 to 23 percent in 1977.

Korea and Taiwan were the principal sources of footwear dutiable on the ASP basis in recent years; in 1977, Korea supplied about 55 percent and Taiwan about 40 percent of ASP footwear.

U.S. imports of footwear entered under item 700.60 and determined by Customs not to be like or similar to domestic footwear (non-ASP footwear, have increased substantially since the early 1970's. During the period 1973-77, imports more than doubled--from 42 million pairs to 82 million pairs. Imports of non-ASP footwear increased from 64 percent of total imports entered under item 700.60 in 1973 to 77 percent in 1977.

Commission proposed converted rates of duty.--In its June 1978 report to the Special Trade Representative on investigation No. 332-98, the Commission provided converted rates of duty for footwear classified in item 700.60 which would have provided an amount of revenue substantially equivalent to the revenue which was collected during a recent representative period assuming the absence of the applicability of the ASP method of valuation and the adoption of a proposed valuation code similar to the code now under consideration.

In determining the converted rates the Commission used summary documents obtained from the U.S. Customs Service covering liquidated entries of 9.2 million pairs of footwear entered during 1976 and 4.6 million pairs entered during the first 6 months of 1977. The 1976 entries reflect shipments from Korea and Taiwan that entered through the ports of New York and Boston. These entries represented approximately 29 percent of all ASP footwear entries during 1976. The 1977 data represented ASP footwear shipments from all countries

entering the ports of Seattle, New York and Boston and comprise 30 percent of all ASP entries during the first 6 months of 1977.

The nomenclature and converted rates of duty proposed in the Commission's June 1978 report are set out on the following page.

Sp	Item		Articles	Current Column 1 Rate	Proposed Converted Rate
			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):]		
			***		
			Other footwear (except footwear having uppers of which over 50 percent of the exter surface area is leather):		
			[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:		
			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:		
		A	Footwear other than in American men's size 6 and larger or in American women's size 4 or larger; footwear having uppers extending above the ankle of which that part which extends above the ankle is wholly or almost wholly of woven fabric of man-made fibers, whether or not coated or filled with rubber or plastic material.....	20% ad val.	20% ad val.
		B	Other.....	20% ad val.	48% ad val.
			Other:		
		C	Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles, the foregoing except footwear having a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper.....	20% ad val.	20% ad val.
		D	Other.....	20% ad val.	48% ad val.

Bracketed language is included to assist in the understanding of the proposed provisions.

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The proposed nomenclature and rates of duty were determined by dividing TSUS item 700.60 into four subclasses identified as A, B, C, and D. Class A with a proposed rate of 20 percent ad valorem provides for protective footwear which has been found by Customs to be not like or similar to articles produced in the United States and therefore not subject to valuation based on ASP. This category contains children's boots and certain boots with fabric uppers known as snowmobile boots. Class B provides for boots and other protective footwear subject to ASP valuation at the average converted rate of 48 percent ad valorem. Class B is intended, in part, to cover certain boots classified under TSUS item 700.60 which would have been classified under TSUS item 700.53 had they not been modified by adding 10 percent or more fiber to the upper (such as a nylon strip or collar). The column 1 duty rate for TSUS item 700.53 is 37.5 percent ad valorem, while the column 1 rate of duty for TSUS item 700.60 is 20 percent ad valorem. In October, 1975, Customs ruled that such boots, if entered under TSUS item 700.60 would be considered like or similar to American-made boots (whether or not the American boots had 10 percent or more fiber in the uppers) and subject to duty on the basis of ASP. As a result of this ruling, the practice of modifying boots to make them classifiable under TSUS item 700.60 ended. During the hearing on investigation 332-98, domestic producers stated that the preliminary proposed converted rate of duty of 20 percent ad valorem for these boots would encourage this practice to resume. Therefore, class B was established at the converted rate of 48 percent ad valorem to provide for this type of footwear.

Class C, with a rate of 20 percent ad valorem, provides for footwear which has been appraised either entirely on a non-ASP basis or footwear for which the ratio of ASP entries to non-ASP entries was extremely low. Such items include

sandals, slippers, espadrilles, and other casual footwear. Two percent of all entries of class C footwear were valued on the basis of ASP. The converted duty rate for those entries valued on the basis of ASP was 49 percent. However, when averaged with the 98 percent non-ASP class C entries, the proposed converted rate for this group remains 20 percent.

Class D provides for all other footwear classified in item 700.60. The converted rate of 48 percent ad valorem was largely determined by the high volume of trade in sneakers entered during the period used for determining the converted rate. Sneakers represented 93 percent of all ASP entries in this class. Class D also provides for other types of footwear such as joggers, certain athletic footwear and certain laced casual footwear.

Recent developments concerning ASP.--As noted above the Commission's proposed converted rates of duty were based on liquidated entries made during 1976 and the first 6 months of 1977. Since that time a number of changes have taken place with respect to ASP footwear which bear mentioning. Until the latter part of 1977, over 90 percent of the ASP entries under TSUS item 700.60 were sneakers. Sneakers are produced in the United States primarily by the rubber footwear industry and represent the great majority of that industry's footwear production. Approximately 45 plants produce rubber footwear with six firms accounting for about one-half to two-thirds of the annual output. Thus, there is a relatively small group of producers with a specific concentrated interest in sneakers. Consequently, a consistant and vigorous effort has been maintained to have American production of sneakers certified as like or similar to imported sneakers and, therefore, most imports of such footwear are dutiable on the basis of ASP.

However, until the second half of 1977, no comparable effort had been made by the producers of casual footwear (proposed class C). These items are produced by the nonrubber footwear industry as well as the rubber footwear industry and in most cases there is no single item which has the same importance to its producers as do sneakers to the rubber footwear producers. 1/ Therefore, most producers of class C footwear did not go through the process of getting their products certified . Also many of the items, especially in women's footwear, are fashion items whose success depends more on style appeal than competitive pricing with imports. In addition, many of these items often have a one season lifetime in contrast to the staple nature of sneakers. Thus, as of mid-1977 most imported sneakers were valued on the basis of ASP, but only about 2 percent of imports of slippers, boots, sandals, and other casual shoes were so valued.

Although data are not available to document the changes that have taken place during 1978, industry sources as well as customs officials indicate that a significant increase in ASP coverage is taking place in both proposed class C and class D footwear.

In addition to increasing the number of styles of imported footwear subject to ASP appraisal, domestic producers have been successful in having higher priced domestically produced footwear certified as like or similar, thus increasing the dutiable value of imports.

Changes in appraisement determination.--Another recent development affecting ASP valuation that is not reflected in the conversion base period data is a major change in appraisement determinations of certain types of athletic

1/ A significant exception exists in the case of slippers. This sub-industry with shipments of $175 million in 1974 is concentrated primarily in 10 producers. Slippers are either the major product or an extremely important one for each of these producers. Employment in slipper production is estimated at 8,500 persons in 1974.

footwear entering the United States under TSUS item 700.60. Athletic footwear has traditionally consisted of low-cut sneakers known as tennis oxfords and certain specialized footwear such as basketball shoes, spiked baseball and track shoes, football shoes, etc. However, approximately 10 years ago an increase in interest developed in the United States for specialized, high-quality athletic footwear primarily designed for track and field competition. By the early 1970's, use of this type of footwear had spread beyond the market of competitive athletics, and they were being worn for jogging, other sports, and as casual street wear. This increase in popularity was due to their comfort, styling, quality and prestige value. Consequently, although this type of footwear (generally referred to as joggers) was usually more expensive than the footwear it superceded, a rapidly growing market developed. This market was served primarily by certain domestic producers, such as New Balance, Brooks and Etonic who specialized in this type of footwear and by imports. The domestic rubber footwear manufacturers did not make a strong consistent entry into this market until 1977 and consequently did not benefit to nearly the same degree from the rapidly growing "jogger" market. Joggers are now available from imported and domestic sources in a wide range of quality, styles, and prices and in every type of retail outlet.

Imported joggers are classified in the TSUS according to the materials used in the uppers. Joggers with uppers of over 50 percent leather enter under various leather footwear provisions. The balance of the joggers which have uppers of fiber or fiber combined with leather or plastics enter under TSUS item 700.60.

During the conversion base period used in determining the Commission's proposed converted duty rates, approximately 24 percent of the joggers imported into the United States were valued on the basis of ASP, and the average rate of duty on these entries was 33 percent. Their average unit value (foreign invoice value) was $2.64. During that period and until November 1977, only one domestic producer (who specializes in lower and popular priced footwear) had its jogger-type footwear certified to establish American selling prices for like or similar imports. Consequently, the majority of imported joggers were not dutiable on the basis of ASP because of differences in quality, features, styling, and price. Since November 1977, however, seven additional producers of joggers have had their products certified to establish American selling prices. Enough domestic jogger styles are now certified so that almost all imported joggers are likely to be valued on the basis of ASP. An examination of unliquidated entries of 1 million pairs of joggers made during April 1978 shows that 85 percent of these entries are likely to be valued on the basis of ASP with a converted rate of approximately 41 percent.

Further, implementation of new administrative regulations in August 1976 has made it easier for importers and producers to challenge ASP determinations and consequently to have them changed. Prior to this change, ASP determinations were not formally made public and finding out about such determinations was difficult. The current regulations enable importers and producers to promptly learn about determinations and file their appeals. Since the great majority of the appeals are filed by producers, the greater number of ASP determination changes have resulted in increased ASP coverage.

Proposed U.S. offer.--The actual U.S. tariff offer with respect to footwear differs from that provided by the Commission to STR. The U.S. proposal provides for the following nomenclature and rates of duty.

Tariff item number	Description of products	Offer rate	Rate of duty Jan. 1, 1978
	Footwear (whether or not described elsewhere in this unit) (con.):		
	Other footwear (con.):		
	Other:		
700.59 1/	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.....	37.5% ad val.	20% ad val. 2/
700.60 1/	Footwear with open toes or open heels, footwear of the slip-on type, that is held to the foot without the use of laces or buckles or other fasteners, the foregoing except footwear provided for in item 700.59 and except footwear having a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper.....	37.5% ad val.	20% ad val. 2/
	Other:		
	Footwear having soles (or midsoles, if any) of rubber or plastics which are affixed to the upper exclusively with an adhesive (any midsoles also being affixed exclusively to one another and to the outsole with an adhesive); the foregoing except footwear having a foxing or foxing-like band applied to or molded at the sole and overlapping the upper and except footwear with soles which overlap the upper other than at the toe or heel:		
700.61 1/	Valued not over $6.50 per pair.....	37.5% ad val.	20% ad val. 2/
700.62 1/	Valued over $6.50 but not over $12 per pair.....	90¢ per pair + 20% ad val.	20% ad val. 2/
700.62X 1/	Valued over $12 per pair.....	20% ad val.	20% ad val. 2/
	Other:		
700.63 1/	Valued not over $3.00 per pair.....	48% ad val.	20% ad val. 2/
700.64 1/	Valued over $3.00 but not over $6.50 per pair.....	90¢ per pair + 37.5% ad val.	20% ad val. 2/
700.65 1/	Valued over $6.50 but not over $12 per pair.....	90¢ per pair + 20% ad val.	20% ad val. 2/
700.65X 1/	Valued over $12 per pair.....	20% ad val.	20% ad val. 2/

1/ New item to be established from part of existing item 700.60.
2/ Subject to duty upon the basis of the American selling price, as defined in section 402 or 402a of the Tariff Act of 1930, of like or similar articles manufactured or produced in the United States.

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The U.S. offer subdivides item 700.60 into nine new items. Proposed item 700.59 provides for hunting boots, galoshes, rainwear and other protective footwear. The proposed rate of duty of 37.5 percent ad valorem is the same column 1 rate now provided for in item 700.53, the item where the bulk of protective footwear is now being classified.

Proposed new item 700.60 covers footwear with open toes or open heels and slip-on footwear. The article description corresponds to the class C provision proposed in the Commission's report to STR. However, the rate of 37.5 percent ad valorem is higher than the 20 percent ad valorem rate provided in the Commission's report.

Proposed new items 700.61, 700.62, and 700.62X are intended to cover joggers. The compound rate of 90 cents per pair plus 20 percent ad valorem for such footwear provided for in item 700.62 valued over 6.50 per pair but not over $12.00 has an ad valorem equivalent (AVE) of 33.8 percent for footwear valued at $6.51 and an AVE of 29 percent for footwear valued at $10.00 per pair.

Items 700.63, 700.64, 700.65, and 700.65X primarily cover sneakers. The rate of 90 cents per pair plus 20 percent ad valorem for such footwear (provided for in item 700.64) valued at $3.01 is subject to an AVE of 49.9 percent and the equivalent ad valorem rate for footwear valued at $6.49 is 51.3 percent. The rate of 90 cents per pair plus 20 percent ad valorem applicable to footwear (provided for in proposed new item 700.65) valued over $6.50 per pair but not over $12.00 has an ad valorem equivalent of 33.8 percent for footwear valued at $6.51 and an equivalent of 29 percent for footwear valued at $10.00.

Degree to which the converted rates would provide equivalent protection.--As noted above, the U.S. offer of converted rates differs from the rates proposed by the Commission in its report to STR, which were considered to afford

substantially equivalent protection, on an overall basis, to that afforded by the ASP method of valuation.

With respect to the proposed U.S. offer on protective footwear, footwear with open toes and open heels, and footwear of the slip-on type (items 700.59 and 700.60), the U.S. offer provides for higher rates than those proposed by the Commission, with the exception of certain protective footwear classifiable in item 700.60 for which there is currently no trade.

The rates of duty for joggers provided for in the U.S. offer (items 700.61, 700.62, and 700.62X) are lower than the 48 percent rate provided in the Commission's report. However, it is noted that for the period covered by the Commission's study, the ratio of joggers to sneakers was [illegible] and the two types of shoes were grouped together. Recent information available to the Commission indicates that for 1978 imports of joggers valued under $12.00 have exceeded imports of sneakers and that the proposed U.S. offer provides a level of protection for joggers substantially equivalent on an overall basis to the level currently afforded.

The U.S. offer with respect to sneakers and remaining footwear classified in current item 700.60 provides for the same 48 percent ad valorem rate as proposed by the Commission in its report to STR for footwear valued under $3.00 per pair. According to the most recent data available to the Commission over 90 percent of imported sneakers are valued under $3.00. However, with respect to such footwear valued over $3.00 but not over $6.50 per pair (item 700.64) the proposed U.S. offer provides for rates which are higher than the Commission proposed rate of 48 percent ad valorem; and for footwear valued over $6.50 per pair but not over $12.00 (item 700.65) the proposed compound rate is lower than 48 percent ad valorem.

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Proposed new items 700.62X and 700.65X provide for footwear presently classified in current item 700.60 valued over $12.00 per pair and other than protective footwear or footwear of the slip-on-type. The offered rate of duty is 20 percent ad valorem, the same as the current rate for TSUS item 700.60. Information available to the Commission indicates that less than 2 percent of the entries classified in item 700.60 in 1978 consists of such footwear valued over $12.00.

Probable economic effect.--Adoption of the proposed code in conjunction with the proposed converted rates should not have an appreciable effect on imports or on the domestic industry producing like or directly competitive footwear.

Clams.--TSUS item 114.05 covers clams in airtight containers other than razor clams (but including clam pastes and sauces). Since U.S. imports of razor clams in airtight containers are negligible, item 114.05 covers essentially all imported canned clams. About one-half of the imports under item 114.05 are estimated to be appraised on the basis of ASP. Boiled whole baby clams make up the bulk of these imports, the remainder consisting mostly of canned minced or chopped clams. The imports under item 114.05 not subject to ASP valuation consist of smoked clams and "clam specialties". "Clam specialties" include seasoned, baked, and broiled clams.

The Commission's proposed converted duty rates for clams are set out in Appendix G (page G-30).

U.S. imports.--Imports of clams under item 114.05 reached a record high in 1977 of 7.8 million pounds valued at $9.2 million. Japan had always accounted for the bulk of the imports until 1977, when the Republic of Korea

became the major U.S. supplier. When the Republic of Korea was granted duty-free treatment pursuant to the Generalized System of Preferences during the 1976-77 period, imports from that country increased sharply while imports from Japan remained at about the same level. Imports subject to column 2 rates of duty, all from the Peoples Republic of China, have always been small; in 1977, they reached a record high of 12,000 pounds. Imports dutiable on the basis of ASP accounted for an estimated 4 million pounds in 1977, or about one-half of the total net weight of the imports under item 114.05. Table 9, Appendix D, provides detailed information on imports of clams under item 114.05 by country of origin, quantity, value, and unit value.

U.S. canned clam industry.--Domestic production of canned clams consists of about 99 percent minced or chopped clams and 1 percent boiled whole clams. Boiled whole clams and minced or chopped clams are somewhat competitive. The U.S industry has produced smoked clams during some years, as well as specialty clam products for export, but the volume of both has always been negligible.

The bulk of the U.S. canned clam output is produced in New Jersey and in Delaware. In 1977, a total of 14 plants, listed by state, produced canned clams--New Jersey (5), Delaware (2), New York (2), Maine (2), and Washington (3). In some years canned clams also have been produced in Oregon, Alaska, and other states. For most of the plants, clams are the principal product. The clam canning industry is generally vertically integrated in the sense that the personnel who harvest the clams work with, or for, the canneries. A typical plant provides employment for about 100 persons. Three plants (2 in New Jersey and 1 in Maine) are owned by one firm; the remaining 11 plants are under separate ownership.

Table 10, Appendix D, provides information on the production and apparent consumption of canned clams in the United States.

Probable economic effect.--The proposed converted rates closely reflect the current effective rates of duty applicable to clams subject to ASP valuation. Therefore, adoption of the proposed valuation code in conjunction with the converted rates should have no appreciable effect on imports of clams currently subject to ASP valuation or on domestic industries producing like or directly competitive clams.

Wool knit gloves.--"Gloves and mittens, finished or unfinished, wholly or in chief value of wool, valued at not more than $1.75 per dozen pairs" were provided for in the Tariff Act of 1930 at the rate of duty of 40 cents per pound plus 35 percent ad valorem. As a result of a Commission investigation under section 336 of that act, such gloves and mittens, if knit, became subject to duty on the basis of the American selling price of like or similar domestic articles, effective March 22, 1936. These gloves and mittens are currently provided for in TSUS item 704.55 at the column 1 rate of duty of 30 cents per pound plus 26 percent ad valorem and the column 2 rate of duty of 40 cents per pound plus 35 percent ad valorem.

Importations of wool knit gloves and mittens valued at not more than $1.75 per dozen pairs virtually ceased in the late 1930's. The very small amount reported in official statistics in recent years ($1,000 for 1970 through 1976) was undoubtedly due to errors either in statistics or in classification. The value limitation of item 704.55 (less than 15 cents per pair) would preclude any imports under it even if the ASP provision were not in existence. The current cost of even low-grade wool yarn and the rise in labor costs since the

1930's make imports of this item most improbable. The proposed converted rates of duty for TSUS item 704.55 are therefore the existing rates.

Effect on articles currently on the Final List

Articles listed in T.D. 54521 (see Appendix B) are subject to appraisement in accordance with the provisions of section 402a of the Tariff Act of 1930, as amended. This so-called Final List was established by section 6(a) of the Customs Simplification Act of 1956. That act amended section 402 of the Tariff Act of 1930 by establishing a new law of customs valuation which was to apply to all imported articles except those articles which would experience a decrease in value of 5 percent or more under the new valuation system. Any such articles, as determined by the Secretary of the Treasury, would continue to be appraised under the value provisions of the old law.

The original version of the Customs Simplification Act called for a complete replacement of the old valuation law with the new standard. However, the Senate amended the bill so that the "old law" provisions would remain for Final List articles. The result of this "simplifying" legislation was the creation of two separate valuation systems for the United States with a total of nine valuation standards, instead of one new valuation system with four standards. The Final List was published January 20, 1958, and became effective February 27, 1958. There have been no additions or deletions.

Final List articles which would be significantly affected.--Articles subject to appraisement under section 402a include such major imported commodities as automobiles (TSUS item 692.10), televisions (item 685.20), tires (item 772.51), cameras (item 722.16), and ball bearings (item 680.35). There are more than 1,000 Final List descriptions, and Final List articles account for approximately 10 percent of the value of U.S. imports.

However, in response to STR's request, the Commission determined, in its report on investigation No. 332-98, that ball and roller bearings and parts thereof (TSUS item 680.35) and certain pneumatic tires (TSUS item 772.51) are the only articles on the Final List for which U.S. adoption of the proposed code would result in a change in the amount of duty collected large enough to have a significant economic effect on imports of those products, or on the domestic industry producing like or directly competitive products. Both of these articles are currently appraised primarily on the basis of foreign value. The converted rates of duty which were provided to STR for those articles and which formed the basis for U.S. offers on these articles at the MTN are as follows:

TSUS item No.	Description	Current col. 1 rate of duty	Proposed col. 1 rate of Duty
680.35	Ball and roller bearings and parts thereof.	1.7¢ per lb. + 7.5% ad val.	1.7¢ per lb. + 10.9% ad val. 1/
772.51	Certain pneumatic tires.	4% ad val.	5.7% ad val.

Bearings.--Adoption of the proposed code in conjunction with the converted rates of duty will have little total effect on the domestic bearing industry. However, the magnitude of the effect on individual importations may vary depending upon the country of exportation and whether metric or inch sizes are imported. For example, the Commission found for a number of bearings entries that there were substantial differences between the foreign value (the appraised value) and the transaction value, and that these differences, by percentage, varied between countries. In France and West Germany the foreign value generally exceeded the transaction value by over 100 percent, and in Japan, the major source of imports, the foreign value exceeded the transaction

1/ The ad valorem equivalent of this rate of duty is 11.4 percent.

value by more than 30 percent. Thus, the effective rate of duty resulting from adopting the proposed code with the converted rates will increase for imports from some countries and decrease for imports from others.

With respect to the sizes of imported bearings, Customs currently appraises metric sizes on the basis of foreign value since a "such or similar" domestic product is usually sold in the home market of the country of exportation; however, inch sizes are generally appraised on the basis of cost of production at a value which closely approximates the transaction value. Thus, adoption of the converted duty rates in conjunction with the proposed code, which is based on transaction value, would have a greater impact on bearings in inch sizes than on metric-size bearings.

The following is a tabulation of selected data on production, exports and imports of ball and roller bearings and parts for 1975 and 1976.

	Year	Millions of dollars		
		Production 1/	Exports	Imports
Ball and roller bearings and parts 2/				
	1975	1,858.2	201.9	169.0
	1976	1,994.9	202.2	183.4

1/ Includes ball bearings with integral shafts which are not covered by the provisions of item 680.35.

2/ Includes balls and rollers which are not covered by the provisions of item 680.35. Imports of balls and rollers (TSUS item 680.30) totaled $7.5 million in 1975 and $9.0 million in 1976.

Tires.--TSUS item number 772.51 provides for pneumatic tires, of rubber or plastics, other than airplane, bicycle, or tractor tires, and is comprised chiefly of passenger car tires, truck and bus tires, and motorcycle tires.

Adoption of the proposed code and converted rate will have little or no effect on the domestic tire industry. The duty represents such a small portion of the overall cost that a change of this degree would not affect the competitive position of the imported product.

The following tabulation shows U.S. production and U.S. imports of the tires covered by TSUS item 772.51 for 1975 and 1976:

	U.S. production (millions)	U.S. imports Value (1,000 dollars)	U.S. imports Quantity (millions)
1975	187.3	520,627	13,289
1976	188.4	811,653	18,619

Other Final List articles.--As shown in Table 11, Appendix D, the estimated value of Final List imports for 1976 was over $11 billion, or almost 10 percent of the value of total U.S. imports. The breakdown of values by TSUS schedules indicates that over 75 percent of the value of Final List articles, or over $8.7 billion was concentrated in schedule 6 (Metals and Metal Products), reflecting the high import volume in selected Final List commodities such as automobiles, televisions, and ball bearings. Table 12, Appendix D shows the difference, by TSUS schedule, between the customs value and the f.a.s. value 1/ for Final List

1/ The term "f.a.s. value", which is an abbreviation for "free-along-side", is the value of the article delivered to the exporting carrier at the port of export. It closely approximates the f.o.b. transaction value.

imports to give an indication of the estimated amount of change in value and duty collection which would be likely to result from adopting the proposed valuation code. The overall decrease in dutiable value is estimated to be over $18 million, with a corresponding duty decrease of more than $850,000. The estimated value decrease is less than two-tenths of 1 percent of the total value of Final List imports, which is a result of a large value increase in schedule 6 imports, offset by decreases in imports in all other schedules.

There are 36 items described on the Final List that had imports of over $25 million in 1976. Those items accounted for almost 90 percent of the total value of Final List imports. Table 13, Appendix D, lists those 36 Final List items by import value and shows, for each item, the change in dutiable value which would be likely to occur if valuation were based on the f.a.s. or transaction value. The largest dollar difference would have been a $104 million dollar value increase for automobiles (TSUS item 692.10), or an approximate $3 million increase in duty. The largest percentage change would have been a 6.1 percent decrease on tires and tubes (other than for bicycles).

The Commission feels that, overall, the adoption of the proposed code would not result in significant increases in U.S. imports of Final List articles. The Kennedy Round of tariff reductions, the Generalized System of Preferences, court decisions, and customs administrative rulings have all served to diminish the additional duty protection originally intended for Final List articles by the Customs Simplification Act of 1956. With few exceptions, the customs appraised value for Final List articles is equal to or close to the transaction value. In the case of automobiles, the customs value is actually lower than the transaction value, a complete juxtaposition from the time the Final List was established.

Effect of Adopting the Proposed Code on a C.I.F. Basis

Overall effect

Since articles imported into the United States are currently appraised on either an f.o.b. or ex-factory basis, ocean freight, insurance and other charges incurred in bringing the merchandise from the country of exportation to the port of entry in the United States are not considered part of dutiable value. The adoption of the proposed code on a c.i.f. basis would therefore result in an increase in duty for those articles which are subject to ad valorem or compound duty rates, since such transportation charges would become dutiable. This section will attempt to assess the overall economic impact of such a change by analyzing the impact that such change would be likely to have on the landed cost of imported articles. For example, an item with an f.o.b. value of $100 might be subject to a 10 percent ad valorem tariff rate. The total cost of importing this item would include $100 for the purchase price, $10 for duty, and $10 for transportation and insurance charges. The total cost to the importer would be $120. Its c.i.f. valuation basis would be made up of $100 for the purchase price and $10 for freight, insurance, and other charges for a total of $110. Applying a 10 percent ad valorem tariff rate to this c.i.f. basis of $110 gives a duty charge of $11. The cost of importing this item would consist of $100 for the purchase price, $11 for duty, and $10 for freight, insurance, and other charges. The total cost to the importer on the c.i.f. basis would be $121, which is $1 or 0.8 percent more than the cost under the present method of valuation.

By applying the analysis used in the example to every item imported into the United States in 1976, the overall effect of changing from the present method of customs valuation to the c.i.f. method was determined. The following

table illustrates what would have happened to the cost of 1976 imports if they had been valued according to the c.i.f. method: importers would have paid $133,496,778,000 for 1976 imports instead of $133,203,725,000.

Total cost of 1976 imports under the present method of valuation and under the c.i.f. method

(In thousands of dollars)

	Present method of valuation	C.i.f. method of valuation
Imports	121,120,869	121,120,869
Freight, insurance, and other charges	7,408,149	7,408,149
Duties	4,674,707	4,967,760
Total cost of importation	$133,203,725	$133,496,778

The difference in cost is $293,053,000, and results from the increased duty collection; it is equal to 0.22 percent of the cost of all 1976 imports. 1/ This 0.22 percent increase is not considered substantial and should not have an economic impact on the overall level of imports, especially since more than 60 percent of U.S. imports are currently free or subject to specific rates of duty and, therefore, are unaffected by c.i.f. valuation. There are, however, certain commodities that would be affected to a greater degree. Table 14 of Appendix D lists major commodities (i.e., TSUSA items with over $25 million in import trade during 1976) which would be subject to increase in their landed, duty-paid value

1/ The analysis has been simplified by assuming that only a price effect results from the change in the method of valuation. Actually the quantity of imports could also change as consumers may purchase fewer imports at the higher cost under the c.i.f. method of valuation. This reduction in quantity imported could in turn affect price by reducing the price increase. Therefore, the actual result could be an increase in the value of imports somewhat less than 0.22 percent. However, the simplified analysis, which considers only the price effect, provides an adequate measure of the orders of magnitude of the changes that could occur under c.i.f. valuation.

of greater than 1 percent under a c.i.f.-based valuation system.

Impact on countries of origin

Data on page 91 show the percent increase in the cost of imports from 10 major geographic areas if c.i.f. valuation were applied to 1976 imports. Since transportation charges are higher on imports from distant countries than on imports from nearby countries, it would be expected that changing from the present method of valuation to the c.i.f. method would cause greater increases in the cost of imports from distant countries. Although the cost of imports from distant countries would, in fact, increase more than that of imports from near countries, the difference is so small that its effect would not be noticeable. If only imports subject to ad valorem duties are considered, the cost increase resulting from higher transportation and insurance costs is less than 1 percent for most commodities entering the United States, regardless of source. The increase for distant areas such as Japan and for less distant areas such as the EC, other European countries, and the Middle East is small--0.5 percent, 0.4 percent, 0.5 percent, and 0.3 percent, respectively--compared with a smaller increase of 0.01 percent for the contiguous countries, Canada and Mexico. The cost increase for Asia, which would be slightly above 1 percent, results in large part from the high ad valorem rates of duty on textiles.

Only rarely, when an imported article has a high ad valorem rate of duty and a large transportation and insurance cost, would there be a significant effect resulting from a U.S. switch to the c.i.f. method of valuation.

The following tabulation summarizes the percentage increases in the landed cost of imports, for all TSUSA items, by geographic area, if c.i.f. valuation were applied to 1976 imports:

	All imports	Dutiable imports	Imports having compound or ad valorem rates
Canada	.01	.01	.01
Mexico	.01	.01	.01
Japan	.41	.42	.46
Central America except Mexico, and the Caribean except Cuba	.06	.09	.60
Asia, except Japan and the column 2 countries	.75	.84	1.23
The Middle East	.01	.01	.28
Africa, Australia, and Oceania	.01	.01	.63
Europe, except the EC and the column 2 countries	.28	.31	.48
The EC	.26	.30	.36
The column 2 countries	1.17	1.80	3.60
All countries	.22	.28	.56

Every TSUSA item under which there were imports in 1976 was included in the calculations except 86 items which are listed in Appendix H. Adequate information was not available for these items. The 86 items included coconut oil, television receivers, and textile fabrics. It is unlikely that omission of these items significantly affected the results of the analysis.

No consideration in the analysis was given to the effect of the Generalized System of Preferences (GSP) which became effective in 1976 with respect to certain developing countries. Duty-free imports pursuant to the GSP were $3.2 billion in 1976, about 2 percent of all imports. Including the effects of GSP in the analysis would have made only a small difference in the results.

PART 6. PROBABLE ECONOMIC EFFECT ON U.S. EXPORTS OF ADOPTION OF THE PROPOSED CODE BY OUR MAJOR TRADING PARTNERS

In view of the fact that all our major trading partners except Canada use some form of the BDV for valuing imported merchandise, this analysis will concentrate on the probable economic effect on U.S. exports of adoption of the proposed code by countries currently using the BDV.

The Commission is unable to assess the probable economic effect of the proposed code's adoption on U.S. exports to Canada at this time. As previously discussed, Canada will not be implementing the proposed code for a period of 4 years from the date of entry into force, and will be doing so only after adjusting the tariff rates to provide equivalent tariff protection, on items for which the Canadian level of tariff protection would be reduced as a result of adopting the code.

In order to assess the probable economic effect of Canada's adopting the code, it would be necessary for the Commission to analyze the differences that exist in prices by U.S. sellers for sale to Canada with prices of the same merchandise for sale in the United States in light of any new tariff rates which Canada may adopt to provide equivalent protection. Data with respect to the price disparity between U.S. companies' sales to Canadian purchasers and U.S. purchasers are not readily available and Canada obviously has not yet begun to convert existing tariff rates.

As explained in Part 2 of this report, the BDV is a notional system of valuation which looks to the "normal price", which is the price that the goods "<u>would fetch</u> . . . on a sale in the open market between a buyer and a seller independent of each other" (emphasis added), as the basis for valuation. In

the majority of importations between nonrelated parties the actual transaction price between the parties is acceptable as representing the "normal price" for valuation purposes with certain minor adjustments, such as the addition of ocean freight and insurance charges to convert an f.o.b. transaction price to a c.i.f. basis.

In those instances where the transaction price is not the basis of valuation--usually a related-party transaction--the BDV places a heavy emphasis on Customs/importer consultations and the use of uplifts to arrive at a customs value. The use of Customs/importer consultations, and, in particular, the use of uplifts has been the major source of complaints by U.S. exporters with respect to valuation practices by countries using the BDV. There is little information available on the degree and the extent of the use of uplifts with respect to U.S. exports. It is known, however, that uplifts are not applied uniformly by all countries using the BDV and that the extent of an uplift within a particular country often varies from commodity to commodity and exporter to exporter. Based on discussions with several major U.S. exporters, it appears that uplifts are more arbitrarily applied in a number of developing countries than in most developed countries. Further, it appears that many uplifts are made without providing an explanation to the importer as to why they were imposed or how they were calculated.

Although sufficient data are not available to provide the Committee with a detailed economic analysis of the probable effect on U.S. exports of adoption of the proposed code by our major trading partners currently using the BDV, certain observations may be made.

First, it appears that the overall economic effect of the code's adoption on U.S. exports would be minimal. Current U.S. exports to BDV countries which do not involve related parties would continue to be appraised on the basis of

the transaction value under the proposed code. Although it is possible that certain transactions between related parties which are currently subject to uplift under the BDV would be eligible for appraisement on the basis of the transaction price under the proposed code, it is more likely that such transactions would be appraised at a value that would approximate the current appraised value under the BDV. This is because uplifts are generally resorted to for such transactions because some element of dutiable value is missing or understated. For example, assists may have been provided by the importer at no cost to the exporter or the profit realized in a related party transaction may have been much less than that for an arm's-length transaction. Since the proposed code is designed to include all of these elements of value either by adjusting the transaction price or by utilizing some other method, such as the deductive or computed methods, it is likely that, although the methodology of the two systems may be very different, the final appraised value of the merchandise would not be significantly different under the two systems.

Notwithstanding the above, adoption of the proposed valuation code by our major trading partners would benefit U.S. exports in a number of significant ways. First, it would provide U.S. exporters with the assurance that exported merchandise will be subject to customs valuation in accordance with a reasonable and equitable valuation standard. This is not to say that adoption of the code alone will result in uniform and equitable valuation treatment, since administrative decisions play a crucial role in the determination of customs valuation. However, it will eliminate much of the arbitrariness which currently exists in applying the BDV, especially with respect to less developed countries, if they were to adopt the proposed code, since it will require Customs to follow an established hierarchy of valuation methods and to depart from the transaction

value only under specific circumstances. It also will provide importers with more information as to how and why their merchandise was valued in a particular manner. In addition, as marketing systems have become virtually worldwide in scope, the use of a single international code would enable exporters which frequently ship their goods to a number of countries to more easily predict the customs valuation of their merchandise in those countries which employ the international code. Market planning would be simplified for those companies.

Further, since the international agreement establishing the valuation code sets up a technical forum to insure uniform administration of the code and to resolve disputes, U.S. adoption of the code would provide a means for periodic consultation concerning valuation matters. Issues involving arbitrary or capricious actions by foreign governments in violation of the code could be aired and corrective measures taken. Thus, an effective international supervisory mechanism could help to protect United States exports from being over valued for customs purposes and thereby could protect the value of tariff concessions.

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PART 7. POTENTIAL EFFECT OF ADOPTION OF THE PROPOSED VALUATION CODE ON U.S. CUSTOMS ADMINISTRATION

As indicated in a previous section of this report, the primary practical effect of U.S. adoption of the proposed code would be the elimination of the ASP bases of appraisement and the elimination of the foreign value and other valuation methods provided for in section 402a of the Tariff Act which apply to articles on the Final List.

The elimination of the ASP bases of appraisement would have an extremely beneficial effect on U.S. customs administration, since it is one of the most difficult U.S. valuation methods for Customs to administer. Customs must currently make a determination with respect to every imported article which is potentially subject to ASP as to whether a domestically produced product which is like or similar to the imported product is being freely offered for sale in the United States. Often there may be several such products available and Customs must then determine which such product is most similar to the imported product. This is a time-consuming process which requires a subjective judgment to be made by the customs officer.

Customs would also benefit in its administration of the valuation laws from the elimination of the Final List and the valuation laws provided in section 402a of the Tariff Act. Whenever Customs is faced with a new imported article the customs officer must consult the "Final List" to determine whether the valuation laws provided in section 402a or section 402 of the Tariff Act will apply. With the exception of the foreign value method of valuation in section 402a, there are only very subtle differences between the valuation methods provided in section 402a (export value, U.S. value, cost of production and ASP) and those provided in section 402 (export value, U.S. value, constructed value, and ASP).

Occasionally it is necessary for Customs to determine the valuation of the imported goods under both section 402a and section 402 of the Tariff Act in order to arrive at the correct appraised value. For example, the Final List provides for "candy . . . valued at six cents or more per pound". In order to correctly appraise an importation of candy, Customs must first determine the value of the candy using the progression of valuation methods provided in section 402a. If, using these methods, the value of the candy is determined to be six cents or more per pound, then the value which was calculated would be the appraised value. However, if the calculated value under section 402a was less than six cents per pound, then Customs must recalculate the appraised value using the methods of appraisement provided for in section 402 of the Tariff Act.

The adoption of the proposed code would eliminate the need to have a Final List since it would provi a single set of valuation methods which are very analogous to those provided in section 402 of the Tariff Act. It would eliminate the need for U.S. customs officers to familiarize themselves with two separate sets of customs laws which are very similar on their face but have subtle differences in application. It would also eliminate the foreign value, which must be determined under section 402a for every importation so that it may be compared with the export value as determined under section 402a. This method of valuation requires Customs to ascertain the price at which such or similar merchandise is being sold in the home market of the country of exportation. This delays the appraisement process since Customs is usually unable to appraise the merchandise on the basis of documents provided with the entry itself. Frequently a time-consuming foreign investigation must be instituted by Customs in order to get the necessary data to appraise merchandise on the basis of foreign value.

Further, it is likely that many transactions which are currently being appraised on the basis of a valuation method other than export value would be appraised under the transaction value method provided for in Article 1 of the proposed code. For example, many U.S. imports are currently appraised on the basis of constructed value due to the fact that the cost of assists is often not included in the transaction price. Appropriate adjustment may be made for assists under Article 1 of the proposed code but not under the export value provisions. 1/

Finally, customs administration would benefit from the elimination of such terms as "freely offered", "principal markets", "usual wholesale quantities" and "ordinary course of trade", which tend to complicate and delay the determination of a customs value.

Thus, because of the many similarities between current section 402 of the Tariff Act and the methods of valuation provided in the proposed code and because of the elimination of the Final List and ASP bases of appraisement as well as the elimination of many of the difficult concepts currently embodied in U.S. law, the adoption of the proposed code by the United States can only have a positive effect on U.S. customs administration.

1/ When assists are provided by the buyer and not fully included in the transaction price, the entry will generally be appraised on the basis of constructed value under U.S. law. However, as a practical matter, Customs will generally simply add the cost of the assist to the transaction price in determining the constructed value, rather than start from scratch to compute the constructed value.

PART 8. U.S. IMPLEMENTATION OF PROPOSED CODE

In order for the United States to implement the proposed valuation code, it would be necessary for Congress to amend current sections 402 and 402a of the Tariff Act of 1930 (19 U.S.C. 1401a and 1402) by repealing the two sections and enacting the substantive sections of Part I of the proposed code, which contains the rules on customs valuation, in lieu thereof. Conforming amendments would also have to be made in all Federal statutes which make reference to current sections 402 and 402a of the Tariff Act, such as the Tariff Schedules of the United States (19 U.S.C. 1202). Appropriate amendments would also have to be made to those parts of section 336 of the Tariff Act (19 U.S.C. 1336) which refer to ASP, and some modification may have to be made to section 500 of the Tariff Act (19 U.S.C. 1500), which sets out appraisement, classification, and liquidation procedures.

APPENDIX A
CUSTOMS VALUATION AGREEMENT

RESTRICTED
MTN/NTM/W/229
26 March 1979
Special Distribution

GENERAL AGREEMENT ON
TARIFFS AND TRADE

Multilateral Trade Negotiations

Group "Non-Tariff Measures"
Sub-Group "Customs Matters"

CUSTOMS VALUATION

Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade

1. The following text of the draft Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade is circulated at the request of a number of delegations for consideration by the Sub-Group.

2. The draft does not commit any delegation to all or any part of the text.

RESTRICTED

MTN/NTM/W/229/Corr.1
2 April 1979

Special Distribution

GENERAL AGREEMENT ON TARIFFS AND TRADE

Multilateral Trade Negotiations

Group "Non-Tariff Measures"
Sub-Group "Customs Matters"

CUSTOMS VALUATION

Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade

Corrigendum

Page 20, Article 20:11 - in the fifth line delete "unless extended by the Committee".

Page 20, Article 20:11 - the last line should read "... under the GATT, including invoking Article XXIII thereof".

Page 24, Article 27, the second sentence should read "such an amendment, once the Parties have concurred in accordance with procedures established by the Committee, shall not come into force for any party until it has been accepted by such party".

Page 35, Note to Article 3, paragraph 4 - in the third line insert "," after "...this Article ..."

Page 56, paragraph 4, fifth line - insert "to" before "... a statement ..."

General Introductory Commentary

1. The primary basis for customs value under this Agreement is "transaction value" as defined in Article 1. Article 1 is to be read together with Article 8 which provides, inter alia, for adjustments to the price actually paid or payable in cases where certain specific elements which are considered to form a part of the value for customs purposes are incurred by the buyer but are not included in the price actually paid or payable for the imported goods. Article 8 also provides for the inclusion in the transaction value of certain considerations which may pass from the buyer to the seller in the form of specified goods or services rather than in the form of money. Articles 2 to 7, inclusive, provide methods of determining the customs value whenever it cannot be determined under the provisions of Article 1.

2. Where the customs value cannot be determined under the provisions of Article 1, there should normally be a process of consultation between the customs administration and importer with a view to arriving at a basis of value under the provisions of Articles 2 or 3. It may occur, for example, that the importer has information about the customs value of identical or similar imported goods which is not immediately available to the customs administration in the port of importation. On the other hand, the customs administration may have information about the customs value of identical or similar imported goods which is not readily available to the importer. A process of consultation between the two parties will enable information to be exchanged, subject to the requirements of commercial confidentiality, with a view to determining a proper basis of value for customs purposes.

3. Articles 5 and 6 provide two bases for determining the customs value where it cannot be determined on the basis of the transaction value of the imported goods or of identical or similar imported goods. Under Article 5.1 the customs value is determined on the basis of the price at which the goods are sold in the condition as imported to an unrelated buyer in the country of importation. The importer also has the right to have goods which are further processed after importation valued under the provisions of Article 5 if he so requests. Under Article 6 the customs value is determined on the basis of the computed value. Both these methods present certain difficulties and because of this the importer is given the right, under the provisions of Article 4, to choose the order of application of the two methods.

4. Article 7 sets out how to determine the customs value in cases where it cannot be determined under the provisions of any of the preceding Articles.

AGREEMENT ON IMPLEMENTATION OF ARTICLE VII OF THE GENERAL AGREEMENT ON TARIFFS AND TRADE

A-6

Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade

PREAMBLE

The parties to this Agreement,

Desiring to further the objectives of the General Agreement on Tariffs and Trade and to secure additional benefits for the international trade of developing countries;

Recognizing the importance of the provisions of Article VII of the General Agreement on Tariffs and Trade and desiring to elaborate rules for their application in order to provide greater uniformity and certainty in their implementation;

Recognizing the need for a fair, uniform, and neutral system for the valuation of goods for customs purposes that precludes the use of arbitrary or fictitious customs values;

Recognizing that the basis for valuation of goods for customs purposes should, to the greatest extent possible, be the transaction value of the goods being valued;

Recognizing that customs value should be based on simple and equitable criteria consistent with commercial practices and that valuation procedures should be of general application without distinction between sources of supply;

Recognizing that valuation procedures should not be used to combat dumping;

Hereby agree as follows:

PART I - RULES ON CUSTOMS VALUATION

Article 1

1. The customs value of imported goods shall be the transaction value, that is the price actually paid or payable for the goods when sold for export to the country of importation adjusted in accordance with the provisions of Article 8, provided:

(a) that there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which:

(i) are imposed or required by law or by the public authorities in the country of importation;

(ii) limit the geographical area in which the goods may be resold; or

(iii) do not substantially affect the value of the goods;

(b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;

(c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of Article 8; and

(d) that the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes under the provisions of paragraph 2 of this Article.

2. (a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related within the meaning of Article 15 shall not in itself be grounds for regarding the transaction value as unacceptable. In such case the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the importer or otherwise, the customs administration has grounds for considering that the relationship influenced the price, it shall communicate its grounds to the importer and he shall be given a reasonable opportunity to respond. If the importer so requests, the communication of the grounds shall be in writing.

(b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with the provisions of paragraph 1 whenever the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time:

(i) the transaction value in sales to unrelated buyers of identical or similar goods for export to the same country of importation;

(ii) the customs value of identical or similar goods as determined under the provisions of Article 5;

(iii) the customs value of identical or similar goods as determined under the provisions of Article 6;

(iv) the transaction value in sales to unrelated buyers for export to the same country of importation of goods which would be identical to the imported goods except for having a different country of production provided that the sellers in any two transactions being compared are not related.

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 8, and costs incurred by the seller in sales in which he and the buyer are not related that are not incurred by the seller in sales in which he and the buyer are related.

(c) The tests set forth in paragraph 2(b) are to be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under the provisions of paragraph 2(b).

Article 2

1. (a) If the customs value of the imported goods cannot be determined under the provisions of Article 1, the customs value shall be the transaction value of identical goods sold for export to the same country of importation and exported at or about the same time as the goods being valued.

(b) In applying this Article, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities shall be used, adjusted to take account of differences attributable to commercial level and/or to quantity, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. Where the costs and charges referred to in Article 8.2 are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

3. If, in applying this Article, more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Article 3

1. (a) If the customs value of the imported goods cannot be determined under the provisions of Articles 1 and 2, the customs value shall be the transaction value of similar goods sold for export to the same country of importation and exported at or about the same time as the goods being valued.

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(b) In applying this Article, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of similar goods sold at a different commercial level and/or in different quantities shall be used, adjusted to take account of differences attributable to commercial level and/or to quantity, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. Where the costs and charges referred to in Article 8.2 are included in the transaction value, an adjustment shall be made to take account of significant differences in such costs and charges between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

3. If, in applying this Article, more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Article 4

If the customs value of the imported goods cannot be determined under the provisions of Articles 1, 2 and 3, the customs value shall be determined under the provisions of Article 5 or, when the customs value cannot be determined under that Article, under the provisions of Article 6 except that, at the request of the importer, the order of application of Articles 5 and 6 shall be reversed.

Article 5

1. (a) If the imported goods or identical or similar imported goods are sold in the country of importation in the condition as imported, the customs value of the imported goods under the provisions of this Article shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following:

(i) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind;

(ii) the usual costs of transport and insurance and associated costs incurred within the country of importation;

(iii) where appropriate, the costs and charges referred to in Article 8.2;

(iv) the customs duties and other national taxes payable in the country of importation by reason of the importation or sale of the goods.

(b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value shall, subject otherwise to the provisions of paragraph 1(a) of this Article, be based on the unit price at which the imported goods or identical or similar imported goods are sold in the country of importation in the condition as imported at the earliest date after the importation of the goods being valued but before the expiration of ninety days after such importation.

2. If neither the imported goods nor identical nor similar imported goods are sold in the country of importation in the condition as imported, then, if the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the country of importation who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1(a) of this Article.

Article 6

1. The customs value of imported goods under the provisions of this Article shall be based on a computed value. Computed value shall consist of the sum of:

(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

(b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation;

(c) the cost or value of all other expenses necessary to reflect the valuation option chosen by the party under Article 8.2.

2. No party may require or compel any person not resident in its own territory to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the

customs value under the provisions of this Article may be verified in another country by the authorities of the country of importation with the agreement of the producer and provided they give sufficient advance notice to the government of the country in question and the latter does not object to the investigation.

Article 7

1. If the customs value of the imported goods cannot be determined under the provisions of Articles 1 to 6, inclusive, the customs value shall be determined using reasonable means consistent with the principles and general provisions of this Agreement and of Article VII of the General Agreement on Tariffs and Trade, hereinafter referred to as the GATT, and on the basis of data available in the country of importation.

2. No customs value shall be determined under the provisions of this Article on the basis of:

(a) the selling price in the country of importation of goods produced in such country;

(b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;

(c) the price of goods on the domestic market of the country of exportation;

(d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of Article 6;

(e) the price of the goods for export to a country other than the country of importation;

(f) minimum customs values;

(g) arbitrary or fictitious values.

3. If he so requests, the importer shall be informed in writing of the customs value determined under the provisions of this Article and the method used to determine such value.

Article 8

1. In determining the customs value under the provisions of Article 1, there shall be added to the price actually paid or payable for the imported goods:

(a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:

(i) commissions and brokerage, except buying commissions;

(ii) the cost of containers which are treated as being one for customs purposes with the goods in question;

(iii) the cost of packing whether for labour or materials;

(b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:

(i) materials, components, parts and similar items incorporated in the imported goods;

(ii) tools, dies, moulds and similar items used in the production of the imported goods;

(iii) materials consumed in the production of the imported goods;

(iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the country of importation and necessary for the production of the imported goods;

(c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;

(d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller.

2. In framing its legislation, each party shall provide for the inclusion in or the exclusion from the customs value, in whole or in part, of the following:

(a) the cost of transport of the imported goods to the port or place of importation;

(b) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and

(c) the cost of insurance.

3. Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.

4. No additions shall be made to the price actually paid or payable in determining the customs value except as provided in this Article.

Article 9

1. Where the conversion of currency is necessary for the determination of the customs value, the rate of exchange to be used shall be that duly published by the competent authorities of the country of importation concerned and shall reflect as effectively as possible, in respect of the period covered by each such document of publication, the current value of such currency in commercial transactions in terms of the currency of the country of importation.

2. The conversion rate to be used shall be that in effect at the time of exportation or the time of importation, as provided by each party.

Article 10

All information which is by nature confidential or which is provided on a confidential basis for the purposes of customs valuation shall be treated as strictly confidential by the authorities concerned who shall not disclose it without the specific permission of the person or government providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.

Article 11

1. The legislation of each party shall provide in regard to a determination of customs value for the right of appeal, without penalty, by the importer or any other person liable for the payment of the duty.

2. An initial right of appeal without penalty may be to an authority within the customs administration or to an independent body, but the legislation of each party shall provide for the right of appeal without penalty to a judicial authority.

3. Notice of the decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing. He shall also be informed of his rights of any further appeal.

Article 12

Laws, regulations, judicial decisions and administrative rulings of general application giving effect to this Agreement shall be published in conformity with Article X of the GATT by the country of importation concerned.

Article 13

If, in the course of determining the customs value of imported goods, it becomes necessary to delay the final determination of such customs value, the importer shall nevertheless be able to withdraw his goods from customs if, where so required, he provides sufficient guarantee in the form of a surety, a deposit or some other appropriate instrument, covering the ultimate payment of customs duties for which the goods may be liable. The legislation of each party shall make provisions for such circumstances.

Article 14

The notes at Annex I to this Agreement form an integral part of this Agreement and the Articles of this Agreement are to be read and applied in conjunction with their respective notes. Annexes II and III also form an integral part of this Agreement.

Article 15

1. In this Agreement:

(a) "customs value of imported goods" means the value of goods for the purposes of levying ad valorem duties of customs on imported goods;

(b) "country of importation" means country or customs territory of importation; and

(c) "produced" includes grown, manufactured and mined.

2. (a) In this Agreement "identical goods" means goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical.

(b) In this Agreement "similar goods" means goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar.

(c) The terms "identical goods" and "similar goods" do not include, as the case may be, goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under Article 8.1(b)(iv) because such elements were undertaken in the country of importation.

(d) Goods shall not be regarded as "identical goods" or "similar goods" unless they were produced in the same country as the goods being valued.

(e) Goods produced by a different person shall be taken into account only when there are no identical goods or similar goods, as the case may be, produced by the same person as the goods being valued.

3. In this Agreement "goods of the same class or kind" means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods.

4. For the purposes of this Agreement, persons shall be deemed to be related only if:

(a) they are officers or directors of one another's businesses;

(b) they are legally recognized partners in business;

(c) they are employer and employee;

(d) any person directly or indirectly owns, controls or holds 5 per cent or more of the outstanding voting stock or shares of both of them;

(e) one of them directly or indirectly controls the other;

(f) both of them are directly or indirectly controlled by a third person;

(g) together they directly or indirectly control a third person; or

(h) they are members of the same family.

5. Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purposes of this Agreement if they fall within the criteria of paragraph 4 of this Article.

Article 16

Upon written request, the importer shall have the right to an explanation in writing from the customs administration of the country of importation as to how the customs value of his imported goods was determined.

Article 17

Nothing in this Agreement shall be construed as restricting or calling into question the rights of customs administrations to satisfy themselves as to the truth or accuracy of any statement, document or declaration presented for customs valuation purposes.

PART II - ADMINISTRATION AND DISPUTE RESOLUTION

Institutions

Article 18

There shall be established under this Agreement:

1. A Committee on Customs Valuation (hereinafter referred to as the Committee) composed of representatives from each of the parties to this Agreement. The Committee shall elect its own Chairman and shall normally meet once a year, or as is otherwise envisaged by the relevant provisions of this Agreement, for the purpose of affording parties to this Agreement the opportunity to consult on matters relating to the administration of the customs valuation system by any party to this Agreement as it might affect the operation of this Agreement or the furtherance of its objectives, and to carry out such other responsibilities as may be assigned to it by the parties. The GATT secretariat shall act as the secretariat to the Committee.

2. A Technical Committee on Customs Valuation (hereinafter referred to as the Technical Committee) under the auspices of the Customs Cooperation Council which shall carry out the responsibilities described in Annex II to this Agreement and shall operate in accordance with the rules of procedure contained therein.

Consultations

Article 19

1. If any party considers that any benefit accruing to it, directly or indirectly, under this Agreement is being nullified or impaired, or that the achievement of any objective of this Agreement is being impeded, as a result

of the actions of another party or parties, it may, with a view to reaching a mutually satisfactory solution of the matter, request consultations with the party or parties in question. Each party shall afford sympathetic consideration to any request from another party for consultations.

2. The parties concerned shall initiate requested consultations promptly.

3. Parties engaged in consultations on a particular matter affecting the operation of this Agreement shall attempt to conclude such consultations within a reasonably short period of time. The Technical Committee shall provide, upon request, advice and assistance to parties engaged in consultations.

Resolution of disputes

Article 20

1. If no mutually satisfactory solution has been reached between the parties concerned in consultations under Article 19 above the Committee shall meet at the request of any party to the dispute, within thirty days of receipt of such a request, to investigate the matter, with a view to facilitating a mutually satisfactory solution.

2. In investigating the matter and in selecting its procedures, the Committee shall take into account whether the issues in dispute relate to commercial policy considerations or to questions requiring detailed technical consideration. The Committee may request on its own initiative that the Technical Committee carry out an examination, as provided in paragraph 4 below, of any question requiring technical consideration. Upon the request of any party to the dispute that considers the issues to relate to questions of a technical nature, the Committee shall request the Technical Committee to carry out such an examination.

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3. During any phase of a dispute settlement procedure, competent bodies and experts in matters under consideration may be consulted; appropriate information and assistance may be requested from such bodies and experts. The Committee shall take into consideration the results of any work of the Technical Committee that pertain to the matter in dispute.

Technical issues

4. When the Technical Committee is requested under the provisions of paragraph 2 above it shall examine the matter and report to the Committee no later than three months from the date the technical issue was referred to it, unless the period is extended by mutual agreement between the parties to the dispute.

Panel proceedings

5. In cases where the matter is not referred to the Technical Committee, the Committee shall establish a panel upon the request of any party to the dispute if no mutually satisfactory solution has been reached within three months from the date of the request to the Committee to investigate the matter. Where the matter is referred to the Technical Committee, the Committee shall establish a panel upon the request of any party to the dispute if no mutually satisfactory solution has been reached within one month from the date when the Technical Committee presents its report to the Committee.

6. (a) When a panel is established, it shall be governed by the procedures as set forth in Annex III.

(b) If the Technical Committee has made a report on the technical aspects of the matter in dispute, the panel shall use this report as the basis for its consideration of the technical aspects of the matter in dispute.

Enforcement

7. After the investigation is completed or after the report of the Technical Committee or panel is presented to the Committee, the Committee shall give the matter prompt consideration. With respect to panel reports, the Committee shall take appropriate action normally within thirty days of receipt of the report, unless extended by the Committee. Such action shall include:

(i) a statement concerning the facts of the matter; and

(ii) recommendations to one or more parties to this Agreement or any other ruling which it deems appropriate.

8. If a party to which recommendations are addressed considers itself unable to implement them, it should promptly furnish reasons in writing to the Committee. In that event, the Committee shall consider what further action may be appropriate.

9. If the Committee considers that the circumstances are serious enough to justify such action, it may authorize one or more parties to this Agreement to suspend the application to any other party or parties to this Agreement of such obligations under this Agreement as it determines to be appropriate in the circumstances.

10. The Committee shall keep under surveillance any matter on which it has made recommendations or given rulings.

11. If a dispute arises between parties relating to rights and obligations under this Agreement, parties should complete the dispute settlement procedures under this Agreement before availing themselves of any rights which they have under the GATT including involving Article XXIII thereof.

PART III - SPECIAL AND DIFFERENTIAL TREATMENT

Article 21

1. Developing countries party to this Agreement (referred to in this Agreement as developing parties) may delay application of its provisions for a period not exceeding five years from the date of entry into force of this Agreement for such country. Developing parties who choose to delay application of this Agreement shall notify the Director-General to the CONTRACTING PARTIES to the GATT accordingly.

2. In addition to paragraph 1 above, developing parties to this Agreement may delay application of Article 1.2(b)(iii) and Article 6 for a period not exceeding three years following their application of all other provisions of this Agreement. Developing parties that choose to delay application of the provisions specified in this paragraph shall notify the Director-General to the CONTRACTING PARTIES to the GATT accordingly.

3. Developed countries party to this Agreement (referred to in this Agreement as developed parties) shall furnish, on mutually agreed terms, technical assistance to developing parties that so request. On this basis developed parties shall draw up programmes of technical assistance which may include, inter alia, training of personnel, assistance in preparing implementation measures, access to sources of information regarding customs valuation methodology, and advice on the application of the provisions of this Agreement.

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PART IV - FINAL PROVISIONS

Acceptance and accession

Article 22

1. This Agreement shall be open for acceptance by signature or otherwise, by governments contracting parties to the GATT and by the European Economic Community.

2. This Agreement shall be open to accession by any other government on terms, related to the effective application of rights and obligations under this Agreement, to be agreed between that government and the parties to this Agreement, by the deposit with the Director-General to the CONTRACTING PARTIES to the GATT of an instrument of accession which states the terms so agreed.

3. Contracting parties may accept this Agreement in respect of those territories for which they have international responsibility, provided that the GATT is being applied in respect of such territories in accordance with the provisions of Article XXVI:5(a) or (b) of the GATT; and in terms of such acceptance, each such territory shall be treated as though it were a party to this Agreement.

Reservations

Article 23

Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other parties to this Agreement.

Entry into force

Article 24

This Agreement shall enter into force on 1 January 1981 for the governments* which have accepted or acceded to it by that date. For each other government it shall enter into force on the thirtieth day following the date of its acceptance or accession to this Agreement.

National legislation

Article 25

1. Each government accepting or acceding to this Agreement shall ensure, not later than the date of entry into force of this Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement.

2. Each party to this Agreement shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.

Review

Article 26

The Committee shall review annually the implementation and operation of this Agreement taking into account the objectives thereof. The Committee shall annually inform the CONTRACTING PARTIES to the GATT of developments during the period covered by such reviews.

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*The term "government" is deemed to include the competent authorities of the European Economic Community.

Amendments

Article 27

The Parties may amend this Agreement, having regard, inter alia, to the experience gained in its implementation. Such an amendment, once it has obtained the concurrence of the Parties in accordance with procedures established by the Committee, shall not come into force for any party until it has been accepted by such party.

Withdrawal

Article 28

Any party to this Agreement may withdraw from this Agreement. The withdrawal shall take effect upon the expiration of sixty days from the date on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the GATT. Any party to this Agreement may, upon the receipt of such notice, request an immediate meeting of the Committee.

Secretariat

Article 29

This Agreement shall be serviced by the GATT secretariat except in regard to those responsibilities specifically assigned to the Technical Committee, which will be serviced by the Customs Co-operation Council.

Deposit

Article 30

This Agreement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT, who shall promptly furnish to each party to this Agreement and each contracting party to the GATT a certified

copy thereof and of each amendment thereto pursuant to Article 27, and an information of each acceptance thereof or instrument of accession thereto pursuant to Article 22, or written notice of each withdrawal therefrom pursuant to Article 28.

Registration

Article 31

This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this ..... day of ..... nineteen hundred and seventy-nine in a single copy, in the English, French and Spanish languages, each text being authentic.

ANNEX I

INTERPRETATIVE NOTES

General Note

Sequential application of valuation methods

1. Articles 1 to 7, inclusive, define how the customs value of imported goods is to be determined under the provisions of this Agreement. The methods of valuation are set out in a sequential order of application. The primary method for customs valuation is defined in Article 1 and imported goods are to be valued in accordance with the provisions of this Article whenever the conditions prescribed therein are fulfilled.

2. Where the customs value cannot be determined under the provisions of Article 1, it is to be determined by proceeding sequentially through the succeeding Articles to the first such Article under which the customs value can be determined. Except as provided in Article 4, it is only when the customs value cannot be determined under the provisions of a particular Article that the provisions of the next Article in the sequence can be used.

3. If the importer does not request that the order of Articles 5 and 6 be reversed, the normal order of the sequence is to be followed. If the importer does so request but it then proves impossible to determine the customs value under the provisions of Article 6, the customs value is to be determined under the provisions of Article 5, if it can be so determined.

4. Where the customs value cannot be determined under the provisions of Articles 1 to 6, inclusive, it is to be determined under the provisions of Article 7.

Use of generally accepted accounting principles

1. "Generally accepted accounting principles" refers to the recognized consensus or substantial authoritative support within a country at a particular time as to which economic resources and obligations should be recorded as assets and liabilities, which changes in assets and liabilities should be recorded, how the assets and liabilities and changes in them should be measured, what information should be disclosed and how it should be disclosed, and which financial statements should be prepared. These standards may be broad guidelines of general application as well as detailed practices and procedures.

2. For the purposes of this Agreement, the customs administration of each party shall utilize information prepared in a manner consistent with generally accepted accounting principles in the country which is appropriate for the Article in question. For example, the determination of usual profit and general expenses under the provisions of Article 5 would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of importation. On the other hand, the determination of usual profit and general expenses under the provisions of Article 6 would be carried out utilizing information prepared in a manner consistent with generally accepted accounting principles of the country of production. As a further example, the determination of an element provided for in Article 8.1(b)(ii) undertaken in the country of importation would be carried out utilizing information in a manner consistent with the generally accepted accounting principles of that country.

Note to Article 1

Price actually paid or payable

The price actually paid or payable is the total payment made or to be made by the buyer to or for the benefit of the seller for the imported goods. The payment need not necessarily take the form of a transfer of money. Payment may be made by way of letters of credit or negotiable instruments. Payment may be made directly or indirectly. An example of an indirect payment would be the settlement by the buyer, whether in whole or in part, of a debt owed by the seller.

Activities undertaken by the buyer on his own account, other than those for which an adjustment is provided in Article 8, are not considered to be an indirect payment to the seller, even though they might be regarded as of benefit to the seller. The costs of such activities shall not, therefore, be added to the price actually paid or payable in determining the customs value.

The customs value shall not include the following charges or costs, provided that they are distinguished from the price actually paid or payable for the imported goods:

(a) charges for construction, erection, assembly, maintenance or technical assistance, undertaken after importation on imported goods such as industrial plant, machinery or equipment;

(b) the cost of transport after importation;

(c) duties and taxes of the country of importation.

The price actually paid or payable refers to the price for the imported goods. Thus the flow of dividends or other payments from the buyer to the seller that do not relate to the imported goods are not part of the customs value.

Note to Article 1.1(a)(iii)

Among restrictions which would not render a price paid or payable unacceptable are restrictions which do not substantially affect the value of the goods. An example of such restrictions would be the case where a seller requires a buyer of automobiles not to sell or exhibit them prior to a fixed date which represents the beginning of a model year.

Note to Article 1.1(b)

If the sale or price is subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued, the transaction value shall not be acceptable for customs purposes. Some examples of this include:

(a) the seller establishes the price of the imported goods on condition that the buyer will also buy other goods in specified quantities;

(b) the price of the imported goods is dependent upon the price or prices at which the buyer of the imported goods sells other goods to the seller of the imported goods;

(c) the price is established on the basis of a form of payment extraneous to the imported goods, such as where the imported goods are semi-finished goods which have been provided by the seller on condition that he will receive a specified quantity of the finished goods.

However, conditions or considerations relating to the production or marketing of the imported goods shall not result in rejection of the transaction value. For example, the fact that the buyer furnishes the seller with engineering and plans undertaken in the country of importation shall not result in rejection of the transaction value for the purposes of Article 1. Likewise, if the buyer undertakes on his own account, even though by agreement with the seller, activities relating to the marketing of the imported goods, the value of these activities is not part of the customs value nor shall such activities result in rejection of the transaction value.

Note to Article 1.2

1. Paragraphs 2(a) and 2(b) of Article 1 provide different means of establishing the acceptability of a transaction value.

2. Paragraph 2(a) provides that where the buyer and the seller are related, the circumstances surrounding the sale shall be examined and the transaction value shall be accepted as the customs value provided that the relationship did not influence the price. It is not intended that there should be an examination of the circumstances in all cases where the buyer and the seller are related. Such examination will only be required where there are doubts about the acceptability of the price. Where the customs administration have no doubts about the acceptability of the price, it should be accepted without requesting further information from the importer. For example, the customs administration may have previously examined the relationship, or it may already have detailed information concerning

the buyer and the seller, and may already be satisfied from such examination or information that the relationship did not influence the price.

3. Where the customs administration is unable to accept the transaction value without further inquiry, it should give the importer an opportunity to supply such further detailed information as may be necessary to enable it to examine the circumstances surrounding the sale. In this context, the customs administration should be prepared to examine relevant aspects of the transaction, including the way in which the buyer and seller organize their commercial relations and the way in which the price in question was arrived at, in order to determine whether the relationship influenced the price. Where it can be shown that the buyer and seller, although related under the provisions of Article 15, buy from and sell to each other as if they were not related, this would demonstrate that the price had not been influenced by the relationship. As an example of this, if the price had been settled in a manner consistent with the normal pricing practices of the industry in question or with the way the seller settles prices for sales to buyers who are not related to him, this would demonstrate that the price had not been influenced by the relationship. As a further example, where it is shown that the price is adequate to ensure recovery of all costs plus a profit which is representative of the firm's overall profit realized over a representative period of time (e.g. on an annual basis) in sales of goods of the same class or kind, this would demonstrate that the price had not been influenced.

4. Paragraph 2(b) provides an opportunity for the importer to demonstrate that the transaction value closely approximates to a "test" value previously accepted by the customs administration and is therefore acceptable under the provisions of Article 1. Where a test under paragraph 2(b) is met, it is not necessary to examine the question of influence under paragraph 2(a). If the customs administration has already sufficient information to be satisfied, without further detailed inquiries, that one of the tests provided in paragraph 2(b) has been met, there is no reason for it to require the importer to demonstrate that the test can be met. In paragraph 2(b) the term "unrelated buyers" means buyers who are not related to the seller in any particular case.

Note to Article 1.2(b)

A number of factors must be taken into consideration in determining whether one value "closely approximates" to another value. These factors include the nature of the imported goods, the nature of the industry itself, the season in which the goods are imported, and, whether the difference in values is commercially significant. Since these factors may vary from case to case, it would be impossible to apply a uniform standard such as a fixed percentage, in each case. For example, a small difference in value in a case involving one type of goods could be unacceptable while a large difference in a case involving another type of goods might be acceptable in determining whether the transaction value closely approximates to the "test" values set forth in Article 1.2(b).

Note to Article 2

1. In applying Article 2, the customs administration shall, wherever possible, use a sale of identical goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of identical goods that takes place under any one of the following three conditions may be used:

(a) a sale at the same commercial level but in different quantities;

(b) a sale at a different commercial level but in substantially the same quantities; or

(c) a sale at a different commercial level and in different quantities.

2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for:

(a) quantity factors only;

(b) commercial level factors only; or

(c) both commercial level and quantity factors.

3. The expression "and/or" allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described above.

4. For the purposes of Article 2, the transaction value of identical imported goods means a customs value, adjusted as provided for in paragraphs 1(b) and 2 of this Article, which has already been accepted under Article 1.

5. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only identical imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of Article 2 is not appropriate.

Note to Article 3

1. In applying Article 3, the customs administration shall, wherever possible, use a sale of similar goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of similar goods that takes place under any one of the following three conditions may be used:

(a) a sale at the same commercial level but in different quantities;

(b) a sale at a different commercial level but in substantially the same quantities; or

(c) a sale at a different commercial level and in different quantities.

2. Having found a sale under any one of these three conditions adjustments will then be made, as the case may be, for:

(a) quantity factors only;

(b) commercial level factors only; or

(c) both commercial level and quantity factors.

3. The expression "and/or" allows the flexibility to use the sales and make the necessary adjustments in any one of the three conditions described above.

4. For the purposes of Article 3, the transaction value of similar imported goods means a customs value, adjusted as provided for in paragraphs 1(b) and 2 of this Article which has already been accepted under Article 1.

5. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only similar imported goods for which a transaction value exists involved a sale of

500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of Article 3 is not appropriate.

Note to Article 5

1. The term "unit price at which ... goods are sold in the greatest aggregate quantity" means the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

2. As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale quantity	Unit price	Number of sales	Total quantity sold at each price
1-10 units	100	10 sales of 5 units 5 sales of 3 units	65
11-25 units	95	5 sales of 11 units	55
over 25 units	90	1 sale of 30 units 1 sale of 50 units	80

The greatest number of units sold at a price is 80; therefore, the unit price in the greatest aggregate quantity is 90.

3. As another example of this, two sales occur. In the first sale 500 units are sold at a price of 95 currency units each. In the second sale 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500; therefore the unit price in the greatest aggregate quantity is 95.

4. A third example would be the following situation where various quantities are sold at various prices.

(a) Sales

Sale quantity	Unit price
40 units	100
20 units	90
15 units	100
30 units	95
25 units	105
35 units	90
5 units	100

(b) Totals

Total quantity sold	Unit price
65	90
50	95
60	100
25	105

In this example, the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is 90.

5. Any sale in the importing country, as described in paragraph 1 above, to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in Article 8.1(b), should not be taken into account in establishing the unit price for the purposes of Article 5.

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6. It should be noted that 'profit and general expenses' referred to in paragraph 1 of Article 5 should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by or on behalf of the importer unless his figures are inconsistent with those obtaining in sales in the country of importation of imported goods of the same class or kind. Where the importer's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer.

7. The 'general expenses' include the direct and indirect costs of marketing the goods in question.

8. Local taxes payable by reason of the sale of the goods for which a deduction is not made under the provisions of Article 5.1(a)(iv) shall be deducted under the provisions of Article 5.1(a)(i).

9. In determining either the commissions or the usual profits and general expenses under the provisions of paragraph 1 of Article 5, the question whether certain goods are 'of the same class or kind' as other goods must be determined on a case-by-case basis by reference to the circumstances involved. Sales in the country of importation of the narrowest group or range of imported goods of the same class or kind, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of Article 5, 'goods of the same class or kind' include goods imported from the same country as the goods being valued as well as goods imported from other countries.

10. For the purposes of Article 5.1(b), the "earliest date" shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

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11. Where the method in Article 5.2 is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction, and other industry practices would form the basis of the calculations.

12. It is recognized that the method of valuation provided for in Article 5.2 would normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However, there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty. On the other hand, there can also be instances where the imported goods maintain their identity but form such a minor element in the goods sold in the country of importation that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.

Note to Article 6

1. As a general rule, customs value is determined under this Agreement on the basis of information readily available in the country of importation. In order to determine a computed value, however, it may be necessary to examine the costs of producing the goods being valued and other information which has to be obtained from outside the country of importation. Furthermore, in most cases the producer of the goods will be outside the jurisdiction of the authorities of the country of importation. The use of the

computed value method will generally be limited to those cases where the buyer and seller are related, and the producer is prepared to supply to the authorities of the country of importation the necessary costings and to provide facilities for any subsequent verification which may be necessary.

2. The "cost or value" referred to in paragraph 1(a) of Article 6 is to be determined on the basis of information relating to the production of the goods being valued supplied by or on behalf of the producer. It is to be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied in the country where the goods are produced.

3. The "cost or value" shall include the cost of elements specified in Article 8.1(a)(ii) and (iii). It shall also include the value, apportioned as appropriate under the provisions of the relevant note to Article 8, of any element specified in Article 8.1(b) which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in Article 8.1(b)(iv) which are undertaken in the country of importation shall be included only to the extent that such elements are charged to the producer. It is to be understood that no cost or value of the elements referred to in this paragraph shall be counted twice in determining the computed value.

4. The "amount for profit and general expenses" referred to in paragraph 1(b) of Article 6 is to be determined on the basis of information supplied by or on behalf of the producer unless his figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation.

5. It should be noted in this context that the "amount for profit and general expenses" has to be taken as a whole. It follows that if, in any particular case, the producer's profit figure is low and his general expenses are high, his profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind. Such a situation might occur, for example, if a product were being launched in the country of importation and the producer accepted a nil or low profit to offset high general expenses associated with the launch. Where the producer can demonstrate that he is taking a low profit on his sales of the imported goods because of particular commercial circumstances, his actual profit figures should be taken into account provided that he has valid commercial reasons to justify them and his pricing policy reflects usual pricing policies in the branch of industry concerned. Such a situation might occur, for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in the country of importation and accept a low profit to maintain competitivity. Where the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the country of importation, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods.

6. Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the authorities of the importing country shall inform the importer, if the latter so requests, of the source of such information, the data used and the calculations based upon such data, subject to the provisions of Article 10.

7. The "general expenses" referred to in paragraph 1(b) of Article 6 covers the direct and indirect costs of producing and selling the goods for export which are not included under paragraph 1(a).

8. Whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis with reference to the circumstances involved. In determining the usual profits and general expenses under the provisions of Article 6, sales for export to the country of importation of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of Article 6, "goods of the same class or kind" must be from the same country as the goods being valued.

Note to Article 7

1. Customs values determined under the provisions of Article 7 should, to the greatest extent possible, be based on previously determined customs values.

2. The methods of valuation to be employed under Article 7 should be those laid down in Articles 1 to 6, inclusive, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of Article 7.

3. Some examples of reasonable flexibility are as follows:

(a) Identical goods - the requirement that the identical goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of Articles 5 and 6 could be used.

(b) Similar goods - the requirement that the similar goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of Articles 5 and 6 could be used.

(c) Deductive method - the requirement that the goods shall have been sold in the "condition as imported" in Article 5.1(a) could be flexibly interpreted; the "ninety days" requirement could be administered flexibly.

Note to Article 8

Paragraph 1(a)(i)

1. The term "buying commissions" means fees paid by an importer to his agent for the service of representing him abroad in the purchase of the goods being valued.

Paragraph 1(b)(ii)

2. There are two factors involved in the apportionment of the elements specified in Article 8.1(b)(ii) to the imported goods - the value of the element itself and the way in which that value is to be apportioned to the imported goods. The apportionment of these elements should be made in a reasonable manner appropriate to the circumstances and in accordance with generally accepted accounting principles.

3. Concerning the value of the element, if the importer acquires the element from a seller not related to him at a given cost, the value of the element is that cost. If the element was produced by the importer or by a person related to him, its value would be the cost of producing it. If the element had been previously used by the importer, regardless of whether it had been acquired or produced by such importer, the original cost of acquisition or production would have to be adjusted downward to reflect its use in order to arrive at the value of the element.

4. Once a value has been determined for the element, it is necessary to apportion that value to the imported goods. Various possibilities exist. For example, the value might be apportioned to the first shipment if the importer wishes to pay duty on the entire value at one time. As another example, the importer may request that the value be apportioned over the number of units produced up to the time of the first shipment. As a further example, he may request that the value be apportioned over the entire anticipated production where contracts or firm commitments exist for that

production. The method of apportionment used will depend upon the documentation provided by the importer.

5. As an illustration of the above, an importer provides the producer with a mould to be used in the production of the imported goods and contracts with him to buy 10,000 units. By the time of arrival of the first shipment of 1,000 units, the producer has already produced 4 000 units. The importer may request the customs administration to apportion the value of the mould over 1,000 units, 4,000 units or 10,000 units.

Paragraph 1(b)(iv)

5. Additions for the elements specified in Article 8.1(b)(iv) should be based on objective and quantifiable data. In order to minimize the burden for both the importer and customs administration in determining the values to be added, data readily available in the buyer's commercial record system should be used in so far as possible.

6. For those elements supplied by the buyer which were purchased or leased by the buyer, the addition would be the cost of the purchase or the lease. No addition shall be made for those elements available in the public domain, other than the cost of obtaining copies of them.

7. The ease with which it may be possible to calculate the values to be added will depend on a particular firm's structure and management practice, as well as its accounting methods.

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8. For example, it is possible that a firm which imports a variety of products from several countries maintains the records of its design centre outside the country of importation in such a way as to show accurately the costs attributable to a given product. In such cases, a direct adjustment may appropriately be made under the provisions of Article 8.

9. In another case, a firm may carry the cost of the design centre outside the country of importation as a general overhead expense without allocation to specific products. In this instance, an appropriate adjustment could be made under the provisions of Article 8 with respect to the imported goods by apportioning total design centre costs over total production benefiting from the design centre and adding such apportioned cost on a unit basis to imports.

10. Variations in the above circumstances will, of course, require different factors to be considered in determining the proper method of allocation.

11. In cases where the production of the element in question involves a number of countries and over a period of time, the adjustment should be limited to the value actually added to that element outside the country of importation.

Paragraph 1(c)

12. The royalties and licence fees referred to in Article 8.1(c) may include, among other things, payments in respect to patents, trademarks and copyrights. However, the charges for the right to reproduce the imported goods in the country of importation shall not be added to the price actually paid or payable for the imported goods in determining the customs value.

13. Payments made by the buyer for the right to distribute or resell the imported goods shall not be added to the price actually paid or payable for the imported goods if such payments are not a condition of the sale for export to the country of importation of the imported goods.

Paragraph 3

14. Where objective and quantifiable data do not exist with regard to the additions required to be made under the provisions of Article 8, the transaction value cannot be determined under the provisions of Article 1. As an illustration of this, a royalty is paid on the basis of the price in a sale in the importing country of a litre of a particular product that was imported by the kilogram and made up into a solution after importation. If the royalty is based partially on the imported goods and partially on other factors which have nothing to do with the imported goods (such as when the imported goods are mixed with domestic ingredients and are no longer separately identifiable, or when the royalty cannot be distinguished from special financial arrangements between the buyer and the seller), it would be inappropriate to attempt to make an addition for the royalty. However, if the amount of this royalty is based only on the imported goods and can be readily quantified, an addition to the price actually paid or payable can be made.

Note to Article 9

For the purposes of Article 9 "time of importation" may include the time of entry for customs purposes.

Note to Article 11

1. Article 11 provides the importer with the right to appeal against a valuation determination made by the customs administration for the goods being valued. Appeal may first be to a higher level in the customs administration, but the importer shall have the right in the final instance to appeal to the judiciary.

2. "Without penalty" means that the importer shall not be subject to a fine or threat of fine merely because he chose to exercise his right of appeal. Payment of normal court costs and lawyers' fees shall not be considered to be a fine.

3. However, nothing in Article 11 shall prevent a party from requiring full payment of assessed customs duties prior to an appeal.

Note to Article 15.4

For the purposes of this Article, the term 'persons' includes legal persons, where appropriate.

Note to Article 15.4(e)

For the purposes of this Agreement, one person shall be deemed to control another when the former is legally or operationally in a position to exercise restraint or direction over the latter.

ANNEX II

Technical Committee on Customs Valuation

1. In accordance with Article 18 of this Agreement, a Technical Committee on Customs Valuation shall be established under the auspices of the Customs Co-operation Council with a view, at the technical level, towards uniformity in interpretation and application of this Agreement.

2. The responsibilities of the Technical Committee shall include the following:

(a) to examine specific technical problems arising in the day-to-day administration of the customs valuation systems of parties to this Agreement and to give advisory opinions on appropriate solutions based upon the facts presented;

(b) to study, as requested, valuation laws, procedures and practices as they relate to this Agreement and to prepare reports on the results of such studies;

(c) to prepare and circulate annual reports on the technical aspects of the operation and status of this Agreement;

(d) to furnish such information and advice on any matters concerning the valuation of imported goods for customs purposes as may be requested by any party to this Agreement or the Committee. Such information and advice may take the form of advisory opinions, commentaries or explanatory notes;

(e) to facilitate, as requested, technical assistance to parties to this Agreement with a view to furthering the international acceptance of this Agreement; and

(f) to exercise such other responsibilities as the Committee may assign to it.

General

3. The Technical Committee shall attempt to conclude its work on specific matters, especially those referred to it by parties to this Agreement or the Committee, in a reasonably short period of time.

4. The Technical Committee shall be assisted as appropriate in its activities by the Secretariat of the Customs Co-operation Council.

Representation

5. Each party to this Agreement shall have the right to be represented on the Technical Committee. Each party may nominate one delegate and one or more alternates to be its representatives on the Technical Committee. Such a party so represented on the Technical Committee is hereinafter referred to as a member of the Technical Committee. Representatives of members of the Technical Committee may be assisted by advisers. The GATT secretariat may also attend such meetings with observer status.

6. Members of the Customs Co-operation Council who are not parties to this Agreement may be represented at meetings of the Technical Committee by one delegate and one or more alternates. Such representatives shall attend meetings of the Technical Committee as observers.

7. Subject to the approval of the Chairman of the Technical Committee, the Secretary-General of the Customs Co-operation Council (hereinafter referred to as "the Secretary-General") may invite representatives of governments which are neither parties to this Agreement nor members of the Customs Co-operation Council and representatives of international governmental and trade organizations to attend meetings of the Technical Committee as observers.

8. Nominations of delegates, alternates and advisers to meetings of the Technical Committee shall be made to the Secretary-General.

Technical Committee meetings

9. The Technical Committee shall meet as necessary but at least two times a year. The date of each meeting shall be fixed by the Technical Committee at its preceding session.

The date of the meeting may be varied either at the request of any member of the Technical Committee concurred in by a simple majority of the members of the Technical Committee or, in cases requiring urgent attention, at the request of the Chairman.

10. The meetings of the Technical Committee shall be held at the headquarters of the Customs co-operation Council unless otherwise decided.

11. The Secretary-General shall inform all members of the Technical Committee and those included under paragraphs 6 and 7 at least thirty days in advance, except in urgent cases, of the opening date of each session of the Technical Committee.

Agenda

12. A provisional agenda for each session shall be drawn up by the Secretary-General and circulated to the members of the Technical Committee and to those included under paragraphs 6 and 7 at least thirty days in advance of the session, except in urgent cases. This agenda shall comprise all items whose inclusion has been approved by the Technical Committee during its preceding session, all items included by the Chairman on his own initiative, and all items whose inclusion has been requested by the Secretary-General, by the Committee or by any member of the Technical Committee.

13. The Technical Committee shall determine its agenda at the opening of each session. During the session the agenda may be altered at any time by the Technical Committee.

Officers and conduct of business

14. The Technical Committee shall elect from among the delegates of its members a Chairman and one or more Vice Chairmen. The Chairman and Vice Chairmen shall each hold office for a period of one year. The retiring Chairman and Vice Chairmen are eligible for re-election. A Chairman or Vice Chairman who ceases to represent a member of the Technical Committee shall automatically lose his mandate.

15. If the Chairman is absent from any meeting or part thereof, a Vice Chairman shall preside. In that event, the latter shall have the same powers and duties as the Chairman.

16. The Chairman of the meeting shall participate in the proceedings of the Technical Committee as such and not as the representative of a member of the Technical Committee.

17. In addition to exercising the powers conferred upon him elsewhere by these rules, the Chairman shall declare the opening and closing of each meeting, direct the discussion, accord the right to speak, and, pursuant to these rules, have control of the proceedings. The Chairman may also call a speaker to order if his remarks are not relevant.

18. During discussion of any matter a delegation may raise a point of order. In this event, the Chairman shall immediately state his ruling. If this ruling is challenged, the Chairman shall submit it to the meeting for decisions and it shall stand unless overruled.

19. The Secretary-General, or officers of the Secretariat designated by him, shall perform the secretarial work of meetings of the Technical Committee.

Quorum and voting

20. Representatives of a simple majority of the members of the Technical Committee shall constitute a quorum.

21. Each member of the Technical Committee shall have one vote. A decision of the Technical Committee shall be taken by a majority comprising at least two thirds of the members present. Regardless of the outcome of the vote on a particular matter, the Technical Committee shall be free to make a full report to the Committee and to the Customs Co-operation Council on that matter indicating the different views expressed in the relevant discussions.

Languages and records

22. The official languages of the Technical Committee shall be English, French and Spanish. Speeches or statements made in any of these three languages shall be immediately translated into the official languages unless all delegations agree to dispense with translation. Speeches or statements made in any other language shall be translated into English, French and Spanish, subject to the same conditions, but in the event the delegation concerned shall provide the translation into English, French or Spanish. Only English, French and Spanish shall be used for the official documents of the Technical Committee. Memoranda and correspondence for the consideration of the Technical Committee must be presented in one of the official languages.

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23. The Technical Committee shall draw up a report of all its sessions and, if the Chairman considers it necessary, minutes or summary records of its meetings. The Chairman or his designee shall report on the work of the Technical Committee at each meeting of the Committee and at each meeting of the Customs Co-operation Council.

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ANNEX III

Ad hoc panels

1. Ad hoc panels established by the Committee under this Agreement shall have the following responsibilities:

(a) to examine the matter referred to it by the Committee;

(b) to consult with the parties to the dispute and give full opportunity for them to develop a mutually satisfactory solution; and

(c) to make a statement concerning the facts of the matter as they relate to the application of the provisions of this Agreement and, make such findings as will assist the Committee in making recommendations or giving rulings on the matter.

2. In order to facilitate the constitution of panels, the Chairman of the Committee shall maintain an informal indicative list of government officials knowledgeable in the area of customs valuation and experienced in the field of trade relations and economic development. This list may also include persons other than government officials. In this connection, each party to this Agreement shall be invited to indicate at the beginning of every year to the Chairman of the Committee the name(s) of the one or two governmental experts whom the parties to this Agreement would be willing to make available for such work. When a panel is established, the Chairman, after consultation with the parties concerned, shall, within seven days of such establishment, propose the composition of the panel consisting of three or five members and preferably government officials. The parties directly concerned shall react within seven working days to nominations of panel members by the Chairman and shall not oppose nominations except for compelling reasons.

Citizens of countries whose governments are parties to a dispute shall not be eligible for membership of the panel concerned with that dispute. Panel members shall serve in their individual capacities and not as government representatives, nor as representatives of any organization. Governments or organizations shall therefore not give them instructions with regard to matters before a panel.

3. Each panel shall develop its own working procedures. All parties having a substantial interest in the matter and having notified this to the Committee shall have an opportunity to be heard. Each panel may consult and seek information and technical advice from any source it deems appropriate. Before a panel seeks such information or technical advice from a source within the jurisdiction of a party, it shall inform the government of that party. Any party to this Agreement shall respond promptly and fully to any request by a panel for such information as the panel considers necessary and appropriate. Confidential information provided to the panel shall not be disclosed without the specific permission of the person or government providing such information. Where such information is requested from the panel but release of such information by the panel is not authorized, a non-confidential summary of the information, authorized by the person or government providing the information, will be provided.

4. Where the parties to the dispute have failed to reach a satisfactory solution, the panel shall submit its findings in writing. The report of a panel should normally set out the rationale behind its findings. Where a settlement of the matter is reached between the parties, the report of the panel may be confined to a brief description of the dispute and a statement that a solution has been reached.

5. Panels shall use such report of the Technical Committee as may have been issued under Article 20.4 of this Agreement as the basis for their consideration of issues that involve questions of a technical nature.

6. The time required by panels will vary with the particular case. They should aim to deliver their findings, and where appropriate, recommendations, to the Committee without undue delay, normally within a period of three months from the date that the panel was established.

7. To encourage development of mutually satisfactory solutions between the parties to a dispute and with a view to obtaining their comments, each panel should first submit the descriptive part of its report to the parties concerned, and should subsequently submit to the parties to the dispute its conclusions, or an outline thereof, a reasonable period of time before they are circulated to the parties to this Agreement.

APPENDIX B

T.D. 54521
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

Final List

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
Acid pure blue R supar 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 viloet 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
Aizarine pure blue BL
Alizarine supra blue SES
•Aluminum steel gray BM
•Anodal light black new
•Anodal light gray
Anodal light orange
•Anodal light orange No. 3
Anthraquinone violet
Anthraquinone violet D
Anthrasol golden yelow IRK
•Artisil blue GFL
Artisil direct blue GFL
Artisil direct orange RFL
•Artisil orange RFL
•Azoic black 3582
•Azoic golden yellow IFG
•BASF discharge bue 3G
•Benzamine brilliant blue BBLS
•Benzamine briliant green 6G
•Benzamine dark blue BLS
•Benzamine green 3GS
•Benzo briliant green GLS
•Benzo briliant green LSG
•Benzo orange BS
•Benzyl fast orange G
•Benzyl fast red 2BL
•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 sk ue 2GS
Brilliant direct pink
Brilliant direct pink B
Brilliant kitron red B
Brilliant sky blue 8G
Brilliant sky blue RRM
Brilliant sulfon red 5B
•Carbolan brilliant blue 2RS
Carbolan crimson BS
•Carholan 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 K
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
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
Cibanone violet 6B
Cibanone 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 2BL
Coprantine gray 2RLL
Coprantine green G
Coprantine green 3GLL
*Coprantine orange 2BRL
Coprantine yellow 2G
Coprantine yellow GRLL
*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 7
*Diamond chrome brilliant violet 5B
Diazamine fast bordeaux 2BWL
Diazamine fast scarlet RWL
*Diazo brilliant green 6G
Diazo brown BWA
*Diazo fast bue 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 GLY
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 amiral G
Eriochrome blue 2GK supra I
*Eriochrome brown 5GL
Eriochrome brilliant violet B supra II
Eriochrome brilliant violet R supra I
Eriochrome geranol R supra I
Eriochrome red G
*Erioglaucine 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
*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 3GL
Irgalan brown 7RL
Irgalan brown violet DL
Irgalan dark brown 3R

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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 3[illegible]
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
Metomega chrome brown PRLL
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 brillian 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
Pilar brilliant red B
Pilar brilliant red 3B
Pilar 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
*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
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
Diketoindoline (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 WL
*Nonex WSP
*Nonox
Parachlormetacresol
Textile assistants (coal-tar intermediates other than colors, dyes, stains, color acids, and bases)
*Vinyl carbazole (mono)

Medicinals

Acetarsol
*Anthralen (1, 8-dihydroxyanthranol)
*Methylacetanilide
*3-Nitro-4 hydroxyphenly arsonic acid
*Pentazolum
*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

Final List

Cortisone acetate, not in medicinal doses
Desoxycorticosterone acetate, not in medicial 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
Philocarpine 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
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, whiting, 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 metabisulphite
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
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 containg alcohol
Oil, sage, not containing alcohol
Oil, vetivert, 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 yelow, chrome green (chromicoxide), 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 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)

Glassware

Bell jars, glass
Cloth, woven, glass
Desiccators and parts thereof, glass
Laminated glass, and manufactures thereof
Museum jars, glass
Plate glass, ½ 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
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
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 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
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 cuting (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
Winchdrums, not having as an essential feature an electrical element or device, and parts thereof

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 280)

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 1/16 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, automobiles, 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
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 ⅛ inch or over in diameter but not exceeding 24/100 inch or over in diameter
*Screws, machine, steel, having shanks or threads ⅛ 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

Final List

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
Burrs, 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 1/64 of an inch
Gages, hand, stop and go type, chief value iron or steel
Gages, height, venier, 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)

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
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 conveyer 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 length not exceeding 840 yards

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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
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
Ribbon, derived from pile fabrics, pile partly cut, in chief 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 and 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)
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

Final List

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 solution, weighing 15 pounds or more per ream (basis 20x25 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, 7/16 inch and over in thickness
Paperboards, over 0.012 inch 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

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, [illegible]
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
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 construcion sets in chief value of meal 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 (5½ 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
Laces, lace fabrics and lace articles, wholy or in chief value of wool (except veils and veilings) made on a levers (including go-through) lace machine (whether or not embroided 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 embroided, 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 embroided, 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 "Kitabi"), 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
Hose and tubing, polyethylene or polyvinyl chloride, having an inside diameter of less than ⅜ inch
Hose and tubing, rubber, not made of hard rubber, having at no point an inside diameter of less than ⅜ 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 vaue 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 C

SECTIONS 402, 402a AND 500 OF THE TARIFF ACT OF 1930, AS AMENDED

19 U.S.C. 1401a
70 Stat. 943

SEC. 402. VALUE.

(a) Basis.-- Except as otherwise specifically provided for in this Act 1/, 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.

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70 Stat. 948
See list in brackets reproduced after sec. 402(a)

1/ The Secretary of the Treasury shall determine and make public a list of the articles which shall be valued in accordance with section 402a, Tariff Act of 1930, as amended by this Act, as follows:

As soon as practicable after the enactment of this Act the Secretary shall make public a preliminary list of the imported articles which he shall have determined, after such investigation as he deems necessary, would have been appraised in accordance with section 402 of the Tariff Act of 1930, as amended by this Act, at average values for each article which are 95 (or less) per centum of the average values at which such article was actually appraised during the fiscal year 1954. If within sixty days after the publication of such preliminary list any manufacturer, producer, or wholesaler in the United States presents to the Secretary his reason for believing that any imported articles not specified in such list and like or similar to articles manufactured, produced, or sold at wholesale by him would have been appraised in accordance with such section 402 at average values which are 95 (or less) per centum of the average values at which they were or would have been appraised under section 402a, Tariff Act of 1930, as amended by this Act, the Secretary shall cause such investigation of the matter to be made as he deems necessary. If in the opinion of the Secretary the reason for belief is substantiated by the investigation, the articles involved shall be added to the preliminary list and such list, including any additions so made thereto, shall be published as a final list. Every article so specified in the final list which is entered, or withdrawn from warehouse, for consumption on or after the thirtieth day following the date of publication of the final list shall be appraised in accordance with the provisions of section 402a, Tariff Act of 1930, as amended by this Act.

Sec. 402

(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 whatsoever 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.

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 or 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 appraisement, have been normal in the trade under consideration with respect to merchandise of the same class or kind as the merchandise undergoing appraisement.

(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 appraisement 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 appraisement.

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

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

(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 appraisement. 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.

19 U.S.C. 1402
70 Stat. 943, 945
84 Stat. 288
See list following this section.

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 appropriate customs officer determines that neither the foreign value nor the export value can be satisfactorily ascertained, then the United States value;

(3) If the appropriate customs officer 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.

84 Stat. 288 (b) Review of Custom's Officer's Decision.-- A decision of the appropriate customs officer that foreign value, export value, or United States value can not be satisfactorily ascertained shall be subject to protest in accordance with section 514; but in any such proceeding, 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
82 Stat. 1061 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
82 Stat. 1061 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
52 Stat. 1081 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
52 Stat. 1081 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.

19 U.S.C. 1500
84 Stat. 283

SEC. 500. APPRAISEMENT, CLASSIFICATION, AND LIQUIDATION PROCEDURES.

The appropriate customs officer shall, under rules and regulations prescribed by the Secretary--

(a) appraise 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 costs of production in any invoice, affidavit, declaration, or other document to the contrary notwithstanding;

(b) ascertain the classification and rate of duty applicable to such merchandise;

(c) fix the amount of duty to be paid on such merchandise and determine any increased or additional duties due or any excess of duties deposited;

(d) liquidate the entry of such merchandise; and

(e) give notice of such liquidation to the importer, his consignee, or agent in such form and manner as the Secretary shall prescribe in such regulations.

APPENDIX D

STATISTICAL TABLES

Table 1.--ESTIMATED DISTRIBUTION OF CUSTOMS ENTRIES BY BASES OF VALUATION, NUMBER OF RELATED-PARTY TRANSACTIONS, AND NUMBER OF ENTRIES APPRAISED AT INVOICE VALUES, 1977

Bases of Valuation	Number of Entries	Percent of Total	Percent of 402	Percent of 402a
	(1,000)			
Export Value 402	2,394	69.5	84.4	
U.S. Value 402	58	1.7	2.0	
Constructed Value 402	353	10.3	12.5	
American Selling Price 402	30	0.9	1.1	
Subtotal 402	2,835	82.4	100.0	
Foreign Value 402a	109	3.2		22.2
Export Value 402a	162	4.7		33.0
U.S. Value 402a	12	0.3		2.4
Cost of Production 402a	189	5.5		38.5
American Selling Price 402a	19	0.6		3.9
Subtotal 402a	491	14.2		100.0
Subtotal 402 and 402a	3,326	96.6		
Section 500	117	3.4		
Total	3,443	100.0		
Number of Related Transactions	992	28.8		
Number Appraised at Invoice Values	2,354	68.4		

Source: This table was compiled from questionnaires completed by all Customs import specialist teams, asking each team to estimate the relative frequency of use of each of the various bases of appraisement, as well as the number of related-party transactions and invoice-value appraisements in his or her office for the year 1977.

Table 2.--Industrial and finished organic chemicals. U.S. production and sales, 1969-76 1/

Year	Production	Sales		
		Quantity	Value	Unit value
	Billion pounds	Billion pounds	Billion dollars	Per pound
1969	38.1	17.9	4.5	$0.25
1970	38.6	21.3	4.6	.21
1971	41.2	22.6	4.9	.22
1972	48.2	27.3	5.6	.20
1973	50.9	30.5	6.9	.23
1974	53.3	29.7	10.4	.35
1975	43.8	24.3	9.6	.39
1976	48.3	24.3	10.3	.42

1/ Partly estimated.

Source: Compiled from data submitted to the U.S. International Trade Commission and included in the figures published in its reports, Synthetic Organic Chemicals, U.S. Production and Sales.

Table 3.--Industrial and finished organic chemicals dutiable under subparts 1B and 1C, Schedule 4, TSUS: U.S. sales, imports, exports, and ratios of imports and exports to sales, 1969-76.

(In millions of dollars)

Year	Sales 1/	Imports	Exports 2/	Ratio (percent)-- Imports to sales	Exports to sales
1969	4,460.2	218.0	713.4	4.9	16.0
1970	4,566.8	255.3	826.3	5.6	18.1
1971	4,871.5	331.7	803.2	6.8	16.5
1972	5,579.2	401.9	754.0	7.2	13.5
1973	6,932.2	509.0	1,116.6	7.3	16.1
1974	10,423.0	633.5	1,882.0	6.1	18.1
1975	9,592.1	600.5	1,647.2	6.3	17.2
1976	10,274.2	848.1	1,955.7	8.2	19.1

1/ Partly estimated. Considerable duplication exists in these figures. A large part of the sales of industrial organic chemicals is used in the production of more advanced finished products. Therefore, a more realistic measure of the relative economic importance of the benzenoid chemical industry would be the value added by manufacture. Value added is defined as the value of shipments less the total cost of materials (including materials, supplies, fuel, electric energy, cost of resales, and miscellaneous receipts). The value added is estimated to approximate 50 percent of the value of sales for each calendar year (based on the value added reported in the 1969 and 1972 Census of Manufactures for those Standard Industrial Classifications which included shipments of benzenoid products). Thus for calendar year 1972, the value added is estimated to have been about $2,500,000,000 to $3,000,000,000. Data on military explosives are not includes in sales.

2/ Partly estimated. Export statistics published by the Bureau of the Census do not separately identify all benzenoid exports. In addition to 41 export classes comprised wholly of benzenoid products in 1976, there are 65 export classes comprised in part of such products. The estimated total values of benzenoid exports in this table include the estimates of the benzenoid products in these latter 65 export classes.

Note.--The table does not include data on benzenoid crudes, which are duty-free under subpart 1A, and certain other benzenoid products, such as benzenoid synthetic rubbers which are dutiable under TSUS item 446.15. Sales of these crudes and rubbers are estimated at $2,763,000,000 in 1976.

Source: Sales compiled from data submitted to the U.S. International Trade Commission and included in the figures published in its reports, Synthetic Organic Chemicals, U.S. Production and Sales. Imports and extimated exports prepared from official statistics of the U.S. Department of Commerce.

Table. 4: Benzenoid Chemicals and Products: U.S. Production, Sales, Imports and Exports, 1976

Industry group	Production Quantity	Sales Quantity	Sales Value	Imports Value 1/	Ratio (%) Import/Sales	Exports Value 2/	Ratio (%) Exports/Sales
	Quantity (1000 pounds)			Value ($1000)			
Industrial organic chemicals	2/ 32,063,620	2/ 12,606,941	2/ 3,106,536	292,697	9.4	951,715	30.6
Dyes	256,250	249,887	620,294	106,860	17.2	77,544	12.5
Pigments	67,727	54,211	261,089	32,346	12.4	36,497	14.0
Medicinals 3/	114,905	63,140	402,117	186,221	46.3	124,399	30.9
Flavor and perfume materials	40,142	36,776	91,251	28,388	31.1	30,102	33.0
Plastics	8,[illegible]3,083	7,684,865	3,113,430	41,578	1.3	219,591	7.1
Rubber processing chemicals	334,735	186,393	218,263	1,139	0.5	56,485	25.9
Plasticizers	1,303,772	1,207,225	416,383	1,407	0.3	65,666	15.8
Surface-active agents	1,018,889	475,386	201,571	3,901	1.9	57,544	28.5
Pesticides	750,170	642,592	1,401,613	128,833	9.2	259,688	18.5
Miscellaneous end-use chemicals	3,893	3,326	5,386	24,708	6.0	76,472	18.4
Miscellaneous cyclic chemicals	2/ 2,445,319	2/ 1,081,805	2/ 409,290				
Total	47,342,505	24,292,547	10,247,223	848,078	8.3	1,955,703	19.1

1/ Entered value.

2/ Partly estimated.

3/ The statistics shown are for bulk chemicals only; finished pharmaceutical preparations and products put up in pills, capsules, tablets, or other measured doses are excluded.

Source: Production and sales compiled from data submitted to the U.S. International Trade Commission and from Commission report Synthetic Organic Chemicals, U.S. Production and Sales; imports and estimated exports prepared from official statistics of the U.S. Department of Commerce.

Table 5.--Footwear with uppers of fabric and soles of rubber or plastics entered under TSUS item No. 700.60, which covers footwear dutiable on the American selling price basis of valuation as well as footwear not dutiable on the American selling price basis of valuation: U.S. imports for consumption, by principal sources, 1975-77

Source	1975	1976	1977
	Quantity (1,000 pairs)		
Republic of China	33,183	65,169	61,038
Republic of Korea	28,774	31,430	24,733
Italy	1,057	1,952	2,685
Spain	1,084	2,659	2,504
Japan	3,754	2,917	2,600
France	691	1,001	983
Mexico	2,189	4,690	6,121
Greece	161	454	731
West Germany	223	380	287
Hong Kong	1,192	1,335	1,005
Philippines	466	464	467
Malaysia	9	117	602
Colombia	15	97	143
Singapore	3	105	12
All other	1,306	2,585	2,102
Total	74,107	115,355	106,012
	Value (1,000 dollars) 1/		
Republic of China	38,390	71,841	86,919
Republic of Korea	46,250	59,331	59,618
Italy	5,620	10,520	15,566
Spain	4,606	12,187	12,105
Japan	5,735	7,604	8,961
France	5,074	7,450	8,348
Mexico	1,524	3,934	5,669
Greece	863	2,373	4,088
West Germany	2,246	3,821	3,221
Hong Kong	1,131	1,525	1,139
Philippines	520	624	930
Malaysia	21	105	854
Colombia	19	82	485
Singapore	3	101	41
All other	7,359	8,689	5,405
Total	119,361	190,185	213,347
	Unit value (per pair)		
Republic of China	$1.16	$1.10	$1.42
Republic of Korea	1.61	1.89	2.41
Italy	5.32	5.39	5.80
Spain	4.25	4.58	4.83
Japan	1.53	2.61	3.45
France	7.34	7.44	8.49
Mexico	.70	.84	.93
Greece	5.35	5.23	5.59
West Germany	12.07	10.06	11.22
Hong Kong	.95	1.14	1.13
Philippines	1.12	1.34	1.99
Malaysia	2.33	.90	1.42
Colombia	1.27	.85	3.39
Singapore	1.00	.96	3.33
All other	5.63	3.36	2.57
Total	1.61	1.65	2.01

1/ The value shown represents the f.a.s. value.

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

Table 6.--U.S. imports for consumption of ASP footwear, by principal sources, 1975-77.

Source	1975	1976	1977
	Quantity (1,000 pairs)		
Republic of Korea	16,040	18,810	13,241
Republic of China	5,910	10,873	8,789
Japan	450	515	346
France	85	149	142
Italy	201	208	199
Spain	195	266	183
Philippines	256	374	333
Malaysia	-	117	488
West Germany	43	93	37
Greece	30	63	57
Hong Kong	266	266	169
Colombia	-	1	50
Mexico	12	2	4
Singapore	-	102	-
All other	110	102	127
Total	23,607	31,941	24,165
	Value (1,000 dollars) 1/		
Republic of Korea	26,776	38,491	31,966
Republic of China	10,221	19,176	19,993
Japan	1,343	2,156	1,779
France	608	1,056	1,170
Italy	1,033	1,058	1,077
Spain	783	1,168	906
Philippines	320	480	571
Malaysia	-	102	470
West Germany	453	1,026	427
Greece	193	305	300
Hong Kong	440	468	188
Colombia	-	2	171
Mexico	53	9	13
Singapore	-	99	-
All other	429	306	432
Total	42,654	65,901	59,463
	Unit value (per pair)		
Republic of Korea	$1.67	$2.05	$2.41
Republic of China	1.73	1.76	2.27
Japan	2.98	4.19	5.14
France	7.15	7.09	8.24
Italy	5.14	5.09	5.41
Spain	4.02	4.39	4.95
Philippines	1.25	1.28	1.71
Malaysia	-	.87	.96
West Germany	10.53	11.03	11.54
Greece	6.43	4.84	5.26
Hong Kong	1.65	1.76	1.11
Colombia	-	2.00	3.42
Mexico	4.42	4.50	3.25
Singapore	-	.97	-
All other	3.90	3.00	3.40
Total	1.81	2.06	2.46

1/ The value shown represents the f.a.s. value.

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

Dash indicates no data available; presumed to be nil.

Table 7.--U.S. imports for consumption of non-ASP footwear entered under TSUS item number 700.60 by principal sources, 1975-77

Source	1975	1976	1977
	Quantity (1,000 pairs)		
Republic of China	27,273	54,296	52,249
Republic of Korea	12,725	12,620	11,492
Italy	856	1,744	2,486
Spain	889	2,392	2,321
Japan	3,304	2,401	2,254
France	606	854	841
Mexico	2,177	4,688	6,117
Greece	131	391	674
West Germany	179	287	250
Hong Kong	926	1,026	836
Malaysia	9	1	113
Philippines	210	90	134
Colombia	14	96	92
Singapore	3	3	12
All other	1,198	2,525	1,976
Total	50,500	83,414	81,846
	Value (1,000 dollars) 1/		
Republic of China	28,169	52,665	66,926
Republic of Korea	19,474	20,839	27,651
Italy	4,587	9,462	14,489
Spain	3,823	11,019	11,199
Japan	4,397	5,448	7,187
France	4,466	6,393	7,177
Mexico	1,471	3,925	5,655
Greece	670	2,068	3,789
West Germany	1,793	2,795	2,794
Hong Kong	691	1,057	951
Malaysia	21	2	384
Philippines	200	144	359
Colombia	19	80	314
Singapore	3	2	41
All other	6,953	8,383	4,972
Total	76,707	124,284	153,884
	Unit value (per pair)		
Republic of China	$1.03	$0.97	$1.28
Republic of Korea	1.53	1.65	2.41
Italy	5.36	5.43	5.83
Spain	4.30	4.61	4.83
Japan	1.33	2.27	3.19
France	7.37	7.49	8.53
Mexico	.68	.84	.92
Greece	5.11	5.29	5.62
West Germany	10.02	9.74	11.16
Hong Kong	.75	1.03	1.14
Malaysia	2.33	2.00	3.40
Philippines	.95	1.60	2.68
Colombia	1.36	.83	3.41
Singapore	1.00	.67	3.42
All other	[illegible]	[illegible]	[illegible]
Total	1.52	1.49	1.88

1/ The value shown represents the f.a.s. value.

Source: [illegible] from official statistics of the U.S. Department of Commerce.

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Table 8.--U.S. imports for consumption of footwear entered under TSUS item number 700.60, by TSUSA item number, 1973-77

(In thousands of pairs)

TSUSA item No.	Description	1973	1974	1975	1976	1977
	Like or similar to U.S. footwear:					
	Oxford height:					
700.6005	For men, youths, and boys	13,679	16,029	14,750	16,520	11,806
700.6015	For women and misses	4,962	4,838	3,954	7,361	5,710
700.6025	For children and infants	3,484	2,829	3,487	5,958	5,105
700.6030	Other than oxford height	2,059	2,570	1,416	2,101	1,545
	Total	24,184	26,266	23,607	31,941	24,165
	Not like or similar to U.S. footwear:					
	Oxford height:					
700.6035	For men, youths, and boys	4,079	7,769	11,940	11,645	12,429
700.6045	For women and misses	17,672	14,545	17,126	35,207	34,205
700.6055	For children and infants	4,527	4,449	3,509	5,202	5,498
700.6060	Other than oxford height	15,829	14,594	17,925	31,360	29,715
	Total	42,107	41,356	50,500	83,414	81,846
	Grand total	66,291	67,622	74,107	115,355	106,011

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

Table 9.--Clams, except razor clams in airtight containers: U.S. imports for consumption, by principal sources, 1973-77

Source	1973	1974	1975	1976	1977
	Quantity (1,000 pounds)				
Republic of Korea	95	236	142	2,253	4,077
Japan	3,402	4,099	1,722	3,730	3,122
Italy	28	48	12	168	262
Thailand	7	1/	0	1	159
Spain	38	61	29	42	28
Mexico	0	0	0	0	30
Ecuador	69	77	78	57	37
Chili	0	0	0	14	13
China T	1	21	0	0	8
China M	1	2	6	1	12
Canada	0	19	1	8	1
All other	13	26	7	12	5
Total	3,654	4,589	1,997	6,286	7,752
	Value (1,000 dollars)				
Republic of Korea	83	282	149	2,399	4,727
Japan	2,915	4,085	1,822	3,899	3,968
Italy	22	32	9	105	188
Thailand	9	1/	0	1	134
Spain	62	95	38	64	49
Mexico	0	0	0	0	37
Ecuador	39	52	60	47	29
Chili	0	0	0	11	12
China T	1/	31	0	0	8
China M	1	2	3	1	3
Canada	0	8	1/	7	1
All other	6	18	6	8	2
Total	3,137	4,605	2,087	6,542	9,158
	Unit value (per pound)				
Republic of Korea	$0.87	$1.20	$1.05	$1.06	$1.16
Japan	.86	1.00	1.06	1.05	1.27
Italy	.79	.67	.75	.63	.72
Thailand	1.28	.74	0	1.46	.85
Spain	1.63	1.57	1.33	1.52	1.75
Mexico	0	0	0	0	1.21
Ecuador	.57	.67	.77	.83	.80
Chili	0	0	0	.83	.89
China T	.35	1.46	0	0	1.16
China M	1.00	1.16	.48	.77	.22
Canada	0	.41	.74	.92	1.14
All other	.48	.69	.75	.62	.94
Average	.86	1.00	1.05	1.04	1.18

1/ Less than 500 pounds or $500.

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

Table 16.--Clams, except razor clams in airtight containers: U.S. production, 1/ imports, and apparent consumption, 2/ 1973-77

Year	Production 1/	Imports	Consumption 2/	Ratio (percent) of imports to consumption
	Quantity (1,000 pounds)			
1973	13,871	3,654	17,525	20.9
1974	13,300	4,589	17,889	25.7
1975	13,556	1,997	15,553	12.8
1976	7,487	6,286	13,773	45.6
1977	11,631	7,752	19,383	40.0
	Value (1,000 dollars)			
1973	14,725	3,137	17,862	17.6
1974	16,949	4,605	21,554	21.4
1975	17,855	2,087	19,942	10.5
1976	14,267	6,542	20,809	31.4
1977	3/	9,158	3/	3/

1/ Production consists almost exclusively of minced and boiled whole clams, and negligible amounts of razor clams.
2/ Exports are negligible
3/ Not available

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

Table 11-Total U.S. imports and Final List imports by TSUSA Schedules.

Schedule	Customs Value: Total (million dollars)	Customs Value: Final List (million dollars)	Final List Percent of total
1-------	12,896	250	1.9
2-------	5,910	253	4.3
3-------	4,976	186	3.7
4-------	39,030	274	0.7
5-------	2,757	44	1.6
6-------	43,382	8,749	20.2
7-------	9,529	1,819	19.1
Total--	118,480	11,575	9.8

Source: USITC estimates compiled from offical statistics of the U.S. Department of Commerce for 1976.

Table 12-Custom value and FAS value for Final List imports by TSUSA schedules

Schedule	Customs value (402a) (1,000 dollars)	FAS value (1,000 dollars)	Value increase (decrease) (1,000 dollars)	Customs AVE	Duty increase (decrease) (1,000 dollars)
1-------	205,344	248,118	(2,226)	.057	(126.9)
2-------	253,302	252,990	(312)	.024	(7.5)
3-------	185,722	184,055	(1,667)	.147	(245.0)
4-------	273,885	266,916	(6,969)	.049	(341.5)
5-------	44,183	41,155	(3,028)	.050	(151.4)
6-------	8,748,970	8,850,373	101,403	.039	3,954.7
7-------	1,819,442	1,713,974	(105,468)	.077	(8,121.0)
Total--	11,575,848	11,557,581	(18,267)	.047	(858.5)

Source: USITC estimates compiled from offical statistics of the U.S. Department of Commerce.

Table 13.--Custom and FAS values of imports of Final List items with value over $25 million.

Description	TSUS numbers	Customs value (millions of dollars)	FAS value (millions of dollars)	Dollar increase (decrease) (millions of dollars)	Percent increase (decrease)
Automobiles.	692.10	5,369.7	5,473.8	104.1	1.9
Television apparatus and parts (except cameras), in chief value of metal.	685.20	1,261.2	1,260.7	(0.5)	1/
Tires and tubes, pneumatic, rubber or substitutes, except bicycle.	772.45 772.50 772.51 772.59 772.60	857.9	805.8	(52.1)	(6.1)
Automobile parts, finished.	692.25 692.27	675.7	682.8	7.1	1.05
Engines, internal-combustion, carburetor type, with electrical element.	660.40	258.2	259.8	1.6	0.6
Cameras, photographic, lens not chief value, other than motion-picture, box.	722.16	177.1	174.1	(3.0)	(1.7)
Books, bound or unbound, of bonafide foreign authorship.	270.25 270.45	147.0	147.4	0.4	0.3
Loud speakers.	684.70	131.8	132.4	0.6	1.7
Bearings, ball, metal, and parts thereof (including cages).	680.35	109.3	105.7	(3.6)	(3.3)

1/ Less than 0.1 percent.

Description	TSUS numbers	Customs value (millions of dollars)	FAS value (millions of dollars)	Dollar increase (decrease) (millions of dollars)	Percent increase (decrease)
Motors, electtric, not over 75 horsepower.	682.20 682.25 682.30 682.40	99.9	99.8	(0.1)	(0.1)
Candy, sugar, and all confectionery, valued at six cents or more per pound.	157.10	92.8	92.3	(0.5)	(0.5)
Telephone apparatus and parts, wholly or in chief value of metal.	684.62	90.9	90.7	(0.2)	(0.2)
Films, photographic (except motion-picture film 1 inch or more), sensitized.	723.15	85.5	82.5	(3.0)	(3.5)
Rubber, synthetic.	446.15	78.0	76.3	(1.7)	(2.2)
Sensitized paper to be used in photography.	723.30 723.32	78.6	75.5	(3.1)	(3.9)
Bearings, roller, metal, and parts thereof.	680.35	68.4	65.3	(3.1)	(4.5)
Boots, shoes, overshoes, or other footwear, India rubber or substitutes.	700.51 700.52 700.53 700.54 700.58	61.6	62.0	0.4	0.6
Lathes (except watch and toolmaker's.	674.35 682.25	58.0	57.8	(0.2)	(0.3)
Biscuits, cakes, wafers, etc., other than puddings or nice crackers.	182.20	51.1	50.0	(1.1)	(2.2)

Description	TSUS numbers	Customs value (millions of dollars)	FAS value (millions of dollars)	Dollar increase (decrease) (millions of dollars)	Percent increase (decrease)
Films, photographic, x-ray, sensitized, but not exposed or developed.	723.15	49.0	47.4	(1.6)	(3.3)
Plywood, birch, including door panels.	240.14 240.25	42.9	42.8	(0.1)	(0.2)
Tubing, steel, seamless, cold drawn.	610.49	40.7	40.8	0.1	0.2
Motorcycles, parts of.	692.55	40.1	40.0	(0.1)	(02.)
Machines, calculating, electrical, multiplying and dividing, parts of.	676.52	39.1	39.2	0.1	0.3
Watch cases, parts of, in chief value of any base metal.	720.28 720.29 720.30	36.3	36.3	-	0
Carpets, wool, of oriental weave, produced on a power-driven loom.	360.46 360.48	36.1	36.0	(0.1)	(0.3)
Machines, photocopying, having an essential electrical element or device.	676.30	35.4	35.2	(0.2)	(0.6)
Chains and parts, of iron or steel, for transmission of power.	652.12 652.15	34.6	34.4	(0.2)	(0.6)
Machinery, for bleaching, printing, dyeing or finishing textiles.	668.15 668.50 670.43	32.7	32.6	(0.1)	(0.3)
Compressors, air and gas, not having as an essential electrical element.	661.12 240.25	32.0	32.0	-	0

Table 14.--Import categories of more than $25 million in value with increases in landed, duty-paid value greater than 1 percent under c.i.f. valuation

	TSUSA item	1976 Import value	Landed duty-paid value increase
		Million dollars	Percent
Other WGI shirts 1/	382.7859	195	1.89
WGI sweaters	382.7875	173	2.16
Plywood	240.1740	145	2.68
MB shirts 2/	380.8137	99	2.02
MB shirts	380.8435	93	2.17
Handbags, nspf	706.6020	88	1.75
Hardwood plywood	240.2360	83	1.31
Luggage, nspf	706.6035	74	2.07
Dolls	737.2080	72	2.21
Jewelry, nes	740.3800	70	2.10
MB shirts	380.8445	69	1.72
WGI blouses	382.7801	69	1.66
Footwear, male oxford	700.6005	69	1.33
WGI blouses	382.3310	62	1.95
Earthen art sets	533.2800	60	1.07
Toys, nspf	737.9550	58	1.80
WG sweaters	382.5870	57	1.39
Sport gym equipment	735.2000	57	1.19
WGI coats	382.8110	54	1.98
Footwear, female oxford	700.6045	54	1.84
WGI trousers	382.7888	52	1.80
WG slacks	382.8128	51	1.09
Toy figures	737.9520	50	2.44
MB coats	380.8420	50	1.79
MB sweaters	380.8147	48	2.34
Trousers	380.3929	47	1.37
MB trousers	380.8455	45	1.10
Food preparation articles	772.1500	44	1.03
Womens blouses	382.8102	43	1.62
Chinaware	534.9400	42	1.78
Footwear, rubber	700.6060	40	1.74
Shirts	380.2789	39	1.93
E/S ware, art 3/	534.8700	39	1.04
Ceramic tile	532.1440	38	2.60
MB shirts	380.0650	38	1.34

1/ Womens, girls, and infants
2/ Mens and boys
3/ Earthenware and stoneware

Description	TSUS numbers	Customs value (millions of dollars)	FAS value (millions of dollars)	Dollar increase (decrease) (millions of dollars)	Percent increase (decrease)
Filaments, other than waste, synthetic, not over 30 inches noncellulosic.	309.43	31.3	31.3	-	0
Plumes, chief value of feathers.	748.40	28.3	28.3	-	0
Table, household, or kitchen utensils of iron or steel, enameled or glazed.	653.97	27.3	25.7	(1.6)	(5.9)
Airplanes, 6 passengers or less, not including seaplanes, aiphibians, etc.	694.40	25.5	25.5	-	0
Drills, portable, (hobby shop type), having an essential electrical element.	683.20	25.5	25.5	-	0
Yarns, rayon, singles, not more than 20 turns/twist/in.	310.01 310.02	25.4	25.4	-	0

Source: USITC estimates compiled from official statistics of the U.S. Department of Commerce for 1976.

Table 14.--Import categories of more than $25 million in value with increases in landed, duty-paid value greater than 1 percent under c.i.f. valuation--Continued

	TSUSA item	1976 Import value	Landed duty-paid value increase
		Million dollars	Percent
WGI shirts	382.0670	38	1.34
MB trousers	380.8165	38	1.83
Wood utensils	206.9800	36	1.26
Plastic flowers	774.6020	35	1.67
Umbrellas	750.0500	32	1.37
WGI sweaters	382.0429	31	2.85
WGI slacks	382.3362	31	1.67
Furniture of unspun vegetable fibers	727.1000	30	4.25
Mens shirts	380.2787	30	1.89
Mahogany plywood	240.1720	29	2.38
Reinforced concrete bars	608.4100	29	1.17
Rubber or plastic furniture	727.4800	29	1.03
Edible preparations, nes	182.9880	28	1.30
MB slacks	380.0070	28	2.27
Footwear, male oxford	700.6035	27	1.31
Toy figures	737.4000	27	2.22
Plywood	240.2320	27	1.05
Xmas tree lights	688.1000	26	1.85
Cut flowers	192.2000	25	1.75

APPENDIX E

BRUSSELS DEFINITION OF VALUE AND ITS INTERPRETATIVE NOTES

50-137 O - 79 - 16

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

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.

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.

APPENDIX F

CANADIAN VALUATION SYSTEM

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 (i) 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.

APPENDIX G

PROPOSED CONVERTED RATES OF DUTY SUBMITTED TO STR IN THE COMMISSION'S JUNE 1978 REPORT ON CUSTOMS VALUATION (INV. No. 332-98)

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

The proposed converted rates shown in the following schedule are the rates of duty which, had the American selling price (ASP) bases of valuation not been applicable at the time, would have provided an amount of duty on imports of products currently subject to the ASP bases of valuation 1/, substantially equivalent to the amount collected as a result of the application of the ASP bases of valuation. Every effort was made to follow sound standards of tariff nomenclature. In the case of benzenoid chemicals, footwear and gloves, proposed converted column 2 rates are not provided. 2/ Such rates could be determined by adjusting the current rates in column 2 so that they would bear the same relationship to the converted column 1 rates as the relationship which now exists between the rates in these two columns.

Many of the proposed converted rates are not whole numbers. The Commission recommends that, in order to simplify the computation of the amount of duty imposed with respect to an article, the President utilize the authority contained in section 109(b) of the Trade Act of 1974 to round the proposed converted rates to the next lower whole number or even half-number.

1/ These products are generally referred to as benzenoid chemicals and products, rubber-soled fabric-upper footwear, certain canned clams, and certain wool knit gloves.

2/ Column 2 rates in the TSUS are applicable to the products of certain Communist-dominated or controlled countries or areas. Imports of articles subject to ASP provisions from such countries or areas have not been significant in recent years.

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

G S P	Item	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A	Proposed Converted Rate of Duty 5
		Subpart B. - Industrial Organic Chemicals			
		Subpart B headnotes:			
		1. The provisions of items 403.02 to 403.60, inclusive, in this subpart shall apply not only to the products described therein when obtained, derived, or manufactured in whole or in part from products described in subpart A 1/ of this part, but shall also apply to products of like chemical composition having a benzenoid, quinoid, or modified benzenoid structure artificially produced by synthesis, whether or not obtained, derived, or manufactured in whole or in part from products described in said subpart A.			
	2/	2. For the purpose of classification of merchandise provided for under item 403.60, the following provisions shall govern: (a) The term "derivatives" refers to only those derivatives which may be obtained by one or more of the following processes: Halogenation, nitration, nitrosation, or sulfonation, and is to be understood to include sulfonyl halides. (b) A compound with functional groups described in two or more subclasses under item 403.60 is to be classified in the latest applicable subclass. For example, 4-acetamido-2-amino-phenol, which contains three functional groups, will be classified in 403.60BF (Amides), rather than in 403.60BD & BE (Aminophenols), or in 403.60BB & BC (Amines), or in 403.60Z (Phenols). When applicable, classification should be made in accordance with the following principles: (i) Salts of organic acids (including phenols) with inorganic bases and salts of organic bases with inorganic acids are to be classified under same superior heading as the organic acid or base; salts of organic acids with organic bases are to be classified either under the superior heading which describes the functional groups present in the free acid or under the one which describes the functional groups present in the free base, whichever is listed later. (ii) Esters of organic acids are to be classified either under the superior heading which describes the functional groups present in the free acid or under the one which describes the functional groups present in the free alcohol or phenol, whichever is listed later. (iii) The above provisions apply also in cases where the component having the functional groups described under the later superior heading is not of benzenoid origin. For example, benzyl acetate is classified under carboxylic acids (403.60AP-AU) rather than under alcohols (403.60Y).			
		See footnotes at end of schedule.			

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GSP	Item	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
		Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure, not provided for in subpart A 1/ or C 5/ of this part:			
A	403.02	Anthracene having a purity of 30% or more by weight.....	1.4¢ per lb. + 8% ad val.	1.4¢ per lb. + 9.3% ad val.	11.3% ad val.
A	403.04	Carbazole having a purity of 65% or more by weight.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	14.6% ad val.
A	403.06	Naphthalene which after the removal of all water present has a solidifying point of 79°C. or above.....	0.7¢ per lb. + 4% ad val.	0.7¢ per lb. + 4% ad val.	7% ad val.
A	403.08	Phthalic anhydride.....	1.2¢ per lb. + 7% ad val.	1.2¢ per lb. + 8.6% ad val.	14.5% ad val.
A	403.10	Styrene.....	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val.	15.8% ad val.
		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:			
A	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.....	1.5¢ per lb. + 8.5% ad val.	1.5¢ per lb. + 12.5% ad val.	20.9% ad val.
A	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.....	0.85¢ per lb. + 5% ad val.	0.85¢ per lb. + 5% ad val. 6/	6.9% ad val. 6/
A	403.44	Metacresol, orthocresol, paracresol, and metaparacresol, all the foregoing having a purity of 75% or more by weight.....	0.8¢ per lb. + 5% ad val.	0.8¢ per lb. + 5.3% ad val.	6.3% ad val.
A	403.46	Other.....	1.7¢ per lb. + 10% ad val.	1.7¢ per lb. + 8.4% ad val.	9.8% ad val.
	403.48	2-Acetamido-3-chloroanthraquinone; o-Acetoacetanisidide; o-Acetoacetotoluidide; 2',4'-Acetoacetoxylidide; 3'-Aminoacetophenone; 1-Amino-5-benzamidoanthraquinone; o-Anisidine; p-Anisidine; 6-Chloro-m-cresol (OH=1); m-Diethylaminophenol; 4-Chloro-2,5-dimethoxyaniline (NH_2=1); 1,8-Dihydroxy-4,5-dinitroanthraquinone; 2,4-Dimethoxyaniline; 3-Ethylamino-p-cresol; Iminodianthraquinone; 5-Methoxy-m-phenylenediamine; N-Methylaniline; dl-Phenylephrine base; Phenylsulfone; 2-Pyridinecarboxaldehyde; Sodium tetraphenylboron; 2,4,6-Trimethylaniline (mesidine); and Vinylcarbazole, mono:			
		See footnotes at end of schedule.			

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

G S P	Item 7/		Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
			Cyclic organic chemical products, etc. (con.):			
	403.48 (con.)		2-Acetamido-3-chloroanthraquinone, etc. (con.):			
		A	6-Chloro-m-cresol [OH=1].....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10.2% ad val.	11.[illegible] ad val.
		B	1,8-Dihydroxy-4,5-dinitroanthraquinone.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10.8% ad val.	10.9% ad val.
		C	N-Methylaniline; and 2,4,6-Trimethylaniline (mesidine).....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 9.3% ad val.	10.9% ad val.
			Amines having one or more oxygen functions, and their derivatives:			
		D	3'Aminoacetophenone; o-Anisidine; p-Anisidine; m-Diethylaminophenol; 3-Ethylamino-p-cresol; Iminodianthraquinone; 5-Methoxy-m-phenylenediamine; and dl-Phenylephrine base.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 16.2% ad val.	17.4% ad val.
		E	4-Chloro-2,5-dimethoxyaniline [NH_2=1]; and 2,4-Dimethoxyaniline.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10.4% ad val.	10.9% ad val.
		F	2-Acetamido-3-chloroanthraquinone; o-Acetoacetanisidide; o-Acetoacetotoluidide; 2',4'-Acetoacetoxylidide; and 1-Amino-5-benzamidoanthraquinone.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 13.2% ad val.	14.7% ad val.
		G	Phenylsulfone.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 13.3% ad val.	15.3% ad val.
		H	Sodium tetraphenylboron.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10% ad val.	10% ad val.
		I	2-Pyridinecarboxaldehyde; and Vinylcarbazole, mono.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10% ad val.	10% ad val.
	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[1,2]oxadiazole-5-sulfonic acid and its salts; p-Nitrotoluene; p-Phenetidine; m-Phenylenediamine; o-Phenylenediamine; N-Phenyl-2-naphthylamine; 2,4,4',5'-Tetrachlorophenylsulfone; Toluene-2,4-diamine; o-Toluenesulfonamide; and 2,4-Xylidine:			
		A	p-Nitrotoluene.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 10% ad val. 6/	14.6% ad val. 6/
		B	2-Naphthol-3,6-disulfonic acid and its salts.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 13.5% ad val.	14.8% ad val.
		C	2,3-Dichloro-1,4-naphthoquinone.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 13% ad val.	13.9% ad val.

See footnotes at end of schedule.

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 7/		Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 1/	Proposed Converted Rate of Duty B 6/
			Cyclic organic chemical products, etc. (con.):			
	403.58 (con.)		p-Aminobenzoic acid, etc. (con.):			
		D	Gentisic acid; p-Hydroxybenzoic acid; and Hydroxycinnamic acid and its salts.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 12.1% ad val.	13.8% ad val.
			Amines and their derivatives:			
		E	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; 4-Amino-2-stilbenesulfonic acid and its salts; m-Phenylenediamine; o-Phenylenediamine; N-Phenyl-2-naphthylamine; Toluene-2,4-diamine; and 2,4-Xylidine.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 12.1% ad val.	[illegible] ad val.
		F	8-Amino-2-naphthalenesulfonic acid and its salts.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 9.7% ad val.	10.3% ad val.
		G	p-Aminobenzoic acid; 6-Amino-1-naphthol-3-sulfonic acid and its salts; 8-Amino-1-naphthol-5-sulfonic acid and its salts; m-Dimethylaminophenol; and p-Phenetidine.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 12.7% ad val.	13.2% ad val.
		H	Biligrafin acid; and 3,5-Diacetamido-2,4,6-triiodobenzoic acid....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 8.5% ad val.	8.6% ad val.
		I	2,4,4',5'-Tetrachlorophenylsulfone.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 10.4% ad val. 8/	10.9% ad val. 8/
		J	1-Hydroxy-2-carbazolecarboxylic acid; 2-Hydroxy-3-dibenzofurancarboxylic acid; and 7-Nitronaphth[1,2]oxadiazole-5-sulfonic acid and its salts....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 16.6% ad val.	17.7% val.
		K	o-Toluenesulfonamide.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 14.4% ad val. 9/	15.6% ad val. 9/
			Other:			
A	403.58		Ethoxyquin (1,2-Dihydro-6-ethoxy-2,2,4-trimethylquinoline).....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.1% ad val.	18.5% ad val.
	403.60		Other:			
			Hydrocarbons:			
		A	Alkylbenzenes and polyalkylbenzenes.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.3% ad val.	26.6% ad val.
		B	Bi- and polyphenyls.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	16.8% ad val.
		C	α-Methylstyrene.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	23.8% ad val. 6/
		D	Vinyltoluene.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	17.7% ad val. 6/
		E	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 21.4% ad val.	25.9% ad val.
			Halogenated hydrocarbons:			
		F	Benzyl chloride (α-Chlorotoluene)...	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	18.2% ad val. 6/
		G	Benzotrichloride (α,α,α,-Trichlorotoluene).....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.2% ad val.	15.7% ad val.
			Chlorobenzenes, mono-,di-, and tri-:			
		H	Monochlorobenzene.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 28.6% ad val.	43.6% ad val.
		I	Orthodichlorobenzene.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 26.3% ad val.	38.1% ad val.

See footnotes at end of schedule.

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

CSP	Item 7/		Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 6/
			Cyclic organic chemical products, etc. (con.):			
			Other (con.):			
	403.60 (con.)		Other (con.):			
			Halogenated hydrocarbons (con.):			
			Chlorobenzenes, etc. (con.):			
		J	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	13.2% ad val.
		K	Chlorinated biphenyl	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.1% ad val.	16.8% ad val.
		L	Or	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22.3% ad val.	22.8% ad val.
			Hydrocarbon derivatives:			
		M	Monochloromononitrobenzenes	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18.4% ad val.	25% ad val.
		N	4,4'-Dinitrostilbene-2,2'-disulfonic acid	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.6% ad val.	18.7% ad val.
		O	Nitrated benzene, toluene, or naphthalene	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 10/	22.5% ad val. 10/
		P	Nitrotoluenesulfonic acids	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 23.3% ad val.	27.1% ad val.
		Q	p-Toluenesulfonyl chloride	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13% ad val. 8/	13.8% ad val. 8/
			Other:			
		R	m-Benzenedisulfonic acid, sodium salt; 1-Bromo-2-nitrobenzene; 1-Chloro-3,4-dinitrobenzene; 1,2-Dichloro-4-nitrobenzene; o-Fluoronitrobenzene; 1,5-Naphthalenedisulfonic acid; p-Nitro-o-xylene; and o-(and p)-Toluenesulfonic acid, methyl ester	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13.4% ad val.
		S	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.9% ad val.	19.1% ad val.
			Alcohols, phenols, ethers (including epoxides and acetals), aldehydes, ketones, alcohol peroxides, ether peroxides, ketone peroxides, and their derivatives:			
		T	Alkyl cresols	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	14.3% ad val.
		U	Alkyl phenols	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 25% ad val.	27.5% ad val.
		V	Naphthols	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22.[illegible]% ad val.	26.4% ad val.
		W	Nitrophenols	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.1% ad val.	19.1% ad val.
		X	Resorcinol	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	14.2% ad val. 6/
			Other:			
		Y	Alcohols	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	12.5% ad val.
		Z	Phenols and phenol-alcohols	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.7% ad val.	14.7% ad val.
			Halogenated, sulfonated, nitrated, or nitrosated derivatives of phenols or phenol-alcohols:			
		AA	m-Chlorophenol; 2,5-Dihydroxybenzenesulfonic acid, potassium salt; 3,6-Dihydroxy-2,7-naphthalenedisulfonic acid; 3,6-Dihydroxy-2,7-naphthalenedisulfonic acid, sodium salt;			

See footnotes at end of schedule.

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

CSP	Item 7/		Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
			Cyclic organic chemical products, etc. (con.): Other (con.):			
	403.60 (con.)		Other (con.): Alcohols, phenols, ethers, etc. (con.): Other (con.): Halogenated, sulfonated, etc. (con.): Dinitro-o-cresol; 4-Hydroxy-1-naphthalene-sulfonic acid; 4-Hydroxy-1-naphthalene-sulfonic acid, sodium salt (1-naphthol-4-sulfonic acid); 1-Naphthol-3,6-disulfonic acid; and 4-Nitro-m-cresol.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 14.3% ad val.	14.9% ad val.
		AB	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 19.4% ad val.	20.9% ad val.
			Ethers, ether-alcohols, ether-phenols, ether-alcohol-phenols, peroxides of alcohols, ethers, and ketones, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:			
		AC	5-Chloro-2-nitroanisole; Dimethyl diphenylether; 4-Ethylguaiacol; 2-(α-Hydroxyethoxy) phenol; and Nitrochlorohydroquinone, dimethyl ester.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13.6% ad val.
		AD	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22% ad val.	25.5% ad val.
		AE	Epoxides, epoxyalcohols, epoxyphenols, and epoxy-ethers, with a three- or four-member ring, and their halogenated, sulfonated, nitrated, or nitrosated derivatives.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 11/	13.6% ad val. 11/
		AF	Acetals and hemiacetals and single and complex oxygen function acetals and hemiacetals, and their halogenated, sulfonated, nitrated, or nitrosated derivatives.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13% ad val.	13.4% ad val.
		AG	Aldehydes, aldehyde-alcohols, aldehyde-ethers, aldehyde-phenols, and other single or complex oxygen-function aldehydes; cyclic polymers of aldehydes and paraformaldehyde.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.9% ad val.	13.2% ad val.
		AH	Halogenated, sulfonated, nitrated, or nitrosated derivatives of aldehydes, aldehyde-alcohols, aldehyde-ethers, aldehyde-phenols, and other single or complex oxygen-function aldehydes, cyclic polymers of aldehydes and paraformaldehyde.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 24.3% ad val.	25.4% ad val.

See footnotes at end of schedule.

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 7/	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty A 4/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.60 (con.)	Other (con.):			
		Alcohols, phenols, ethers, etc. (con.):			
		Other (con.):			
	AI	Ketones, ketone-alcohols, ketone-phenols, ketone-aldehydes, quinones, quinone-alcohols, quinone-phenols, quinone-aldehydes, and other single or complex oxygen-function ketones and quinones, and their halogenated, sulfonated, nitrated, or nitrosated derivatives....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.1% ad val.	13.7% ad val.
		Carboxylic acids, anhydrides, halides, acyl peroxides, peroxyacids, and their derivatives:			
	AJ	1,2,4-Benzenetricarboxylic acid, 1,2-dianhydride (Trimellitic anhydride).....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 12/	[illegible] ad val. 12/
	AK	Benzoic acid.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	[illegible] ad val. 6/
	AL	Benzoyl chloride.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.7% ad val.	[illegible] ad val.
	AM	Isophthalic acid.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	[illegible] ad val. 6/
	AN	Terephthalic acid.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + [illegible]% ad val.	[illegible] ad val.
	AO	Terephthalic acid, dimethyl ester.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + [illegible] ad val.	[illegible] ad val.
		Other:			
		Monocarboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:			
	AP	Benzoic anhydride; tert-Butyl peroxybenzoate; 4-Chloro-3-nitrobenzoic acid; m-Chloroperoxybenzoic acid; Metrizoic acid; p-Nitrobenzoyl chloride; 2-Nitro-m-toluic acid; 3-Nitro-o-toluic acid; and Phenylacetic acid (o-toluic acid).....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	12.9% ad val.
	AQ	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.9% ad val.	18.7% ad val.
		Polycarboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:			
	AR	Naphthalic anhydride; Phthalic acid; 4-Sulfo-1,8-naphthalic anhydride; and Terephthalaldehyde.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 11.6% ad val.	13.5% ad val.
	AS	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22.7% ad val.	23.1% ad val.

See footnotes at end of schedule.

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 2/	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.40 (con.)	Other (con.):			
		Carboxylic acids, anhydrides, etc. (con.):			
		Other (con.):			
		Carboxylic acids with alcohol, phenol, aldehyde, or ketone function and other single or complex oxygen-function carboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:			
	AT	p-Anisic acid; Benzilic acid; Benzilic acid, methyl ester; 2,3-Cresotic acid; m-Hydroxybenzoic acid; 2-Hydroxybenzoic acid, calcium salt; 1-Hydroxy-2-naphthoic acid; 2-Hydroxy-1-naphthoic acid; 1-Hydroxy-2-naphthoic acid, phenyl ester; 3-Phenoxybenzoic acid; α-Resorcylic acid; γ-Resorcylic acid; and 5-Sulfosalicylic acid...	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13.1% ad val.
	AU	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.9% ad val.	19.3% ad val.
	AV	Esters of inorganic acids (except hydrocyanic acid, hydrogen halides, and hydrogen sulfide) and their derivatives.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.4% ad val.	15% ad val.
		Amines and their derivatives:			
	AW	Aniline.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.6% ad val. 12/	20% ad val. 12/
	AX	4,4'-Diamino-2,2'-stilbenedisulfonic acid.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 25% ad val.	26.4% ad val.
	AY	N,N-Dimethylaniline.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	15.5% ad val. 6/
	AZ	4,4'-Methylenedianiline.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	14.6% ad val.
	BA	Nitrodiphenylamine.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 12/	13.8% ad val. 12/
		Other:			
	BB	5-Amino-2-(p-aminoanilino) benzenesulfonic acid; o-Aminobenzenesulfonic acid (orthanilic acid); p-Aminobenzylamino-naphthalenesulfonic acid; 3-Amino-2,7-naphthalene-disulfonic acid; 4-Amino-1-naphthalene-sulfonic acid, sodium salt; 5-Amino-1-naphthalene-sulfonic acid (Laurent's acid); 7-Amino-1,3,6-naphthalene-trisulfonic acid;			

See footnotes at end of schedule.

CSS	Item 7/	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.60 (con.)	Other (con.):			
		Amines and their derivatives (con.):			
		Other (con.):			
		Aminophenol, substituted, 8-Anilino-1-naphthalene-sulfonic acid (Phenyl Peri acid);			
		6-Chlorometanilic acid;			
		2-Chloro-5-nitroaniline;			
		4-Chloro-3-nitroaniline;			
		4-Chloro-o-toluidine [NH_2=1] and hydrochloride;			
		5-Chloro-o-toluidine [NH_2=1] (chloro-o-toluidine [CH_3=1]);			
		6-Chloro-o-toluidine [NH_2=1];			
		4,4'-Diamino-3-biphenyl-sulfonic acid (3-benzidine-sulfonic acid);			
		2,3-Dichloroaniline;			
		2,4-Dichloroaniline;			
		3,5-Dichloroaniline;			
		2,6-Dichloro-m-toluidine;			
		N,N-Diethylmetanilic acid;			
		2,4-Difluroaniline;			
		3,3'-Dimethylbenzidine (o-tolidine);			
		3,3'-Dimethylbenzidine hydro-chloride;			
		N,N-dimethyl-p-toluidine;			
		p-Ethylaniline;			
		3-(N-Ethylanilino) propionic acid, methyl ester;			
		N-Ethyl-N-benzyl-m-toluidine;			
		N-Ethyl-N,N'-dimethyl-N'-phenylethylenediamine;			
		N-Ethyl-1-naphthylamine;			
		p-Fluoroaniline;			
		4,4'-Methylenebis[2-chloro-aniline];			
		1,8-Naphthalenediamine;			
		m-Nitroaniline;			
		1-(p-Nitrophenyl)-2-amino-1,3-propane diol;			
		4-Nitro-m-phenylenediamine;			
		Toluene-2,5-diamine;			
		Toluidine carbonate;			
		2,4,5-Trichloroaniline;			
		2,3-Xylidine; and			
		3,4-Xylidine.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.3% ad val.	13.3% ad val.
	BC	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18.9% ad val.	20.8% ad val.
		Amines having one or more oxygen functions, and their derivatives:			
	BD	p-Acetaminobenzaldehyde;			
		2'-Aminoacetophenone;			
		m-Aminobenzoic acid, technical;			
		Aminobisphenol ester;			
		2-Amino-4-chlorophenol;			
		2-Amino-4-chlorophenol hydro-chloride;			
		2-Amino-p-cresol;			
		4-Amino-o-cresol;			
		6-Amino-2,4-dichloro-3-methylphenol;			
		4-Amino-5-hydroxy-1,3-naphthalenedisulfonic acid (Chicago acid);			
		4-Amino-5-hydroxy-1,3-naphthalenesulfonic acid, potassium salt;			
		4-Amino-5-hydroxy-2,7-naphthalene-disulfonic acid, potassium salt (H acid, monopotassium salt);			
		See footnotes at end of schedule.			

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

CSD	Item 7/	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.60 (con.)	Other (con.):			
		Amines having one or more oxygen functions, and their derivatives (con.):			
		4-Amino-5-hydroxy-2,7-naphthalenedisulfonic acid, monosodium salt (H acid, monosodium salt);			
		4-Amino-5-hydroxy-1,3-naphthalenedisulfonic acid, sodium salt;			
		4-Amino-3-hydroxy-1-naphthalenesulfonic acid;			
		2-(3-Amino-4-hydroxyphenylsulfonyl)ethanol;			
		2-Amino-4-nitrophenol;			
		2-Amino-5-nitrophenol;			
		2-Amino-4-nitrophenol, sodium salt;			
		m-Aminophenol;			
		2-(4'-Aminophenoxy)ethylsulfate;			
		1,4-Bis[1-anthraquinonylamino] anthraquinone;			
		4,4'-Bis[dimethylamino]benzhydrol (Michler's hydrol);			
		5-Chloro-2[2',4'-dichlorophenoxy] aniline;			
		3,5-Diaminobenzoic acid;			
		DL-3-(3,4-dihydroxyphenyl)alanine;			
		1,4-Dimesidinoanthraquinone;			
		3,4-Dimethoxyphenethylamine (Homoveratrylamine);			
		4-Dimethylaminobenzaldehyde;			
		2-Hydroxy-5-nitrometanilic acid;			
		- -Methoxyethyl-4-aminobenzoate;			
		4-Methoxymetanilic acid;			
		6'-Methoxymetanilic acid;			
		4-Methoxy-m-phenylenediamine;			
		5-Methoxy-m-phenylenediamine sulfate;			
		6-(Methylamino)-1-naphthol-3-sulfonic acid;			
		7-(Methylamino)-1-naphthol-3-sulfonic acid;			
		2-Methyl-p-anisidine [NH_2=1];			
		Nitro acid amide (1-amino-9,10-dihydro-N-(3-methoxypropyl)-4-nitro-9,10-dioxo-2-anthramide); and			
		L-Phenylalanine.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.2% ad val.	12.8% ad val.
	BE	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.6% ad val.	16.2% ad val.
		Amides and their derivatives:			
	BF	4-Acetamido-2-aminophenol.....	1.7¢ per lb. + 19.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	13.7% ad val. 6/
	BG	Benzanilide.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 12/	13% ad val. 12/
		Other:			
	BH	p-Acetaniididide; Acetoacethenzylamide; Acetoacet-5-chloro-2-toluidide; p-Acetoacetophenetidide; N-Acetyl-2,6-xylidine (N-acetyl-2,6-dimethylaniline); p-Aminobenzoic acid isooctylamide; 2-Amino-4-chlorobenzamide; 4-Aminohippuric acid; 4'-Amino-N-methyl-acetanilide;			

See footnotes at end of schedule.

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

Item 2/	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 3/
	With organic chemical products, etc. (cont.):			
	Other (cont.):			
	Other (cont.):			
	Amides and their derivatives (cont.):			
	Other (cont.):			
	p-Aminophenyl urethane; 1-Benzamido-4-chloroanthraquinone; 1-Benzamido-5-chloroanthraquinone; 4'-Chloroacetoacetanilide; 3-(N,N-Dihydroxyethylamino) benzanilide; 2,5-Dihydroxy-N-(2-hydroxyethyl)benzamide; 2,5-Dimethoxyacetanilide; Gentisamide; N-(7-Hydroxy-1-naphthyl) acetamide; and			
	Phenacetin, technical.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.4% ad val.	11.1% ad val.
BI	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18.1% ad val.	19.1% ad val.
	Other nitrogen-function compounds (except those in which the only nitrogen function is a nitro (-NO_2) or a nitroso (-NO) group, or an ammonium salt of an organic acid) and their derivatives:			
BJ	Benzonitrile.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 4/	15.2% ad val. 4/
BK	Diazoaminobenzene (1,3-diphenyltriazene).....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	12.6% ad val. 6/
BL	Toluenediisocyanates (unmixed).....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	12% ad val. 6/
	Other:			
BM	Quaternary ammonium salts and hydroxides.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 11.2% ad val.	11.2% ad val.
BN	Carboximide-function compounds (including orthobenzoic sulfimide and its salts) and imine-function compounds.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 19.1% ad val.	21% ad val.
	Nitrile-function compounds:			
BO	2-Amino-4-chlorobenzonitrile (5-chloro-2-cyanoaniline); 2-Amino-5-chlorobenzonitrile; 4-Amino-2-chlorobenzonitrile; 2-Amino-5-nitrobenzonitrile; (Cyanoethyl)(hydroxyethyl)-m-toluidine; 2-Cyano-4-nitroaniline; Dichlorobenzonitrile; Phthalonitrile; and Tetrachloro-3-cyanobenzoic acid, methyl ester.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.7% ad val.	13.4% ad val.
BP	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 20.5% ad val.	22.7% ad val.
	Diazo-, azo-, and azoxy-compounds:			
BQ	p-Aminoazobenzenedisulfonic acid; 4-Aminoazobenzene disulfonic acid, monosodium salt;			

See footnotes at end of schedule.

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PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

Item	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
	Cyclic organic chemical products, etc. (con.):			
	Other (con.):			
[illegible]	Other (con.):			
[illegible]	Other nitrogen function compounds, etc. (con.):			
	Other (con.):			
	Diazo-, azo-, and azoxy-compounds (con.):			
	6-Amino-3,4'-azodi (benzenesulfonic acid) (C.I. acid yellow 9); and 6-Bromo-5-methyl-4-Aza-benzimidazole.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	12.8% ad val.
BR	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 19.9% ad val.	21.3% ad val.
BS	Organic derivatives of hydrazine or hydroxylamine...	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.6% ad val.	14.6% ad val.
	Compounds with other nitrogen functions:			
BT	Bitolylene diisocyanate (Todi); o-Isocyanic acid, o-tolyl ester; and Xylene diisocyanate.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13% ad val.
BU	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.2% ad val.	21% ad val.
	Organo-inorganic compounds (i.e., compounds having an atom other than carbon, hydrogen, oxygen, nitrogen, chlorine or other halogen attached directly to a carbon atom), and their derivatives:			
BV	Benzenethiol (Thiophenol).....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12% ad val.	13% ad val.
	Other:			
BW	Organo-sulfur compounds.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	13% ad val.
BX	Organo-mercury compounds.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	12.6% ad val.
BY	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 21.4% ad val.	22.1% ad val.
	Heterocyclic compounds and their derivatives (including lactones and lactams but excluding epoxides with three membered rings, anhydrides and imides of polybasic acids, and cyclic esters of polyhydric alcohols with polybasic acids):			
BZ	1,2-Dihydro-2,2,4-trimethyl-quinoline.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	13.6% ad val. 6/
CA	2,2'-Dithiobisbenzothiazole.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.9% ad val.	21.2% ad val.
CB	2-Mercaptobenzothiazole, sodium salt (2-Benzothiazolethiol, sodium salt).....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	42.1% ad val.
	Other:			
CC	4-Aminoantipyrine; 2-Amino-6-methoxybenzo-thiazole; 2-Amino-6-methylbenzo-thiazole; Aminomethylphenyl pyrazole (phenylmethylaminopyrazole); 5-Amino-3-phenyl-1,2,4-thiadiazole (3-phenyl-5-amino-1,2,4-thiadiazole); 3-Amino-1-(2,4,6-trichloro-phenyl)-5-pyrazolone;			

See footnotes at end of schedule.

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PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

Item	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A-1	Proposed Converted Rate [illegible]
	Cyclic organic chemical products, etc. (con.):			
	Other (con.):			
401.60 (con.)	Other (con.):			
	Heterocyclic compounds, etc. (con.):			
	Other (con.):			
	p-Chloro-2-benzylpyridine;			
	4-Chloro-3-(3-methyl-5-oxo-2-pyrazolin-1-yl)-benzene sulfonic acid;			
	4-Chloro-1-methylpiperidine-hydrochloride;			
	1-(m-Chlorophenyl)-3-methyl-2-pyrazolin-5-one;			
	1-(2',5'-Dichlorophenyl)-3-methyl-2-pyrazolin-5-one;			
	2,3-Dichloro-6-quinoxaline-carbonyl chloride;			
	1,4-Dimethyl-6-hydroxy-3-cyanpyridone-2;			
	6-Ethoxy-2-benzothiazole-thiol;			
	o-Ethylpyrazolone;			
	2-Hydroxy-3-carbazolecarboxylic acid;			
	2-Hydroxy-3-carbazolecarboxylic acid, sodium salt;			
	Iminodibenzyl (10,11-dihydro-5H-dibenz[b,f]azepine;			
	5-Imino-3-methyl-1-(m-sulfophenyl)pyrazole;			
	5-Imino-3-methyl-1-phenyl-pyrazole;			
	Iminopyrazole-3-sulfonic acid;			
	Indoline;			
	Isoquinoline;			
	3-Methylbenzo[f]quinoline;			
	3-Methylbenzothiazole-2-hydrazone;			
	2-Methylindoline;			
	1-Methyl-2-phenylindole;			
	Methylpyrazine;			
	8-Methylquinoline;			
	2-Phenylbenzimidazole;			
	p-Phenylimidazole;			
	2-Phenylimidazole;			
	2-Phenylindole;			
	4-Phenypropylpyridine;			
	p-Phenylpyridylacetic acid, methyl ester;			
	Picolinic acid;			
	Primuline base;			
	Pyrazole (3-carboxy-1-4-sulphophenyl pyrazole-5-one);			
	2,5-Pyridinedicarboxylic acid;			
	3-Quinuclidinol;			
	Tetramethylpyrazine;			
	1,9-Thianthrenedicarboxylic acid;			
	Thioxanthen-9-one (Thioxanthone);			
	1-(2,4,6-Trichlorophenyl)-3-aminopyrazolone;			
	2-(Trifluoromethyl)phenothiazine;			
	2,3,5-Triphenyltetrazolium chloride;			
	DL-Tryptophan; and			
	Xanthen-9-one.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.4% ad val.	12.7% ad val.
CD	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.2% ad val.	17.0% ad val.

See footnotes at end of schedule.

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PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

CSP	Item 7/		Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
			Cyclic organic chemical products, etc. (con.):			
			Other (con.):			
	403.60 (con.)		Other (con.):			
			Sulfonamides, sultones, sultams, and other organic compounds:			
		CD	Copper phthalocyanine ([Phthalocyanato(2-)] copper).....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 20.3% ad val. 10/	22% ad val. 10/
			Other:			
			Sulfonamides:			
		CF	4-Amino-6-chloro-m-benzenedisulfonamide; 2-Amino-N-ethylbenzenesulfonanilide; 5-Amino- , , -trifluorotoluene-2,4-disulfonamide; Benzenesulfonamide; Benzenesulfonyl hydrazide; 2-Chloro-4-amino-5-hydroxybenzenesulfonamide; 2,5-Dimethoxysulfanilide; and Metanilamide.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.8% ad val.	13.2% ad val.
		CG	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb + 18% ad val.	19.5% ad val.
		CH	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 14.5% ad val.	15.4% ad val.
			All other products, by whatever name known, not provided for in subpart A 1/ or C 5/ 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 1/ of this part:			
A	403.70		Caprolactam monomer.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10% ad val.	12.5% ad val.
A	403.75		Hexamethylene adipamide.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 11.5% ad val.	14.2% ad val.
A	403.78		Methylcyclohexanone.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10% ad val.	10.3% ad val.
			Other:			
A	403.79		Maleic anhydride.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.6% ad val.	23.1% ad val.
	403.80		Other:			
		A	Acetone.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18.7% ad val.	35.6% ad val.
		B	Adipic acid.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 19.8% ad val.	26.4% ad val.
		C	Cyclohexane.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	27.5% ad val.
		D	Cyclohexanone.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	17.1% ad val. 6/
		E	Fumaric acid.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 27.7% ad val.	36.2% ad val.
		F	Hexamethylenediamine.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 20.8% ad val. 12/	23.1% ad val. 12/
		G	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.8% ad val.	17.8% ad val.
A	403.90		Mixtures in whole or in part of any of the products provided for in this subpart.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.6% ad val., but not less than the highest rate applicable to any component material.	15.8% ad val., but not less than the highest rate applicable to any component material.

See footnotes at end of schedule.

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PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

Item	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A	Proposed Converted Rate of Duty B
	Subpart C. - Finished Organic Chemical Products			
	Subpart C headnotes:			
	1. The provisions of this subpart providing for products obtained, derived, or manufactured in whole or in part from products described in subparts A 1/ or B 13/ of this part shall also apply to products of like chemical composition having a benzenoid, quinoid, or modified benzenoid structure artificially produced by synthesis, whether or not obtained, derived, or manufactured in whole or in part from products described in the said subpart A or B.			
	2. The term "pesticides" in item 405.15 means products, such as insecticides, rodenticides, fungicides, herbicides, fumigants, and weed disinfectants, chiefly used to destroy undesired animal or plant life.			
	3. The term "plastics materials" in item 405.25 embraces products formed by the condensation, polymerization, or copolymerization of organic chemicals and to which plasticizers, fillers, colors, or extenders may have been added. The term includes, but is not limited to, phenolic and other tar-acid resins, styrene resins, alkyd and polyester resins based on phthalic anhydride, coumarone-indene resins, urethane, epoxy, toluene sulfonamide, maleic, fumaric, aniline, and polyamide resins, and other synthetic resins. The plastic materials may be in solid, semi-solid, or liquid condition, such as flakes, powders, pellets, granules, solutions, emulsions, and other basic forms not further processed.			
	4. The term "plasticizers" in item 405.40 means substances which may be incorporated into a material (usually a plastic, resin material, or an elastomer) to increase its softness, flexibility, workability, or distensibility.			
	5. The term "drugs" in this subpart means those substances having therapeutic or medicinal properties and chiefly used as medicines or as ingredients in medicines.			
	6. For the purposes of the provisions of this subpart relating to "Colors, dyes, stains, and related products" (except products provided for in item 406.80) -- (a) the specific duties shall be based on standards of strength which shall be established by the Secretary of the Treasury, and upon all importations of such articles which exceed such standards of strength the specific duty shall be computed on the weight which the article would have if it were diluted to the standard strength, but in no case shall any such articles of whatever strength be subject to a less specific duty than that provided in the respective items of this subpart: (b) it shall be unlawful to import or bring into the United States any such product unless the invoice shall bear a plain, conspicuous, and truly descriptive statement of the identity and percentage, exclusive of diluents, of such product;			

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PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

Item	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A	Proposed Converted Rate of Duty B
	(c) It shall be unlawful to import or bring into the United States any such product, if the immediate container or the invoice bears any statement, design, or device regarding the product or the ingredients or substances contained therein which is false, fraudulent, or misleading in any particular; and (d) In the enforcement of the foregoing provisions of this headnote the Secretary of the Treasury shall adopt a standard of strength for each dye or other product which shall conform as nearly as practicable to the commercial strength in ordinary use in the United States prior to July 1, 1914. If a dye or other product has been introduced into commercial use since said date then the standard of strength for such dye or other product shall conform as nearly as practicable to the commercial strength in ordinary use. If a dye or other product was or is ordinarily used in more than one commercial strength, then the lowest commercial strength shall be adopted as the standard of strength for such dye or other product.			
2/	7. For the purpose of the classification of merchandise provided for under item 405.35, the following provisions shall apply: (a) The term "thermoplastic resins" means those materials in unfinished forms which in their final state as finished articles are capable of being repeatedly softened by increase of temperature and hardened by decrease of temperature. (b) The term "thermosetting resins" (or thermosets) means those materials in unfinished forms which in their final state as finished articles are substantialy infusible. Thermosetting resins are often liquids at some stage in their manufacture or processing and are cured by heat, catalysis, or other chemical means. After being fully cured, thermosets cannot be resoftened by heat. (c) Copolymers and terpolymers not specially provided for shall be classified as if they consisted entirely of that monomer which is present in the largest amount by weight on a resin content basis (i.e., excluding the weight of plasticizers, liquid diluents, fillers, or other additives). Any polymer consisting of two or more monomers which are present in equal amounts shall be classified as if it consisted entirely of that monomer whose polymer is listed first under the thermoplastic or thermosetting resins, as appropriate.			
2/	8. Any product described in two or more of the subclasses under item 407.85 is to be classified in the first applicable subclass.			
2/	9. For the purposes of this subpart-- (a) The term "surface-active agents", means synthetic organic chemical compounds, or mixtures thereof, which function as surface tension modifiers and are chiefly used for any one or combination of the following purposes: As detergents, wetting agents, emulsifiers, dispersants, or foaming agents. (b) The term "synthetic detergents" embraces formulated materials which are used chiefly for household, laundry, and industrial cleaning purposes, and which consist of one or more surface-active agents as the active ingredients in combination with colors, brighteners, perfumes, inert diluents, builders, and extenders such as inorganic salts, polyphosphates, polysilicates or sodium carboxymethylcellulose.			

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PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item	2/	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
			Products obtained, derived, or manufactured in whole or in part from any product provided for in subpart A 1/ or B 13/ of this part:			
			Explosives:			
			Trinitrotoluene:			
A	405.04		Valued not over 15 cents per pound	1.7¢ per lb. + 11% ad val.	1.7¢ per lb. + 11% ad val. 14/	12.1% ad val.
	405.05		Valued over 15 cents per pound	Free	Free	Free
A	405.06		Other	1.7¢ per lb. + 11% ad val.	1.7¢ per lb. + 11% ad val.	12.1% ad val.
A	405.10		Ink powders	1.7¢ per lb. + 11% ad val.	1.7¢ per lb. + 11% ad val.	11.2% ad val.
A	405.15		Pesticides:			
			Not artificially mixed:			
		A	Fungicides	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13.4% ad val.
			Herbicides (including plant growth regulators):			
		B	5-(4-Chlorobenzyl)-N,N-diethylthiolcarbamate (Benthiocarb); 2-(4-Chloro-2-methylphenoxy) propionic acid and its salts; p-Chlorophenoxyacetic acid; 3-(p-Chlorophenyl)-1,1-dimethylurea (Monuron); 3,5-Dibromo-4-hydroxybenzonitrile (Bromoxynil); 2(2,4-Dichlorophenoxy)propionic acid; 2,2-Dimethyl-1,3-benzodioxol-4-yl methylcarbamate (Bendiocarb); 1,1-Dimethyl-3-(α, α, α-trifluoro-m-tolyl)urea(Fluometuron); o-Diquat, dibromide(1,1'-ethylene-2,2'-dipyridyliumdibromide); Ethoxycarbonylaminophenyl-nitrophenylcarbamate (Desmedipham); 2-Ethoxy-2,5-dihydro-3,3-dimethyl-5-benzofuranylmethanesulfonate; 3-Isopropyl-1H-benzothiadiazin-(4)-3H-one-2,2-dioxide (Bentazon); Isopropyl-N-(3-chlorophenyl) carbamate (CIPC); Methyl-4-aminobenzenesulfonylcarbamate (Asulam); and o-Paraquat dichloride	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	13.3% ad val.
		C	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.1% ad val.	16.9% ad val.
			Insecticides:			
		D	1,2-Benzisothiazolin-3-one; N'-(Chloro-o-tolyl)-N,N-dimethylformamidine, 1,1-Dichloro-2,2-bis(p-ethylphenyl) ethane; O,O-Diethyl-S-(6-chlorobenzoxazolone-3-yl-(methyl)phosphorodithioate (Phosalone); and O,O-Dimethyl-o-(4-nitro-m-tolyl) phosphorothioate (Fenitrothion)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.8% ad val.	13.7% ad val.
		E	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 20.1% ad val.	22% ad val.
		F	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13.4% ad val.
		G	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 9.7% ad val.	15.2% ad val.
A	405.20		Photographic chemicals	3¢ per lb. + 19% ad val.	3¢ per lb. + 21% ad val.	21.3% ad val.
A	405.25		Plastics materials:			
		A	Concentrated dispersions of pigments in plastics materials	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val.	10.2% ad val.
		B	Paints and enamel paints	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val.	10.2% ad val.

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GSP	Item	7/	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
			Products obtained, derived, or manufactured etc. (con.):			
A	405.25 (con.)		Plastics materials (con.):			
		C	Varnishes and lacquers	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 11.4% ad val.	13% ad val.
			Other:			
			Thermoplastic resins:			
		D	Petroleum hydrocarbon and coumarone-indene resins	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.8% ad val. 15/	10.8% ad val. 15/
		E	Polyamide resins, nylon type	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 10.3% ad val.	11.6% ad val.
		F	Polycarbonate resins	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val.	9.8% ad val.
		G	Polyester resins, saturated	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val.	9.7% ad val.
		H	Acrylonitrile-butadiene-styrene (ABS) resins	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.4% ad val.	12.6% ad val.
		I	Methyl thacrylate-butadiene-styrene (MBS) resins	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 13.5% ad val.	16.8% ad val.
		J	Styrene-acrylonitrile (SAN) resins	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.1% ad val.	11.5% ad val.
		K	Polystyrene resins and styrene copolymers, terpolymers (except ABS, MBS, and SAN resins)	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.2% ad val.	11.7% ad val.
		L	Other	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.8% ad val.	10.8% ad val.
			Thermosetting resins:			
		M	Alkyd resins	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val. 16/	10% ad val. 16/
		N	Allyl resins (e.g., diallyl phthalate)	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val. 16/	10% ad val. 16/
		O	Epoxy resins	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.4% ad val.	10.7% ad val.
		P	Phenolic resins	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.6% ad val.	12.2% ad val.
		Q	Polyester resins, unsaturated	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val. 6/	12.9% ad val. 6/
		R	Polyurethane resins	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 10.3% ad val.	11.5% ad val.
		S	Other	1.4¢ per lb. + 9% ad val.	.4¢ per lb. + 9% ad val.	10% ad val.
A	405.30		Products chiefly used as assistants in preparing or finishing textiles:			
		A	Surface-active agents and synthetic detergents	1.4¢ per lb. + 8% ad val.	1.4¢ per lb. + 10.7% ad val.	12.6% ad val.
		B	Other	1.4¢ per lb. + 8% ad val.	1.4¢ per lb. + 9.9% ad val.	10.8% ad val.
A	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	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.9% ad val.	17.2% ad val.
A	405.40		Products chiefly used as plasticizers	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.7% ad val.	22.4% ad val.
A	405.45		Sodium benzoate	1.5¢ per lb. + 10.5% ad val.	1.5¢ per lb. + 15.3% ad val.	19.7% ad val.
A	405.55		Synthetic tanning materials	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 24.4% ad val.	35.7% ad val.
			Colors, dyes, stains, and related products:			
	406.02		Sulfur black, "Colour Index Nos. 53185, 53190, and 53195"	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 14% ad val.	16.8% ad val.
	406.04		Vat blue 1 (synthetic indigo), "Colour Index No. 73000"	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 14.4% ad val.	16.5% ad val.

See footnotes at end of schedule.

GSP	Item 7/		Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/	
			Colors, dyes, stains, and related products (con.):				
	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, 274, 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 manufactured in whole or in part from any product provided for in subpart A 1/ or B 13/ of this part:				
		A17/	Acid blue 45, 106;				
			Acid yellow 116;				
			Basic blue 3;				
			Basic red 14;				
			Basic yellow 1, 11, 13;				●
			Direct blue 86;				
			Direct blue 106;				
			Direct yellow 28;				
			Direct red 83;				
			Disperse red 4;				
			Fluorescent brightening agent 32;				
			Solvent orange 11;				
			Solvent yellow 25;				
			Vat brown 3;				
			Vat orange 2, 7; and				
			Vat violet 9, 13.....	16% ad val.	22.6% ad val.	22.6% ad val.	●
		B	Other.....	16% ad val.	17.7% ad val.	17.7% ad val.	●
	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 product provided for in subpart A 1/ or B 13/ of this part:				
			Acid dyes:				
		A17/	Acid black 61, 63, 64, 76, 83, 117, 127, 131, 132, 139, 164, 170, 183, 194;				
			Acid blue 47, 60, 61, 66, 72, 81, 90, 90, 102, 112, 123, 126, 127:1, 130, 133, 140, 142, 147, 151, 172, 182, 185, 193, 204, 205, 208, 209, 221, 225, 229, 239, 242, 247, 250, 254, 260, 261, 264, 266, 268, 288, 290, 296, 317;				●

See footnotes at end of schedule.

GSP	Item 7/	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
		Colors, dyes, stains, and related products (con.):			
	406.50 (con.)	Colors, dyes, and stains (except toners), whether soluble or not in water, etc. (con.):			
		Acid dyes (con.):			
		Acid brown 10, 11, 30, 33, 45, 50, 68, 83, 100, 101, 103, 104, 105, 106, 126, 127, 147, 158, 160, 161, 162, 163, 165, 180, 191, 195, 224, 226, 227, 235, 237, 239, 248, 266, 267, 270, 276, 282, 283, 289, 290, 291, 298, 304, 311, 314, 315, 321, 322, 324, 325, 330, 331, 355, 358, 359, 360, 361, 362;			
		Acid green 26, 28, 41, 43, 60, 68, 70, 71, 73, 80, 82, 84, 92, 93, 94, 108;			
		Acid orange 3, 19, 28, 33, 43, 47, 61, 86, 89, 94, 102, 126, 142;			
		Acid red 37, 42, 48, 57, 58, 92, 111, 118, 127, 131, 138, 143, 155, 161, 199, 216, 226, 227, 228, 249, 252, 257, 259, 260, 261, 263, 274, 281, 282, 283, 301, 303, 310, 315, 331, 332, 336, 357, 361, 362, 392;			
		Acid violet 9, 34, 36, 47, 66, 75, 80, 90, 103, 109, 111, 121;			
		Acid yellow 7, 44, 96, 111, 127, 136, 155, 167, 183, 184, 194, 218, 223;			
		Copper phthalocyanine-3,3'-4,4'-tetrasulfonic acid; and			
		Copper phthalocyanine-4,4',4'',4'''-tetrasulfonic acid.....	20% ad val.	23% ad val.	23% ad val.
	B	Other.....	20% ad val.	30.7% ad val.	30.7% ad val.
		Basic dyes:			
	C17/	Basic black 7;			
		Basic blue 41, 45, 48, 55, 62, 66, 71, 78, 80, 81, 141;			
		Basic green 6, 8;			
		Basic orange 30, 35, 36, 37, 43, 44;			
		Basic red 23, 28, 29, 43, 44, 46, 58, 100;			
		Basic violet 2, 22, 25, 37, 38; and			
		Basic yellow 19, 23, 24, 25, 39, 40, 45, 54, 56, 63, 70.....	20% ad val.	22.6% ad val.	22.6% ad val.
	D	Other.....	20% ad val.	30.9% ad val.	30.9% ad val.
		Direct dyes:			
	E17/	Direct black 51, 69, 112, 118, 122;			
		Direct blue 74, 77, 90, 137, 156, 158, 158:1, 207, 211, 225, 244, 267;			
		Direct brown 97, 113, 157, 169, 170, 200, 212, 214;			
		Direct green 33, 59, 67, 68;			
		Direct orange 17, 60, 105, 106, 107, 118;			
		Direct red 9, 89, 92, 95, 111, 127, 173, 207;			
		Direct violet 47, 93; and			
		Direct yellow 39, 68, 93, 95, 96, 98, 109, 110, 133.....	20% ad val.	23.8% ad val.	23.8% ad val.
	F	Other.....	20% ad val.	28.6% ad val.	28.6% ad val.
		Disperse dyes:			
	G17/	Disperse blue 19, 26, 55, 56, 58, 72, 79, 83, 84, 93, 95, 122, 125, 128, 154, 165, 180, 183, 185, 200, 284, 285, 288, 295, 296;			
		Disperse brown 19;			
		Disperse green 9;			
		Disperse orange 7, 13, 20, 31, 47, 48, 56, 63, 70, 80, 96, 127, 137;			
		See footnotes at end of schedule.			

TSUSA	Item 7/	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
		Colors, dyes, stains, and related products (con.):			
	406.50 (con.)	Colors, dyes, and stains (except toners), whether soluble or not in water, etc. (con.):			
		Disperse dyes (con.):			
		Disperse red 44, 72, 73, 90, 93, 107, 118, 121, 122, 131, 133, 134, 151, 184, 201, 203, 224, 278, 282, 310; Disperse violet 23, 63; and Disperse yellow 13, 63, 65, 82, 91, 107, 119, 122, 124, 126, 139, 186.....	20% ad val.	22.5% ad val.	22.5% ad val.
	M	Other.....	20% ad val.	27.8% ad val. 10/	27.8% ad val. 10/
	I	Fluorescent brighteners.....	20% ad val.	19% ad val.	19% ad val.
		Solvent dyes:			
	11 11/	Solvent black 2, 3, 27, 28, 34; Solvent blue 49, 51, 53, 67, 97; Solvent brown 1, 28, 42, 44; Solvent green 4, 5, 7, 19, 28, 213; Solvent orange 45, 54, 63, 67; Solvent red 18, 19, 23, 27, 35, 92, 110, 118, 119, 124, 125, 130, 131, 132, 160; Solvent violet 2, 23; and Solvent yellow 1, 32, 48, 64, 89, 93, 98, 160.....	20% ad val.	19.9% ad val.	19.9% ad val.
	K	Other.....	20% ad val.	28% ad val.	28% ad val.
		Reactive dyes:			
	L 12/	Reactive black 4, 10, 13, 21, 23, 26, 34, 35, 41; Reactive blue 7, 8, 10, 13, 18, 22, 23, 24, 26, 29, 34, 39, 40, 41, 42, 43, 44, 50, 51, 52, 65, 66, 67, 69, 74, 75, 77, 78, 79, 82, 94, 103, 104, 114, 116, 118, 136, 140, 156, 157, 160; Reactive brown 2, 5, 12, 18, 19, 23; Reactive green 5, 6, 8, 12, 15, 16; Reactive orange 5, 9, 10, 11, 15, 20, 29, 33, 34, 35, 42, 44, 45, 62, 64, 67, 69, 70, 71, 82, 84; Reactive red 4, 7, 8, 12, 13, 16, 17, 19, 21, 29, 40, 42, 45, 55, 56, 66, 78, 82, 83, 84, 86, 99, 104, 116, 119, 121, 122, 123, 124, 132, 134, 151, 152, 159; Reactive violet 3, 12, 23, 24; and Reactive yellow 4, 6, 11, 12, 15, 25, 27, 29, 35, 41, 52, 57, 58, 64, 81, 82, 85, 87, 110.....	20% ad val.	20.5% ad val.	20.5% ad val.
	M	Other.....	20% ad val.	27.8% ad val. 10/	27.8% ad val. 10/
		Vat dyes:			
	N 12/	Solubilized vat blue 5; Solubilized vat orange 1; Solubilized vat yellow 7, 45, 47; Vat black 19, 30, 31; Vat blue 19, 21, 66; Vat brown 1, 33, 57; Vat green 28, 48; Vat orange 5, 13; Vat red 15, 41; and Vat yellow 40.....	20% ad val.	20.9% ad val.	20.9% ad val.
	O	Other.....	20% ad val.	32.9% ad val.	32.9% ad val.
	P	Other.....	20% ad val.	21.9% ad val.	21.9% ad val.
	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 1/ or B 13/ of this part.....	2.8¢ per lb. + 18% ad val.	2.8¢ per lb. + 28% ad val.	31.2% ad val.

See footnotes at end of schedule.

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

CSP	Item 2/		Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
	406.[illegible]		Colors, dyes, stains, etc. (con.): Color lakes and toners, obtained, derived, or manufactured in whole or in part from natural alizarin, natural indigo, or any product provided for in subpart A 1/ or B 13/ of this part:			
		A 17/	Pigment black 1; Pigment blue 16, 18; Pigment brown 22, 23, 25; Pigment green 8; Pigment orange 31, 34, 36, 51; Pigment red 9, 14, 34, 48:3, 52, 112, 139, 144, 146, 151, 166, 169, 170, 171, 175, 176, 177, 178, 180, 185, 188, 192, 199, 208, 209, 220, 221; and Pigment yellow 49, 81, 93, 97, 101, 109, 110, 117, 127	20% ad val.	20.4% ad val.	20.4% ad val.
		B	Other	20% ad val.	31.3% ad val. 18/	31.3% ad val. 18/
A	406.80		Fast color bases, fast color salts, and Naphthol AS and its derivatives:			
		A	Fast color salts	1.7¢ per lb. + 10% ad val.	1.7¢ per lb. + 13.6% ad val.	13.7% ad val.
		B	Fast color bases	1.7¢ per lb. + 10% ad val.	1.7¢ per lb. + 13.3% ad val.	14.2% ad val.
		C	Naphthol AS and derivatives	1.7¢ per lb. + 10% ad val.	1.7¢ per lb. + 15% ad val.	15.8% ad val.
			Products suitable for medicinal use, and drugs: Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A 1/ or B 11/ of this part:			
			Products suitable for medicinal use:			
A	407.02		Acetanilide	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 25% ad val.	27% ad val.
A	407.04		Benzaldehyde	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	15% ad val. 6/
A	407.06		Benzoic acid	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 19.2% ad val.	21.4% ad val.
A*	407.08		2-Naphthol (beta-naphthol)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13.9% ad val.
A	407.10		Resorcinol	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 9.4% ad val.	10.1% ad val.
A*	407.12		Salicylic acid and its salts	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 20% ad val.	21.8% ad val.
			Drugs:			
A	407.20		Acetphenetidine (phenacetin)	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 12.1% ad val.	12.9% ad val.
A	407.25		Acetylsalicylic acid (aspirin)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22.7% ad val.	25.6% ad val.
A	407.30		Antipyrine	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.7% ad val.	15% ad val.
A	407.32		5-Chloro-7-iodo-8-quinolinol and 2-(1-(p-chlorophenyl)-3-dimethylaminopropyl)pyridine maleate	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 16.3% ad val.	16.4% ad val.
A	407.35		Diethylaminoacetoxylidide (xylocaine)	1.7¢ per lb. + 11% ad val.	1.7¢ per lb. + 24.8% ad val.	25.1% ad val.
A	407.40		5-Ethyl-5-phenylhexahydropyrimidine-4,6-dione	1.2¢ per lb. + 8.5% ad val.	1.2¢ per lb. + 8.5% ad val.	8.5% ad val.
			Hydantoin derivatives:			
A	407.45		Methylphenethylhydantoin	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 12.6% ad val. 19/	13% ad val. 19/
A	407.50		Other	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 12.6% ad val.	13% ad val.
			Imidazoline derivatives:			
A	407.55		2-Benzyl-4,5-imidazoline hydrochloride	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 11.7% ad val.	11.8% ad val.
A	407.60		Phenylbenzylaminoethylimidazoline hydrochloride	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 10.2% ad val. 20/	10.2% ad val. 20/
A	407.70		Other	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 10.2% ad val.	10.2% ad val.

See footnotes at end of schedule.

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PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 2/		Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
			Products suitable for medicinal use, and drugs (con.): Obtained, derived, or manufactured, etc. (con.): Drugs (con.):			
	407.72		Phenylephrine hydrochloride; sulfadiazine; sulfaguanidine; sulfamerazine; sulfamethazine; sulfapyridine; and salicylazosulfapyridine:			
		A	Phenylephrine hydrochloride.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 13% ad val.	13.1% ad val.
		B	Sulfamethazine.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 17.8% ad val.	18.5% ad val.
		C	Sulfadiazine, sulfaguanidine, sulfamerazine, sulfapyridine, and salicylazosulfapyridine.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 25.1% ad val.	25.3% ad val.
	407.75		Phenolphthalein.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 14.5% ad val.	15.2% ad val.
A	407.80		Salol.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 6/	13.3% ad val. 6/
	407.85		Other: Alkaloids and their salts and other derivatives:			
		A	Ephedrine, pseudoephedrine, racephedrine, and their salts.	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.4% ad val.	16.6% ad val.
		B	Papaverine and its salts: Rthaverine hydrochloride.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.5% ad val.	13.6% ad val.
		C	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 28.9% ad val.	29.1% ad val.
		D	Other: Arecoline hydrobromide; deserpidine; ergonovine maleate; lobeline sulfate; meperidine hydrochloride; nicotinyl alcohol tartrate; and quinacrine hydrochloride.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.9% ad val.	13.9% ad val.
		E	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 24.5% ad val.	24.6% ad val.
		F	Antihistamines, including those chiefly used as antinauseants: Diphenhydramine; promethazine hydrochloride; and triprolidine hydrochloride...	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	12.5% ad val.
		G	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22.8% ad val.	23% ad val.
		H	Anti-infective agents: Antibiotics: Ampicillin and its salts.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.5% ad val.	13.5% ad val.
		I	Penicillin G salts.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.6% ad val.	13.7% ad val.
		J	Penicillin, not specially provided for: Carfecillin, sodium; cloxacillin, sodium; dicloxacillin, sodium;			
			See footnotes at end of schedule			

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PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

[illegible]	Item 3/	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
		Products suitable for medicinal use, and drugs (con.): Obtained, derived, or manufactured, etc. (con.): Drugs (con.):			
	407.45 (con.)	Other (con.):			
		Anti-infective agents (con.):			
		Antibiotics (con.):			
		Penicillin, etc. (con.):			
		Flucloxacillin; and oxacillin, sodium..	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	12.5% ad val.
	[illegible]	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.7% ad val.	15.8% ad val.
	[illegible]	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	12.5% ad val.
		Anti-infective sulfonamides:			
	[illegible]	Sulfathiazole and Sulfathiazole sodium....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 36.9% ad val.	39% ad val.
	[illegible]	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22% ad val.	23.7% ad val.
		Anti-infective agents, not specially provided for:			
	[illegible]	Acriflavine; acriflavine hydrochloride; bunamidine hydrochloride; carbadox; clopidol; crotamiton; decoquinate; diiodohydroxyquin; ethionamide; nicarbazin; niclosamide; oxyquinoline sulfate; pentamidine; phenylmercuric nitrate; pyrazinamide; stibophen; thimerosal; thymol iodide; tolnaftate; and trimethoprim.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.8% ad val.	12.8% ad val.
	[illegible]	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18.7% ad val.	19.4% ad val.
		Autonomic drugs, except alkaloids and their derivatives:			
	[illegible]	Cromolyn, sodium; furosemide; glipizide; isoetharine hydrochloride; isoxsuprine hydrochloride; nylidrin hydrochloride; procyclidine; salbutamol; and terbutaline sulfate.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13% ad val.	13% ad val.
	[illegible]	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 19.9% ad val.	20% ad val.

See footnotes at end of schedule

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PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

Item 2/	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
	Products suitable for medicinal use, and drugs (con.): Obtained, derived, or manufactured, etc. (con.): Drugs (con.):			
407.85 (con.)	Other (con.):			
	Cardiovascular drugs, except alkaloids and their derivatives:			
S	Hydralazine hydrochloride; sulfinpyrazone; and warfarin, sodium.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.1% ad val.	13.2% ad val.
T	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18% ad val.	18.0% ad val.
U	Dermatological agents and local anesthetics.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 14.3% ad val.	14.9% ad val.
	Drugs primarily affecting the central nervous system, except alkaloids and their derivatives:			
	Analgesics, antipyretics, and nonhormonal anti-inflammatory agents:			
V	Propoxyphene hydrochloride.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 33.3% ad val.	33.4% ad val.
W	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.3% ad val.	13.4% ad val.
X	Anticonvulsants, hypnotics, and sedatives.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.5% ad val.	13.7% ad val.
	Antidepressants, tranquilizers, and other psychotherapeutic agents:			
Y	Amitriptyline; butaperazine maleate; clozapine; droperidol; fluphenazine decanoate; fluphenazine enanthate; imipramine hydrochloride; mesoridazine besylate; piperacetazine; prochlorperazine maleate; promazine hydrochloride; and trifluoperazine hydrochloride.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	12.6% ad val.
Z	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 41.5% ad val.	41.6% ad val.
AA	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.3% ad val.	16.4% ad val.
	Hormones, synthetic substitutes, and antagonists:			
AB	Desonide; dienestrol; epinephrine; epinephrine hydrochloride; estradiol benzoate; estradiol cyclopentylpropionate; nandrolone phenpropionate; and L-thyroxin, sodium.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.3% ad val.	13.3% ad val.
AC	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 21.7% ad val.	21.7% ad val.

See footnotes at end of schedule.

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

CSP	Item	1/	Articles	Current Column 1 Rate of Duty	Proposed Converted Rate of Duty A 3/	Proposed Converted Rate of Duty B 4/
			Products suitable for medicinal use, and drugs (con.): Obtained, derived, or manufactured, etc. (con.): Drugs (con.):			
	407.85 (con.)		Other (con.): Vitamins, provitamins, and their analogs and derivatives used primarily for their vitamin activity:			
		AD	Vitamin B_2 (riboflavin and its salts and esters)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.1% ad val.	17.5% ad val.
		AE	Vitamin B_{12} (cyanocobalamin and related compounds with vitamin B_{12} activity)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 40.4% ad val.	40.4% ad val.
		AF	Vitamin E (dl-α-tocopherol and its esters)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.6% ad val.	17.9% ad val.
		AG	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.6% ad val.	13.7% ad val.
		AH	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.6% ad val.	13.7% ad val.
			Drugs, from whatever source obtained, produced or manufactured:			
A	407.90		Guaiacol and its derivatives	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 21.9% ad val.	22.7% ad val.
			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 1/ or B 13/ of this part:			
A	408.05		Benzyl acetate	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 52.1% ad val.	58.8% ad val.
A	408.10		Benzyl benzoate	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 42.1% ad val.	47.2% ad val.
A	408.15		Diphenyl oxide	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 21.1% ad val.	29.4% ad val.
A	408.20		Heliotropin	1.7¢ per lb. + 11% ad val.	1.7¢ per lb. + 13.8% ad val.	14% ad val.
A	408.25		Methyl anthranilate	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 11.2% ad val.	12.4% ad val.
A	408.30		Musk, artificial	2.8¢ per lb. + 9% ad val.	2.8¢ per lb. + 11.4% ad val.	12% ad val.
A	408.35		Phenylacetaldehyde	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 20.2% ad val.	20.8% ad val.
A	408.40		Phenethyl alcohol	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 38.5% ad val.	40.8% ad val.
A	408.45		Saccharin	1.5¢ per lb. + 9.5% ad val.	1.5¢ per lb. + 12.9% ad val.	13.7% ad val.
A	408.60		Other compounds:			
		A	p-Anisaldehyde	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 18.1% ad val.	18.6% ad val.
		B	Ethyl vanillin	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 40.1% ad val.	40.7% ad val.
		C	1-Methylbenzyl alcohol	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 25.4% ad val.	30.6% ad val.
		D	1-Pentylcinnamaldehyde	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 22.5% ad val.	23.5% ad val.
		E	Other	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 29% ad val.	29.8% ad val.
			From whatever source obtained, derived, or manufactured:			
A	408.70		Coumarin	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 24.1% ad val.	24.9% ad val.
A	408.75		Methyl salicylate	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 34.2% ad val.	39.2% ad val.
A	408.80		Vanillin	1.5¢ per lb. + 9.5% ad val.	1.5¢ per lb. + 10.2% ad val.	10.6% ad val.
A	409.00		Mixtures in whole or in part of any of the products provided for in this subpart	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 23% ad val., but not less than the highest rate applicable to any component material.	24.9% ad val., but not less than the highest rate applicable to any component material.

See footnotes at end of schedule.

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 7. - SPECIFIED PRODUCTS, MISCELLANEOUS AND NONENUMERATED PRODUCTS
Part 1. - Footwear; Headwear and Hat Braids; Gloves; Luggage, Handbags, Billfolds, and Other Flat Goods

Item 7/		Articles	Current Column 1 Rates of Duty	Proposed Converted Rates of Duty
		Subpart A. - Footwear		
		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):]		
		***		
		Other footwear (except footwear having uppers of which over 50 percent of the exterior surface area is leather):		
		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:		
		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:		
	A	Footwear other than in American men's size 6 and larger or in American women's size 4 or larger; footwear having uppers extending above the ankle of which that part which extends above the ankle is wholly or almost wholly of woven fabric of man-made fibers, whether or not coated or filled with rubber or plastic material.....	20% ad val.	20% ad val.
	B	Other.....	20% ad val.	48% ad val.
		Other:		
	C	Footwear with open toes or open heels; footwear of the slip-on type, that is held to the foot without the use of laces or buckles, the foregoing except footwear having a foxing or foxing-like band wholly or almost wholly of rubber or plastics applied or molded at the sole and overlapping the upper.....	20% ad val.	20% ad val.
	D	Other.....	20% ad val.	48% ad val.

Bracketed language is included to assist in the understanding of the proposed provisions.

See footnotes at end of schedule.

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 1. - ANIMAL AND VEGETABLE PRODUCTS
Part 3. - Fish and Shellfish

Item	Articles	Current Column 1 Rates of Duty	Proposed Converted Rates of Duty	Current Column 2 Rates of Duty	Proposed Converted Rates of Duty
	Subpart E. - Shellfish				
	Shellfish, fresh, chilled, frozen, prepared, or preserved (including pastes and sauces):				
	Clams				
	In airtight containers:				
	[Razor clams (Siliqua Patula)]				
	Other:				
	Boiled clams, whether whole, minced, or chopped, and whether or not salted, but not otherwise prepared or preserved, in immediate containers the contents of which do not exceed 24 ounces gross weight..	14% ad val.	22.2% ad val.	35% ad val.	110% ad val.
	Other.....	14% ad val.	14% ad val.	35% ad val.	35% ad val.

Bracketed language is included to assist in the understanding of the proposed provisions.

See footnotes at end of schedule.

PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 7. - SPECIFIED PRODUCTS; MISCELLANEOUS AND NONENUMERATED PRODUCTS
Part 1. - Footwear; Headwear and Hat Braids; Gloves; Luggage, Handbags, Billfolds, and Other Flat Goods

CSP	Item	Article	Current Column 1 Rates of Duty	Proposed Converted Rates of Duty A 5/	Proposed Converted Rates of Duty B 5/
		Subpart C. - Gloves			
		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.....	10¢ per lb. + 26% ad val.	10¢ per lb. + 26% ad val. 1/	[illegible] ad val
		See footnotes at end of schedule.			

APPENDIX H

ARTICLES OMITTED FROM THE ANALYSIS OF OVERALL PROBABLE ECONOMIC EFFECT OF ADOPTING C.I.F. METHOD OF APPRAISEMENT

TSUSA	1976 Imports Dollars	TSUSA	1976 Imports Dollars	TSUSA	1976 Imports Dollars
152.6000	8,600	326.3092	1,400,000	650.3925	92,000
152.7620	9,400	326.3094	47,000	650.4020	39,000
152.7640	110,000	327.3094	3,400	650.4220	190,000
156.3045	630,000	327.4094	2,100	650.5420	4,900,000
156.3065	120,000	331.3050	1,300	650.5525	880,000
168.2300	10,000	382.0427	150,000	651.7505	7,100,000
168.2810	150,000	382.0430	8,400,000	651.7550	4,600,000
168.2830	1,500,000	382.7870	390,000	654.0557	21,000,000
168.4700	77,000	382.7873	42,000,000	685.2002	6,400,000
168.4800	3,800,000	608.5225	34,000	685.2006	39,000,000
168.5200	520,000	608.5235	1,600,000	685.2008	26,000,000
176.1400	5,100,000	608.5265	9,100	685.2009	95,000,000
176.1500	2,400,000	608.5275	850,000	685.2010	13,000,000
176.1600	1,400,000	608.7665	26,000	685.2011	9,100
176.1700	55,000,000	608.7670	49,000	685.2012	15,000,000
220.3600	75,000	608.7865	98,000	685.2025	13,000,000
220.3700	7,700	608.7870	78,000	685.2026	32,000,000
220.3900	100,000	608.8507	400	685.2027	43,000,000
220.4100	16,000	608.8508	490,000	685.2028	30,000,000
220.4700	1,000,000	608.8807	23,000	685.2029	16,000,000
220.4800	300,000	608.8808	29,000	685.2031	590,000
220.4900	500	609.0660	15,000	685.2042	200,000,000
322.0032	33,000	609.0760	100,000	685.2052	52,000,000
322.0034	43,000	609.0860	37,000	685.2053	3,500,000
322.1032	12,000	650.0820	3,300,000	685.254	28,000,000
322.1034	25,000	650.0925	1,400,000	685.2065	170,000,000
322.3056	5,300	650.1020	61,000	687.3700	830,000
322.4070	1,100	650.1220	210,000	687.3800	310,000
322.5034	420	650.3820	3,500,000		

APPENDIX I

GATT VALUATION PROVISIONS

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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

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.

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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 requirements, restrictions or prohibitions on imports or exports or 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

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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.

* * * * * * *

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APPENDIX J

GATT DOCUMENT MTN/NTM/W222/REV. 1
DEVELOPING COUNTRIES' PROPOSED
AMENDMENTS TO VALUATION CODE

RESTRICTED

MTN/NTM/W/222/Rev.1
27 March 1979

Special Distribution

GENERAL AGREEMENT ON
TARIFFS AND TRADE

Multilateral Trade Negotiations

Group "Non-Tariff Measures"
Sub-Group "Customs Matters"

CUSTOMS VALUATION

This document is circulated at the request of several developing countries which feel that there would be serious prejudice to the interests of such countries unless the Agreement on Customs Valuation that may be finally adopted contains special provisions to meet the trade, financial and development needs of such countries.

In the draft Agreement on Customs Valuation the following amendments shall be made:

I. Paragraphs 2(b) and 2(c) of Article 1 shall be so amended that the tests provided for therein shall be available to both related and non-related persons.

II. The following shall be substituted for the existing Part III - Special and Differential Treatment:

"PART III - SPECIAL AND DIFFERENTIAL TREATMENT

Article 21

1. Developing countries party to this Agreement (referred to in this Agreement as "developing parties") may delay application of its provisions for a period of ten years from the date of entry into force of this Agreement for the country concerned. Developing parties who choose to delay application of this Agreement shall notify the Director-General to the CONTRACTING PARTIES to the GATT accordingly.

2. Developed countries party to this Agreement (referred to in this Agreement as "developed parties") shall furnish, on mutually agreed terms, technical assistance to developing parties that so request. On this basis developed parties shall draw up programmes of technical assistance which may include, inter alia, training of personnel, assistance in preparing implementation measures, access to sources of information regarding customs valuation methodology, and advice on the application of the provisions of this Agreement.

Article 22

Developing parties, in framing their national legislation, may provide as if the provisions of paragraph 2(a) of Article 1 stood modified by inserting the words "the importer demonstrates that" between the words "provided that" and the words "the relationship did not influence the price."

Article 23

Developing parties, in framing their national legislation, may provide that the options available to the importer to have the application of Articles 5 and 6 reversed, may be exercised only if the customs so agree.

Article 24

Developing parties, in framing their national legislation, may provide for the application of sub-paragraph (b) of paragraph 1 of Article 5 on the basis of the unit price at which the imported goods or identical or similar goods are sold in the greatest aggregate quantity at the earliest date after the importation of the goods being valued but before the expiration of ninety days after such importation.

Article 25

Developing parties, in framing their national legislation, may provide for the application of paragraph 2 of Article 5, regardless of whether or not the importer so requests.

Article 26

Developing parties, in framing their national legislation, may provide for the inclusion in the customs value, in whole or in part, of the value of any additional consideration not specified in paragraph 1 of Article 8, which the buyer is obliged to discharge himself or to require others to discharge as a condition of the sale.

Article 27

Notwithstanding anything contained in paragraph 4 of Article 8, developing parties, in framing their national legislation, may provide for the inclusion in the customs value, in whole or in part, of any price reduction which is not freely available to any other buyer on the sale of such goods for export to the country of importation in the same quantities and at the same level.

Article 28

Developing parties, in framing their national legislation, may provide that the provisions of paragraph 5 of Article 15 will apply as if the words "if they fall within the criteria of paragraph 4 of this Article" did not exist at the end of the said paragraph.

Article 29

In respect of minimum customs values any developing party may apply for special derogation at the time of its accession to this Agreement and the terms and conditions of the accession of any developing party that so applies shall be deemed to be subject to such derogation if agreed to by the other parties to this Agreement.

Article 30

In the event of their being a conflict or incompatibility between any of the provisions of this Part on the one hand and of the other Parts or of the interpretative notes or of the General Commentary on the other hand, the provisions of this Part shall have precedence and those of the other Parts or of the interpretative notes or of the General Commentary shall be construed as having, to the extent of the said conflict or incompatibility, no effect or, as the case may be, modified effect in respect of their application to developing parties.

Article 31

Developing parties shall, regardless of the period of derogation provided for in Article 21 above, or of the nature of derogation provided for in the other Articles of this Part, have full rights of vote wherever a provision exists in this Agreement for voting on any matter."

III. In Part IV - Final Provisions - in the Article which appears under the heading "Review" and is presently numbered 26, add the following words at the end of the first sentence:

"and the trade, financial and development needs of the developing parties".

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INTRODUCTION

In response to requests from the Senate Finance Committee and House Ways and Means Committee, the United States International Trade Commission on September 1, 1978, instituted an investigation, under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), for the purpose of submitting a series of reports analyzing the effects on U.S. industrial and agricultural sectors of nontariff measure agreements and tariff reductions recently negotiated at the Multilateral Trade Negotiations (MTN) in Geneva.

This report deals with the agreement on import licensing procedures. It is based on the General Agreement of Tariffs and Trade (GATT) Secretariat text initialed by many of the principal trading partners of the United States in April 1979.

The report is divided int two parts plus an appendix and a summary. Part 1 reviews the background and origin of the agreement, provides a summary of its provisions, and discusses the extent of U.S. compliance. Part 2 assesses the overall probable economic effect of adoption of the proposed agreement on U.S. imports and on selected U.S. export markets. The Appendix contains the April 1979 text of the agreement as published by the Secretariat.

SUMMARY

The import licensing agreement represents an attempt to rationalize procedures for administering licensing systems extending back to a GATT code drafted in 1950. The effort to standardize and harmonize these procedures has been supported, primarily, by the developed countries. The United States, in particular, has viewed automatic import licensing systems as having trade restrictive effects and has traditionally favored elimination of all such systems. The target of these efforts has, in general, been the developing countries (LDCs). The LDCs have been the subject of complaints by U.S. exporters, particularly with regard to the administration of their "automatic" import licensing regimes and with regard to the lack of current and reliable information concerning LDC import restrictions.

Import licensing is defined in the agreement as those administrative procedures which require submission of an application or other documents (except those required for customs purposes) to the relevant administrative body as a prior condition for importation. Automatic import licensing systems are defined as those in which approval of the license is "freely granted". In contrast, non-automatic licensing systems are those in which the administrative body may exercise some degree of discretion with respect to issuance of the license. Licensing is frequently used to administer quotas or other discretionary import restrictions.

In March 1979, the GATT Secretariat published the agreement on licensing procedures for imports which provides the basis for this analysis. The agreement focuses exclusively on the administration of import licensing procedures and does not address the existence or extent of any underlying trade restriction. The goal of this agreement is to simplify and harmonize procedures covering the application for and issuance of import licenses.

The agreement consists of three substantive sections: the first contains provisions generally applicable to all systems; the second covers automatic import licensing systems; and the third provides for non-automatic import licensing systems. The agreement also includes a preamble, institutions, consultation and dispute settlement provisions, and "Final" provisions. 1/

The general provisions specify that administrative procedures used to implement licensing systems must be in conformity with the GATT and be neutral in application. The agreement provides for publication of the rules and regulations concerning licensing systems and the lists of products subject to licensing, and requires simplified application and renewal procedures for obtaining a license. It specifies that, to the extent practicable, importers should have to approach

1/ The "Final" provisions encompass certain administrative matters common to most of the MTN agreements: Acceptance and accession; Reservations; Entry into force; National legislation; Committee review; Amendments; Withdrawal; Non-application between particular parties; Secretariat services; Deposit; and Registration.

only one administrative organ in order to apply for a license. A "reasonable" time period is to be allowed when applying for a license, and an application may not be refused for minor documentation errors.

The section on automatic import licensing systems specifies that these systems may be maintained as long as the circumstances which gave rise to their introduction prevail, or as long as their underlying administrative purposes cannot be achieved in a more appropriate way. The agreement provides that automatic licenses are to be made available to anyone fulfilling prescribed criteria; that applications may be submitted at any time "prior to the customs clearance of the goods"; and that they are to be granted "immediately" upon receipt, to the extent administratively feasible, but in any case within ten working days.

The section on non-automatic import licensing systems specifies that governments are to publish information concerning the number and value of licenses granted, to provide information on the administration of restrictions, and to permit any person, firm or institution to apply for a license. The provisions also state that the period for processing a license should be as short as possible, and that a license is to be valid for a "reasonable" period of time and not be so short as to preclude imports from distant sources. Where feasible, licenses are to be issued to new importers. If the license application is not approved, the applicant shall have "a right of appeal or review" in accordance with national legislation or administrative procedures.

Several questions concerning the scope and applicability of various provisions of the agreement remain unanswered. The answers to these questions could have a significant impact on the importance of the agreement as a trade barrier reducing mechanism. Among these are the absence of definitions for terms basic to the agreement. This is most noticeable in the ambiguity which appears between timing requirements specified in the general provisions applicable to all licensing systems and those specified for automatic import licensing systems.

In addition, although adherence of the LDCs was considered a major objective of the negotiations, to date only one developing country (Argentina) has initialed the agreement without reservation. We understand negotiations are presently underway to obtain acceptance of the agreement by other LDCs. However, it appears that the LDCs will only accept the agreement with some derogation from the requirements of the present text.

Although it is difficult to ascertain the precise legal effect of this agreement on U.S. laws and regulations, it is unlikely that adherence will require significant changes in present import licensing procedures. Consequently, adherence to the agreement will have little, if any, impact on U.S. imports.

Since a primary objective of these negotiations--not yet achieved--has been acceptance of these procedural reforms by the LDCs, it is not likely that this agreement will result in more than a nominal increase in U.S. exports.

Part 1. THE AGREEMENT ON IMPORT LICENSING PROCEDURES

Background and Origin

The period immediately following World War II saw the beginning of international efforts to encourage expansion of trade through the elimination of nontariff barriers. Article XI of the GATT states the general principle that--

> No prohibitions or restrictions other than duties, taxes or other charges, whether made effective through quotas, import or export licenses or other measures, shall be instituted or maintained by any contracting party on the importation of any product of the territory of any other contracting party or on the exportation or sale for export of any product destined for the territory of any other contracting party.

After the Kennedy Round, the GATT Contracting Parties began a long-term study of Automatic Import Licensing (AIL) procedures. A 1967 inventory of over 800 nontariff barriers provided data for five working groups of the new Committee on Trade in Industrial Products (CTIP).

In 1970, CTIP Working Group IV began consideration of specific limitations on imports and exports. Seeking elimination of Japanese and European AIL requirements, the United States urged that use of import licensing be restricted to the same conditions for which the General Agreement permits quantitative restrictions. In Working Group IV deliberations the following year, the United States recognized the distinctions between AIL and Licensing to Administer Import Restrictions (LAIR) consistent with the GATT. In 1972, Working Group IV submitted AIL and LAIR draft texts to the Contracting Parties for the consideration of their respective governments. The texts of these drafts have served as the basis for the work of the MTN Subgroup on Quantitative Restrictions (QR Subgroup) during the Tokyo Round negotiations in Geneva. The QR Subgroup has been negotiating, intermittently, in these areas since April 1975.

At the suggestion of the United States, a technical group was formed to consolidate numerous proposals which had been made with respect to the AIL and LAIR texts. As a result of these discussions, two new draft texts were developed and, at the November 1977 QR Subgroup meeting, these texts were accepted as the basis for future negotiations.

In July 1978, the GATT Secretariat informally circulated a draft text combining most elements of the two draft import licensing procedures texts (i.e., the AIL and LAIR texts). 1/ In December 1978 major elements of the licensing text 2/ were agreed to, but several issues remained to be resolved at the technical level. The "final" version 3/ of this agreement was initialed by most of the developed countries, and by at least one developing country (Argentina) in April 1979.

1/ The GATT Secretariat's "Draft Code on Import Licensing Procedures" (dated 24/7/78).

2/ Draft Agreement on Import Licensing Prodedures, MTN/NTM/W/213, 21 December 1978.

3/ Agreement on Import Licensing Procedures, MTN/NTM/W/231, 29 March 1979.

Negotiations to obtain LDC adherence to the agreement continued during May 1979. The developed countries urged Mexico to make a commitment to liberalize its "prior permit" (import licensing) system as a precondition for Mexican accession to the GATT and to this agreement. Brazil objects to the timing requirements for submission of AIL applications 1/ and to the timing requirements for approval of AIL applications. 2/

Summary of the Agreement

The agreement focuses on the administration of import licensing procedures rather than on the existence or extent of the underlying trade restriction. The aim is to simplify and harmonize procedures with respect to the application for and issuance of import licenses. It remains unclear whether licensing procedures for agricultural commodities and bilateral export restraint arrangements are intended by all parties to be included within the scope of this agreement. Similarly, although the Trade Act 3/ and its legislative history provide ample evidence of the Congressional intention that "[non-tariff] barriers affecting services as well as goods should be eliminated", 4/ there appears to have been little or no consideration of this aspect of international commerce in drafting the licensing procedures agreement.

The agreement is divided into three substantive sections: the first specifying "general provisions"; the second, provisions regarding "automatic import licensing" systems; and the third, provisions for "non-automatic import licensing" systems. There are also a preamble, consultation and dispute settlement provisions, and the so-called "Final" provisions encompassing certain administrative matters.

General Provisions

The general provisions (paragraphs 1-11) are intended to apply to both "automatic" and "non-automatic" import licensing systems. Paragraph 1 contains the basic definition of "import licensing procedures". This paragraph has six distinct elements which, in effect, define the scope of the agreement. defined as:

(1) administrative procedures (e.g., those procedures referred to as "licensing" as well as other similar administrative procedures)
(2) used for the operation of import licensing regimes
(3) which require the submission of an application or other documentation

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1/ Brazil proposes that ". . . importers obtain [AIL] licenses prior to embarkation of imported goods" rather than "...prior to customs clearance" as required by paragraph 13(d).

2/ Brazil also proposes approval of AIL applications within 14 working days instead of 10 working days as rquired by paragraph 13(e).

3/ Sections 102(g), 163(a) and 601(10) of the Trade Act of 1974.

4/ S. REP. NO. 1298, 93rd Cong., 2d Sess. 74, 114, and 230.

(4) exclusive of documents required for customs purposes
(5) to the relevant administrative body
(6) as a prior condition for importation into the customs territory of the importing country.

The key terms (which have been underscored for convenience) remain generally undefined. The apparent thrust of the negotiating delegations, upon examination of the language used, has been to encompass as wide a range of potential "licensing" situations as possible. The rationale underlying this strategy would seem to rest on the assumption that subsequent disputes concerning the scope of the agreement can be resolved on a case-by-case basis.

The general provisions also provide that licensing procedures must conform to the GATT (taking into account the special "trade needs" of the LDCs); that they be neutral in application and fairly administered; that all information relevant to such procedures (including lists of ". . . products subject to the licensing requirement" 1/) be published promptly and notified to the GATT; that application and renewal forms and procedures be as simple as possible; 2/ that application and renewal forms be submitted to a single agency, except where "strictly indispensable"; and that license applications not be refused for minor documentation errors and that penalties be proportionate to the degree of "fraudulent intent or gross negligence" involved in making the error. The general provisions further provide that licensed imports shall not be denied entry because of "minor variations" between the amount specified in the license and the amount actually landed; that the foreign exchange necessary for the licensed goods shall be made available on the same basis as for unlicensed goods; that the provisions of GATT Article XXI (Security Exceptions) shall apply to the agreement; and that the agreement does not require disclosure of information otherwise required to be kept confidential by national law (e.g., for law enforcement purposes, legitimate commercial interests, etc.).

Automatic Import Licensing

The section on automatic import licensing (AIL) systems (paragraphs 12-13 (e)) defines AIL as import licensing where "approval of the application is freely granted". These systems are to be administered so as to avoid "restricting effects on imports" subject to the AIL requirements. The agreement recognizes that AIL systems "... may be necessary whenever other appropriate procedures are not available".

1/ This terminology is used repeatedly throughout the agreement. Although it is never explicitly defined, the apparent intent is to permit each signatory to determine, for itself, which products are subject to licensing in accordance with the definition in paragraph 1.

2/ These documentation requirements were debated extensively. The Nordics and the United States favored use of a pro forma invoice when applying for a license. The EC, Canada, Switzerland, Japan, Australia, Brazil and others proposed documentation which is "normal for customs entry purposes". A suggested compromise solution, although not adopted, was to incorporate (by reference) the documentation requirements embodied in the ECE Standard Invoice Layout Form. See, GATT Secretariat Document, MTN/NTM/W/116, dated 28 October 1977.

The agreement further provides that all importers eligible to engage in "import operations involving products subject to" AIL shall be equally eligible to apply for, and obtain, such licenses. AIL applications ". . . may be submitted on any working day prior to the customs clearance of the goods", and shall be approved immediately or within a maximum of ten working days.

The United States has traditionally favored a provision which would eliminate all automatic import licensing systems. 1/ This position was revised to allow for the existence of such systems in certain instances; e.g., pre-safeguards surveillance situations. The revised position was submitted to a June 1978 plurilateral meeting but did not receive substantial support.

We note that one problem (also recognized by U.S. negotiators) with an agreement regulating AIL, even for limited purposes, is that it will serve to make ultimate removal of these systems less likely. If AIL systems are "legitimized" by the agreement and, thus, are neither eliminated nor subject to preconditions as to their use, then they may continue to restrict or at least frustrate U.S. exports.

Non-Automatic Import Licensing

The section on non-automatic import licensing (NAIL) systems (paragraphs 14(a)-(14(n)) (defined as systems under which licenses are not granted automatically) includes licenses required to administer quotas and other import restrictions and specifies that governments are to provide information concerning the number and value of licenses granted, to publish information on the administration of quotas, and to permit any person, firm or institution to apply for a license.

The provisions on non-automatic import licenses also provide that the period for processing a license should be as short as possible, and that a license is to be valid for a "reasonable" period of time. Licenses issued pursuant to quotas are not to be administered so as to prevent importation of goods; however, in granting licenses, governments may take into account whether previously issued licenses have been utilized. In addition, the agreement encourages the issuance of licenses for a sufficient quantity of goods to make importation economical.

If possible, licenses are to be issued to new importers; however, where licenses are used to administer quotas not specifically allocated to supplying countries, license holders are free to choose the source of imports. Special consideration is to be given to LDC products and, in particular, to the products of the least developed countries (LLDCs).

3/ See, Trade Policy Staff Committee (TPSC) Document 78-76, dated June 26, 1978, Code of Conduct on Automatic Import Licensing.

Questions Concerning the Scope of the Agreement

A number of questions concerning interpretation of the agreement remain unanswered by the present text. The most significant are discussed below.

Agricultural Commodities

The question of the applicability of the agreement to agricultural commodities has not been explicitly resolved by this text. The Swiss have stated their assumption that any agreement would apply to agriculture. The EC, in principle, has taken the position that it only applies to industrial products, but it is reported to have "an open mind" on the subject. 1/ The U.S. position is that the text does not include any special provisions to include (or exclude) agricultural products. Thus, without a special provision excluding such products from coverage, the text can be interpreted as applying to all products (both industrial and agricultural).

Bilateral Export Restraint Procedures

It is at least arguable that certain procedural aspects of bilateral export restraints (i.e., "voluntary restraint arrangements") may fall within the scope of this agreement. The early drafts included explicit provisions to cover "export permits" which were required, by the importing country, to be submitted with import licenses. While these provisions have been deleted, the present text (paragraphs 14(m) and 14(n)) does include certain administrative requirements for bilateral quota allocations; e.g., specific provisions to allow restraint level "compensating adjustments" to future license (quota) allocations.

Timing Requirements

The negotiating history of paragraph 13(d) indicates considerable confusion and lack of agreement with respect to "timing requirements" for submission of AIL applications, and "timing requirements" in paragraph 1 which define the extent of the licensing systems covered by the agreement. Paragraph 13(d) provides that AIL applications "... may be submitted on any working day prior to the customs clearance of the goods". 2/ Paragraph 1, on the other hand, requires that all import license applications be submitted "... as a prior condition for importation", if the licensing system is to be subject to the procedural requirements of this agreement.

1/ In May 1979 the EC approved a new licensing system for hybrid seed corn. This system would require, inter alia, a "surety deposit" which the EC justifies by reference to the MTN licensing agreement (paragraph 12, footnote 1).

2/ The underscored terms are not otherwise defined. It appears that "customs clearance" may be used in the same sense as "importation" in paragraph 1, although Canada and Australia had wanted "prior to the date of shipment". The Swiss proposed "prior to importation". The U.S. delegation, at one point, equated the present language with the phrase "prior to ... customs entry".

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There is some doubt that the date of "customs clearance", and the date of "importation" or the date of "entry", have a uniform interpretation among the various national customs services. The Customs Co-operation Council has defined customs "clearance (of goods)" as follows:

> The accomplishment of the Customs formalities necessary to allow imported goods to enter home use, or to place them under another Customs procedure; or to export goods. 1/

The Council has also defined "importation" as follows:

> The act of bringing any goods into a Customs territory. 2/

In the present context, 3/ the quoted definitions should be compared with U.S. Customs Regulations which appear to equate "clearance of imported merchandise" with "release from Customs custody" for consumption entries, 4/ and define "date of importation" as follows:

> "Date of importation" means, in the case of merchandise imported otherwise than by vessel, the date on which the merchandise arrives within the Customs territory of the United States. In the case of merchandise imported by vessel, "date of importation" means the date on which the vessel arrives within the limits of a port in the United States with intent then and there to unlade such merchandise. 5/

Use of the term "entry" has been held to imply the presence of the merchandise at the port of entry. 6/ U.S. Customs Regulations provide:

1/ Customs Co-operation Council, Glossary of International Customs Terms, Doc. 13.309, Annex III at 26.

2/ CCC Doc. 8298 at 41.

3/ A request to have a "... shipment [of merchandise] cleared by a Customs Broker ..." was held to be interpretable either as requiring a consumption entry or as requiring an in-transit entry for goods already in port. [Emphasis supplied.] Canada Steamship Lines v. Inland Waterways Corp., 71 F. Supp. 137 at 139, 142 (E.D. La., 1947). But cf. Clearance "... means to satisfy the customs, harbor dues, and the like, and obtain from the governmental authority of the port leave to depart ...". Int'l. Mercantile Marine Co. v. Stranahan, 155 F. 428 at 432 (C.C.S.D. N.Y., 1907); Hamburg-American Steam Packet Co. v. United States, 250 F. 747 at 759-62 (2d Cir., 1918). See also 46 USC 11 et seq., 91, 91a, 313-315.

4/ 19 CFR 143.0, 143.3; but cf. 19 CFR 101.5 and 19 CFR 148.22, 148.23 (1978).

5/ 19 CFR 101.1(h) (1978).

6/ Mussman & Shafer, Inc. v. U.S., 27 Cust. Ct. 180 at 186; (C.D. 1367) (1951); aff'd. 40 CCPA 108 at 113-114 (C.A.D. 506) (1953).

> No entry shall be considered to be "deposited" or "accepted", nor shall the merchandise covered thereby be considered to be entered within the meaning of the law or regulations applicable to the entry of the merchandise, until after the arrival of the merchandise within the limits of the port of entry and the subsequent deposit of estimated duties or subsequent official determination that no deposit is required. [Emphasis supplied.] 1/

The term "entry" has also been held to encompass all of the transactions necessary to secure the release of the goods from customs custody. 2/ Similarly, the courts have held that the words "entered for consumption" do not connote merely the written entry papers filed by the importer, but connote a series of acts which are necessary to and which culminate in the entering of goods into the commerce of the United States. "That is the time when goods are entered, and not when a particular document, which in customs parlance is called an 'entry,' is filed with an entry clerk." 3/ [Emphasis supplied.]

Accordingly, we conclude that "importation" or "entry" are not synonymous with "customs clearance" in the context of the timing requirements specified in paragraphs 1 and 13(d), at least insofar as these terms are defined in U.S. customs laws and procedures.

Right of Appeal

There are several questions raised by the incorporation (by reference) of Article X of the GATT, within paragraph 2 of the agreement, in conjunction with the "right of appeal" provided by paragraph 14(f).

Article X of the GATT provides, in pertinent part, that "[e]ach 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". Paragraph 14(f) provides, in part, as follows:

> If the license application is not approved, the applicant shall, on request, be given the reasons therefor and shall have a right of appeal or review in accordance with the domestic legislation or procedures of the importing country.

Arguably, both Article X and paragraph 14(f) are intended to provide a right of appeal from a denial of a license application. But approval of applications for automatic import licenses "... is freely granted". Thus, in theory, such an application will not be denied and a "right of appeal" becomes unnecessary. Non-automatic license applications are, consequently, the only likely subject

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1/ 19 CFR 141.68(a) (1978).

2/ Oxford Univ. Press v. U.S., 29 Cust. Ct. 191 at 196-197 (C.D. 1467) (1952). See also 19 CFR 141.68(e) (1978).

3/ Excel Shipping Corp. v. U.S., 44 Cust. Ct. 55 at 61-62 (C.D. 2153) (1960).

matter, if any, for the exercise of Article X "rights". An important distinction between these two provisions is that Article X encompasses any "... administrative action relating to customs matters", while paragraph 14(f) is limited to the denial of applications for non-automatic import licenses. Thus, there is some uncertainty concerning the degree of overlap, if any, between these two provisions.

In addition, what constitutes "customs matters" in the context of this agreement on procedures governing import licensing is open to considerable question. The United States provides extensive administrative procedures for review of customs determinations under 19 USC 1514, 1516, 1520(c), etc. Judicial review of customs decisions in the United States Customs Court may be obtained under 28 USC 1582.

The scope of "customs matters" reviewable is already quite comprehensive. Assessment of dumping duties may be protested and reviewed under 19 USC 169 and 28 USC 1582(b). Countervailing duties assessed under 19 USC 1303 are subject to protest and review under 19 USC 1514 and 28 USC 1582(b). However, jurisdiction to review the refusal to grant an "import license" varies according to the specific statute and usually lies with United States district courts since there is no general "importer's license" in the United States.

A challenge directed at the administration of the textile trade agreements program (i.e., the MFA) was held to be within the exclusive jurisdiction of the Customs Court. 1/ However, "voluntary import restraint undertakings" negotiated in 1972 by the executive branch and foreign producers with respect to certain steel products were held not legally binding and unenforceable by the Customs Service. 2/ Thus, there could be no "decision by a Customs official upholding the restraint and opening up the protest procedure which affords access to the Customs Court". 3/

Subsequently, legislation was introduced in 1978 which would increase the substantive jurisdiction of the United States Customs Court and expand the types of relief it may award. This legislation, the Customs Courts Act of 1978, would "provide for a comprehensive system of judicial review of matters directly affecting imports ... and provide expanded opportunities for judicial review ...". 4/ Such legislation could provide one judicial forum for resolution of disputes arising out of the denial of an import license application, at least to the extent that present statutes or case law may not afford an adequate remedy.

1/ Consumers Union v. Committee for the Implementation of Textile Agreements, 561 F.2d 872 at 874 (D.C. Cir. 1977).

2/ Consumers Union v. Kissinger, 506 F.2d 136 at 142-4 (D.C. Cir. 1974).

3/ Consumers Union, supra note 1.

4/ See S.2857, H.R.12006, 95th Cong., 2d Sess. (1978).

Extent of U.S. Compliance With the Agreement

We note that in view of: (1) the lack of definition in the agreement, or ancillary documents, of certain basic terms; and (2) the possibility, 1/ even though remote, of its application to numerous U.S. statutes or administrative regulations at the federal level, 2/ it is difficult to ascertain the precise legal effect of the agreement.

The most important factor inhibiting analysis of the effect of the agreement on U.S. law is the imprecision of much of the language used in key sections. What constitutes an "import license" is only one question (although a threshold one) in determining the intent of the delegations who drafted and, presumably, will adhere to this agreem . 3/

1/ STR has reported that the proposed agreement on import licensing procedures appears "...not to require changes in U.S. laws at the time of implementation, although optional changes may be made". However, STR also recognizes that "... there are a large number of laws and regulations that may some day be the subject of a foreign complaint under one of the codes, although we [STR] have no expectation of changing at this time any provisions that fall into this category". Memorandum from Robert S. Strauss to Advisory Committee Members dated December 27, 1978, Attachment at page 366.

2/ The Commission expresses no opinion with respect to suggestions that this agreement is intended to preempt the procedural aspects of presently-existing valid State regulation of foreign imports. Absent specific legislative intent expressed in the implementing legislation, these suggestions appear open to question, e.g., alcoholic beverages and tobacco products are both subject to extensive state regulation.

> "Prior to the Eighteenth Amendment, Congress passed laws giving the States a large degree of autonomy in regulating the importation and distribution of intoxicants. These laws, the Wilson Act [27 USC 121] and the Webb-Kenyon Act, [27 USC 122] are still in force." Hostetter v. Idlewild Liquor Corp., 377 U.S. 324 at 333 (Fn. 11) (1963); Dept. of Revenue v. James Beam Co., 377 U.S. 341 at 345 (Fn. 7) (1963).

We also note other examples of federal deference to the valid exercise of State "police powers" affecting foreign commerce.

> "The collectors and other officers of the customs shall pay due regard to the inspection laws of the States in which they may respectively act, in such manner that no vessel having on board goods liable to inspection shall be cleared until the master, or other proper person, shall have produced such certificate that all such goods have been duly inspected, as the laws of the respective States may require to be produced to collectors or other officers of the customs." 46 USC 97.

Cf., GATT Article XXIV, paragraph 12.

3/ The definition of "import licensing" in paragraph 1 is discussed extensively under Summary of the Agreement, supra.

We do not know whether "import" has the same breadth of coverage as it does in the Tariff Schedules of the United States. 1/ For example, it is open to question whether the agreement embraces within the terms "imports", "goods", or "products" such items as: coins and currency, 2/ banknotes, certificates of value, and gold or silver bullion, etc. There are immediately discernible differences, 3/ and similarities, 4/ between U.S tariff treatment and the Customs Co-operation Council Nomenclature (CCCN) in use by most of our major trading partners.

Similarly, there is an absence of definitions for other terms basic to determining what constitutes an "import license". As discussed previously, it is not entirely clear that this term excludes licenses, certificates, visas, etc., issued by the country of exportation to administer a bilateral restraint arrangement.

We note that export licenses or visas also may be required by the country of importation as an enforcement mechanism for "voluntary export restraints", whether negotiated in a multilateral context (e.g., the Multifiber Arrangement (MFA), the International Coffee Agreement, etc.), in a bilateral setting (e.g., the OMAs with Korea and Taiwan covering footwear), or as quota allocations imposed unilaterally by the country of importation, 5/ and thus could be interpreted to fall under the coverage of the agreement.

1/ TSUS general headnote 1 ("All articles imported into the customs territory of the United States . . ."), as modified by TSUS general headnote 5.

2/ Coins are good examples of the distinction between "legal tender", which may not be subject to Department of Treasury reporting requirements (31 CFR Part 103) pursuant to 31 USC 1051-1122, and "currency" which is subject to such requirements. E.g., the Canadian silver coins commemorating the 1976 Olympic games are "legal tender but not currency" and, thus, are not subject to the Currency and Foreign Transactions Reporting Act. Similarly, commercial importations of such coins are subject to the normal Customs Service entry procedures as "legal tender but not currency". Compare: TSUS item 653.22 with TSUS general headnote 5.

3/ Compare: TSUS general headnote 5 ("Intangibles. For the purposes of headnote 1 . . . currency (metal or paper) in current circulation in any country and imported for monetary purposes, . . . [and] . . . securities and similar evidences of value, . . . are not articles subject to the provisions of these schedules.") with CCCN ch. 49.07 ("The characteristic of the products falling within this heading is that on being issued . . . by the appropriate authority, they have a fiduciary value in excess of the intrinsic value . . . [e.g.,] Banknotes. This term covers promissory notes of all denominations issued by the State . . . for use as currency or legal tender either in the country of issue or elsewhere . . . [and] . . . Stock, share and bond certificates and similar documents of title").

4/ But see, "metal coins" provided for in item 653.22, TSUS, and CCCN ch. 72.01 ("Coin. This heading applies to coins of any metal . . . of officially prescribed weight and design, issued under Government control for use as legal tender.") See also "gold or silver bullion" provided for in item 605.20, TSUS and "precious metals" provided for in chapter 71, CCCN. See also 12 USC 95a and 31 USC 442, 443.

5/ See, e.g., quotas upon importation of certain meats pursuant to the Meat Import Quota Act of 1964 (Pub. L. No. 88-482; effective August 22, 1964); and 7 CFR Part 16.

Another factor, which prevents definitive analysis of the effect of this agreement on U.S. laws, is the great number of statutes, regulations, etc., which restrict or prohibit importation of goods into the United States. A great many federal government activities impose restrictions such as permits, certificates or other documentation, and licenses on merchandise entering the United States. In addition to import restrictions found in the tariff laws proper, the Customs Service states that they assist about forty other Federal agencies in the enforcement of some 400 laws and regulations. 1/ Although there is no general "importer's license" in the United States, import restrictions may apply to personal or commercial importations, whether made by an individual for his own account or by a professional customhouse broker.

The agreement defines "import license" rather broadly in paragraph 1, yet it specifically excludes documents "required for customs purposes". This raises the question of what is meant by the phrase "customs purposes". We note that the Customs Service administers import restrictions on certain commodities subject to quota (e.g., certain dairy products; animal feeds containing milk or milk derivatives; certain cotton fibers; certain wheat and milled wheat products, etc.). Customs also enforces import restrictions administered by other agencies. Fuel oil and certain oil products are licensed under "non-automatic" licensing procedures by the Department of Energy (DOE) pursuant to the Trade Expansion Act of 1962 2/. The DOE also administers the licensing of imports and exports of "special" nuclear materials. 3/ The Departments of Interior and Commerce jointly administer licensing procedures to implement import quotas imposed on duty-free entries of certain watches and watch movements from the U.S. insular possessions. 4/

This list, by no means exhaustive, does not even begin to address the question of licenses (or "certificates", "permits", etc.) required for entry of certain articles subject to natural resource conservation, health, safety, or pollution control regulations or sanitary requirements unrelated to quantitative restraints. 5/ These latter types of discretionary licensing procedures may, more properly, be considered in the context of the agreement on Product Standards. 6/ However, all such requirements can become barriers to trade,

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1/ 1975 SEC. OF TREAS. ANN. REP. ON THE STATE OF THE FINANCE at 209; see also, OFFICE OF THE CHIEF COUNSEL, U.S. CUSTOMS SERVICE, U.S. DEP'T. OF THE TREAS., Laws and Regulations Enforced or Administered by the United States Customs Service, (April 1975).

2/ 19 USC 1862. See Pres. Proc. 3279, as amended; and 10 CFR Part 213 (1978).

3/ 42 USC 2073 et seq.

4/ TSUS general headnote 3(a); and 15 CFR Part 303 (1978).

5/ See, e.g., 50 CFR Part 14 (Import/Export License requirements pursuant to the Endangered Species Act of 1973 and the Convention on International Trade in Endangered Species of Wild Fauna and Flora); 7 USC 136o(c) (Admissibility of pesticides imported pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act determined by the EPA); 21 USC 381 (Approval of pharmaceuticals imported pursuant to the Food and Drug Act certified by the FDA).

6/ For example, restrictions so-called "marketing orders") have been imposed on certain agricultural imports which limit the size, grade, or quality of the product, pursuant to the Agricultural Marketing Agreement Act of 1937, as amended. 7 USC 608c, 608e-1.

since they create uncertainty and the possibility of delay and discrimination in the processing of applications as well as possibly unnecessary documentation costs to the importer. 1/

1/ United States Tariff Commission, Trade Barriers, vol. 5, ch. VIII, pages 138-9 (1974).

Part 2. PROBABLE ECONOMIC EFFECT ON U.S. INTERNATIONAL TRADE OF THE ADOPTION OF THE AGREEMENT ON IMPORT LICENSING PROCEDURES

A previous study by the Commission 1/ attempted to measure, in a limited manner, the degree of restrictiveness of certain forms of quantitative limitations. In that study an analysis was made of quantitative trade restrictions reported to the GATT by seventeen major trading nations, supplemented by data from other sources. The reported restrictions include only basic elemental forms of quantitative limitations--embargoes, quotas, voluntary export restraints, licensing requirements, limitations deriving from state trading, minimum price requirements and mixing regulations, all of which can be identified in their application to discrete categories of products. The available information on these restrictions was only of a "counting" nature; that is, a particular restriction was identified as either being or not being applied to a category of products (or part of a category). No information was available as to the possible price effects, trade effects, or production effects of a restriction. The data reflected the situation existing in the 1970-71 period. Since then, there have been significant changes in restrictions imposed by some countries.

Table 1 lists the types of quantitative restrictions included in the count. Some, such as quotas, are burdensome or more significant than others such as liberal licensing. This is crudely accounted for by a weighting scheme (the weights are given in column 2 of table 1). In the analysis export restraints were charged as a restriction, not to the exporting country but to the importing country, since the latter country has usually imposed the restraint on the exporter.

1/ United States Tariff Commission, Trade Barriers, vol. 5, ch. VIII, pages 160-2 (1974).

Table 1.—Types of Quantitative Restrictions Counted

Type of restriction	Weighting scheme 1/
	Percent
1. Bilateral quota	0.91
2. Global quota	1.36
3. Quota (unspecified)	1.36
4. Prohibited imports (embargoes)	1.36
5. State trading	.91
6. Automatic licensing	.45
7. Liberal licensing	.45
8. Discretionary licensing	.91
9. Licensing (unspecified)	.91
10. Minimum price system	1.36
11. Seasonal restriction	.91
12. Restriction (unspecified)	.91
13. Export restraint	1.36
14. Suspended import restriction	.91
15. Mixing regulations	.91

1/ Each restriction was given a number from 1 to 3, high or low, depending on its degree of restrictiveness. The average of these numbers was divided into the assigned number for each restriction, resulting in the weights shown in the table.

To the extent that this analysis remains valid, it would appear that administration of these licensing requirements has a comparatively minor trade restricting effect, particularly when measured against the underlying import restriction itself.

U.S. Imports

The United States requires import licenses for a number of commodities in order to administer a variety of programs. Table 2 is a selected list illustrative of commodities subject to some type of import licensing procedure. These licensing procedures may be considered non-automatic.

As noted above, the uncertain scope of the agreement's application and its substantive requirements make it impossible to determine, with any assurance, the extent of U.S. compliance. However, we do not believe that U.S. import licensing requirements are administered in such a manner as to create trade barriers of a procedural nature which could be construed as violative of the general purposes of this agreement. Under the circumstances, it is doubtful that U.S. adoption of this agreement will result in more than a negligible effect on U.S. imports.

Table 2. — Selected list of U.S. imports subject to a "licensing procedure" (licenses, permits, visas, certificates, etc.)

Article	Statutory or other authority
Alcoholic beverages	18 USC 1263
Certain dairy products	7 USC 624 and 21 USC 141-149
Certain meats	P.L. 88-482
Certain fruits and vegetables	7 USC 608(e)
Live plant material including nursery stock	7 USC 151-162
Certain cocoa and confectionery preparations	7 USC 624
Certain textiles and apparel products	7 USC 1854
Crude petroleum and petroleum products	19 USC 1862
Liquified natural gas (LNG)	19 USC 1862
Uranium and uranium compounds, other radioactive materials, and nuclear reactors	42 USC 2073, et seq.
Drugs, and other controlled substances	Controlled Substances Act of 1970, and 19 CFR 12.36
Certain luggage, handbags, and flat goods of reptile material	Endangered Species Act of 1973
Arms, ammunition, explosives and implements of war	26 CFR Parts 178, 179 and 181
Whale, walrus, or Asian elephant ivory and ivory articles	Marine Mammal Protection Act of 1972
Certain electronic products subject to radiation performance standards	Radiation Control for Health and Safety Act, and 19 CFR 12.91
Motor vehicles and motor vehicle engines	Clean Air Act, and 19 CFR 12.73
Viruses, serums, toxins, antitoxins and analogous products subject to HEW licensing requirements	42 USC 262, and 19 CFR 12.21, et seq.

Source: USITC staff survey (November, 1978).

U.S. Exports

Most countries maintain some form of import licensing requirements, ranging from the very liberal to the highly restrictive. The trade restrictive effects of these requirements may be observed in both the procedure and its administration. Some requirements have the effect of discriminating against imports from particular countries or are applied to inhibit the importation of selected commodities. Frequently, licensing is used as an import monitoring device or as a means of manipulating imports to serve national economic policy interests.

Because of the number of countries which have licensing procedures and the wide variety of these procedures, we have assessed the effect of adoption of the agreement upon five export markets: Japan, Mexico, France, Brazil, and India. The selection of these five is based upon the importance of U.S. export trade and complaints by U.S. exporters directed towards their licensing procedures. These countries received a total of $21.7 billion in U.S. exports during 1977, representing 18 percent of all U.S. exports. Table 3 presents export data for these countries along with their share of the total U.S. export market during 1973-77.

U.S. exports to all countries may increase as a result of general adoption of the agreement. It is not possible to quantify the amount of increase that can be expected; however it probably would be no more than a nominal increase. If adoption of this agreement contributes to a positive frame of mind toward export markets within U.S. industry by encouraging our trading partners, particularly the LDCs, to be more open and liberal in the administration of their licensing systems, it could provide a greater stimulus to U.S. exports than is currently present. We note, however, that only one LDC (Argentina) had initialed the agreement as of April 1979.

Table 3.--U.S. exports of domestic merchandise, by selected markets, 1973-77

Market	1973	1974	1975	1976	1977
	Value (million dollars)				
Japan	8,176	10,564	9,421	10,028	10,414
Mexico	2,895	4,790	5,063	4,904	4,723
France	2,206	2,883	2,952	3,393	3,420
Brazil	1,903	3,068	3,034	2,781	2,412
India	524	758	1,287	1,132	774
Other countries	54,518	75,080	84,400	91,086	96,220
Total	70,223	97,143	106,157	113,323	117,963
	Percent of total value				
Japan	12	11	9	9	9
Mexico	4	5	5	4	4
France	3	3	3	3	3
Brazil	3	3	3	2	2
India	1	1	1	1	1
Other countries	78	77	80	80	82
Total	100	100	100	100	100

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

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

Japan

Japan is a principal export market for the United States, second only to Canada. U.S. exports to Japan increased from $8.2 billion in 1973 to $10.4 billion in 1977. During this time the Japanese share of all U.S. exports decreased from 12 percent to 9 percent.

All commercial imports into Japan are subject to licensing, most of which may be considered automatic. Non-automatic licenses are issued for some commodities which may or may not be subject to an established quota restraint. Commodities requiring non-automatic licenses include leather and leather footwear, steam coal, and certain agricultural products such as beef and oranges.

The licensing procedures themselves do not appear to be a major impediment to trade. It is the underlying restrictions that are more likely to prevent U.S. exporters from expanding trade. Thus, adoption of this agreement is not likely to result in increased U.S. export trade with Japan.

Mexico

Mexico, an active participant in drafting the licensing procedures agreement, ranked fifth in the value of U.S. exports received during 1977. U.S. exports to Mexico increased from $2.9 billion in 1973 to $4.7 billion in 1977. Its share of the total U.S. export market was 4 percent during each of these two years.

A principal feature of Mexico's foreign trade system is the imposition of import license requirements which are used to protect domestic industry. Mexico recently liberalized import trade by dispensing with the licensing requirement for about one-half of the import classification items. This move, however, did not affect commodities that account for the bulk of its import trade.

The Mexican government's attitude toward commodities requiring import licenses might be fairly characterized as a "protectionist" import-substitution policy. Under this policy, if Mexican-made goods are available in quantities and quality equivalent to the products to be imported, a license to import is frequently denied. The government has attempted to liberalize this aspect of its licensing system, but this prospect has met resistance from Mexican industry.

The import-substitution policy is the major element underlying Mexico's licensing system which inhibits expansion of U.S. exports to Mexico. It does not appear that the agreement will significantly affect this policy. Thus, adoption of this agreement is unlikely to stimulate U.S. export trade with Mexico.

France

France is the market for 3 percent, by value, of all U.S. exports annually. During 1973-77. U.S. exports to France increased from $2.2 billion to $3.4 billion; however their relative share of the U.S. export market did not change. France has liberalized its extensive licensing and quota system so that, today, most products are admitted into France without a license. Some products still require prior approval before importation, but approval is usually automatic with the licensing requirement serving as an import monitoring device.

France's licensing requirements primarily affect agricultural commodities, but many industrial products are also involved. Issuance of non-automatic licenses is determined on a case-by-case basis and, generally, licenses are nonrenewable. U.S. exporters have complained that these procedures cause uncertainty and delay in international trade. To the extent that adoption of this agreement expedites approval of licenses, exports of commodities requiring licenses may be facilitated and expanded. France is very protective of its agricultural sector and the government may find other ways to control agricultural imports if adherence to this agreement should undermine its agricultural policy. Overall, adoption of the agreement would probably result in no more than a nominal increase in U.S. export trade with France.

Brazil

The Brazilian share of the value of all U.S. exports declined from 3 percent in 1973 to 2 percent in 1977. However, the absolute value of exports to Brazil increased from $1.9 billion to $2.4 billion. Virtually all commodities imported into Brazil require an import license. These licenses are generally non-automatic and, recently, have been subject to approval on a case-by-case basis.

Each request for an import license must include a manufacturer's price list and catalogue. If these are not available, a certificate from the exporter or manufacturer must be included to verify that the prices are those current in the exporting country and that a catalogue and price list do not exist. The prices quoted also must correspond to those prevailing internationally on the date of purchase. If Brazilian government files show a previous sale at a lower price, the importer must solicit a quotation from the company with the lower price or submit a letter from that company stating that the article is not available during the specified time.

The regulation concerning price submissions has caused problems because of rapidly fluctuating prices in international markets. When prices change after the original documents have been issued, the entire licensing request process must be repeated. The net effect of this procedure is to inhibit exports to Brazil.

Complaints have also been voiced about the imposition of excessive fines for import documentation errors. Such fines tend to discourage U.S. exporters' enthusiasm for trade with Brazil.

Adoption of the agreement could result in lessening fines imposed because of "minor" documentation errors and, hopefully, result in modification of the requirements concerning price submissions. Moderation of these requirements would likely produce a more positive framework for trade with Brazil and an expansion of exports. It is not possible to quantify the benefits to be expected from adoption of this agreement since Brazilian adherence to, and its interpretation of, this agreement remains uncertain.

India

The value of U.S. exports to India averages about one percent of all U.S. exports. In 1973, U.S. exports to India totaled $524 million. This figure increased to over $1 billion in 1975 and 1976, but declined to $774 million in 1977.

All commodities imported into India, other than those imported for a government account, require an import license. A letter of credit must be obtained by an importer prior to approval of the import license. This is a major barrier to trade with India. The Indian government maintains tight control over its foreign exchange and, when balance of payments are adverse, restricts issuance of

letters of credit for import transactions. This policy effectively denies the import license. When there is an adverse foreign exchange situation, trade with India on a cash basis is difficult. However, those willing to conclude bartering arrangements can effectively carry on trade.

Complaints have also been voiced concerning Indian administrative practices which do not permit the value or quantity of goods listed on an import certificate to be exceeded. U.S. exporters have objected to this as unnecessarily burdensome. This practice may be modified, if India adopts the agreement, since paragraph 8 provides that "imports shall not be refused for minor variations in value, quantity or weight from the amount designated on the license due to differences occurring during shipment ...", etc. Indian compliance with this provision could provide relief for a significant irritant to U.S.-Indian trade relations.

APPENDIX

Agreement on Import Licensing Procedures
(MTN/NTM/W/231)

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RESTRICTED
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Special Distribution

GENERAL AGREEMENT ON
TARIFFS AND TRADE

Multilateral Trade Negotiations

Group "Non-Tariff Measures"
Sub-Group "Quantitative Restrictions"

IMPORT LICENSING PROCEDURES

Agreement on Import Licensing Procedures

Attached hereto is the text of an Agreement on Import Licensing Procedures. This text is being forwarded to the Trade Negotiations Committee following discussions held in the Sub-Group.

AGREEMENT ON IMPORT LICENSING RESTRICTIONS

PREAMBLE

Having regard to the Multilateral Trade Negotiations, the Parties to this Agreement on Import Licensing Procedures;

Desiring to further the objectives of the General Agreement on Tariffs and Trade;

Taking into account the particular trade, development and financial needs of developing countries;

Recognizing the usefulness of automatic import licensing for certain purposes and that such licensing should not be used to restrict trade;

Recognizing that import licensing may be employed to administer measures such as those adopted pursuant to the relevant provisions of the General Agreement on Tariffs and Trade;

Recognizing also that the inappropriate use of import licensing procedures may impede the flow of international trade;

Desiring to simplify, and bring transparency to, the administrative procedures and practices used in international trade, and to ensure the fair and equitable application and administration of such procedures and practices;

Desiring to provide for a consultative mechanism and the speedy, effective and equitable resolution of disputes arising under this Agreement;

Hereby agree as follows:

General provisions

1. For the purpose of this Agreement, import licensing is defined as administrative procedures[1] used for the operation of import licensing régimes requiring the submission of an application or other documentation (other than that required for customs purposes) to the relevant administrative body as a prior condition for importation into the customs territory of the importing country.

2. The Parties to this Agreement shall ensure that the administrative procedures used to implement import licensing régimes are in conformity with the relevant provisions of the General Agreement on Tariffs and Trade[2] including its annexes and protocols, as interpreted by this Agreement, with a view to preventing trade distortions that may arise from an inappropriate operation of those procedures, taking into account the economic development purposes and financial and trade needs of developing countries.

3. The rules for import licensing procedures shall be neutral in application and administered in a fair and equitable manner.

4. The rules and all information concerning procedures for the submission of applications including the eligibility of persons, firms and institutions to make such applications, and the lists of products subject to the licensing requirement shall be published promptly in such a manner as to enable governments and traders to become acquainted with them.

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[1] Those procedures referred to as "licensing" as well as other similar administrative procedures.

[2] Hereinafter referred to as "the GATT".

Any changes in either the rules concerning licensing procedures or the list of products subject to import licensing shall also be promptly published in the same manner. Copies of these publications shall also be made available to the GATT Secretariat.

5. Application forms and, where applicable, renewal forms shall be as simple as possible. Such documents and information as are considered strictly necessary for the proper functioning of the licensing régime may be required on application.

6. Application procedures and, where applicable, renewal procedures shall be as simple as possible. Applicants shall have to approach only one administrative body previously specified in the rules referred to in paragraph 4 above in connexion with an application and shall be allowed a reasonable period therefor. In cases where it is strictly indispensable that more than one administrative body is to be approached in connexion with an application, these shall be kept to the minimum number possible.

7. No application shall be refused for minor documentation errors which do not alter basic data contained therein. No penalty greater than necessary to serve merely as a warning shall be imposed in respect of any omission or mistake in documentation or procedures which is obviously made without fraudulent intent or gross negligence.

8. Licensed imports shall not be refused for minor variations in value, quantity or weight from the amount designated on the licence due to differences occurring during shipment, differences incidental to bulk loading and other minor differences consistent with normal commercial practice.

9. The foreign exchange necessary to pay for licensed imports shall be made available to licence holders on the same basis as to importers of goods not requiring import licences.

10. With regard to security exceptions the provisions of Article XXI of the GATT apply.

11. The provisions of this Agreement shall not require any Party to this Agreement 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.

Automatic import licensing[1/]

12. Automatic import licensing is defined as import licensing where approval of the application is freely granted.

1/ Those import licensing procedures requiring a security which have no restrictive effects on imports, are to be considered as falling within the scope of paragraphs 12 and 13 below.

13. The following provisions,[1] in addition to those in paragraphs 1 to 12 above, shall apply to automatic import licensing procedures:

(a) Automatic licensing procedures shall not be administered in a manner so as to have restricting effects on imports subject to automatic licensing.

(b) Parties to this Agreement recognize that automatic import licensing may be necessary whenever other appropriate procedures are not available. Automatic import licensing may be maintained as long as the circumstances which gave rise to its introduction prevail or as long as its underlying administrative purposes cannot be achieved in a more appropriate way.

(c) Any person, firm or institution which fulfils the legal requirements of the importing country for engaging in import operations involving products subject to automatic licensing shall be equally eligible to apply for and to obtain import licences.

(d) Applications for licences may be submitted on any working day prior to the customs clearance of the goods.

(e) Applications for licences when submitted in appropriate and complete form shall be approved immediately on receipt, to the extent administratively feasible, but within a maximum of ten working days.

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[1] A developing country party to this Agreement, which has specific difficulties with the requirements of sub-paragraphs (d) and (e) below, may, upon notification to the Committee referred to in paragraph 15, delay the application of these sub-paragraphs by not more than two years from the date of entry into force of this Agreement for such party.

Non-automatic import licensing

14. The following provisions, in addition to those in paragraphs 1 to 11 above, shall apply to non-automatic import licensing procedures, that is, import licensing procedures not falling under paragraphs 12 and 13 above:

(a) Licensing procedures adopted and practices applied in connexion with the issuance of licences for the administration of quotas and other import restrictions shall not have trade restrictive effects on imports additional to those caused by the imposition of the restriction.

(b) Parties to this Agreement shall provide, upon the request of any Party to this Agreement having an interest in the trade of the product concerned, all relevant information concerning:

(i) the administration of the restrictions;

(ii) the import licences granted over a recent period;

(iii) the distribution of such licences among supplying countries;

(iv) where practicable, import statistics (i.e. value and/or volume) with respect to the products subject to import licensing. The developing countries would not be expected to take additional administrative or financial burdens on this account.

(c) Parties to this Agreement administering quotas by means of licensing shall publish the overall amount of quotas to be applied by quantity and/or value, the opening and closing dates of quotas, and any change thereof.

(d) In the case of quotas allocated among supplying countries, the Party to this Agreement applying the restrictions shall promptly inform all other Parties having an interest in supplying the product concerned of the shares in the quota currently allocated, by quantity or value, to the various supplying countries and shall give public notice thereof.

(e) Where there is a specific opening date for the submission of licensing applications, the rules and product lists referred to in paragraph 4 shall be published as far in advance as possible of such date, or immediately after the announcement of the quota or other measure involving an import licensing requirement.

(f) Any person, firm or institution which fulfils the legal requirements of the importing country shall be equally eligible to apply and be considered for a licence. If the licence application is not approved, the applicant shall, on request, be given the reasons therefor and shall have a right of appeal or review in accordance with the domestic legislation or procedures of the importing country.

(g) The period for processing of applications shall be as short as possible.

(h) The period of licence validity shall be of reasonable duration and not be so short as to preclude imports. The period of licence validity shall not preclude imports from distant sources, except in special cases where imports are necessary to meet unforeseen short-term requirements.

(i) When administering quotas, Parties to this Agreement shall not prevent importation from being effected in accordance with the issued licences, and shall not discourage the full utilization of the quotas.

(j) When issuing licences, Parties to this Agreement shall take into account the desirability of issuing licences for products in economic quantities.

(k) In allocating licences, Parties to this Agreement should consider the import performance of the applicant, including whether licences issued to the applicant have been fully utilized, during a recent representative period.

(l) Consideration shall be given to ensuring a reasonable distribution of licences to new importers, taking into account the desirability of issuing licences for products in economic quantities. In this regard, special consideration should be given to those importers importing products originating in developing countries and, in particular, the least developed countries.

(m) In the case of quotas administered through licences which are not allocated among supplying countries, licence holders[1] shall be free to choose the sources of imports. In the case of quotas allocated among supplying countries, the licence shall clearly stipulate the country or countries.

(n) In applying paragraph 8 above, compensating adjustments may be made in future licence allocations where imports exceeded a previous licence level.

Institutions, consultation and dispute settlement

15. There shall be established under this Agreement a Committee on Import Licensing composed of representatives from each of the Parties to this Agreement (referred to in this Agreement as "the Committee"). The Committee shall elect its own Chairman and shall meet as necessary for the purpose of affording Parties the opportunity of consulting on any matters relating to the operation of this Agreement or the furtherance of its objectives.

16. Consultations and the settlement of disputes with respect to any matter affecting the operation of this Agreement, shall be subject to the procedures of Articles XXII and XXIII of the GATT.

Final provisions

17. Acceptance and accession

(a) This Agreement shall be open for acceptance by signature or otherwise, by governments contracting parties to the GATT and by the European Economic Community.

[1] Sometimes referred to as "quota holders".

(b) This Agreement shall be open to accession by any other government on terms, related to the effective application of rights and obligations under this Agreement, to be agreed between that government and the parties to this Agreement, by the deposit with the Director-General to the CONTRACTING PARTIES to the GATT of an instrument of accession which states the terms so agreed.

(c) Contracting parties may accept this Agreement in respect of those territories for which they have international responsibility, provided that the GATT is being applied in respect of such territories in accordance with the provisions of Article XXVI:5(a) or (b) of the GATT; and in terms of such acceptance, each such territory shall be treated as though it were a Party to this Agreement.

18. Reservations

Reservations may not be entered in respect of any of the provisions of this Agreement without the consent of the other parties to this Agreement.

19. Entry into force

This Agreement shall enter into force on 1 January 1980 for the governments[1] which have accepted or acceded to it by that date. For each other government it shall enter into force on the thirtieth day following the date of its acceptance or accession to this Agreement.

20. National legislation

(a) Each government accepting or acceding to this Agreement shall ensure, not later than the date of entry into force of this Agreement for it, the conformity of its laws, regulations and administrative procedures with the provisions of this Agreement.

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[1] For the purpose of this Agreement, the term "governments" is deemed to include the competent authorities of the European Economic Community.

(b) Each Party to this Agreement shall inform the Committee of any changes in its laws and regulations relevant to this Agreement and in the administration of such laws and regulations.

21. Review

The Committee shall review as necessary, but at least once every two years, the implementation and operation of this Agreement taking into account the objectives thereof and shall inform the CONTRACTING PARTIES to the GATT of developments during the period covered by such reviews.

22. Amendments

The Parties to this Agreement may amend it, having regard, inter alia, to the experience gained in its implementation. Such an amendment, once the Parties have concurred in accordance with procedures established by the Committee, shall not come into force for any Party until it has been accepted by such Party.

23. Withdrawal

Any Party to this Agreement may withdraw from this Agreement. The withdrawal shall take effect upon the expiration of sixty days from the day on which written notice of withdrawal is received by the Director-General to the CONTRACTING PARTIES to the GATT. Any Party to this Agreement may upon such notification request an immediate meeting of the Committee.

24. Non-application of this Agreement between particular parties

This Agreement shall not apply as between any two Parties to this Agreement if either of the Parties, at the time either accepts or accedes to this Agreement, does not consent to such application.

25. Secretariat

This Agreement shall be serviced by the GATT secretariat.

26. Deposit

This Agreement shall be deposited with the Director-General to the CONTRACTING PARTIES to the GATT, who shall promptly furnish to each Party to this Agreement and each contracting party to the GATT a certified copy thereof and of each amendment thereto pursuant to paragraph 22 and a notification of each acceptance thereof or accession thereto pursuant to paragraph 17, or each withdrawal therefrom pursuant to paragraph 23.

27. Registration

This Agreement shall be registered in accordance with the provisions of Article 102 of the Charter of the United Nations.

Done at Geneva this ..... day of ..... nineteen hundred and seventy-nine in a single copy, in the English, French and Spanish languages, each text being authentic.

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