CUSTOMS SIMPLIFICATION

HEARINGS

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

EIGHTY-FOURTH CONGRESS

FIRST SESSION

ON

H. R. 6040

AN ACT TO AMEND CERTAIN ADMINISTRATIVE PROVISIONS OF THE TARIFF ACT OF 1930 AND TO REPEAL OBSOLETE PROVISIONS OF THE CUSTOMS LAWS

JULY 6, 7, AND 8, 1955

Printed for the use of the Committee on Finance

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CUSTOMS SIMPLIFICATION

WEDNESDAY, JULY 6, 1955

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to call, at 10:10 a. m., in room 312, Senate Office Building, Senator Harry Flood Byrd (Chairman) presiding.

Present: Senators Byrd, Millikin, Martin, Williams, Carlson, Barkley, Bennett.

Also present: Elizabeth B. Springer, chief clerk.

The CHAIRMAN. The committee will now come to order.

Gentlemen, we are assembled to consider H. R. 6040.

I submit for the record a copy of the bill, as well as departmental reports thereon received from the Bureau of the Budget, State and Commerce Departments.

(H. R. 6040 and the reports of the Bureau of the Budget and Departments of Commerce and State are as follows:)

[H. R. 6040, 84th Cong., 1st Sess.]

AN ACT To amend certain administrative provisions of the Tariff Act of 1930 and to repeal obsolete provisions of the customs laws

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Customs Simplification Act of 1955" and shall be effective on and after the thirtieth day following the date of its enactment.

SEC. 2. (a) Section 402 of the Tariff Act of 1930, as amended (U. S. C., 1952 edition, title 19, sec. 1402), is further amended to read as follows:

"SEC. 402. VALUE.

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

"(1) the export value, or

"(2) if the export value cannot be determined satisfactorily, then the United States value, or

"(3) if neither the export value nor the United States value can be determined satisfactorily, then the constructed value;

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

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

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

"(c) UNITED STATES VALUE.—For the purposes of this section, the United States value of imported merchandise shall be the price, at the time of exporta-

tion 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 purposes 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) the price at which or the territory in which the merchandise may be resold, or (iii) do not substantially affect the value of the marchandise 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 marchandise

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 characteristics with, and was produced by another person in the same country as, the merchandise undergoing apraisement.

"(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 the 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."

(b) Paragraph 27 (c) of the Tariff Act of 1930 (U. S. C., 1952 edition, title 19, sec. 1001, par. 27 (c)), is amended by striking out "subdivision (g) of section 402, title IV" and inserting in lieu thereof "section 402 (e) of this Act" and by striking out "subdivision (e) of section 402, title IV" and inserting in lieu thereof "section 402 (c) of this Act".

(c) Paragraph 28 (c) of the Tariff Act of 1930 (U. S. C., 1952 edition, title 19, sec. 1001, par. 28 (c)), is amended by striking out "subdivision (g) of section 402, title IV" and inserting in lieu thereof "section 402 (e) of this Act" and striking out "subdivision (e) of section 402, title IV" and inserting in lieu thereof "section 402 (c) of this Act".

(d) Section 336 (b) of the Tariff Act of 1930 (U. S. C., 1952 edition, title 19, sec. 1336 (b)), is amended by striking out "section 402 (g)" and inserting in lieu thereof "section 402 (e)".

(e) In any action relating to tariff adjustments by executive action, including action taken pursuant to section 350 of the Tariff Act of 1930, as amended, the United States Tariff Commission and each officer of the executive branch of the Government concerned shall give full consideration to any reduction in the level of tariff protection which has resulted or is likely to result from the amendment of section 402 of the Tariff Act of 1930 made by this Act.

SEC. 3. Section 522 (c) of the Tariff Act of 1930 (U. S. C., 1952 edition, title 31, sec. 372) is amended to read as follows:

"(c) MARKET RATE WHEN NO PROCLAMATION.—

"(1) If no value has been proclaimed under subsection (a) for the quarter in which the merchandise was exported, or if the value so proclaimed varies by 5 per centum or more from a value measured by the buying rate at noon on the day of exportation, then conversion of the foreign currency involved shall be made—

"(A) at a value measured by such buying rate, or

"(B) if the Secretary of the Treasury shall by regulation so prescribe with respect to the particular foreign currency, at a value measured by the buying rate first certified under this subsection for a day in the quarter in which the day of exportation falls (but only if the buying rate at noon on the day of exportation does not vary by 5 per centum or more from such first-certified buying rate).

"(2) For the purposes of this subsection the term 'buying rate' means the buying rate in the New York market for cable transfers payable in the in the foreign currency so to be converted. Such rate shall be determined by the Federal Reserve Bank of New York and certified to the Secretary of the Treasury, who shall make it public at such times and to such extent as he deems necessary. In ascertaining such buying rate, the Federal Reserve Bank of New York may, in its discretion—

"(A) take into consideration the last ascertainable transactions and quotations, whether direct or through exchange of other currencies, and

"(B) if there is no market buying rate for such cable transfers, calculate such rate (i) from actual transactions and quotations in demand or time bills of exchange, or (ii) from the last ascertainable transactions and quotations outside the United States in or for exchange payable in United States currency or other currency.

"(3) For the purposes of this subsection, if the day of exportation is one on which banks are generally closed in New York City, then the buying rate at noon on the last preceding business day shall be considered the buying rate at noon on the day of exportation."

SEC. 4. (a) The following provisions of law are hereby repealed:

(1) Section 2649, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 12).

(2) The provisions of law now codified in section 13 of title 19 of the United States Code (U. S. C., 1952 edition, title 19, sec. 13).

(3) Section 2651, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 14).

(4) Section 2999, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 15).

(5) Section 2940, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 16).

(6) Section 2941, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 17).

(7) Section 2942, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 18).

(8) Section 2616, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 21).

(9) Section 2614, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 22).

(10) Section 2615, Revised Statutes (U. S. C., 1952 edition, title 19, secs, 23 and 376).

(11) Section 2617, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 24).
(12) Section 2611, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 26).
(13) Section 11 of the Act of February 8, 1875 (U. S. C., 1952 edition, title 19, secs. 24 and 27).
(14) Act of September 24, 1914 (U. S. C., 1952 edition, title 19, sec. 28).
(15) Section 2627, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 40).
(16) Section 2687, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 53).
(17) Section 2646, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 54).
(18) Section 2647, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 55).
(19) Section 2944, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 56).
(20) Section 2648, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 57).
(21) Section 2635, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 59).
(22) Section 2580, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 61).
(23) Act of December 18, 1890 (U. S. C., 1952 edition, title 19, sec. 62).
(24) Section 258, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 67).
(25) Section 2612, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 379).
(26) Section 2918, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 390).
(27) Section 13 of the Act of June 22, 1874 (U. S. C., 1952 edition, title 19, sec. 494).
(28) Section 3089, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 526).
(29) Section 2763, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 541).
(30) Act of February 10, 1913 (U. S. C., 1952 edition, title 19, sec 542).
(31) Section 3650, Revised Statutes (U. S. C., 1952 edition, title 31, sec. 549).
(32) Section 960, Revised Statutes (U. S. C., 1952 edition, title 19, sec. 579).
(33) So much of section 3689 of the Revised Statutes (U. S. C., 1952 edition, title 31, sec. 711 (7)) as reads: "Repayment of excess of deposits for unascertained duties (customs): To repay to importers the excess of deposits for unascertained duties, or duties or other moneys paid under protest."
(34) So much of section 1 of the Act of September 30, 1890 (26 Stat. 511), as reads: "And such clerks and inspectors of customs as the Secretary of the Treasury may designate for the purpose shall be authorized to administer oaths, such as deputy collectors of customs are now authorized to administer, and no compensation shall be paid or charge made therefor."

(b) The second sentence of subsection (f) of section 500 of the Tariff Act of 1930 (U. S. C., 1952 edition, title 19, sec. 1500 (f)) is amended by striking out "take the oath," and by striking out the comma after "duties".

(c) Section 583 of the Tariff Act of 1930 (U. S. C., 1952 edition, title 19, sec. 1583) is amended by striking out "the back of".

SEC. 5. Nothing in this Act shall be considered to repeal, modify, or supersede, directly or indirectly, any provision of the Antidumping Act, 1921, as amended (U. S. C., 1952 edition, title 19, secs. 160-173). The Secretary of the Treasury, after consulting with the United States Tariff Commission, shall review the operation and effectiveness of such Antidumping Act and report thereon to the Congress within one year after the effective date of this Act. In that report, the Secretary shall recommend to the Congress any amendment of such Antidumping Act which he considers desirable or necessary to provide for greater certainty, speed, and efficiency in the enforcement of such Antidumping Act.

Passed the House of Representatives June 22, 1955.

Attest:

RALPH R. ROBERTS, *Clerk*.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., July 5, 1955.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: This will acknowledge your letter of June 24, 1955, for the views of the Bureau of the Budget on H. R. 6040, a bill to amend certain administrative provisions of the Tariff Act of 1930 and to repeal obsolete provisions of the customs laws.

You are advised that enactment of H. R. 6040 would be in accord with the program of the President.

Sincerely yours,

RALPH W. E. REID, *Assistant Director.*

DEPARTMENT OF STATE,
Washington, July 6, 1955.

Hon. HARRY F. BYRD,
United States Senate.

DEAR SENATOR BYRD: Further reference is made to your letter of June 24, 1955, requesting a report on H. R. 6040, to amend certain administrative provisions of the Tariff Act of 1930 and to repeal obsolete provisions of the customs laws.

Passage of this legislation is strongly urged by the Department of State. The barriers to trade which over the years have unintentionally been created by our customs procedure must be eliminated if the President's policy of expanding trade between the countries of the free world is to be effectively implemented.

The most important single provision of the legislation is that section which eliminates "foreign value" as a basis for customs valuation and provides for other much-needed changes in our valuation provisions. These changes have long been urged by American businessman engaged in buying goods abroad and by foreign governments as the most important reform which this Government could make in simplifying its customs procedures. The uncertainties and delays created by present valuation procedures are claimed by foreign businessmen to be a major obstacle in their efforts to develop stable business relations in the United States.

It is in the self-interest of the United States, as the world's greatest trading nation, that obstacles to trade be removed. Enactment of this legislation would be a significant step in eliminating an important obstacle to expanding world trade which the President has recognized as a vital factor in our own economic growth as well as the economic growth of our allies and the security of the free world.

The Department has been advised by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

THRUSTON B. MORTON,
Assistant Secretary
(For the Secretary of State).

THE SECRETARY OF COMMERCE,
Washington 25, July 6, 1955.

THE HONORABLE HARRY F. BYRD,
Chairman, Committee on Finance,
United States Senate, Washington 25, D. C.

DEAR MR. CHAIRMAN: I refer to the letter of June 24 from your committee inviting the views and recommendations of the Department of Commerce on H. R. 6040 to be cited as the "Customs Simplification Act of 1955." We are happy to endorse this proposed legislation and trust that it may receive the approval of the Congress and become law as soon as possible.

From the viewpoint of the promotion of commerce, our special concern is with the first substantive part of the bill, which deals with the basis of customs valuation. The essential change proposed is the standardization upon "export value" as the primary basis of assessment of ad valorem duties, where ascertainable, and the dropping of the present alternative of "foreign value". This change was embodied in bills earlier considered and approved by the House of Repre-

sentatives (H. R. 5877 and 5106, 83d Cong.), which this Department then heartily endorsed. We regard this change as the most important unfinished business in the field of customs simplification.

The survey conducted by the Treasury during the past year at 8 import centers in the United States, involving the recomputation of dutiable value in about 20,000 import shipments on the basis of the present and the proposed legislation finds that, on the whole and in the great majority of cases, no material decreases in either the dutiable value or customs collections are likely to result. Moreover, I am pleased to note that in connection with any tariff adjustment by executive action, the bill gives assurance that full consideration will be given to any reduction in the level of tariff protection resulting from the valuation changes.

We have been advised by the Bureau of the Budget that they would impose no objection to our submission of this report.

Sincerely yours,

SINCLAIR WEEKS,
Secretary of Commerce.

The CHAIRMAN. The first witness this morning is Assistant Secretary of the Treasury, H. Chapman Rose. Mr. Secretary, we are delighted to have you here, sir, and are glad to hear from you.

STATEMENT OF H. CHAPMAN ROSE, ASSISTANT SECRETARY OF THE TREASURY, ACCOMPANIED BY W. R. JOHNSON, SPECIAL ASSISTANT TO COMMISSIONER OF CUSTOMS, AND CHARLES R. McNEILL, ASSISTANT GENERAL COUNSEL, TREASURY DEPARTMENT

Mr. ROSE. Thank you very much, sir.

I very much approciate the opportunity to appear before your committee to testify on H. R. 6040, the Customs Simplification Act of 1955. You will recall that I have appeared before your committee in executive session with respect to the Customs Simplification Acts of 1953 and 1954. The Customs Simplification Act of 1953 provided for the elimination of many procedural impediments to trade, authorized the modernization of administrative procedures, and eliminated a number of inequities that had developed in the operation of the customs law. The Customs Simplification Act of 1954 directed the Tariff Commission to undertake a study looking toward the modernization of the classification descriptions in the Tariff Act of 1930 and the elimination of certain anomalies and difficulties in existing tariff descriptions. This act also made certain changes in the Antidumping Act of 1921 and in other administrative provisions of the tariff laws.

We in the Treasury are very grateful to the Congress for the assistance that these acts have given the Treasury Department and the Customs Bureau. The authority granted by these laws, together with new administrative procedures which have been adopted in Customs, have greatly changed the current workload picture. In September of 1953, at about the time the Customs Simplification Act of 1953 became effective, the backlog of unliquidated customs entries had reached an all-time high of 900,000. This meant that, at the then current rate of liquidation, it would have taken the Customs Bureau 1 year to dispose of the backlog without handling any current work. This backlog of customs entries awaiting liquidation had risen steadily ever since the war from a low point of 275,000 in 1947 to 700,000 when this administration took office, and then to 900,000 in September 1953. As of the end of the first quarter of this year, this backlog had been reduced by

nearly one-third—to 655,000. The volume of imports continues at peak levels but our rate of liquidation has been raised from 225,000 a quarter in September 1953 to 322,000 in the first quarter of this year, and we expect the rate of liquidation to continue to rise.

I know you will agree with me that this record of progress is heartening, but more still needs to be done. The modernization and simplification of customs procedures cannot be accomplished merely by the enactment of 2 or 3 statutes or by 2 or 3 years' intensive effort. It is a continuing problem which requires the constant attention of all customs management and personnel and the continued support of the Congress through the enactment of further revisions in the customs laws when their need becomes apparent.

At the present time the one area of customs administration which most urgently needs revision and simplification is that relating to the procedures for the valuation of imports. No matter how efficient the liquidation procedures in the collector's office may be, the collector's final determination of duty must await, in the case of ad valorem duty imports, a valuation decision by the appraiser. As of March 31, 1955, 150,182 entries were in the hands of the appraisers awaiting valuation for more than 30 days; 38,870 of these entries were delayed because foreign value investigation had been found necessary.

That does not mean 39,000 foreign value investigations. It is somewhere in the range of 300 investigations that cover that number of invoices.

Section 2 of H. R. 6040, which we believe is the most important part of this bill, is intended to revise and simplify the valuation provisions so that this backlog of unappraised entries in the hands of the appraisers for more than 30 days may be reduced, primarily by eliminating the necessity for a great number of investigations in foreign countries. Section 2 is also intended to make valuations more predictable and certain for all persons concerned with international trade and to make valuations approach more closely the commercially realistic prices for the wholesale trade with the United States.

Valuation of merchandise for customs purposes is necessary only in connection with those imports which are assessed duties on the basis of a percentage of their value. Such duties are called ad valorem duties. I would like to say this—that in 1954 our total imports were approximately $10.5 billion. Of these, about $5.8 billion were free of duty under the Tariff Act. Another $3.25 billion were subject to duty on a basis called specific duty—that is, so much per pound or so much per yard or other basis of imposition of duty which does not relate to value. This bill does not affect those 2 classes of imports which totaled in 1954 about $9.2 billion of $10.4 billion total imports. It relates only to the approximately $1.4 billion of imports which are dutiable on a so-called ad valorem basis, which is a percentage of the value of the goods; or on a so-called compound basis, which is a combination of ad valorem and specific.

Under existing law, the appraiser is required to determine both the foreign value, which is the going wholesale price in the country of origin for domestic consumption, and the export value, which is the going wholesale price in the country of origin for export to the United States. After both of these values have been determined, the appraiser is required to use the higher of the two. The first change which

H. R. 6040 would make is to eliminate foreign value as a basis of appraisement and make export value the single primary basis of valuation. This elimination of foreign value would, of course, permit the Treasury greatly to reduce any future accumulations such as the more than 38,000 entries which are now being held up because a foreign value investigation is needed.

The second substantial change made by this bill is to redefine a number of terms contained in the valuation provisions. The value to be used under the present law is stated to be the price at which "such or similar merchandise is freely offered for sale to all purchasers in usual wholesale quantities and in the ordinary course of trade" in the principal markets in question. These words, with the judicial interpretations that have been placed upon them, have been responsible for a number of results which are inconsistent with normal trading practices. Consequently, the valuations arrived at are often surprising to businessmen not experienced with import practices. Thus, for example, the courts have held that in determining wholesale value, the price at which the largest number of transactions occur must be used rather than the price at which the largest quantity of goods is moved. Court decisions have prohibited the use of a wholesale price which is freely offered to wholesalers but not to retailers who purchase in the same wholesale quantities, on the ground that the goods are not freely offered to all purchasers at the wholesale price. They have also prohibited the use of a wholesale price if the seller, pursuant to a frequent business practice, selects his customers and is willing, for example, to sell to only one customer in each town. The second important change which this bill makes in present valuation methods is to define these terms so as to permit the more frequent use of the actual going wholesale price when it is commercially realistic to do so.

The third important change relates to amendments to the secondary methods of valuation which are to be used in case export value cannot be determined. These secondary methods of valuation are basically the same as they are under existing law. The first method of valuation which is resorted to if export value cannot be determined is United States value which, broadly speaking, is the going wholesale price at which the imported merchandise is sold in the United States less the cost of getting it here and selling it. May I interpolate there? To speak in layman's terms, that is a sort of export value which is worked back from the price in the United States. In other words, you take the going price in the United States, deduct the cost of transportation, the duty and the other costs of getting it here, and get a residual value abroad for export to the United States. In doing so, of course, you have to make deductions for various costs, including expenses of getting it here.

At present, the deductions permitted for general expenses and profit are limited by the statute to a fixed percentage of the price. Under H. R. 6040 actual expenses and profits would be permitted to be deducted. The final method of valuation, if all else fails, is to construct a value out of the costs of materials and labor and expenses going into the product plus an amount for profit. This method of valuation, formerly called cost of production, has been retitled "constructed value." H. R. 6040 will also revise the determination of constructed value by permitting actual expenses and profit to be used when they are less than the fixed minimum percentages now required by law.

In redrafting the valuation standards we have sought to make the secondary standards of valuation, United States value and constructed value, as nearly comparable as possible to an export value if one had existed. By doing so, we hope to discourage the practice which is sometimes resorted to now of creating artificial conditions in the trade in a particular product so as to shift the valuation basis to a more favorable standard.

Some imports, particularly certain coal-tar products and rubber-soled footwear, are valued on the basis of the American selling price. This bill leaves the American selling price applicable to all such imports as well as to any imports to which the American selling price may be made applicable in the future.

H. R. 6040 differs in three substantive respects from the valuation provisions in bills H. R. 6584 and H. R. 5877 of the 83d Congress which were before your committee in 1953.

First, those bills contained an additional valuation standard, comparative value, which was intended to be used, if possible, before resorting to the complicated determination of constructed value. This proposal was deleted from the present bill because our valuation survey, which I shall describe to you in more detail later, indicated that comparative value would have been used in less than one-half of 1 percent of the cases which were examined in that survey.

Second, for the purpose of determining the commission usually paid or agreed to be paid under United States value or in determining the various elements of constructed value, situations may exist where under the former language consideration would have had to be given to transactions between related companies which would be unreliable bases for valuation. A new subsection (g) has therefore been inserted in amended section 402 to provide that related company transactions may be disregarded in those circumstances and to authorize determination of the amounts required to be considered from the best evidence available.

Third, subsection (e), on page 10, has been added to make it clear that if any reduction in the level of tariff protection results or is likely to result, from the change in valuation, that reduction shall be given full consideration by the Tariff Commission and all executive officers in connection with any tariff adjustment.

Hearings before the Ways and Means Committee of the House of Representatives and debate on H. R. 6040 on the floor of the House have disclosed that one of the principal objections raised to H. R. 6040 is the allegation that it is a tariff-reduction measure rather than a customs-simplification proposal. That is not the purpose of this bill. Of course, there is bound to be some reduction in the valuation of imported merchandise resulting from a change from the use of a "whichever is higher" of two standards to the use of just one of those standards. In order to obtain as accurate an indication as possible of the probable results of all proposed changes on the level of valuations, the Bureau of Customs conducted a very extensive sample survey of imports made during the fiscal year 1954.

In that survey, the appraised value of imports was recalculated to determine what the valuation would have been if the proposed methods of valuation had then been in effect. We sought to obtain as fair a random sample as possible of all imports into the United States. For

this purpose we selected New York as representative of the Atlantic seaboard and Laredo as representative of Mexican trade, and selected every 20th entry at those ports for reappraisal. Detroit and Buffalo were chosen as representative for the Canadian border trade, Los Angeles and San Francisco for the Pacific coast, and New Orleans and Houston for the gulf trade. Every 40th entry at these ports was reappraised. According to 1954 statistics, about 70 percent by value of all imports subject to ad valorem duties were appraised at these 8 ports, and about 75 percent of all ad valorem duties were collected there.

A total of 19,908 recomputations of dutiable value were made, covering more than $42 million of goods; 59.12 percent of these 19,908 entries were appraised on the basis of export value under existing law. That means that for slightly over 59 percent of these entries export value had been determined to be the same or higher than foreign value. In 29.07 percent of the entries appraisement was made on the basis of foreign value. United States value, cost of production, and American selling price accounted for the remaining 11.81 percent of the sample.

Turning to the charts, this first chart is for the purpose of indicating the percentage or portion of our imports we are dealing with in this bill. Our total imports for 1954 were $10.491 billion of which $5.822 billion were nondutiable and therefore are not affected by the bill; $3.258 billion were dutiable on a specific basis, which I described, and are therefore not affected by the bill; and $1.411 billion were dutiable on an ad valorem or compound basis and therefore are the imports which would be affected by the bill.

Our study showed that, based on the 1954 sample, $1.411 billion would become $1.376 billion, or a valuation decrease of 2.5 percent.

To indicate what the effect on duties was, the second half of the chart shows total duties collected of $545.7 million, of which $286 million are unaffected because they are specific duties; $259.6 million were the ad valorem duties collected, which, based on our sample, would become $254.5 million, or a 2-percent decrease in the amount of duties collected.

The reason for the difference between the 2.5 decrease in the valuation and the 2-percent decrease in the duties collected is because the test indicated that the effect on valuations was greater on low-duty items than it was on high-duty items. Therefore, the valuation decrease is greater than the indicated decrease in the revenues shown. Chart 1 shows the overall effect on valuations and duties collected, taking all ad valorem imports and averaging them.

An average, of course, always conceals transactions which are both above and below the average.

For the purpose of determining more specifically the effect on particular commodities, we broke down our sample survey into the 77 commodity groups listed down the middle of the chart, which are the commodity groups within which the Department of Commerce classifies our imports for census purposes.

The column to the right, facing you, shows the volume of imports of each of those commodities. In other words, these bars, added up, would total the $1,411 million which you saw on the first chart. The bars to the left show by commodity groups the percentage decreases in valuation which go to form that 2.5 percent overall average.

The ones at the top of the chart are those which decrease more than 4 percent; the ones in the middle, decrease from 4 to 2½ percent; and the ones at the bottom, less than the average of 2½ percent.

This chart 3—I will skip over it rapidly because its sole purpose is really to explain why it is that the decrease in valuation is 2½ percent and the decrease in duties is 2 percent—indicates that the smallest valuation change comes in the items with the highest duty. The greatest effect in the items that averaged the lowest duty, and the items that are between 2½ and 4 percent are betwen the 2 extremes.

The CHAIRMAN. Mr. Secretary, what is the highest percentage of reduction in tariff that this would make on any one commodity group?

Mr. ROSE. Sixteen percent, as shown on the No. 2 chart.

The CHAIRMAN. Speaking in averages up to this stage, it would be interesting to know the percentage of reduction of the different commodity groups.

Mr. ROSE. The highest is 16 percent. There are 4 more than 12 percent.

The CHAIRMAN. Which is the one at 16 percent?

Mr. ROSE. Drugs, herbs, and similar products.

The CHAIRMAN. This new method of valuation would make a reduction of tariffs of 16 percent in that group?

Mr. ROSE. I don't believe that is quite accurate, sir. It would not reduce the tariff; it would reduce the valuation based on 1954 imports and methods of distribution by that amount.

I would like to point this out—it is something that I wanted to get into in more detail—there are 2 or 3 main reasons, I think, why this bill has any valuation effect. One is this: that you find situations where the quantities being offered in the domestic trade in the country of origin are less than the quantities which are offered in the export trade from time to time. Therefore, the price in the export trade is lower. You also find situations where the method of distribution is such—for example, in some European countries there is a price to wholesalers and a different price to retailers. The wholesale price is not available to retailers no matter what quantity the retailer purchases.

In a situation like that, the foreign value is, under current practice, the price to retailers, not the price to wholesalers.

Now, as to both those types of change—a change in the method of distribution abroad could produce, under existing law, exactly the effect of this bill and to some extent that has already happened in certain commodities between 1954 and 1955.

Now, I put that in as a qualification because I think that, while the indicated reduction which this bill would have produced in 1954, is shown by these figures, that reduction is to some extent taking place to some very substantial extent taking place—as people learn how to accommodate their distribution methods more to our existing law.

Senator BARKLEY. May I ask a question while he has these charts? I do not know whether the charts have anything to do with it or not, but I want to call attention to a situation with which you are familiar.

In regard to the importation of watches into this country, there is a tariff of $2 and somthing per movement on 17-jewel watches and $9 or $10 on 21-jewel watches. The importers or the manufacturers re-

sorted to the device by which they would send a watch over with 17 jewels and 4 blind plugs where they could put 4 more jewels after it got in here so they got the watch in at the cheaper rate of duty as a 17-jewel watch. As soon as they got it in this country they made it 4 more jewels and put 4 more in and sold it and escaped the tariff.

The Treasury issued a regulation against that to avoid that device and that evasion of the obvious intention of our tariff laws. I am told that they have resorted now to another device that is intended to escape that plug.

Now, is there anything in this bill that deals with that?

Mr. ROSE. No, sir, there is not. Your statement is correct, sir, that we issued a ruling, a tentative ruling in January which became final sometime in April, which in substance said that watches which were specially designed to facilitate remanufacture by the introduction of additional jewels in this country, and containing substitutes for jewels, were subject to the higher duty.

There have been various variant constructions submitted to us since that time for consideration. We haven't finally passed on them, sir. That is a phase of the process that goes on in various fields of designing around a given tariff structure.

I could speak to that, I think, more intelligently after we have ruled on these other——

Senator BARKLEY. It seemed to me as a layman that that is such an obvious fraud, designed to be, and intended to evade the tariff laws of the United States, that it ought to be dealt with in some way that would be effective.

Mr. ROSE. Well, sir, there is a fine line, as you know, both in income-tax law and customs law between setting up a transaction in a way legitimately to pay the lowest taxes or duties and the evasion of duties and taxes, properly applicable. I have difficulty answering your question finally as to whether legislation ought to be considered until we have ruled finally on these devices.

Senator BARKLEY. On the new devices?

Mr. ROSE. Yes, sir.

Senator BARKLEY. Designed to get around your previous ruling?

Mr. ROSE. Yes, sir.

Senator BARKLEY. I don't know whether these charts have anything to do with that or not.

Mr. ROSE. No, sir. Watches are dutiable at specific duties.

Senator BARKLEY. I know that.

Mr. ROSE. This has only to do with ad valorem basis for valuation.

Senator BARKLEY. You may discuss that a little later in more detail but if these charts haven't anything to do with it——

Mr. ROSE. No, sir, because those duties are specific and this is ad valorem.

This fourth chart is the closest approach that we could make to a statistical presentation of the effect of this bill, again based on the 1954 imports, on protection. It is the same 77 commodity groups, and the right-hand side of the chart is the same as on chart 2, indicating the volume of imports in each one of these commodity groups. The left-hand side of the chart gives the combination of the valuation plus the duty to indicate what the reduction in after-duty cost—in other words, duty-paid cost—of the goods would be. It indicates an overall average of one-half of 1 percent reduction in duty-paid cost.

In this top group, where the effect is most, the average effect is 1.1 percent. You see the highest effect is 4 percent on firearms, of which the imports are quite small. There are only 3 cases where the effect is greater than 2 percent.

In the middle group, where the valuation effect was between 2½ and 4 percent, the effect on after-duty cost is one-half of 1 percent; and in this last group the effect is two-tenths of 1 percent.

Now, I have one more chart. After this survey was completed, I was anxious to determine the relationship between the old and the new valuation formulas and the actual costs—the actual invoice price of the goods that came in—as a test of the commercial realism of the proposals that the bill contained.

The bottom half of this chart reflects our sample which totals $42.2 million worth of goods. $32.4 million worth of goods would be valued the same under the old and the new formula. That reflected 16,000 plus of our 19,900 items; 3,600 of the items were changed from a $9.8-million valuation to an $8.8-million valuation. The invoice price in those 3,600 transactions, however, was $8.7 million. So that the indication is that we would go from valuation on the present bases of $9.8 million of goods that actually cost $8.7 million to, on the new basis, a valuation of $8.8 million of goods that actually cost $8.7 million; indicating to me that we are approaching a more commercially realistic method of valuation.

Senator BARKLEY. If I might get back to the matter I raised. You are waiting on certain rulings; for certain facts which you won't obtain until after this bill is passed or until after Congress has adjourned. It would be too late to include it in this bill. If I come up with a suggestion in the way of an amendment to deal with that question in the bill, I would like to submit it to you and get your judgment on it.

Mr. ROSE. I would be glad to consider it, sir.

We believe that the results of this survey establish as definitely as possible that while some reductions in valuation will result from the changes proposed in this bill, such valuation changes are quite small and the loss in revenue protection is not significant as to any commodity group. Moreover, the provisions of new subsection (e) make it clear that any possible loss in valuation resulting from this bill will be taken into full account in connection with any Tariff Commission or executive consideration of a tariff adjustment, including possible relief through escape-clause action.

The other principal objection raised against the valuation proposals is that they would interfere with or infringe upon the protection afforded domestic industry by the countervailing duty provisions of section 303 of the tariff act and by the Antidumping Act of 1921. To avoid any possible question of repeal or modification of the Antidumping Act of 1921, the Committee on Ways and Means, at the suggestion of the Treasury, inserted a new section 5 in the bill. This section specifically provides that nothing in the act shall be considered in any way to modify the provisions of the Antidumping Act of 1921.

Moreover, I can assure your committee that the Treasury will continue to require on customs invoices the foreign value information necessary to permit enforcement of the provisions of the antidumping laws. We will obtain this information and record it for antidumping purposes, but still obtain a considerable saving in customs operations. At the present time appraisers are required to make a determination

of foreign value in the case of every ad valorem import. Under this bill this investigation and verification of the information on foreign value contained on the customs invoice would not have to be made unless the difference between that value and the price charged the United States importer indicated a likelihood of dumping. This procedure would permit a substantial reduction in the number of foreign value inquiries and permit more effective concentration by the available customs overseas staff on prompt investigation of suspected dumping cases.

Countervailing duties would be wholly unaffected by the enactment of this bill. Countervailing duties are assessed in an amount equal to the amount of any bounty or grant paid or bestowed in connection with the manufacture or exportation of any dutiable product shipped to the United States. This duty does not depend in any way upon the valuation of the imported merchandise either in this country or in the home market. Consequently, the provisions of this bill relating to valuation standards have no relation to the countervailing duty law.

Senator MILLIKIN. Give us an example of the countervailing duty.

Mr. ROSE. Yes, sir.

From our recent experience: We imposed a countervailing duty on wool tops imported into this country from Uruguay, based on our determination that the difference in currency rates applicable to various commodities, including wool tops, amounted to a subsidy by Uruguay of the export of wool tops. That duty was initially, I think, 18 percent. Uruguay then changed its exchange rates somewhat and the duty was reduced to 6 percent—where it now is.

That is an illustration of an imposition of countervailing duty against what we regarded as subsidization.

Perhaps the best illustration of an antidumping finding is the case of Swedish hard board, where we determined that Swedish hard board was being sold in this country at prices which were lower, by amounts not justified by commercial differences, than those at which they were being sold in Sweden, or by Sweden to third countries.

We also determined that those sales below fair value were injurious; that case was decided before the amendment of the act which transferred injury determination to the Tariff Commission. Therefore, we found dumping, and are in the process of assessing anti-dumping, duties in the amount of the difference between the prices found to be those prevailing either in Sweden or to third countries and those to the United States.

Active enforcement of both the countervailing duty law and the antidumping law will not be affected by the enactment of this bill and will continue to be a discouragement to the dumping of foreign merchandise in this country.

Section 3 of H. R. 6040 provides for more efficient administrative procedures in converting foreign currencies into dollars for the purpose of customs valuation. A proposal to accomplish this purpose was also contained in H. R. 6584 and H. R. 5877 of the 83d Congress.

Whenever the value of an imported commodity is stated in a foreign currency, it is necessary to convert that value into dollars for the purpose of determining the amount of an ad valorem duty. Under existing law, the Treasury uses the gold coin parity proclaimed quarterly by the Secretary of the Treasury, unless the commercial buying rate for the currency in the New York market as determined and certified

by the Federal Reserve Bank of New York differs by 5 percent or more from this proclaimed coinage parity. If, as is true in the great majority of cases, this certified rate varies by 5 percent or more the rate certified by the Federal Reserve Bank is used by the customs service.

One of the difficulties with the administration of this law is that rates of currencies vary by fractional amounts from day to day. Thus, although the change is usually so insignificant as to have no practical significance in determining the duty to be paid, each collector is required to maintain a daily record of certified rates in order to apply the correct daily rate.

The proposal in the 1953 bills would have authorized the Secretary of the Treasury to proclaim the par values maintained by foreign countries, which would normally have been used for currency conversion purposes. Specific legislative direction would also have been given as to the procedure for handling currencies where there is more than one effective rate. You may recall that this proposal caused some members of your committee concern because of the possibility that it might affect the domestic and international monetary policies of this Government.

This bill would maintain without change all of the existing procedures for currency conversion but superimpose upon them one additional authority to ease the customs administrative task. The new authority would permit the Secretary of the Treasury to provide by regulation that the rate first certified in a quarter by the Federal Reserve Bank of New York could continue to be used for customs purposes throughout that quarter unless the rate on a particular day changed by 5 percent or more from the first certified rate. This procedure would permit individual collectors to use one rate for each currency for a 3-month period unless notice was received from the Bureau of Customs that on a particular day the certified commercial rate differed by 5 percent or more from that first certified rate. In that case, the daily rate would be used.

The Treasury expects that this authority—to maintain the same rate for a quarter—would be used only for those principal trading countries from which imports arrive each day and for which the Federal Reserve bank now certifies daily rates.

The bill also makes other minor changes suggested by the Federal Reserve Bank of New York to assist it in making its certification of daily commercial rates, particularly when there is no market in the United Sates for the currency in question.

Section 4 is a cleanup provision repealing a number of obsolete sections of the tariff laws. These proposed repeals do not affect any present operations, duties, or obligations of the Customs Bureau. Each change is explained in detail in an analysis of the bill prepared by the Treasury which I request may be made a part of the record.

Mr. Chairman, that completes my statement. However, I have here the results of the customs survey showing the effect of proposed changes in the valuation provisions of the tariff act. Perhaps the committee would like those to be made a part of the record.

The CHAIRMAN. That may be done.

(The document referred to, as well as charts and statistical material presented, are as follows:)

Analysis of the Customs Simplification Act of 1955

The President, in his message of January 10, 1955, on the foreign economic policy of the United States, stated that the uncertainties and confusion arising from the complex system of valuation on imported articles caused unwarranted delays in the determination of customs duties and he urged the Congress to give favorable consideration to legislation for remedying this situation. Furthermore, he asked for continuing efforts to improve the procedures for customs administration. The proposed Customs Simplification Act of 1955 is designed to carry out, in part, these recommendations of the President. The Treasury Department is continuing its study and will in the future submit additional legislative proposals in line with the President's recommendations.

SECTION 1. SHORT TITLE AND EFFECTIVE DATE

This section contains a short title and provides that the act shall be effective on and after the 30th day following the date of enactment.

SECTION 2. VALUE

The present section 402 of the Tariff Act of 1930 (U. S. C. 1952 edition, title 19, sec. 402) tells how appraisers shall determine the value of imported merchandise for the purpose of assessing duties. Briefly, it provides that the "foreign value" or the "export value" shall be used, whichever is higher, but that if neither of these can be ascertained, then the "United States value," and if that also is unascertainable, then the "cost of production." In a few special cases, the rate of duty is to be based upon the "American selling price." Decisions of the appraiser are reviewable in the Customs Court. The statute then goes on to define the "foreign value" as the market value or price at the time of exportation to the United States "at which such or similar merchandise is freely offered for sale for home consumption to all purchasers * * * in the usual wholesale quantities and in the ordinary course of trade * * *." Costs, charges, and expenses incident to placing the merchandise ready for shipment which are not included in such value or price are to be added thereto. The "export value" is the price at which the merchandise is freely offered for sale to all purchasers in the usual wholesale quantities and in the ordinary course of trade for exportation to the United States, with the same charges added. The "United States value" is the freely offered price in the United States which is available to all purchasers, in the usual wholesale quantities and in the ordinary course of trade, with allowance for duty and other expenses, a commission not exceeding 6 percent, if any has been paid, and allowance for profit not to exceed 8 percent. The "cost of production" is defined as the sum of 4 items: (1) cost of materials and fabrication or manipulation; (2) the usual general expense, not less than 10 percent of (1); (3) the cost of containers and coverings and other incidental costs and charges; and (4) an addition for profit, not less than 8 percent of (1) and (2). The "American selling price" of an article manufactured or produced in the United States is the price at which the article is freely offered for sale for domestic consumption to all purchasers.

The amendments proposed by the bill would effect the following changes in the law as above stated:

(1) Eliminate the use of "foreign value" and make the "export value" the preferred method of valuation if it can be ascertained.

(2) In determining "United States value," the actual commissions, profits, and other deductions are to be used, not arbitrarily limited amounts.

(3) In determining "United States value" of new lines in which there is no previously established trade, the earliest actual sales of the merchandise undergoing appraisement or similar merchandise may be considered if made before the expiration of 90 days after importation.

(4) In the case of "constructed value" (previously called "cost of production") the actual addition for general expenses, profit, etc., are to be used, not prescribed percentages which may exceed the actual figures.

(5) The appraiser may use actual sales instead of offers, where both exist, in determining "export value" or "United States value."

(6) A definition of "freely sold or offered for sale" is provided for the first time. It will permit determination of an "export value," "United States value," or "American selling price" on the basis of sales or offers to wholesalers which are unrestricted, except for restrictions which are imposed or required by law, which limit the resale price or sales territory, or which do not affect the value

of the merchandise to the purchaser. It will also permit the use of sales to exclusive agents and other restricted sales where such limitations do not affect the price. The present statute has been interpreted to make a "foreign value," "export value," "United States value," or "American selling price" unusable when the only offers made are subject to restrictions of the kinds stated. Furthermore, under the present law the price, in order to qualify, must be available to all purchasers, including retailers and consumers.

(7) The proposed bill goes on to provide definitions for the words "ordinary course of trade," "purchasers at wholesale," and "such or similar merchandise."

(8) It also defines "usual wholesale quantities" in such a manner as to mean the quantities in which the greatest aggregate quantity of the merchandise is sold, whereas under the present law the usual wholesale quantity is the quantity in which the largest number of individual transactions occur.

(9) Certain references to the customs appraisers, and to appeals to reappraisement in the Customs Court, which were duplicative of other provisions, are eliminated for conciseness. No change in the functions of appraisers or court is effected.

SECTION 3. CONVERSION OF CURRENCY

Under present law conversion of foreign currency values for customs purposes is made at the gold coin parity proclaimed quarterly by the Treasury Department, unless that parity varies by more than 5 percent from the buying rate for the currency in the New York market as certified by the Federal Reserve Bank of New York. If there is no proclaimed rate for the currency in question, or if the proclaimed rate does vary by more than 5 percent from the certified rate, then customs collectors are required to convert foreign currencies at the daily rate certified by the Federal Reserve Bank of New York. The result is that in most cases the daily certified rates are used. Consequently, each collector is required to check the daily rate for each day's importations since those rates, certified to 6 to 8 decimal places, are subject to frequent, often daily minor variations.

The amendment of section 522 of the Tariff Act of 1930 (U. S. C., 1952 edition, title 31, sec. 372) proposed by section 3 of the bill would retain the quarterly proclamation of gold coin parity. It would also continue in effect the requirement that the Federal Reserve bank certified rate be used if that rate varies by more than 5 percent from the gold coin parity. The amendment would then authorize the Secretary of the Treasury to provide by regulations for the use of the rate first certified for the quarter as long as the rate certified for the day of exportation did not vary by more than 5 percent therefrom. This would permit one customs officer to determine if the daily certified rates varied by more than 5 percent from the first effective certified rates or from the proclaimed gold coin partity and to notify all customs collectors of any such variations. In the absence of such notification each customs collector would continue to use the same certified rate throughout the quarter.

This will simplify currency conversion procedures without major alteration in the existing statutory framework.

SECTION 4. OBSOLETE PROVISIONS OF THE CUSTOMS LAWS

Section 4 is devoted to the repeal of a number of obsolete provisions of the Tariff Act. The reasons that the provisions repealed are obsolete, inoperative, or unnecessary are set forth below.

Sections 12, 13, 14, and 15 of title 19, United States Code (subsections 1, 2, 3, and 4 of sec. 4 (a) of the bill), provide for appointment by the Secretary of the Treasury of a limited number of special agents for the purposes of checking the accounts of collectors and other customs officers for the prevention and detection of frauds upon the revenue, and for the better guarding against frauds upon the revenue, authorize appointment of special agents to reside in foreign territory. The title "special agent" is no longer used in the customs service (see U. S. C., 1952 edition, title 5, sec. 281 b (c)). The customs agents who, among other functions, perform the functions formerly exercised by the "special agents" now are appointed and serve under the operation of the Classification Act like other customs employees.

Sections 16, 17, and 18 of title 19, United States Code (subsecs. 5, 6, and 7) are survivals of the act of July 27, 1866 (ch. 284, secs. 4, 5, and 8, 14 Stat. 303), to reorganize the office of the customs appraiser at New York. Section 16, prescribing qualifications and a special oath for examiners at New York only, is superfluous since placement standards for the position are fixed in accordance with the

Classification Act by the Civil Service Commission, and the oath requirement is met by the provisions of section 1757, Revised Statutes (U. S. C., 1952 edition, title 5, sec. 16), applicable to all Federal officers. Section 17, prohibiting employees in the office of the appraiser at New York from engaging or being employed in any commercial activity is discriminatory against this group of employees. Its repeal would leave such employees subject to the same restrictions on outside employment as other like employees. Section 18, relating to the duties applicable to the appraiser and assistant appraiser at New York, was originally enacted as a saving clause when a special statute was enacted to reorganize the office of the customs appraiser at New York (act of July 27, 1866, *supra*) but it now serves no useful purpose since all duties of appraisers are prescribed by section 500, Tariff Act of 1930 (U. S. C., 1952 edition, title 19, sec. 1500).

Sections 21, 22, 23, 24, 26, and 27 (subsecs. 8, 9, 10, 11, 12, and 13) of title 19, United States Code, prescribed special oaths of office for the officers enumerated therein and designate persons who may administer such oaths. These provisions are unnecessary since a form of oath for all Government officers is prescribed by Revised Statutes 1557, *supra*. The number of copies of oaths of office to be required and their disposition can readily be prescribed by regulation, and since an employee may not receive his salary until the oath of office is taken, there seems to be no purpose in prescribing a penalty for failure to take the oath. As to the designation of persons to administer the oaths, section 16a of title 5, United States Code, gives authority, to persons designated in writing by the head of an executive department, to administer the oath of office. The above sections are therefore unnecessary and obsolete.

In addition, section 26 of title 19 is obsolete (as is also sec. 379, infra, for similar reasons) in that it relates to special examiners of drugs, medicines, and chemicals, officers who are no longer appointed. The Food and Drug Administration now performs the functions formerly exercised by the special examiner of drugs, medicines, and chemicals (see U. S. C. 1952 edition, title 21, sec. 381). For these reasons these sections should be repealed.

Section 28 of title 19, United States Code (subsec. 14), providing that the headquarters of the customs district in Florida shall be at Tampa, is unnecessary and serves no practical purpose. It is the only statutory provision expressly designating the situs of the headquarters of a customs district and there are 45 such districts. Section 1 of the act of August 1, 1914, as amended (U. S. C. 1952 edition, title 19, sec. 2), rests authority in the President to, among other things, change from time to time the location of the headquarters customs collection district. By Executive Order 10289 of September 17, 1951, the President designated and empowered the Secretary of the Treasury to perform this function.

Section 40 of title 19, United States Code (subsec. 15) prescribes the duties of the surveyer of customs. The title of surveyor of customs has been discontinued, except at the port of New York, and the duties there performed are those which are usually handled at any seaport by the officer in charge of the activities performed for the collector outside of the customhouse. The act of July 5, 1932 (U. S. C. 1952 edition, title 19, sec. 5a) abolished the offices of surveyor of customs at all other ports and their duties were transferred to career employees under the collector. Many of the functions prescribed by section 40 for the surveyor at New York have been obsolete for years and are no longer performed by that officer. This section should be repealed as obsolete.

Section 53 of title 19, United States Code (subsec. 16), which provides for the apportionment of compensation according to the time served, is believed to be obsolete in view of the act of June 30, 1945 (U. S. C. 1952 edition, title 5, sec. 944), which established the basic workweek, pay periods, and pay computation methods for all full-time officers and employees in the executive branch of the Government.

Sections 54 and 57 of title 19 (subsecs. 17 and 20) which relate to the furnishing of blank forms, books, stationery, blank manifests for sale, etc., are obsolete. Section 54 is superseded by provisions of the act of June 30, 1949 (U. S. C. 1952 edition, title 40, sec. 481), with respect to procurement of supplies by the General Services Administration. Section 57 is obsolete because in lieu of payment of compensation out of commissions and fees, collectors of customs are now on a fixed salary basis under the plan of reorganization of the customs service authorized by the act of August 24, 1912 (37 Stat. 434).

Section 55 of title 19 (subsec. 18) provides that collectors of customs, and comptrollers and surveyors performing the functions of collectors, shall render quarterly accounts to the Secretary of the Treasury of fines collected, moneys

received as rents, etc. These functions are presently being performed under authority of other statutes and this section is unnecessary.

Section 56 of title 19 (subsec. 19), which relates to additional hours of service at public stores in New York, was made obsolete by the Federal Employees Pay Act of 1945, as amended (U. S. C. 1952 edition, title 5, secs. 901–954), which provides for the establishment of a basic administrative workweek and for overtime compensation at prescribed rates.

Section 59 of title 19 (subsec. 21) prescribes requirements, related to section 57, supra, which date back to the time when the compensation of customs officers was primarily the proceeds of the specific fees fixed by law. Many of the functions for which fees were fixed are no longer performed. While it is believed that a table of the rates of fees demandable by law should be posted in a conspicuous place in each customhouse, convenient for public inspection, and a receipt should be given for all fees paid, this is rather a matter for handling under existing regulatory authority without statutory prescription of impracticable and inflexible requirements.

Section 61 of title 19 (subsec. 22) is inoperative and obsolete Revised Statutes 2580, from which it was derived, authorized the Secretary of the Treasury to appoint inspectors at San Antonio, Eagle Pass, and other places in Texas, at an annual salary of $2,500 to report to the Secretary of the Treasury semiannually on goods exported to Mexico. Regular customs offices are now established at necessary ports, stations, and places along the Texas-Mexican border whose officers inspect and supervise imports, as well as exports, to the extent required.

Section 62 of title 19 (subsec. 23), which was intended as a means of maintaining discipline among customs officers, authorizes suspension from duty for neglect or minor delinquency. The procedures which have been and will be followed in regard to the conduct of customs officers and employees are those prescribed in section 863, title 5, United States Code, and the regulations of the Civil Service Commission.

Section 67 of title 19 (subsec. 24), which provides for a report to each session of the Congress by the Secretary on custom-house business, is inoperative and unnecessary. The Secretary submits an annual report to the Congress in accordance with sections 262, 264, and 265, title 5, United States Code, substantially superseding the requirements of this more limited provision of the customs laws.

Section 379 of title 19 (subsec. 25) provides a method for preventing importation of adulterated drugs, etc. (see sec. 26, supra) at ports where there is no special examiner of drugs. As indicated in commenting on section 26, supra, special examiners of drugs are no longer appointed and the provisions of this section are inoperative, functions with relation to spurious or adulterated foods, drugs, or cosmetics now being handled by the Food and Drug Administration of the Department of Health, Education, and Welfare under United States Code 1952 edition, title 21, section 321, et seq. The section is obsolete and inoperative and should be repealed. Section 390 of title 19 (subsec. 26), which provides for the adoption of a hydrometer for use in ascertaining the proof of liquors, is unnecessary. The hydrometer in use by customs is the same as that which is approved for use of the Internal Revenue Service under section 5212 (a) of the Internal Revenue Code of 1954. The standards for spirits are the same as those applicable to spirits of domestic manufacture under paragraph 811 of the Tariff Act of 1930, as amended (U. S. C. 1952 edition, title 19, sec. 1001, par. 811).

Section 494 of title 19 (subsec. 27), which provides for the seizure of merchandise as security for fines imposed under the provisions of section 12 of the act of June 22, 1874 (18 Stat. 188), an ancestor provision of section 591 of the Tariff Act of 1930 (U. S. C. 1952 edition, title 19, sec. 1591), now superseded in turn by section 542 of title 18 of the code, is obsolete and unnecessary. The 1874 provisions relating to unlawful importation have been repealed and this particular provision thereof is no longer operative.

Section 526 of title 19 (subsec. 28) provides that the cost of prosecution in cases where seizure, condemnation, and sale of merchandise takes place within the United States and the value is less than $250, shall be paid from the part of the forfeiture which accrues to the United States. This section is obsolete since the subject matter is now covered by section 613 (1) of the Tariff Act of 1930 (U. S. C. 1952 edition, title 19, sec. 1613 (1)).

Section 541 of title 19 (subsec. 29) authorizes the collector of each customs district to provide and use small open row and sailboats, which shall be necessary in boarding vessels and for other purposes. Coast Guard crafts are used by customs officials for boarding purposes and section 541 is therefore obsolete.

Section 542 of title 19 (subsec. 30) authorizes the Secretary of the Treasury to use elsewhere as the exigencies of the Service require, the motorboat provided for Corpus Christi, Tex. No motorboat is now provided or needed for Corpus Christi and there has been none for many years. The provision is obsolete.

Section 549 of title 31 of the code (subsec. 31) directs the comptrollers of customs and surveyors, registers of land offices, and the superintendents of mints to examine the books and accounts of their depositories, collectors, and treasurers and to make a report to the Secretary of the Treasury. The functions referred to are performed by the Comptroller General under the Budget and Accounting Act of 1921 (42 Stat. 23, U. S. C. 1952 edition, title 31, secs. 41–58), and therefore section 549 is now obsolete.

Section 579 of title 19 (subsec. 32) provides that in a suit on bond for the recovery of duties the court shall grant judgment unless the defendant makes an oath that an error was committed in the liquidation of the duties demanded. This section has been superseded by the protest provisions of section 514 of the Tariff Act of 1930 (U. S. C. 1952 edition, title 19, sec. 1514).

Section 711 (7) of title 31 (subsec. 33) authorizes a permanent appropriation for the repayment to importers of the excess of deposits for unascertained customs duties, or duties of other moneys paid under protest. This section has been superseded by a permanent indefinite appropriation covering all refunds of customs collections or receipts authorized by law (see act of June 30, 1949, ch. 286, 63 Stat. 360).

Subsection 34 of section 4 (a) of the draft bill will repeal that part of the act of September 30, 1890 (ch. 1126, 26 Stat. 511 (formerly codified as U. S. C. title 19, sec. 30)), which provides that such clerks and inspectors as the Secretary may designate shall be authorized to administer oaths of office. This section is related to sections 21, 22, 23, 24, 26, and 27 of title 19, which also are proposed to be repealed, supra. This section is obsolete and should be repealed.

Section 4 (b) of the bill seeks to amend subsection (f) of section 500 of the Tariff Act of 1930 (U. S. C. 1952 edition, title 19, sec. 1500 (f)), which provides for the designation of an acting appraiser at ports where there is no appraiser and requires that such acting appraiser take the oath provided in section 21, title 19, supra. It is proposed to repeal the requirement that the acting appraiser take the special oath provided in said section 500 (f) since the provision for that oath being repealed by subsection 8 of section 4 (a) of this bill. The oath prescribed by section 1757 of the Revised Statutes (U. S. C. 1952 edition, title 5, sec. 16) will be sufficient.

Section 4 (c) of the bill proposes to amend section 583 of the Tariff Act of 1930 (U. S. C. 1952 edition, title 19, sec. 1583). Section 583 provides that the customs or Coast Guard officer's certification regarding the inspection of the manifest required by that section shall be made on "the back of" the original manifest. Th manifest forms now in use have the space for such certification on the front. The procedural detail as to place of certification on a manifest is a minor one that should be left to administrative regulation and it is proposed to delete the language "the back of" in that section.

Customs Survey Showing Effect of Proposed Change in Valuation of Tariff Act

The effect of proposed changes in section 402, Tariff Act of 1930, upon customs revenue in general and upon the valuation of the various classes of imported commodities which could be affected by the changes has been measured by a survey of importations received at eight representative ports. New York was selected as representative of Atlantic seaboard trade, Laredo for Mexican trade, New Orleans and Houston for the gulf port trade, Los Angeles and San Francisco for the Pacific coast trade, and Detroit and Buffalo for the Canadian border trade. Statistics for the fiscal year 1954 indicate that about 70 percent by value of the total imports subject to ad valorem duty were appraised at these 8 ports and that about 75 percent of total customs revenue from imports subject to ad valorem rates of duty was collected there.

In order to secure a good cross section of the effect of the proposals upon all commodities from all countries, 5 percent of all dutiable entries (every twentieth entry) filed during the fiscal year 1954 at New York and at Laredo were reviewed and the values of the ad valorem goods recomputed on the basis of the proposed legislation. Similarly 2½ percent of all dutiable entries (every fortieth entry) were reviewed at each of the other 6 ports.

This sampling resulted in 19,908 recomputations of dutiable value, 3,605 of which reflected changes in value under the proposed law, practically all of

which were reductions. The results of the sampling in each subgroup of commodities represented in the import statistics maintained by the Department of Commerce are shown in the attached summary of survey.

During the fiscal year 1954, the total value of imported commodities was $10.491 billion. Imports valued at $5.822 billion were free of duty; imports valued at $3.258 billion were subject only to specific rates of duty (duty based on a unit of quantity); and the remainder, valued at $1.411 billion, were subject to ad valorem or compound (ad valorem plus specific) rates. The proposed changes in section 402 would affect duties only on the commodities in the last category. There is a theoretical possibility that the changes might have some effect on certain specific duties where the rate is dependent upon the value of the commodity, but this possibility is remote and no example of its was disclosed in the survey.

Total customs revenue collections during the test period amounted to $545.7 million, $286.1 million resulting from specific rate merchandise and $259.6 million from ad valorem and compound rate merchandise.

The survey results projected against the foregoing overall totals indicate a probable decrease of only 2.5 percent in total dutiable value with a still smaller decrease of 2 percent in customs revenue collections on ad valorem goods (note, chart 1).

Of particular interest in the analysis of this survey is the indicated effect upon the various commodity subgroups encountered. Chart 2, Effect of Proposed Legislation on Valuation of Imports Subject to Ad Valorem Duties, presents these commodity subgroups in descending order according to the indicated percentage decreases in dutiable values developed in the survey. The greatest reduction indicated in prospective dutiable values is 16 percent for drugs, herbs, et cetera. For 4 other subgroups there is indicated a prospective reduction of more than 12 percent. As to the last 8 subgroups, no change in prospective valuation is indicated.

To place this sampling study in its proper context, the percentage decrease in each commodity group must be considered in relation to the importance of that group of items as compared with the aggregate value of ad valorem commodities imported during the fiscal year 1954. This qualification puts in perspective the impact of the 21 subgroups in which average decreases of over 4 percent are indicated, as less than one-fifth (19.5 percent) of the total value of ad valorem imports is accounted for by these subgroups. On the other hand, 63.3 percent of the value of all ad valorem imports were in commodity subgroups with the indicated decrease of less than 2.5 percent in prospective dutiable value. However, this group taken as a whole averages a small decrease (only 0.9 percent) in dutiable value, while at the same time it is subject to the highest average rate of duty (20.3 percent) (see chart 3).

Chart 4 indicates a probable average reduction in duty paid or after duty costs of about one-half of 1 percent (a realistic measure of the difference in tariff protection) for all groups, with the maximum reduction of slightly over 1 percent in the group which showed indicated decreases in dutiable value of over 4 percent.

In considering all the foregoing, two important facts must be kept in mind—

(1) The tariff protection effect of the proposed changes is definitely limited to commodities subject to a rate of duty dependent on value. For example, charts Nos. 2 and 4 show the commodity group of cork and cork manufactures as likely to be reduced in dutiable value by about 6 percent and in duty paid cost by about 2½ percent. However, the imports likely to be affected by these reductions are infinitesimal (see right-hand column) since most cork imports are subject only to specific rates of duty.

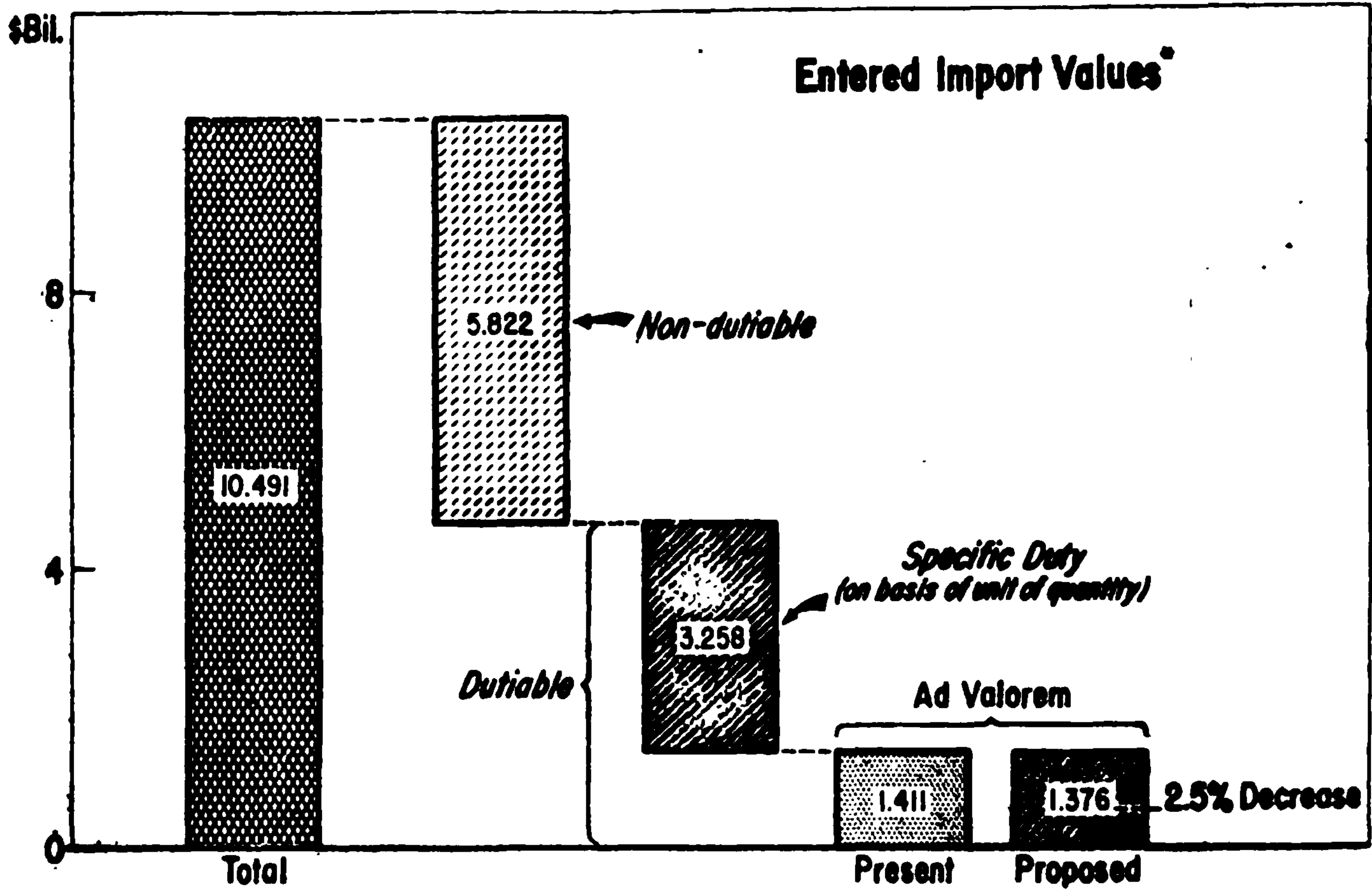
(2) A reduction of, say, 2½ percent in dutiable value does not mean that a 15-percent rate of duty would be reduced to 12½ percent. The 15-percent rate would remain unchanged, but it would be 2½ percent less effective when applied to the indicated lower value.

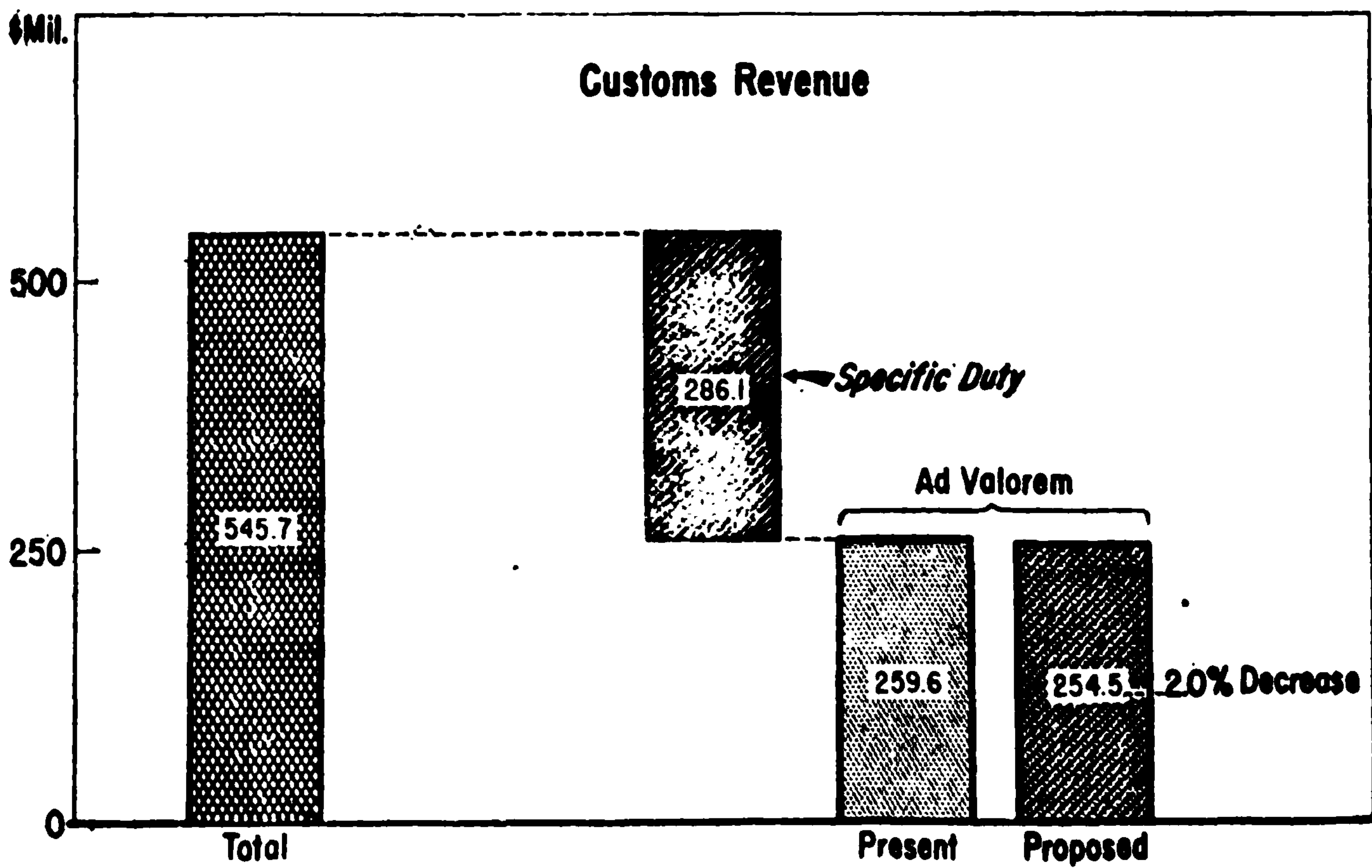
If a corresponding change were made in rate rather than in value, the rate would be reduced from 15 percent to 14⅝ percent.

The sample survey indicates that, to the extent that the proposed bill changes appraised value, such changes will be more in line with commercial values. Chart 5 shows that a little less than one-quarter of the valuation in the sample were affected at all. In those cases the total appraised value of $8.8 million under the proposed legislation very closely approaches, but still exceeds, the total invoice value of $8.7 million, which represents the price actually paid in these transactions.

Chart I

RELATIONSHIP OF LEGISLATION TO IMPORT VALUES AND CUSTOMS REVENUE, FISCAL 1954

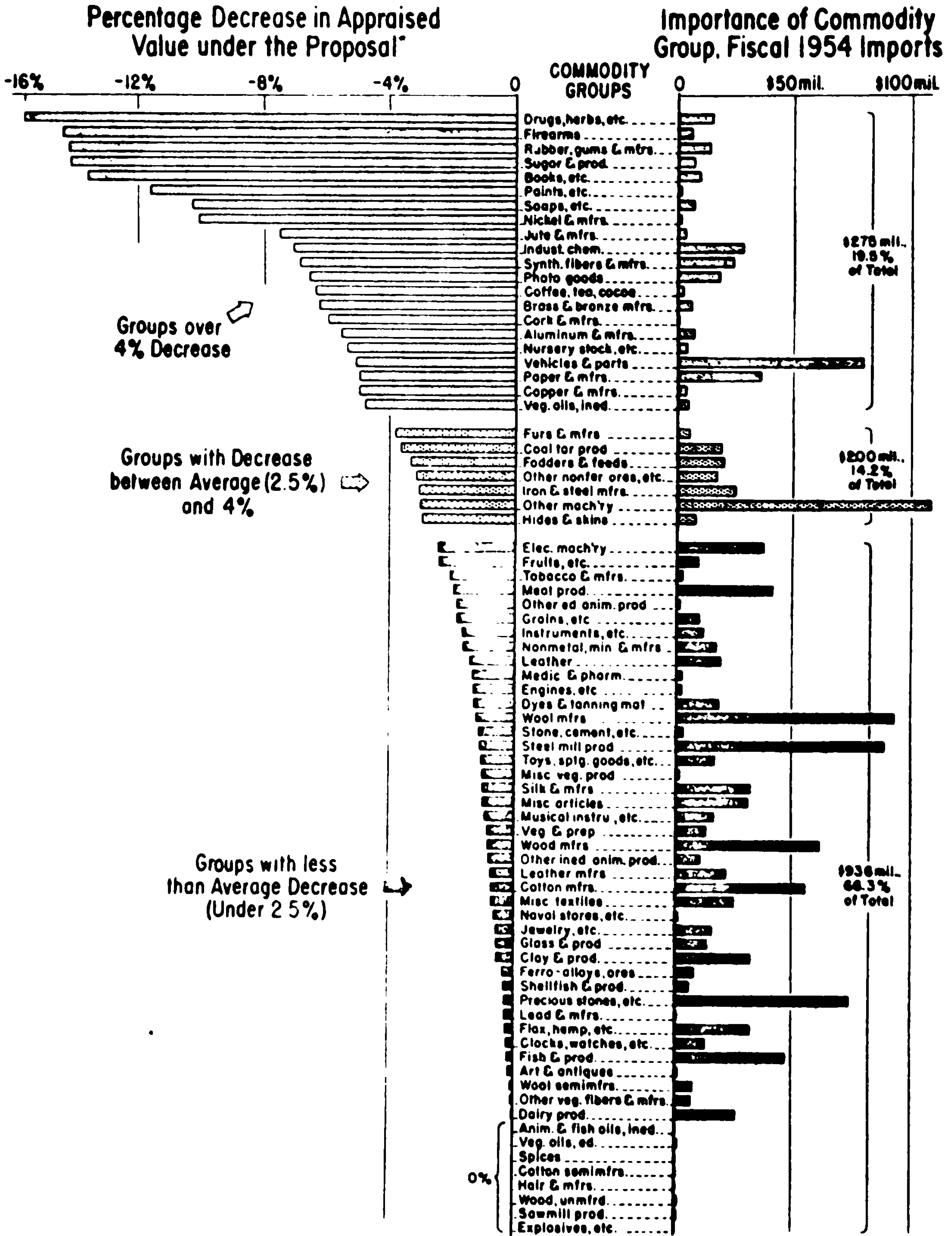




*Imports for consumption.

Chart 2

EFFECT OF PROPOSED LEGISLATION ON VALUATION OF IMPORTS SUBJECT TO AD VALOREM DUTIES

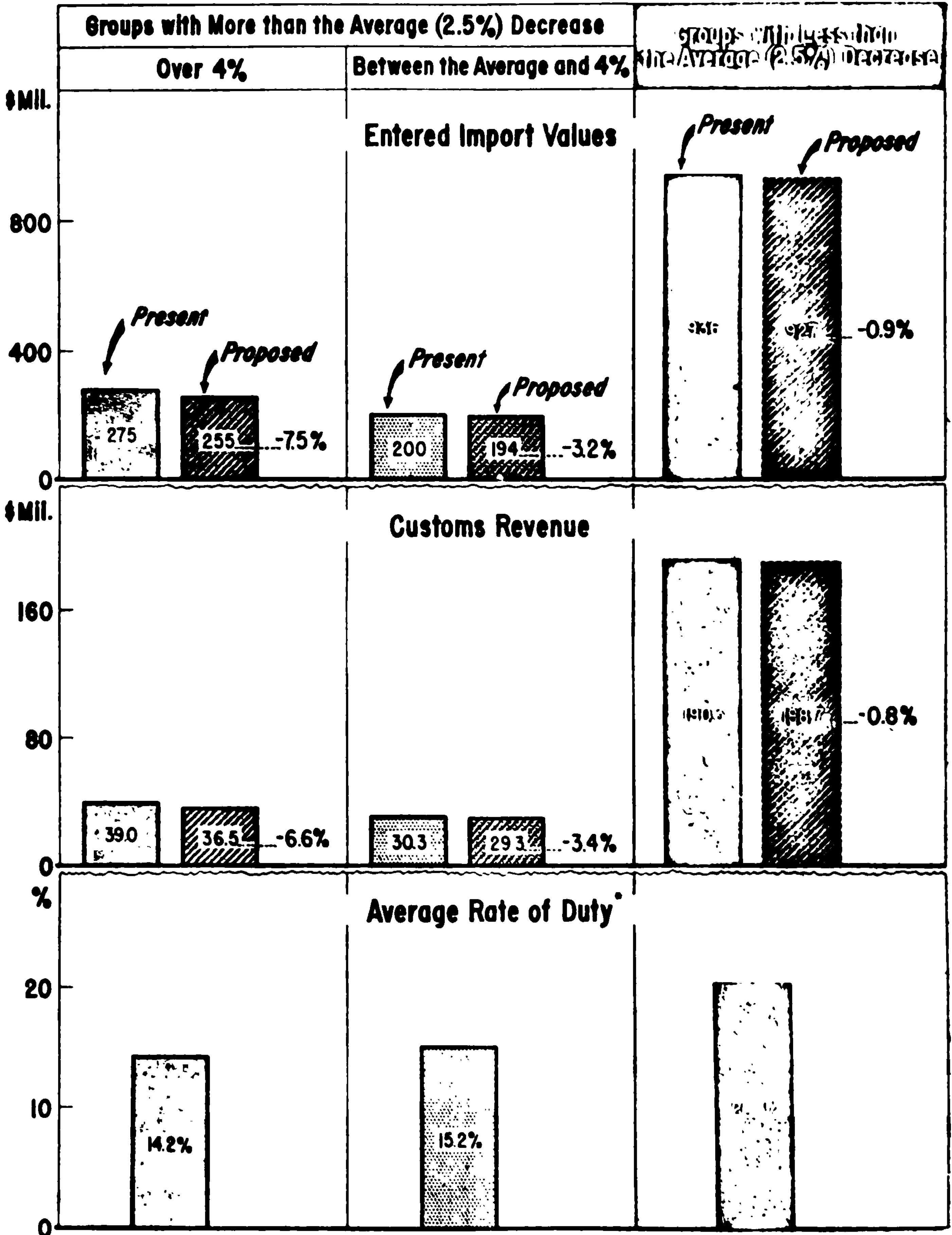


*Based on sample survey.

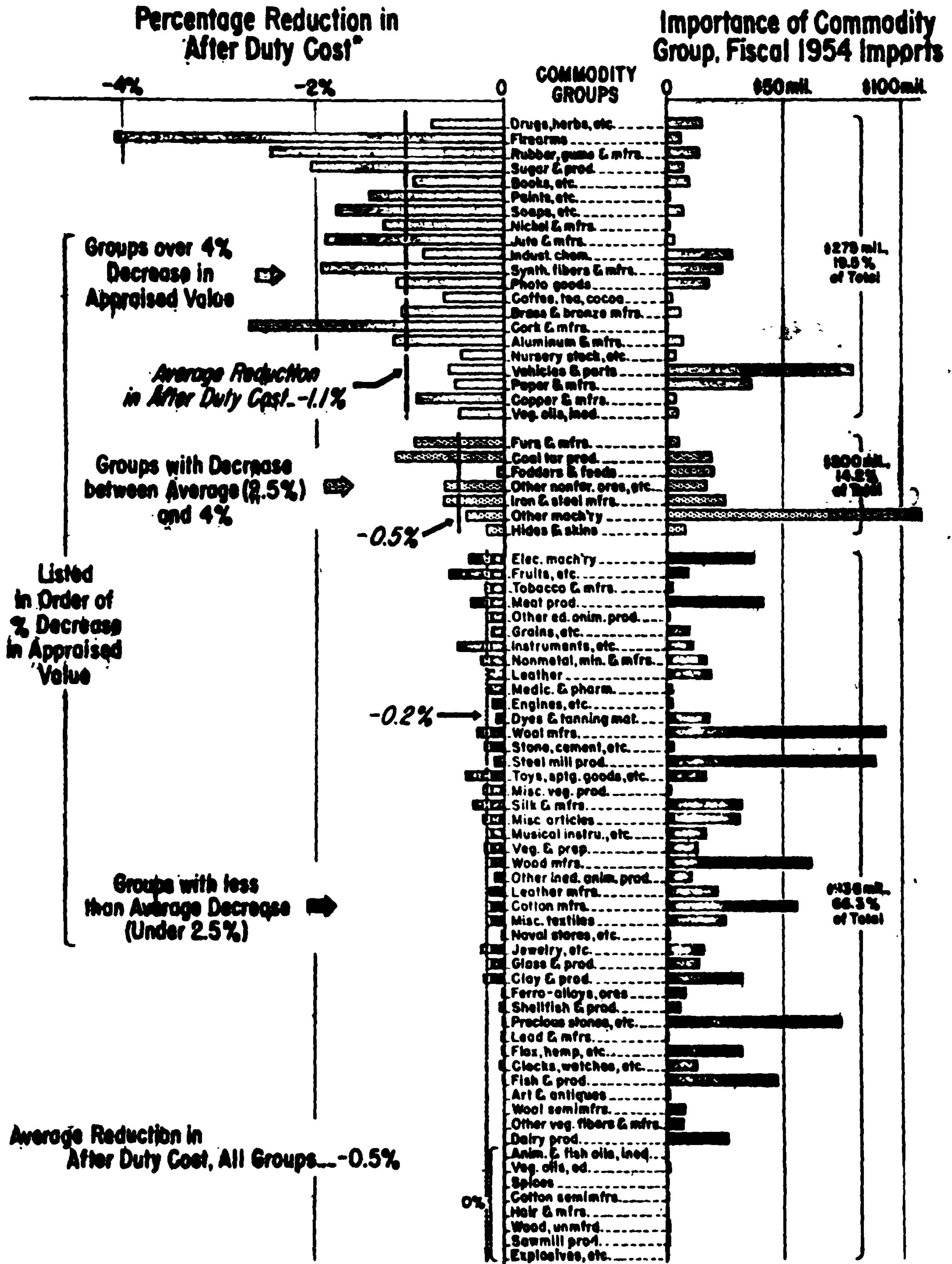
Chart 3

IMPORT VALUES, REVENUE, AND AVERAGE RATES OF DUTY

Classified by Percentage Decrease in Appraised Value Under the Proposal



*Average rate of duty on total imports...18.4%

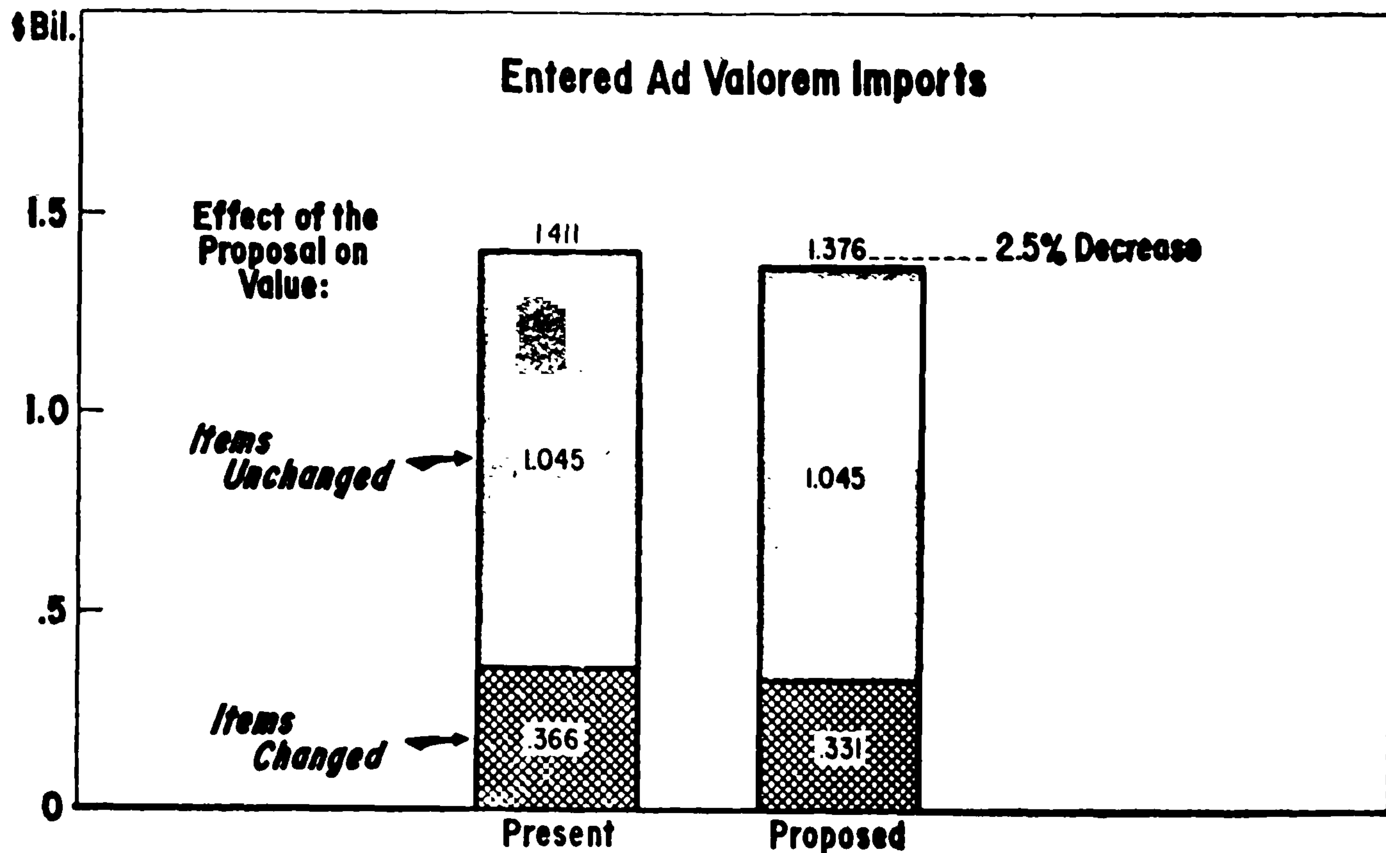


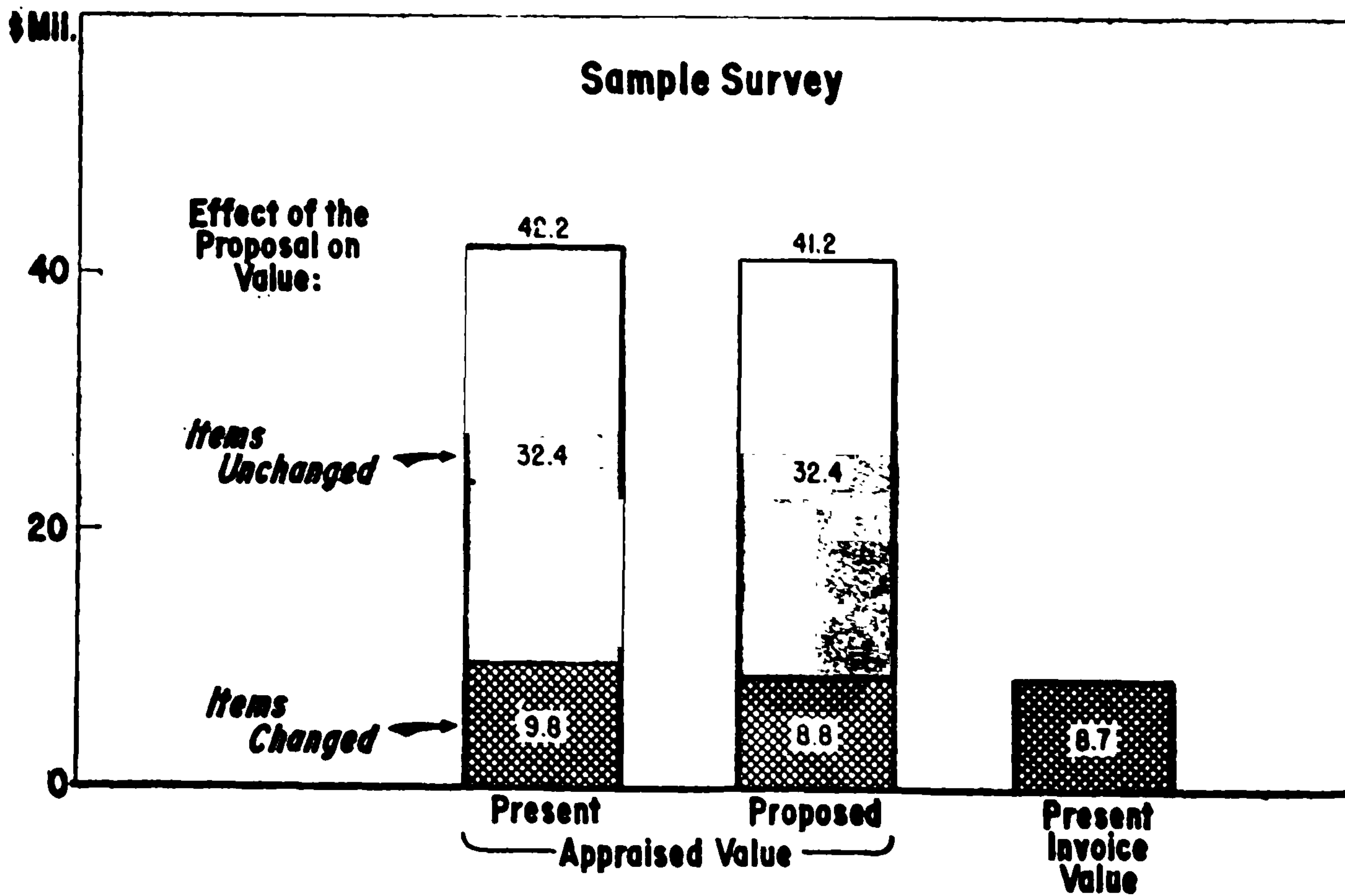
*Reduction in after duty cost expressed as a percentage of present appraised value.

Chart 5

PROPOSED CHANGES IN VALUATION RELATED TO INVOICE VALUE

(Based on Fiscal 1954 Imports)





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Summary of survey and projection against total import statistics

Subgroup	Subgroup title	Survey sample				Total value of all imports, present law	Total value of all imports, proposed law	Difference	Percent decrease in value, present-proposed	Estimated loss of revenue	Percent decrease in revenue
		Number of samples	Value, present law	Value, proposed law	Difference						
80	Industrial chemicals	122	$660, 676	$613, 859	$46, 817	$28, 521, 800	$26, 499, 605	$2, 022, 195	7. 09	$258, 840	7. 33
81	Pigments, paints, and varnishes	35	72, 855	64, 392	8, 463	1, 564, 808	1, 382, 977	181, 831	11. 62	19, 710	10. 07
83	Explosives, fireworks, and ammunition	5	2, 474	2, 474	----	152, 323	152, 323	----	----	----	----
84	Soap and toilet preparations	76	209, 320	187, 848	21, 472	6, 594, 510	5, 917, 914	676, 596	10. 26	128, 485	10. 92
85	Photographic goods	139	684, 026	639, 305	44, 721	17, 984, 927	16, 808, 713	1, 176, 214	6. 54	165, 963	5. 19
86	Scientific and professional instruments, apparatus, and supplies, n. e. s	268	392, 520	385, 900	6, 620	12, 192, 525	11, 986, 473	206, 052	1. 69	50, 462	1. 31
87	Musical instruments, parts, and accessories	256	590, 789	585, 195	5, 594	16, 605, 075	16, 447, 328	157, 747	. 95	24, 514	. 77
88	Toys, athletic and sporting goods	635	667, 285	660, 001	7, 284	16, 613, 046	16, 431, 964	181, 082	1. 09	77, 412	1. 21
89	Firearms and parts	22	50, 187	42, 966	7, 221	5, 935, 958	5, 081, 774	854, 184	14. 39	227, 213	13. 07
90	Books, maps, pictures, and other printed matter, n. e. s	237	262, 001	226, 437	35, 564	8, 271, 067	7, 148, 684	1, 122, 383	13. 57	60, 496	10. 11
91	Clocks, watches, clockwork mechanisms, and parts	556	391, 330	390, 490	840	13, 131, 423	13, 103, 847	27, 576	. 21	9, 130	. 23
92	Art works and antiques	45	44, 043	43, 981	62	1, 149, 447	1, 147, 839	1, 608	. 14	120	. 12
93	Miscellaneous articles, n. e. s	867	812, 416	804, 054	8, 362	31, 607, 730	31, 282, 171	325, 559	1. 03	58, 535	. 78
	Total	19, 908	42, 157, 962	41, 175, 851	982, 111	1, 411, 227, 700	1, 375, 408, 796	35, 818, 904	2. 53	5, 173, 405	1. 99
61	Steel mill products	388	1, 489, 697	1, 473, 110	16, 587	89, 530, 810	88, 537, 018	993, 792	1. 11	127, 602	1. 28
62	Iron and steel manufactures	760	986, 084	955, 491	30, 593	24, 617, 363	23, 854, 226	763, 137	3. 10	110, 960	2. 10
63	Ferroalloys, ores and metals, n. e. s	7	51, 247	51, 082	165	8, 065, 576	8, 039, 767	25, 809	. 32	3, 226	. 31
64	Aluminum and manufactures	84	197, 953	187, 015	10, 938	6, 609, 978	6, 244, 446	365, 532	5. 53	78, 954	5. 53
65	Copper and manufactures	53	41, 202	39, 145	2, 057	3, 544, 391	3, 367, 526	176, 865	4. 99	35, 426	5. 18
66	Brass and bronze manufactures	226	206, 735	193, 876	12, 859	5, 768, 903	5, 410, 078	358, 825	6. 22	66, 346	6. 33
67	Lead and manufactures	24	13, 864	13, 823	41	185, 755	185, 198	557	. 30	83	. 29
68	Nickel and manufactures	4	74, 772	67, 258	7, 514	1, 379, 942	1, 241, 258	138, 684	10. 05	17, 432	9. 58
71	Other nonferrous ores, metals, and alloys, except precious	650	642, 615	622, 098	20, 517	16, 737, 988	16, 204, 046	533, 942	3. 19	120, 404	3. 47
72	Precious metals, jewelry, and plated ware	594	696, 278	692, 266	4, 012	15, 803, 723	15, 712, 063	91, 660	. 58	43, 401	. 57
73	Electrical machinery and apparatus	356	1, 269, 098	1, 237, 718	31, 380	37, 403, 885	36, 484, 886	923, 999	2. 47	144, 975	2. 51
74	Engines, turbines, and parts, n. e. s	21	33, 499	33, 052	447	2, 248, 625	2, 218, 719	29, 906	1. 33	3, 477	1. 42
75	Other machinery, except agricultural	693	2, 882, 973	2, 794, 464	88, 509	107, 589, 727	104, 286, 722	3, 303, 005	3. 07	447, 227	3. 11
77	Vehicles and parts	314	1, 920, 491	1, 822, 823	97, 668	79, 414, 541	75, 372, 342	4, 042, 199	5. 09	428, 877	4. 60
78	Coal-tar products	140	1, 122, 682	1, 081, 271	41, 411	18, 693, 417	18, 003, 630	689, 787	3. 69	270, 740	4. 52
79	Medicinal and pharmaceutical preparations	24	102, 700	101, 308	1, 392	2, 241, 834	2, 211, 346	30, 488	1. 36	3, 515	1. 22
41	Wool semimanufactures	63	206, 795	206, 610	185	7, 310, 546	7, 303, 967	6, 579	. 09	986	. 03
42	Wool manufactures	1, 277	3, 946, 178	3, 897, 059	49, 119	93, 702, 927	92, 541, 012	1, 161, 915	1. 24	250, 974	1. 05
43	Hair and manufactures, n. e. s	6	8, 098	8, 098	----	374, 627	374, 627	----	----	----	----
44	Silk and manufactures	750	1, 412, 230	1, 397, 717	14, 513	32, 110, 090	31, 779, 357	330, 733	1. 03	107, 686	1. 00
45	Synthetic fibers and manufactures	502	699, 405	651, 609	47, 796	23, 985, 366	22, 347, 166	1, 638, 200	6. 83	337, 305	4. 70

46	Miscellaneous textile products	582	1,166,207	1,157,757	8,450	25,505,203	25,321,566	183,637	.72	26,921	.39
47	Wood, unmanufactured	10	21,162	21,162		1,096,881	1,096,881				
48	Sawmill products (lumber)	4	13,603	13,603		1,040,828	1,040,828				
49	Wood manufactures	1,093	1,210,706	1,200,555	10,151	61,532,328	61,015,456	516,872	.84	77,271	.56
50	Cork and manufactures	5	2,399	2,256	143	97,369	91,567	5,802	5.96	2,611	5.78
52	Paper and manufactures	428	803,233	763,164	40,069	35,631,370	33,853,365	1,778,005	4.99	153,264	3.94
55	Stone, lime, cement, gypsum, and gypsum products	90	69,836	69,027	809	2,824,847	2,792,079	32,768	1.16	5,852	1.06
56	Glass and products	625	447,782	445,325	2,457	13,573,314	13,498,661	74,653	.55	[1] 18,387	[1] .41
57	Clay and products	1,480	1,017,152	1,011,595	5,557	32,632,250	32,452,774	179,476	.55	48,925	.36
58	Other nonmetallic minerals and manufactures, except precious stones and imitations	217	506,883	498,451	8,432	17,409,883	17,120,880	289,003	1.66	47,280	1.63
59	Precious and semiprecious stones, imitations, and industrial diamonds	386	2,709,836	2,701,626	8,210	74,599,985	74,376,186	223,799	.30	21,887	.28
20	Cocoa, coffee, and tea	19	37,060	34,703	2,357	2,547,293	2,385,286	162,007	6.36	16,200	6.16
21	Spices	1	9	9		53,031	53,031				
22	Sugar and related products	84	236,634	203,277	33,357	7,096,198	6,095,634	1,000,564	14.10	140,279	13.38
24	Rubber and allied gums and manufactures	153	260,015	223,241	36,774	14,055,750	12,068,268	1,987,482	14.14	228,361	9.16
25	Naval stores, gums, and resins	8	23,875	23,727	148	976,246	970,194	6,052	.62	150	.27
26	Drugs, herbs, leaves, roots, etc	55	331,645	279,994	51,651	14,892,803	12,573,994	2,318,809	15.57	115,940	15.39
28	Vegetable oils and waxes, inedible	55	201,727	192,055	9,672	4,380,755	4,170,918	209,837	4.79	18,801	4.12
29	Dyeing and tanning materials	24	300,866	296,901	3,965	18,374,124	18,131,587	242,537	1.32	18,190	1.28
31	Nursery and greenhouse stock	169	120,027	113,607	6,420	4,002,719	3,788,574	214,145	5.35	16,296	4.70
32	Tobacco and manufactures	26	88,656	86,800	1,856	2,551,926	2,498,591	53,335	2.09	5,333	2.02
33	Miscellaneous vegetable products	37	60,046	59,418	628	1,956,028	1,935,686	20,342	1.04	2,469	.56
35	Cotton semimanufactures	7	20,931	20,931		698,481	698,481				
36	Cotton manufactures	1,275	2,171,952	2,156,201	15,751	55,560,372	55,160,337	400,035	.72	94,688	.63
37	Jute and manufactures	11	20,107	18,596	1,511	3,084,298	2,852,668	231,630	7.51	46,325	5.81
38	Flax, hemp, and ramie, and manufactures	692	1,589,707	1,585,244	4,463	32,668,056	32,576,586	91,470	.28	16,381	.32
39	Other vegetable fibers and manufactures	116	186,693	186,618	75	6,604,425	6,601,783	2,642	.04	468	.04
02	Meat products [2]	48	547,885	537,193	10,692	41,297,185	40,491,890	805,295	1.95	160,736	1.97
04	Dairy products [2]	252	1,062,526	1,062,223	303	25,972,398	25,964,606	7,792	.03	1,369	.03
05	Fish and fish products, except shellfish [2]	288	968,495	966,508	1,987	47,469,783	47,374,844	94,939	.20	15,939	.22
06	Shellfish and products [2]	24	157,667	157,182	485	5,511,281	5,494,197	17,084	.31	3,844	.30
07	Other edible animal products [2]	10	54,580	53,567	1,013	1,369,402	1,344,068	25,334	1.85	2,533	1.79
08	Hides and skins, raw, except furs [2]	18	234,784	227,762	7,022	7,349,069	7,129,332	219,737	2.99	21,973	4.80
09	Leather [2]	152	616,627	607,765	8,862	19,081,178	18,806,409	274,769	1.44	31,240	1.35
10	Leather, rawhide, and parchment manufactures [2]	676	570,876	566,646	4,230	21,601,099	21,441,251	159,848	.74	36,205	.77
11	Fur and manufactures [2]	72	114,116	109,738	4,378	4,814,038	4,629,179	184,859	3.84	31,851	2.60
12	Animal and fish oils, and greases, inedible [2]	1	4,061	4,061		142,963	142,963				
13	Other inedible animals and animal products [2]	130	403,343	400,031	3,312	10,744,118	10,656,016	88,102	.82	11,020	.67
14	Grains and preparations [2]	52	105,516	103,602	1,914	9,622,907	9,448,733	174,174	1.81	17,417	2.06
15	Fodders and feeds, n. e. s. [2]	89	149,267	144,259	5,008	20,109,464	19,435,797	673,667	3.35	16,841	3.25
16	Vegetables and preparations [2]	212	448,201	444,352	3,849	12,852,947	12,742,412	110,535	.86	23,068	.72
17	Fruits and preparations [2]	80	224,417	218,990	5,427	9,058,935	8,839,709	219,226	2.42	33,388	1.46
19	Vegetable oils and fats, edible [2]	3	32,334	32,334		1,134,517	1,134,517				

[1] Increase.
[2] U. S. Department of Commerce schedule A statistical classification of commodities imported into the United States.

The CHAIRMAN. Mr. Rose, am I correct in my understanding that the basic change applies first only to those imports subject to ad valorem duties?

Mr. ROSE. Yes, sir; ad valorem and compound, meaning by compound those which have an ad valorem component.

The CHAIRMAN. The basic change is to eliminate foreign value as a basis of appraisement and make export value the single primary basis of valuation?

Mr. ROSE. That is what I would say 1 of 2 basic changes; the other is the changes in definitions which I referred to.

The CHAIRMAN. Under existing law, the appraiser is required to determine both the foreign value which is the going wholesale price in the country of origin for domestic consumption and the export value which is the going wholesale price in the country of origin for export to the United States. You think it is easier to determine the export value than it is the foreign value? It is simpler?

Mr. ROSE. Simpler, we think.

The CHAIRMAN. That would release to some extent these 38,000 entries which are now being held up?

Mr. ROSE. Yes, sir.

The CHAIRMAN. Are they physically held up or what?

Mr. ROSE. What happens, sir, is that the goods come in and an estimated amount of duty is paid. But the final bill for duties is not liquidated.

The CHAIRMAN. You send them another bill?

Mr. ROSE. Yes, sir.

The CHAIRMAN. I would like to take an example of the drugs wherein the percentage decrease—there is a percentage decrease of 16 percent, and explain what effect that has on reducing the import duty.

Mr. ROSE. I think I have perhaps an illustration here taken from that category, if I may consult here one second.

The CHAIRMAN. Explain also why there is such a variation in the ad valorem table here beginning at 16 percent reduction and going down to nothing.

Mr. ROSE. I did not get that last question.

The CHAIRMAN. Maybe we had better do the first one first. Take the drug as an example and indicate how much this would result in a reduction in the import duty, reducing the valuation; translate that into terms of the import duty. How much would that be?

Mr. ROSE. Chart 4 indicates what that would be, sir.

The CHAIRMAN. I don't want percentages. I want that single item, that one item. Percentages may be all right but certain industries may be very adversely affected.

Mr. ROSE. Taking that one subgroup, let me see whether this example will give you the answer that you want, sir.

Taking the one item from the subgroup 26, which is herbs, drugs, and so forth, the reasons for valuation change in drugs of vegetable origin may be fairly represented by two vitamins, C and B_1. Ascorbic acid, vitamin C, has been imported principally from Germany. There have been importations from Austria, and Italy, as well as from Japan. It should be noted that importations of this commodity have been affected by a classification decision by the customs courts which resulted in the duty applicable to ascorbic acid changing from 12½ to 5 percent.

Differences in quantities account in large measure for the difference in valuation. Typical sales in Germany were made in amounts of 100 kilos while sales to the United States from Germany were in amounts of 1,000 kilos or over.

The remission of the German 4 percent sales tax is also involved here.

For 1953 and 1954, German prices in the home market were $26 a kilo but range from $15 to $18 a kilo for export to the United States.

Now, I think that is an illustration of one item in that case. The duty on that is 5 percent. The change in valuation takes place for two reasons:

One, that the quantities offered in the German market and therefore determinative of foreign value, were 100 kilos; the quantities for export to the United States averaged 1,000 kilos.

Secondly, there is an excise tax in Germany which gets into foreign value, but which is remitted by the Germans in the same way as we remit excise taxes on our exports which, therefore, is not a part of export value.

Now, those are the reasons for the decline in that item.

The CHAIRMAN. I want the result, not the reasons. To what extent is the import duty on drugs reduced by this change in valuation? Simply take that as an example.

Mr. ROSE. The rate of duty on that item is 5 percent.

The CHAIRMAN. All right. That is the present duty?

Mr. ROSE. Yes, sir.

The CHAIRMAN. How much do you reduce that 5 percent?

Mr. ROSE. The 5 percent does not change but the appraisal of the value——

The CHAIRMAN. I want the effect of it. What is the effect of it on an average basis?

Mr. ROSE. It would, on these figures, the duty would be 5 percent of $26, which would be on foreign value which would be $1.30 per kilo; whereas on a $15 price the duty would be 75 cents; 5 percent of $15, or from $1.30 per kilo to 75 cents per kilo.

The CHAIRMAN. It is not clear yet, to me. You have now 5-percent duty.

Mr. ROSE. Yes, sir.

The CHAIRMAN. All right. You are taking a new method of valuation whereby the value is reduced.

Mr. ROSE. From $26 per kilo——

The CHAIRMAN. Leave the kilos out. Let us deal with this "5-percent" business. To what extent is the 5 percent in practical operation reduced by the change of valuation?

Mr. ROSE. Five percent is not——

The CHAIRMAN. I know the 5 percent is not changed, but what is the effect of it? Do they pay less duty or more duty?

Mr. ROSE. They pay less dollar duty in this case.

The CHAIRMAN. Percentagewise, what is the effect? Do they pay 4 percent based on the previous valuation, or 3 percent, or what?

Mr. ROSE. I see what you are getting at. If you were to translate this into a percentage——

Senator BENNETT. It is about 40 percent reduction because the valuation is reduced from $26 to $15. Approximately 40 percent.

Mr. ROSE. If you translate that on to 5 percent, it would be 40 percent of 5 percent.

Senator BENNETT. Three percent instead of five.

Senator MARTIN. As a matter of fact, the valuation——

Mr. ROSE. That is correct.

Senator BARKLEY. In that case it is the difference between 5 percent of $26 and 5 percent of $15.

Senator MARTIN. It makes a tariff reduction, then, of about 40 percent. Is that not the easy way?

The CHAIRMAN. I understand it now. I did not understand it before.

I will select these at random. I have heard a good deal of complaint from the chemical people. By the same line of reasoning, how much is the industrial chemical group reduced? I mean the tariff. It does not make any difference how you do it. You may have a lower valuation or higher valuation. It is the net result that I want. What is paid as a duty that comes into this country?

Let us start out with the industrial chemicals. What is the percent now?

Mr. ROSE. Let me see if I can find an example from that.

The CHAIRMAN. Another question: Will these drugs, for example, that will have a 40-percent reduction in duty, will they be subject to further reductions under the H. R. 1 that we have just passed?

Mr. ROSE. I want to make clear, sir, this does not affect the rate. H. R. 1 is concerned only with rate.

The CHAIRMAN. I know but the final effect is what is paid when they come into this country. I am not talking about whether it is rate or valuation. I am talking about the final result—the net end of it.

Mr. ROSE. This bill does not affect the application of H. R. 1, so that the answer to your question, I think, is "Yes," to the extent that H. R. 1 is applicable; it would be applicable regardless of provisions of this bill. We have a provision in it, section (e), on page 10, line 17, that deals with that specific matter and says:

> In any action relating to tariff adjustments by executive action, including action taken pursuant to section 350 of the Tariff Act of 1930, as amended, the United States Tariff Commission and each officer of the executive branch of the Government concerned shall give full consideration to any reduction in the level of tariff protection which has resulted or is likely to result from the amendment of section 402 of the Tariff Act of 1930 made by this act.

The CHAIRMAN. All right. All I am trying to do, Mr. Secretary, is to get the best understanding I can of it. It is a pretty complicated question.

Senator BARKLEY. If, by executive action under the Trade Agreements Act, a rate of tariff should be reduced, it would apply to new valuation provided in this bill? There are connections there?

Mr. ROSE. That is correct, sir.

Senator BARKLEY. And would be affected by it?

Mr. ROSE. That is correct, sir. The provision which I just read is for the purpose of making it entirely clear if it would not be so without it, that in any escape-clause proceeding or any negotiation of a reciprocal trade agreement under H. R. 1, or under the Reciprocal Trade Agreements Act as amended, that the effect of this bill would be taken into account.

The CHAIRMAN. Let us take industrial chemicals now. How is that carried down?

Mr. ROSE. I will try to get a simple one here, sir.

I haven't one here in which my notes give me the rate of duty, unfortunately. That is what I was looking for; so we could take an actual case.

Take one example: Vinyl derivatives are in that group of industrial chemicals which are on the average reduced 7.09 percent in value.

Senator MILLIKIN. What derivatives?

Mr. ROSE. Vinyl.

Senator MILLIKIN. What is that?

Mr. ROSE. A form of chemicals——

Senator BENNETT. It is the basis of plastics; modern plastics. Modern plastics are made of vinyl. That is one form of plastics.

Mr. ROSE. These imports come principally from Belgium and some from Germany and France. The 16.48-percent valuation differential is accounted for by quantity discounts for large sales to the United States and by the exclusion of the 4½ percent Belgian sales tax not applicable to exports—which is a present part of foreign value.

I regret to say that I haven't got in my notes the amount of duty which is applicable in that category, but I can very readily get that for you.

I am told that the ad valorem element of the duty is 7½ percent. So that what we have in effect is a 16½-percent reduction in a valuation to which a 7½-percent rate is applied.

Senator WILLIAMS. Would you follow that on through so we can understand it?

Mr. ROSE. May I take a hypothetical case? If the price is $100 per unit——

Senator WILLIAMS. Don't you have an exact case?

Mr. ROSE. I haven't in my notes. I could get you one, but I can give you a hypothetical case with the reduction in valuation and the duty.

If the foreign value is $100, the duty on that basis would be $7.50 at 7½ percent. The indicated reduction of valuation by this bill is, on that item, 16½ percent, approximately, which would be $83.50 as the value on the new basis; 7½ percent of that would be about $6.26. So that on that quantity of $100 worth as previously valued, on which the duty would have been $7.50, you would have a duty of $6.26.

The CHAIRMAN. Instead of $7.50.

Mr. ROSE. Instead of $7.50 on $100 worth of merchandise on the old basis.

Senator WILLIAMS. That is about 16 percent.

Mr. ROSE. Yes, sir. The reason for that—as I think I indicated in my notes—was that the quantities purchased in the export trade are larger than in the domestic trade, plus also a 4½-percent internal sales tax which would be remitted on the export trade, but which gets into the valuation on the foreign-value basis.

Senator WILLIAMS. These reductions would be in addition to any reductions permissible under H. R. 1?

Mr. ROSE. Yes, sir; except—as I pointed out in answer to Senator Barkley's question—that any effect that this bill has on valuations would be taken into account in the negotiation of trade agreements

or in escape-clause proceedings brought under the Trade Agreements Extension Act.

Senator WILLIAMS. They would be taken into consideration, but is there any provision that says they must be given consideration in that formula, or would they just be considered as a factor?

Mr. ROSE. "Shall give full consideration" is the language.

Senator WILLIAMS. Does that mean, for instance, that if H. R. 1 authorized a reduction of 30 percent or 50 percent that this 16 would have to be taken as a part of that figure? That is, mathematically?

Mr. ROSE. I don't think it has that effect.

Senator WILLIAMS. They could rule both into effect at one time if they so decided?

Mr. ROSE. It simply requires them to give full consideration to the effect.

Mr. WILLIAMS. They would not have to recognize it if the final decision was otherwise, is that correct?

Mr. ROSE. I think that is right, sir. It is directed to their judgment.

Senator WILLIAMS. The question was asked.

The CHAIRMAN. Industrial chemicals, you say, is 16½ percent?

Mr. ROSE. Just taking that one illustration that I happened to have in my notes, sir, the average reduction is 7 percent in that category, as appears from the chart. And the average reduction in after-duty costs in the case of industrial chemicals is something less than 1 percent.

The CHAIRMAN. What do you mean by industrial costs?

Mr. ROSE. Duty-paid costs. In other words, the effect of this on the price in the United States of industrial chemicals offered from abroad based on this sample survey would be something under 1 percent.

Senator BENNETT. Mr. Chairman, may I ask, isn't that again an average?

There will be some chemicals on which the reduction will be much greater than that and others will not be affected at all?

Mr. ROSE. That is correct. Each one of these commodity groups is in turn an average; that is correct.

Senator BENNETT. That's right.

Senator WILLIAMS. Am I correct in my understanding that the reason that you are recommending H. R. 6040 is to get a simplification of the formula rather than a reduction?

Mr. ROSE. That is correct, sir. We have two basic objectives. One is simplification; the other is commercial realism, I might say.

If I may illustrate, you take the situation that I referred to where the method of distribution in Europe is a price to wholesalers and a price to retailers; and no retailer can buy at the wholesalers' price even though he buys in wholesale quantities. Because of the presence in the existing law of the statement that a price may be considered as a foreign value only if the price is freely offered to all purchasers, in usual wholesale quantities, and because retailers cannot buy at this price, we cannot use the price to wholesalers. Therefore, we use the price to retailers.

Now, that does not seem to us commercially realistic. Actually, as foreign countries are learning how to take maximum benefit from our present provisions, they are changing their method of offering so as to bring about under existing law the results intended by this bill.

For example, all they have to do in order to get an appraisal at their wholesalers' price is to make offerings to their own retailers at the

wholesalers' price if those retailers buy in wholesale quantities. Then, under existing law, we would appraise on a price to wholesalers' basis.

We think that what we are proposing is the realistic basis for determining value.

Senator WILLIAMS. That gets back to my original point that the purpose of this bill is to get a simplification of formula rather than attempt to get a reduction in rates.

Mr. ROSE. That is correct, sir; simplification and realism. There is an indicated incidental reduction based on 1954 imports to the extent indicated.

Senator WILLIAMS. I can see some merit to that but in line with that would there be any objection to this bill being amended in such a manner which would state that any reductions which were automatically approved in this bill must be taken into consideration in the formula with H. R. 1, automatically be made in this changing of formula?

For instance, the example he just gave: This would mean 16 percent reduction. Would there be any objection to state in this bill that this 16 percent or 42 percent which we had before, whatever reduction developed mathematically in this bill would be taken into consideration in the formula of H. R. 1, the application of H. R. 1, since we are in agreement that it is not the purpose of reducing tariffs further. I just wondered if there would be any objection on the part of the Treasurer to spell that out?

Mr. ROSE. I have given a great deal of thought to that in connection with the preparation of this bill. I do not believe that is a practical thing. The reason why I don't think it is, is this:

The basis of valuation is inherently a changing thing depending on commercial practices at a particular time in the particular line of trade involved.

For example, under existing law, if the quantities of the usual wholesale offering change, either up or down, with a consequent change in price—in other words, if the trade developed so that the typical purchases were in larger quantities and therefore the unit price of the identical purchase is lower, our valuation formula at present automatically goes down.

It takes into account in that way other changes in the day-to-day method of doing business.

So in the example that I just gave you where we are presently valuing particular goods at the price to retailers abroad, instead of at the price to wholesalers, this bill would change the basis of value from the price to retailers to the price to wholesalers. However, the foreign company involved could have produced that result immediately under existing law by simply making its offering terms such that retailers could buy at the wholesalers' prices if they bought in wholesale quantities. Consequently I believe it would be a mistake to freeze into our tariff structure and trade agreement structure a particular valuation based on a momentary condition of distribution in a particular line of trade.

Fundamentally, I think that is the difficulty with trying to equate in any mathematically exact way the effect of this bill which, broadly speaking, is already taking place and will substantially take place under existing law, as the more sophisticated exporting countries

realize how to set up their methods of distribution and how to set up their taxation system in order to get an appraisal on the basis of export value under existing law.

Senator WILLIAMS. They could accomplish practically all of this under existing law? Then why have H. R. 6040?

Mr. ROSE. In effect because we think that to the extent that it is not being accomplished, we are basing our valuations on an unrealistic basis, first; and second, because of the fact that in effect we are penalizing lack of sophistication or experience, and we don't believe that as a theoretical matter our customs systems ought to be such that the person who has the best advice and is the most experienced can get a radically better result than a person who is only occasionally in the business and is not as experienced.

The CHAIRMAN. Let us go back to the drugs again. That is an average, 16 percent, is it not?

Mr. ROSE. Yes, sir.

The CHAIRMAN. What is the highest reduction in the valuation that might occur in any particular drug that you know of?

Mr. ROSE. I don't believe I have a table of those here, sir. I think that the highest single change that I saw, and I have not examined every one of these 19,900 entries in the simple, I think that the highest I saw was in the range of 50 percent.

The CHAIRMAN. Fifty percent?

Mr. ROSE. Yes, sir.

The CHAIRMAN. Then what effect would that have on a percentage-wise basis of reducing the import duty on that drug?

Mr. ROSE. The rate of duty, ad valorem duty in the drug category is what?

Mr. JOHNSON. Four and five percent.

Mr. ROSE. The rate of duty applicable in that category is 4 percent on some items and 5 percent on others, so that if the item were worth $1, the change of 50 percent in the valuation would reduce the duty from 5 cents to 2½ cents in the one case, and from 4 cents to 2 cents in the other case.

The CHAIRMAN. Cut it in half?

I am somewhat disturbed, Mr. Secretary, about the unique way in which this affects different items. Here is a drug item that you have got an average of 16 percent, yet there is one that has a 50-percent reduction in value. Isn't that going to work a hardship on certain, specific industries in this country?

In other words, it seems to me, while the figures we have here are on an average basis, it is hard to evaluate what the effect is going to be.

Mr. ROSE. There were two reasons why I don't share that alarm.

The more I think about the study that we made, the more convinced I am that the substantial effect of this bill is being increasingly achieved by the more experienced people that are exporting to this country. As you review individual items, you come back again and again to the 2 or 3 principal reasons why this bill has any effect on valuations, that the quantities are bigger for export to the United States; that we have been appraising on the basis of price to retailers, instead of a price to wholesalers, or that our foreign price takes account, that is foreign value, takes account of taxes, domestic excise

taxes, which are applicable in the market of origin, but remitted on exports. More and more by appropriate arrangements of their method of distribution, under existing law, foreign companies or governments by changing the incidence of their tax system in one case, or by changing their method of distribution in the other, can bring about the same results under existing law. That is point one.

Point 2 is to come back to my chart 5 where——

Senator BENNETT. It is on the board.

Mr. ROSE. It is obscured from the chairman, I think, unfortunately.

But looking at the small chart, the bottom half of the page, there is shown the $42.2 million column which is our sample survey. The gray part of that is $32.4 million which reflected the sixteen-thousand-odd entries out of 19,900 where the method of appraisal under the new system is the same as it would be under the old and where the value is the same, therefore, of $32.4 million.

At the bottom is reflected the value in the 3,600 cases where there was a change; and the value went from $9.8 million to $8.8 million. We went back in those cases to determine how realistic this new proposal was and ascertained the actual invoice price in those cases, what was actually paid for the goods. That totaled $8.7 million. I might say parenthetically that we think that is a reasonable representation of commercial value because invoice values are not the basis on which the duties are levied.

We use the going wholesale price rather than the price in the transactions as the basis of duty, so that there is little motive to distort the invoice value.

Now, as you see, we are substantially above invoice value in our present method as to those 3,600 cases. We are still above it, although only slightly above it, in our proposed new method. So we are not going below the actual commercial value of goods coming into this country. Those are the two reasons which led me to feel that we were getting more realistic and also not getting into the range of possible injury.

Senator BARKLEY. To what extent, may I ask in that connection, does the wholesale value in the country of origin for domestic consumption differ from the wholesale value for export, which is your new basis, I believe.

Mr. ROSE. Well, sir, I can answer that in two ways. Sixty percent, approximately, of the actual valuations in the sample were made on the basis of export value.

Now, since our present basis is the higher of export or foreign value, that means that export value is either equal to, or higher than domestic foreign market value, if one could be determined, in 60 percent of the cases.

Senator BARKLEY. You mean already.

Mr. ROSE. Already.

Senator BARKLEY. This proposes to make it 100 percent.

Mr. ROSE. The indicated effect is that about 90 percent of appraisals would be on export value if this bill were law. The remainder would be on what I call secondary methods of valuation, United States value, or if that cannot be found, constructed value or cost of production.

Senator BARKLEY. So that the effect would be to move up from about 60 percent to 90 percent.

Mr. ROSE. Yes, sir.

Senator BARKLEY. The imports that would be valued upon an export basis in the country of origin.

Mr. ROSE. Yes, sir.

Senator MILLIKIN. I am disturbed a little bit by the question prompted by Senator Byrd a while ago that these things may average out fairly reasonably but how do they work in individual cases?

Mr. ROSE. Of course, as Senator Byrd and Senator Bennett pointed out, the 77 commodity groups are themselves averages of the contents of those commodity groups. I indicated that I have not examined personally every one of the 19,900 entries in the sample. Of course, the items in particular commodity groups are both above and below the average indicated for that commodity group.

Senator MILLIKIN. That does not answer anything to me. That does not answer the query that Senator Byrd suggested, if I understand you correctly.

Mr. ROSE. Perhaps I haven't got the question correctly, sir.

Senator MILLIKIN. Senator Byrd said, referring to these percentages of decrease in appraised value under the proposal, those are average figures. He said, what happens in particular cases? And if there is a decrease in appraised value that might be as much as 50 percent.

Mr. ROSE. In a particular case that might be true, sir.

Senator MILLIKIN. Assuming the same rate of tariff, that is another way of saying it cuts the tariff in half.

Mr. ROSE. That is correct, sir.

Senator MILLIKIN. The same thing is bothering me. Will this do harm to a lot of people who are affected by it?

Mr. ROSE. I tried to answer that, sir, in referring to the fact that it gets back to the commercially realistic value at which goods are entering the country. Broadly speaking, it has not seemed to me that harm will come from using a commercially realistic value as the basis for our ad valorem tariffs.

Senator MILLIKIN. If it cuts the appraisal value in half, which is another way of saying cuts the tariff in half, can't you make some presumptions that there would be some harm?

Mr. ROSE. Well, sir, I am not perhaps well enough versed in all these commodities to have a view. But as I say, most of this effect, and the more I examine this the surer I am of this, the substantial part of the effect of this bill can be produced under existing law.

Senator MILLIKIN. That brings up the question suggested by Senator Williams: Why change the law? Why not let it go and do your calculating as at present and allow commercial practice to determine the result?

Mr. ROSE. Well, sir, that is a matter of judgment. My own conviction about it has been this, that our bases of valuation ought not to put a premium on skill, so to speak. They ought not to be subject to the same extent that our bases of valuation presently are to be chosen between or manipulated by exporters to this country, depending on what they think would be most advantageous.

Senator BARKLEY. Or what they can get away with.

Mr. ROSE. You might add that, sir, yes.

Senator WILLIAMS. Under existing law, is it not true that your basis of valuation is the higher of either domestic or export quotations, it is the higher of the 2, and if we pass this law it could be the lower of the 2.

Mr. ROSE. It would be export value alone.

Senator WILLIAMS. There could be a 2-price system, 1 for export and 1 for other, and that is not permitted under existing law, is that not true?

Mr. ROSE. That gets us into another field. I tried to point out in my statement that we think that the substantial protection against a two-price system is in the Dumping Act, rather than our present system of valuation.

Senator WILLIAMS. The existing law prevents that?

Mr. ROSE. We think the Dumping Act prevents it now and it would prevent it equally if this bill were law.

Senator WILLIAMS. Therefore, if we pass this law, they will be able to do things which they cannot do now under existing law.

Senator BENNETT. No.

Mr. ROSE. That is not my belief. I think that the thing that prevents a 2-price system at the present time is the dumping law rather than our system of valuation; and the dumping law would continue to be the same protection against the 2-price system hereafter as it is at present. That is my conviction.

Senator BENNETT. Right on that point, on this Anti-Dumping Act, when it comes to getting into the two-price system, what determines commodity value, the value of a commodity that is being dumped? If we sell wheat in the world market, is that dumping?

Mr. ROSE. Well, sir, I would rather talk about the specific terms of our antidumping law.

Senator CARLSON. If we compete in the world market, as the Secretary of Agriculture is trying to do, with funds we have given him, where does it become dumping and where does it not?

Mr. ROSE. Our anti-dumping law in effect provides this, that the Secretary of the Treasury makes a finding of dumping if he finds sales below fair value, and if the Tariff Commission finds that such sales below fair value either injure or are likely to injure the competitive domestic industry. Fair value is a term which is not defined in the law, although the basis for the dumping duties are defined in the law.

We have a regulation which we have just put out to define sales below fair value as in effect determined by the difference between the going wholesale price the goods are offered for here and the going domestic wholesale price in the country of origin. That is the construction that we have currently outstanding under our act.

Senator BARKLEY. That applies to things coming in, not to things going out.

Mr. ROSE. Yes, sir.

Senator CARLSON. We have been accused, or some countries are concerned about us getting into the fields of marketing surplus commodities and there is a danger of being accused of dumping into the other countries. That is the point I was getting to. I want to know where the line is.

Senator BARKLEY. That is up to them to look after that.

Senator BENNETT. Mr. Chairman, I would like to ask Mr. Rose a couple of questions. I am anxious to clarify the meaning of this figure of 2 percent.

As I understand it, your chart indicates that the average reduction, net reduction in duty collectible, money duty under the bill would be 2 percent. Is that 2 percent of the total duty revenue? Or is that 2 percent of the revenue from the particular materials that would be affected by the bill?

Mr. ROSE. It is 2 percent of all ad valorem duties. It does not include specific duties.

Senator BENNETT. And only 10 percent of the ad valorem duties, approximately; now, 25 percent of the ad valorem duties would be affected, if I can read the bottom of this chart correctly.

Mr. ROSE. That is about it. That is the one.

Senator BENNETT. The relation of 9.8 to 42, which is a little less than 25 percent.

Mr. ROSE. On a value basis, that is correct. On a transaction basis, it is the relation of 19,900 to 3,600.

Senator BENNETT. So, am I correct in assuming that since this is now only going to affect only approximately 25, but it is going to reduce the net cash collected 2 percent against the total including those not affected, its effect on the 25 percent would be nearer 8 percent than 2 percent?

Mr. ROSE. I think that you are back to chart 2, actually.

Senator BENNETT. All right.

Mr. ROSE. There we indicated the group above the first space are those which are affected more than 4 percent.

Senator BENNETT. Yes.

Mr. ROSE. The group between the first and second space are affected from 2½ to 4 percent, and the groups below the second space are affected less than 2½ percent.

Senator BENNETT. I am trying to relate this 2-percent figure and get it straight in my mind as to its overall effect on the duties collected on ad valorem material. Is my reasoning wrong?

Mr. ROSE. I think you are correct. It is 2 percent of the ad valorem duties collected.

Senator BENNETT. Your sample indicated that less than 25 percent of the ad valorem would be collectible, would be affected.

Mr. ROSE. To take exact figures it is $1 million on $9.8 million.

Senator BENNETT. That, then is about one-eighth, about 12½ percent.

Mr. ROSE. A little over 10 percent.

Senator BENNETT. A fraction over 10 percent of the actual duty revenue, then.

Mr. ROSE. On the items which are affected.

Senator BENNETT. On the items which are affected, but translates into 2 percent of the total ad valorem duties.

Mr. ROSE. I would want to have our statisticians check that to make sure, but that seems right to me; yes, sir.

Senator BENNETT. I am curious about another thing. We have been talking here today about the fact that one of the practical effects of this bill would be to have the practical wholesale price in the foreign countries become the basis of valuation rather than the practical retail

price. What is the situation in which a retailer in this country imports an object for retail sale? Would he then have the effect of the duty on the wholesale price even though he himself is not a wholesaler?

Mr. ROSE. It depends.

Senator BENNETT. There would not be two duties depending on the price level at which the item is sold?

Mr. ROSE. No, sir. The reason for the effect that I was mentioning, I think this is what you are driving at—under our present formula, in order to find a foreign value, goods have to be freely offered to all purchasers.

Senator BENNETT. If they are not offered to retailers at the wholesale price, you assume that they are not freely offered to all purchasers?

Mr. ROSE. That is correct. Therefore, I think, under current law, we have to use the price to retailers as the foreign value.

No, of course, the foreign distributor can change that by simply changing the terms of his offering.

Senator BENNETT. I understand that.

We have been talking about precentage effects. What would be the net total dollar loss on the approximately——

Mr. ROSE. Based on 1954, there is an indicated difference of about $5 million, I think, in the collection of duties.

Senator BENNETT. Is that in one of these charts?

Mr. ROSE. Chart 1 at the bottom of the right-hand side of the lower half.

Senator BENNETT. Approximately $5.1 million.

Mr. ROSE. Yes, sir. That is extrapolating our sample to total 1954 imports. I hesitate to characterize that as loss because that is——

Senator BENNETT. I think there are present inequities.

Mr. ROSE. This is to a very substantial extent within the control of foreign distributors or foreign countries at that point. Therefore, I hate to characterize it as loss occasioned by the bill on a permanent basis.

Senator BENNETT. How much money would the Treasury save if this were put into effect, this simplification?

Mr. ROSE. That is again an estimated figure. We think we could do approximately the same job of expedition under existing law with somewhere between three-quarters and a million dollars' worth of additional people. It would cost us that much more in terms of additional people to produce the same speed that a simplification——

Senator BENNETT. To put it the other way around, if this law were passed, you could do the same work that you now are doing under existing law with from three-quarters to a million dollars' worth fewer people?

Mr. ROSE. Yes.

Senator BENNETT. Save?

Mr. ROSE. That's right.

Senator BENNETT. It is an interesting contrast of a loss of revenue from five to six millions and a possible saving of a million dollars. But, of course, I recognize the possible value of correcting inequitable situations.

Mr. ROSE. Further more, as I perhaps have repeated too often, since this is so largely in control of methods both of taxation and

distribution abroad, I think that to regard this as revenue in hand is a somewhat mistaken concept in any event. Increasingly, I think, information as to how to export to us is depriving us of it under existing law.

Senator BENNETT. Have you got any kind of an idea as to how much of that reduction in revenue has occurred over the last year or 2 years. In the processes going on, how fast is it moving?

Mr. ROSE. It is difficult to evaluate but let me take an illustration which I have been advised of:

You take on chart 2, about halfway down in the first group of items which are principally affected, you will find synthetic fibers and manufactures which show an indicated reduction in value of about 7 percent. My information is that in the current year those imports are being appraised on export value so that that 7-percent reduction has already accrued.

In other words, if this survey were made in 1955, synthetic fibers would show little or no change in value. The reason for that being determinations which were made in connection with a consideration of a dumping case last year, as to the proper basis of valuation.

Senator BENNETT. Is that erosion going on in all these first category groups?

Mr. ROSE. I believe it is, sir. As the export market becomes more——

Senator BENNETT. In this one particular case you feel that by wishing themselves up they have, in effect, reduced or eliminated——

Mr. ROSE. Or further educating us in what they were doing previously, that they have gone from a foreign market value to an export value under existing law.

I would like to review that and submit a more definite statement for the record, if I might.

But I have been advised that that has happened currently.

Senator MARTIN. Mr. Chairman, I would like to ask some questions that we prepared in our office as a result of inquiries that I have been receiving.

These questions, Mr. Secretary, don't indicate my own position at all; it is simply to clarify certain things that have come to my office.

From the testimony that was given over in the House and some of the testimony that you have given this morning, there is an indication of a tariff reduction from 2½ to 15 percent; in some cases, even more than that.

I would like to ask the question: Will these reductions in dollar amount of tariffs be automatic? Would these take place immediately?

Mr. ROSE. In answering that, sir, I would like to make clear again that this does not affect rate but only the basis of reduction.

Senator MARTIN. It is a matter of valuation?

Mr. ROSE. It translates itself into duty.

Senator MARTIN. The end result is the same; it is a reduction in tariff.

Mr. ROSE. In these commodity groups, the second part of the question is: Is this effect automatic?

Senator MARTIN. That's right.

Mr. ROSE. I think the answer to that would be that as soon as the new method of valuation goes into effect, the indicated results would follow if the same method of distribution is in effect that was in effect

at the time when we made this study. I think broadly the answer to that question is "Yes."

Senator MARTIN. Would these reductions be in addition to those authorized in H. R. 1?

Mr. ROSE. Since this relates to valuation and since H. R. 1 relates to rate, the two effects could be concurrent. That was the reason for putting section (e) into the bill which I read, that any officer of the Government and the Tariff Commission shall give full consideration in his exercise of H. R. 1 authority to any reduction in protective effect resulting from this bill.

Senator MARTIN. Would there be any objection to making that section even stronger? Because I think if that section is administered as some of us contemplated in H. R. 1, it would eliminate a great deal of the criticism of this bill.

Mr. ROSE. We thought we were writing it pretty strong, sir. If we can make it stronger, I have no objection.

I think that we are in the area that I was dealing with when I was talking to Senator Williams. I do have difficulty when there is an attempt to produce a mathematical correlation, because under this bill, which is based upon distribution methods that are in effect from moment to moment, I don't think that you can translate the indicated effect of it at one moment into a permanent quantity.

Senator MARTIN. Mr. Secretary, I have had many letters in which they state that the President has stated that reductions in tariffs should be gradual and selective.

Now, would you interpret that this bill would reduce the reduction of tariffs on a broad basis, would be in violation of that statement of principle?

Mr. ROSE. No, sir; I do not. I think the overall effect of this bill is small, is taking place to a substantial extent in any event, and is simply an approach to a simpler and more realistic method of valuation.

Senator MARTIN. Mr. Chairman, I am very anxious that all of the laws be made as simple as they possibly can so they are easily understood, as easily understood as possible. But the matter of trading throughout the world, our country with other nations, has become one one of the very important things of our commerce.

Now then, getting to the matter of reciprocity. Since the tariff reductions involved in section 2 will be automatic, is it not true that no benefits will flow to American industry by way of elimination of trade restrictions of other countries? This is applying to reciprocal trade. I have always been very much an advocate of reciprocal trade, but reciprocal trade must be a two-way street. Our people must have advantages equal to those of other countries with whom we are trading.

Mr. ROSE. If I get the question correctly, sir, the form in which this is proposed is not a matter which lends itself to agreement with other countries for concessions from them in exchange for doing what we are doing here. We have approached this from the standpoint of simplifying and making realistic our own procedures.

As I said, the purpose was not a tariff reduction. Any such effect is only incidental. I do not see actually how we could make this bill the consideration for the obtaining of corresponding benefits from other countries to the extent that we don't have them now.

Senator MILLIKIN. How do foreign countries value our exports?

Mr. ROSE. You mean for their own duty purposes, sir?

Senator MILLIKIN. Yes.

Mr. ROSE. I can't recite on that in any comprehensive way, Senator. I have understood that export value or so-called CIF value, laid-down value, were very frequent methods of valuation.

Senator MILLIKIN. What do you mean, laid-down value?

Mr. ROSE. Export value including transportation cost to the port of delivery. Either export value or——

Senator MILLIKIN. This bill does not attempt to comply with the similar provisions of laws of countries that take our exports?

Mr. ROSE. No, sir. There is no conscious effort to follow any foreign pattern in this bill.

Senator MARTIN. H. R. 1 amended the provisions of the Reciprocal Trade Act to insure better relief for American industry under the escape clause, and by implication, under the peril point. Since relief under these provisions is available only in the case of reciprocal trade agreement, does not section 2 of this bill resulting in lower tariffs constitute a practical invasion of the escape-clause and peril-point provision of the Reciprocal Trade Act as amended by H. R. 1?

Mr. ROSE. I don't believe so, sir, because I think that in an escape-clause proceeding the question is "injury" or "likelihood of injury."

Senator MARTIN. We had a lot of controversy over that word.

Mr. ROSE. In substantial part—I am not expert in the present phraseology—because of imports. Now, if imports are contributed to by the valuation methods which are here proposed, I think it would be clear anyhow, but it is clear with section (e) in the bill, that any effect from this bill would be taken into account in the escape-clause proceeding.

Senator MARTIN. I appreciate fully that that is your intention. There is not any question about it because I know from your background that you want to encourage industry in our country and I am particularly interested in the small industry. We have 17,000 of them in my home State and a lot of them are in pretty serious trouble. I fear a part of it is due to importations.

These questions that I am asking now are, if possible, to clarify the position of your Department.

Mr. Chairman, I do not want to take too much time. I appreciate very much the Secretary's frankness in all of this. I think that I have all the information. I have several more questions here but in order to save time. I appreciate very much what you have stated.

The CHAIRMAN. Are there any further questions?

Senator CARLSON. I would like to have one more item discussed on this list. We discussed the drugs and industrial chemicals. I would like for you to discuss hides. What is going to happen—in case, if we pass it—as far as the reduction in the rates would be on hides imported? I think it would be well to have an example in the record.

Mr. ROSE. Our memorandum does not have an example from that category.

Senator CARLSON. I would be very happy for the Secretary to secure and put it in the record. I think that is an item that we can stir up a lot of controversy about.

The CHAIRMAN. We will appreciate it if you will put it in the record.

Senator MARTIN. Were you through?

Mr. ROSE. Yes, sir.

Senator MARTIN. I would appreciate it also if we could have a similar entry as to electric machinery. I have had a great deal of correspondence from the small concerns in our State who furnish parts and so on in the manufacturing of electric machinery because that is becoming now an enormous business. I would appreciate it if we could have a similar entry for that. It would help me—I will be frank about it—it would help me answer a lot of letters.

Mr. ROSE. All that I can give on those two subjects are on the charts. There is, in the case of hides and skins, an indicated valuation reduction of 3 percent which, when applied to the duty, produces a price reduction of something less than—I think—two-tenths of 1 percent. In the case of electrical machinery the indicated reduction is—I should think—something under 3 percent in the valuation basis, and the indicated reduction in the price somewhere around four-tenths of 1 percent.

These are all averages, of course.

Senator WILLIAMS. I notice also that grains are in this item, and I was wondering if you could not supply for the record the particular grains that would be affected by this; because I know that we already have quite a little surplus here in this country. I just wondered what tariff reductions would be planned and what grains would be affected.

Mr. ROSE. I will be glad to do that.

Senator WILLIAMS. You don't have that with you?

Mr. JOHNON. The important commercial grains are subject to specific duties. Wheat, oats, rye, are all specific duties; no ad valorem duties whatsoever.

Senator WILLIAMS. You have the items listed here?

Mr. JOHNSON. There are some grain products such as bran that are subject to ad valorem duties.

Senator WILLIAMS. A byproduct of wheat?

Mr. JOHNSON. Yes, sir.

Mr. ROSE. The indicated amount of imports in that category is something around $10 million—so that it would be a smallish group—but I will be very glad to get accurately what is in that commodity grouping and furnish it for the record.

The CHAIRMAN. Thank you very much, Mr. Secretary. You have been very frank.

Senator MARTIN. I, too, appreciate the Secretary's testimony, Mr. Chairman.

Mr. ROSE. I appreciate this opportunity very much, sir, and I thank you.

(The requested extension of the Secretary's remarks is as follows:)

TREASURY DEPARTMENT,
Washington, July 8, 1955.

Hon. HARRY F. BYRD,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: In the course of my testimony before your committee on July 6, 1955 with respect to H. R. 6040, the Customs Simplification Act of 1955, I agreed to supply certain additional information. That information, together with some amplification of a few points discussed with your committee, follows.

In explaining to the committee that, to a substantial extent, the changes in valuation which might result under this bill may be accomplished under existing

law by the foreign manufacturer or his government, I gave as an example the change in valuation of importations of synthetic fibers which has taken place since the time our sample survey was made in 1954. The sample survey indicated that there would be a possible reduction in the valuation of imports of some synthetic fibers ranging from 9 to 19 percent. This change would have occurred because in 1954 these fibers were being valued on the basis of foreign value and sales in the home market were made in small quantities ranging from 5,000 to 10,000 pounds. If export value had been used in 1954, it would have been based on sales to the United States in units of 100,000 pounds or more. These substantial quantity differentials would have resulted in a lower export value.

As a result of further information which has been brought to the attention of the appraisers, it has been determined that no foreign value exists at the present time with respect to any of this merchandise exported from Europe, with the possible exception of one shipper. The reason that a foreign value does not exist is that the manufacturers of these fibers sell only to certain classes of purchasers and impose a restriction that such purchasers cannot resell the fibers without further manufacture. Under present law, these restrictions preclude the finding of a price that is freely offered to all purchasers, and accordingly valuation is now being made on the basis of export value. At the present time, therefore, neither the basis of appraisement nor the unit price for this merchandise would be changed by the enactment of H. R. 6040.

In further response to the question as to whether there is any evidence that foreign exporters are taking advantage of the possibility of changing their commercial practices in order to obtain a lower valuation for United States customs purposes, comparison might be made between the two studies made by the Bureau of Customs for the calendar year 1952 and for the fiscal year 1954. I do not want to assert that the survey we made for 1952 is altogether comparable with the fiscal 1954 survey, because the latter was considerably more thorough. However, the first survey for 1952 indicated a possible 2.9 percent reduction in the valuation of merchandise subject to ad valorem duties, whereas the more recent survey indicates that the valuation reduction would then have been only 2.5 percent.

In discussing the reason for the average change of 16 percent in valuation in subgroup 26, drugs, herbs, etc., I gave ascorbic acid (vitamin C) as an example. In that case, the home market price was $26 a unit, whereas the price for sale to the United States was about $15 a unit. Consequently, at that time, with respect to this particular commodity a change from foreign value to export value would have resulted in a valuation decrease of approximately 40 percent. I would like to add to that information the fact, which I think is pertinent, that these quantity discounts are also customary in sales of these products by United States manufacturers. Price lists for the same time period indicate that United States producers allowed a 40 percent discount on sales in large quantities and that the price per unit charged by the domestic manufacturer for similar quantities in the United States was approximately the same as the price charged by the foreign exporter to the United States.

Out of 18 entries of hides and skins contained in the sample, only 5 importations would have been changed in value by application of the proposed law to 1954 imports. These are 5 entries of calf, wet-salted (less than 12 pounds), dutiable at 4 percent where value would have been reduced by 5 percent. These are all importations from the Netherlands and elimination of the Netherlands excise tax of 4 to 7 percent which is remitted on exports accounts for the difference in value.

The heading "Grains and Preparations" consists of wheat unfit for human consumption, dutiable at 5 percent, and biscuits, wafers, and macaroni (including vermicelli, etc.) dutiable at 10 percent. There were 52 entries valued at $105,516 and $103,602 respectively, a reduction of 1.8 percent. The wheat entries remained unchanged; a number of entries of wafers, puddings, macaroni, and vermicelli were reduced 2.4 percent as a result of an Italian excise tax remitted on exports: and 1 shipment of biscuits, which had been valued on a cost of production basis (a very approximate standard of valuation, especially with a product of this kind) showed an indicated reduction of 9 percent on an export value basis.

Electrical machinery and apparatus (valued at $1,269,098 under existing law and at $1,237,718 under the proposed formula, a reduction of 2.5 percent) covers a wide range of products. There were 356 entries in this subgroup in our sample. These entries can be broken down into 38 specific descriptions. In 24 of the

38 there was either no change or the change was less than 0.1 percent. In only 3 entries totaling less than $10,000 in value (flatirons, a cigarette-packaging machine, and a material-strength-testing machine) did the change exceed 20 percent (the range was 22 to 31 percent). The principal items which showed a change, and the reasons therefor, are:

Description	Number of entries	Rate of duty	Percentage value reduction	Reason
		Percent	*Percent*	
Parts of motors	5	12.5	16.2	Belgian products exported through Canada are now appraised on foreign value based on sales in Canada. Under new law would be appraised on basis of constructed value which would not include sales expenses and profit in Canada.
Therapeutic and diagnostic apparatus and parts.	8	17.5	5.1	Excise tax.
Radio apparatus and parts	28	12.5	6.6	Difference in price to wholesalers and to retailers for the same wholesale quantities.
Television apparatus and parts	3	12.5	4.4	Quantity discount.
Telephone apparatus	7	17.5	2.8	Unknown.
Flashlight cases and flashlights	22	35	7.1	Do.
Other articles and parts	126	13.75	1.5	Do.

Sincerely yours,

H. CHAPMAN ROSE,
Assistant Secretary of the Treasury.

The CHAIRMAN. The next witness is Mr. Harry S. Radcliffe, executive vice president of the National Council of American Importers, Inc. Will you proceed, sir?

STATEMENT OF HARRY S. RADCLIFFE, EXECUTIVE VICE PRESIDENT, NATIONAL COUNCIL OF AMERICAN IMPORTERS, INC.

Mr. RADCLIFFE. Mr. Chairman and members of the subcommittee, since its organization in 1921, the National Council of American Importers has been constantly concerned with the administrative provisions of our customs and related laws. We believe the record will demonstrate that over this long period of time our organization has always presented to this committee, and to the House Committee on Ways and Means, reasonable and constructive suggestions based upon careful, objective studies of the problems arising from the application of our administrative laws to the day-to-day business of importing foreign merchandise into the United States.

The members of our organization, who import a great variety of commodities ranging from crude materials to finished goods, regularly bring their importing problems to us for consideration. In this way the members of our customs committee and our board of directors, who are all men of long experience with the import trade, are placed in a position to formulate views on proposed legislation in this field on the basis of the facts of life rather than on any theoretical assumptions.

The National Council of American Importers strongly approves H. R. 6040, and hopes that this committee will decide to report favorably upon it and will take the necessary steps to bring about its passage at this session of the Congress. President Eisenhower recently said this is terribly important, and we heartily agree.

Section 2 of the bill, which proposes to revise the value section of the tariff act, is a most necessary step toward true customs simplification. The use of foreign value or export value—whichever is higher—as the primary basis of valuation, has been a constant source of difficulties for both importers and customs officials for a great many years. The requirement that foreign value must be ascertained in every ad valorem appraisement has caused delays, uncertainty, confusion, and frustration. Our organization was the first to suggest that foreign value be eliminated and that export value should be the preferred method of valuation when duty is assessed on an ad valorem basis. That suggestion was presented to the United States Tariff Commission in May 1945, when the Commission had in progress a thorough study of customs administrative laws which, unfortunately, was never completed.

As you know, provisions substantially the same as section 2 of H. R. 6040 were contained in all customs simplification bills introduced since May 1950, and we think it is very significant that the House of Representatives passed H. R. 5505 in the 82d Congress, H. R. 5877 and H. R. 6584 in the 83d Congress, after the Committee on Ways and Means had favorably reported such measures unanimously. The recent passage by the House of the bill now under consideration makes it the fourth time in the past 4 years that the elimination of foreign value and the modernization of the value section has been approved by that body.

The report of the Committee on Ways and Means on H. R. 6040—House Report No. 858, 84th Congress, 1st session—contains minority views subscribed to by only two members of that committee. The claim is made by these members that this is a tariff-reduction bill. This charge is evidently based upon the survey made by the Treasury Department showing that the elimination of foreign value and other proposed changes in the valuation provisions might result in a possible decrease in total dutiable value of 2.5 percent and a smaller decrease of 1.99 percent in customs revenue collections on ad valorem goods. Of course, as the survey indicates, the difference in dutiable value will be lower than those overall averages on some classes of commodities and considerably higher on others.

The important fact that has been overlooked is that where appraisement under the present law on the basis of foreign value results in a higher dutiable value, this is invariably due to internal conditions in the exporting country that have no bearing on the real value of the particular merchandise purchased by the importer. Usually, where the foreign value is higher than the export value, it is because of one or more of the following reasons:

First, the price for domestic consumption in the exporting country includes certain internal taxes which are not levied on exports. We have the same condition in our own exports which are not subject to domestic excise taxes.

Second, the quantities regularly exported to the United States are considerably larger than the usual quantities supplied to wholesale customers in the home market. It is a well-known business practice to grant a quantity differential and, in fact, section 202 (c) of our Antidumping Act authorizes an appropriate allowance for such differences in quantity.

Third, the foreign producer frequently sells at two different prices in wholesale quantities to jobbers and retailers in his home market. Under the present interpretation of the term "usual wholesale quantity," appraisement is made on the basis of the quantity in which the largest number of individual transactions occur, which is ordinarily the price level between the foreign producer and his domestic retailers.

Fourth, American importers often do business on a letter-of-credit or a sight-draft basis whereby the foreign producer receives spot cash for his merchandise at the time of shipment. The same foreign producer may find it necessary to sell his domestic customers on credit terms of 30, 60, 90 days or longer, and the attendant financing costs are naturally included in his domestic prices.

All of the foregoing considerations are the main commercial reasons why the foreign value may exceed the export value, but certainly none of these justify the application of our ad valorem duty rates on the resultant enhanced value. To correct this inequitable value situation, as proposed in H. R. 6040, is by no means a tariff-reduction move.

Where the present protective tariff rates are ad valorem, the domestic industry is entitled to the application of those rates to a true, realistic value. Our laws contain safeguards in the Antidumping Act of 1921, and in the countervailing duty provisions of the Tariff Act to assure that imports are on an actual-value basis and not on some lower price basis by reason of dumping or subsidization. In all fairness, there should be corresponding safeguards to assure that an artificially higher value basis will not be used to overtax importers. We are convinced that H. R. 6040 will permit equitable value procedures to both importers and domestic industries after its adoption. As the House report stated with reference to section 2:

It will bring our customs valuation standards more into conformity with the commercial realities of international trade.

We wish to point out that, if dutiable values are actually lowered because of the proposed revision of the value section, this lowering will only come about because the abnormal factors in foreign value, which I have listed, will be eliminated. In our view, these elements should never have been in the value picture in the first place.

The placing of our valuation standards upon a commercially realistic basis will only involve some very slight changes in current dutiable values. As pointed out in the House report on page 4:

* * * the maximum reduction in after-duty cost, which comes closest to measuring the change in tariff protection, would have been as much as 4 percent for only 1 commodity group and over 2 percent in only 3 others. The reduction in after-duty cost for all imports for which value is an element of duty would average about one-half of 1 percent * * *.

As a matter of fact, the sudden increase in world-market prices for commodities dutiable on an ad valorem basis which occurred after the outbreak of the Korean war in June 1950 caused dutiable values to rise sharply, and a moderate decline in current world-market prices of such commodities could easily have a much greater effect upon the level of protection to our domestic industries than any possible result of the proposed revision of the value section of our Tariff Act.

During the consideration of this bill in the House, a motion was made to recommit it to the committee with instructions to strike out section 2. We are glad that this motion did not prevail, because,

had his been done, we feel that the bill would have to be given some other title than the Customs Simplification Act of 1955.

The CHAIRMAN. Thank you, sir.

The next witness is to be John C. Lynn, legislative director of the American Farm Bureau Federation.

Mr. HARRIS. I am Herbert E. Harris and I am a member of the legislative staff of the Farm Bureau. I would like to appear for Mr. Lynn.

The CHAIRMAN. Go ahead, sir.

STATEMENT OF HERBERT E. HARRIS, MEMBER OF THE LEGISLATIVE STAFF, THE AMERICAN FARM BUREAU FEDERATION

Mr. HARRIS. We appreciate the opportunity to present the views of the American Farm Bureau Federation to this committee with regard to H. R. 6040, the Customs Simplification Act of 1955. The Farm Bureau represents 1,609,461 farm families who through their elected delegates have formulated and adopted policies which in their judgment will best achieve the national interest.

The views which we express here are based on these policies.

In 1955, as in previous years, the Farm Bureau recognizes the importance of international trade:

> For an economy to be dynamic and expanding, goods and capital must flow freely. This requires world trade and world investment, with governments encouraging private investment and stimulating trade as an outlet for the increasing productivity of the world's farms and factories. This approach requires systematic abandonment of policies directed toward restriction of the production and distribution of goods and services throughout the world.

To achieve this objective, we have vigorously supported the reciprocal trade program. However, proper administration of our customs laws is equally important with the systematic reduction of tariffs. On this point, Farm Bureau 1955 policy states:

> In order to increase and continue the opportunity for customer nations to earn dollars with which to pay for United States products, we recommend that the United States use its leadership to bring about realistic trade agreements and trade arrangements among free nations to reduce trade barriers progressively and to expand mutually advantageous private trade. For this purpose the United States should * * * enact legislation to further revise and simplify United States customs laws, regulations, and procedure.

We believe that the provisions in the bill which change the currency-conversion method present no danger and would assist in a more efficient administration of the law. The repeal of certain obsolete provisions of the customs law as provided for in section 4 of the bill would also seem to be appropriate.

For this reason we wish to confine our comments to section 2 of the bill which, among other things, provides for export value to be the preferred method of valuation and eliminates the use of foreign value. Foreign value presently must be used if it is the higher of the two.

The determination of foreign value on all products subject to an ad valorem duty has proved to be a cumbersome and often protracted undertaking. Frequently an investigation in the exporting country is necessary. This time-consuming job becomes especially difficult when domestic sellers in the foreign country have no incentive to reveal information concerning their sales. The uncertainty and delay puts the exporter at a disadvantage, sometimes requiring him to wait

months before knowing the amount of duty he must pay. Despite a sustained effort by the Bureau of Customs to reduce the large backlog of imports awaiting appraisement, as of March 31, 1955, over 39,000 invoices were being held by the collector awaiting foreign investigations. In addition, the result is often an unjust valuation since it is based on small-quantity sales rather than the larger quantities normally sold in export. By eliminating the injustice and confusion resulting from this provision, the Farm Bureau feels that additional import sales will be made possible and additional dollar credits will be available to purchase our export products. Certainly, it would be a means to expand mutually advantageous private trade.

It would also result in a considerable savings in the administrative expense of the Bureau of Customs and Department of State by eliminating the necessity for many extensive foreign investigations.

We would like to emphasize, at this point, that the valuation of an article for purpose of assessing a duty should correspond as closely as possible to the real commercial value of the product. The use of export value best reflects commercial value primarily because it determines price for quantities in which the product is normally sold in export. Therefore, any change in duties resulting from the elimination of the use of foreign value would be caused by the discarding of a fictitious value for an article. It is not clear to us why any domestic industry has a moral or legal right to have imported articles valued at a fictitious level.

These advantages have been recognized by the House and substantially the same provisions were contained in a bill, H. R. 6584, which the House passed in 1953. The bill was never reported out of committee in the Senate. Since this change in the method of valuation would in some cases effect a decrease in individual tariffs, it was felt that a review of these possible adjustments would be necessary. A survey has been made by the Bureau of Customs which we believe adequately demonstrates the effects that this change will have.

The Bureau of Customs survey reveals three facts which we would like to point out.

First, in 1954 only 13.4 percent of the total value of United States imports would have been affected by the proposed change in the method of valuation.

Second, the valuation of these imports would have been decreased by 2.5 percent.

Third, the actual duties collected would have been decreased by only nine-tenths of 1 percent.

Although these statistics indicate slight effect on overall duties, some may fear that there will be a severe reduction on certain individual products. We feel that Custom's survey does not substantiate such a fear.

We can find no evidence that any individual product or industry will be materially affected by this change.

Of course, under the usual conditions, an industry that feels that imports have increased so as to cause or threaten serious injury can obtain relief through the escape clause of the Tariff Act.

This change in the method of valuation does not permit foreign merchandise to be sold in the United States at less than its fair value when an industry in the United States is being, or is likely to be,

injured. The Antidumping Act of 1921, as amended, provides complete protection in such cases by imposing a special dumping duty.

Whenever the Secretary of the Treasury determines that an article is being sold or that it is even likely to be sold in the United States at less than fair value, he must inform the Tariff Commission. The Tariff Commission must investigate and report back in 90 days as to whether a United States industry is being injured or is likely to be injured.

The statute applies specifically to a case where there is suspicion that the purchase price or the exporter's sales price is less or likely to be less than the foreign market value.

In such cases a special dumping duty equal to the difference in value can be imposed on all the products imported within 120 days prior to the Secretary's raising of the question of dumping.

Our information indicates that since October of 1954, when this law was enacted in its present form, the Treasury has been able to effectively police imports so as to preclude injury from dumping. The 15 to 20 investigations now underway indicate adequate enforcement of this provision. H. R. 6040 will not affect of diminish this protection in any way.

Some adjustments may be necessary, but we feel the benefits obtained justify the effort.

A just and equitable administration of our tariff laws requires—

(1) valuations which are as close as possible to the real commercial value of the products being imported; and

(2) valuations which are uniform and not subject to unwarranted delays.

We feel that the enactment of H. R. 6040 will do much to accomplish these objectives.

In this manner we will have taken an important step forward in encouraging the expansion of international trade. The American farmer feels that this is one of the most important factors in securing the prosperity and security of the United States and the nations of the free world.

We earnestly urge the passage of this legislation. We feel that it is a step equally important with H. R. 1, the reciprocal trade program, which we have consistently supported.

Senator BENNETT. You have no amendments to suggest?

Mr. HARRIS. No, sir,we don't.

The CHAIRMAN. Thank you, sir.

Senator CARLSON. Have you made an analysis as to how this will affect agriculture in regard to the imports that will be affected?

Mr. HARRIS. Yes, Senator. As has been stated previously, most of the main agricultural products have specific duties. We are protected, of course, under section 22 of the Agricultural Adjustment Act and most of the basic farm products have had quotas applied to them now. The effect on agricultural imports by this bill, I think, will be incidental. The overall effect, we feel, will be very beneficial by helping to increase the level of international trade.

The CHAIRMAN. Thank you, sir.

The next witness is Mr. Allerton deCormis Tompkins of the United States council of the International Chamber of Commerce.

STATEMENT OF ALLERTON deCORMIS TOMPKINS REPRESENTING THE UNITED STATES COUNCIL OF THE INTERNATIONAL CHAMBER OF COMMERCE

Mr. TOMPKINS. My name is Allerton deCormis Tompkins, 44 Whitehall Street, New York, N. Y. I am a member of the committee on trade barriers of the United States council of the International Chamber of Commerce. I am an attorney and specialize in customs law.

I appear today on behalf of the United States council to urge the enactment of H. R. 6040, the Customs Simplification Act of 1955. We are satisfied that this law will be in the best economic and political interest of the United States.

The United States council is an association of American private business firms and associations representing a large segment of the American business community. It also represents the interests of American business in the International Chamber of Commerce. Through the International Chamber it is associated with similar groups in 34 countries.

The United States stands as a symbol to the rest of the world of an economy based on principles of freedom of enterprise. It exports more goods, and it imports more goods, than any other country. Whether we like it or not, the United States is now the giant in this field. It is the great trading nation. The action our country takes in removing trade restrictions will be a potent factor on whether the barriers to international trade will be increased or decreased by the other free nations of the world. Our exports can be seriously hindered if by our example we encourage other nations to perpetuate unreasonable trade barriers. It is important, therefore, that the United States divest itself of cumbersome and unbusinesslike import restrictions and procedures.

It is immaterial to the international trader whether the end result of a new dutiable value law will increase slightly, or decrease slightly, the amount of duties that must be paid. Traders seek only three reasonable basic principles in such a statute:

First, the law should be based on procedures which will tend to avoid unreasonable delays in the appraisement of goods.

Second, these procedures should be such as will permit importers to determine in advance with reasonable certainty the duties they will be required to pay.

Third, the values under these procedures should reflect the actual commercial value of the imported goods as shown in the invoice prices for the bulk of merchandise arriving in the United States.

H. R. 6040 seems to meet the above three basic requirements.

The elimination of "foreign value" as a basis for dutiable value, as proposed in the present law, will avoid the uncertainties and long delays that have been the rule while investigations are being made by importers and customs officials about detailed marketing factors in the country of exportation.

American businessmen and customs officials can be, and usually are, informed about the prices at which foreign goods are sold to importers in this country. It will thus be possible for importers to determine in advance with reasonable certainty what their dutiable values will be, particularly where trade conditions are normal. Moreover, the proposed definitions relating to export value and to United States

value should remove many of the intangible factors and unexpected unreasonable surprises with which importers are now faced, and these definitions should tend to reflect the actual commercial value of imported merchandise.

While our wholehearted support is given to the basic principles set forth in H. R. 6040, there are a number of technicalities that should be corrected in order to insure the smooth operation of this law. We, therefore, urge for your careful consideration the following technical corrections:

(1) The following underscored language should be inserted in lines 11–12 as well as in lines 15–16 on page 7, dealing with the definition of "such and similar merchandise."

* * * merchandise which is approximately equal in commercial value and is identical in physical characteristics with * * *

Two articles frequently have identical physical characteristics but have entirely different commercial values due to nonphysical qualities. For example, 2 fruit plants subject to duty at 12½ percent ad valorem under paragraph 755, with identical physical characteristics, may have an entirely different commercial value because one of them has a quality not present in the other, such as the resistance to a disease or to a destructive fungus. The disease-resisting plant under normal conditions would have a much greater commercial value than the other nonresisting plant. This factor is very important in the commercial world and it should be recognized by the customs laws. Since it is a known and recognizable factor it will not tend to place undue discretion upon appraising officers. On the contrary, it will permit them to avoid an absurdity, which they can now do under the proposed statute.

Since Congress is being urged to use the phraseology "approximately equal in commercial value" on line 24 of page 7, we feel that this same language can be used appropriately on lines 11 and 15 of page 7.

(2) The following change should be made on line 21 of page 3 dealing with the allowances or deductions to be made in determining a United States value.

* * * Federal taxes (currently) estimated to be payable on such or similar merchandise * * *.

The words "estimated to be" should be inserted in place of "currently."

The above-suggested language was originally contained in the similar proposals made in 1951 to amend the dutiable value laws.

The clause dealing with the above quotation has reference to a prototype shipment that has previously been imported into the United States. The United States sales price on this previously imported prototype merchandise is usually dependent upon cost factors, including duties and taxes that have been assessed upon that particular shipment. The sales price might well be different if there were a substantial increase or decrease in costs. The duties or taxes assessed on this prior prototype shipment frequently bear no relation to the duties and taxes that are current when the shipment undergoing appraisement arrives in the United States. For example, prior to the cancellation of the so-called Chinese trade agreement, Presidential Proclamation No. 2954 of November 26, 1951, the duty on linen embroideries

was 60 percent ad valorem. After this cancellation the duties were 90 percent ad valorem. Now, if we have a prototype shipment that was imported prior to this cancellation, it would be illogical to deduct a duty at 90 percent where the goods were sold in the United States based upon a duty-cost factor of only 60 percent. In such a situation an importer would receive an unwarrantedly low dutiable value. To the same effect, an importer would receive an unwarrantedly high dutiable value on shipments that arrived in the United States shortly after a duty had been reduced under the trade-agreement procedure.

The courts have heretofore held that the duties assessed on the prior prototype shipment should be deducted rather than duties and taxes that are currently payable. This is a sound and logical procedure and it should not be changed as the proposed law would do.

(3) It will be desirable to insert the following italicized language on lines 17 and 18 of page 3 in connection with the establishment of a United States value:

* * * from the place of shipment *in the country of exportation* to the place of delivery *in the United States*, not including * * *.

The foregoing language will avoid any possible misconstruction. As presently worded, the place of shipment can just as well mean the place in the United States where the American importer ships to the American buyer. This misconstruction is supported by the fact that the next preceding paragraph, lines 10 through 14 on page 3, refers to conditions as they exist in the American market.

(4) In connection with the definition of "such or similar merchandise" as set forth in point 4, line 5 page 7 through line 3 page 8, no consideration is given to the fact that two similar articles may have different values by reason of cost factors that can be readily determined. Thus, the cost of a dress with a fancy belt would normally be higher than the cost of the same dress without the belt, and the difference in cost would be reflected by the cost of the belt. Although the cost of this belt is a factor that can be readily determined, the proposed law does not permit customs officials to adjust values of similar articles to compensate for this readily determined cost factor. We therefore propose for your careful consideration a further subsection to be inserted between lines 3 and 4 on page 8.

(E) Due consideration shall be given to differences in prices of similar goods which are caused by cost factors that can be readily determined.

The United States Council is also in full accord with the statements made by other witnesses before this committee who desire to have this law amended so as to require the appraiser to reveal the basis of his appraisement in the event of a disagreement with value with an importer. Contrary to the assumption by some Members of the House of Representatives, there are now no means of obtaining this information.

In conclusion, we urge the adoption of H. R. 6040, and we request your careful consideration of the foregoing technical corrections which should facilitate the smooth operation of this law. We regard this act as a most significant and important step in simplifying customs procedures. It is in fact a real, vital, honest-to-goodness customs simplification act, as its name indicates.

Thank you.

The CHAIRMAN. Thank you, sir.

Are there any questions?

The next witness is J. C. Heraper, of the world trade department, Detroit Board of Commerce.

Will you proceed, sir?

STATEMENT OF J. C. HERAPER, CHAIRMAN, IMPORT AND CUSTOMS COMMITTEE OF THE DETROIT BOARD OF COMMERCE, AND IMPORT MANAGER, THE J. L. HUDSON CO.

Mr. HERAPER. My name is J. C. Heraper. I am the import manager of the J. L. Hudson Co., of Detroit, and I am also chairman of the import and customs committee of the Detroit Board of Commerce.

I wish to record the support of H. R. 6040 by both the Detroit Board of Commerce and the J. L. Hudson Co.

Congress is to be commended for the simplification already achieved under the Simplification Acts of 1953 and 1954. We feel that the value provisions of H. R. 6040 will materially contribute to the confidence of importers in their purchases of foreign merchandise.

The Detroit Board of Commerce and the J. L. Hudson Co. have an interest in the ease with which goods can be imported.

The Detroit Board of Commerce is a Michigan nonprofit corporation representing about 3,800 industrial and commercial enterprises in a metropolitan area of over 3 million people. The membership includes exporters, importers, customhouse brokers, and forwarders. Detroit is a major port of entry, particularly for the Canadian trade. There is a heavy movement of goods from Europe during the Great Lakes shipping season.

The J. L. Hudson Co. has two large department stores in the Detroit area. We employ an average of 13,000 people. In our stores we use a wide variety of imported products, practically all of it cleared through Detroit customs. We feel that the inclusion of imported items in our stocks helps to make our stores more distinctive in the community.

In this connection it is important to emphasize that over 95 percent of the goods sold in our stores are made in the United States. In the field of consumer goods, at least, there is little evidence that imports are flooding the market.

The import purchases of the J. L. Hudson Co. are cleared through customs by our own staff. We are therefore in a position to know at firsthand the problems arising from the provisions of the United States Tariff Act.

In my opinion, two remaining steps which would assist us most in our import operations are: First, putting into effect the use of export values as defined in H. R. 6040; and second, simplification of the tariff rate structure. This is not be interpreted as a plea for rate reductions.

The provision in H. R. 6040 eliminating the use of foreign values in appraising merchandise is a much needed simplification. Difficulties in establishing foreign values create an unnecessary amount of uncertainty—frequently extending over months—uncertainty of not knowing what the final appraised value will be. Many foreign suppliers are small and do not understand this requirement by United

States customs. We frequently have to write to our foreign offices and to the manufacturers abroad for supplementary information. It seems to us that the customs and the importers expend considerable time and effort which could be used more profitably.

At this time we have the following number of entries not liquidated: From 1953, 68; from 1954, 246.

A conspicuous example of uncertainty in value determination is currently in the customs courts. Cashmere sweaters from Scotland and England are a substantial factor in the import trade. Over a period of time, these had been appraised on current selling prices for the finished garments. The customs then decided 3 or 4 years ago to change over to a cost of production basis of valuation because the manufacturers selected the stores in this country through which distribution should be made. We not only incurred additional duty on sweaters already sold, but since that time the importers and the Government have been in litigation which has not yet ended. The witness preceding me, Mr. Tompkins, is the attorney handling that case in behalf of the importers and any further information required, I am sure he could give it to you.

We do feel that we could operate our stores without any imported merchandise at all, if that was the feeling of the Congress and of the community at large.

In our analysis of H. R. 6040, and from past experience, we believe practically all our shipments can be appraised more promptly under the pricing provisions of H. R. 6040 than under the existing law.

It has been intimated that those supporting H. R. 6040 are seeking lower duty rates through an indirect method. This change in appraising merchandise will result in only negligible duty cuts for us. The average rate of duty paid by us on all our imports in 1954 was 30 percent. We estimate that on our foreign purchases the prices paid by us would not average less than 5 percent under the foreign market prices for those items sold both for export and for the foreign market. This would mean at the most a 1.5-percent lower duty rate for the J. L. Hudson Co.

We are not looking for any back-door way of obtaining lower duty rates. Tariff protection, if necessary, should be based on duty rates and not on complicated customs procedures. What we as importers want is the right to know—with a reasonable amount of certainty—how much duty must be paid. We know what we have to pay the manufacturer. Packing and shipping costs can be fairly closely estimated. Duty should not be so indefinite.

Fear has been expressed that the new system of valuation will lead to foreign manufacturers quoting lower export prices on a much broader scale. In our opinion, this will not be true in the consumers' goods field. We feel that we would get just as many price concessions under either system of valuation.

If there should be a significant and undesirable increase in the volume of one or more import items as a result of this or other proposed legislation, there are already sufficient safeguards available; such as peril-point investigations, antidumping laws, countervailing duties.

We therefore urge this committee to report this bill favorably back to the Senate.

I would like to add in connection with the payment for import merchandise—I would say almost 100 percent of the merchandise we buy from abroad is paid for before we ever see the merchandise; as much as 2 or 3 or 4 weeks before it gets to Detroit. We therefore urge this committee to report this bill.

The CHAIRMAN. Thank you very much, Mr. Heraper.

Are there any questions?

If not, we will convene tomorrow morning at 10 o'clock.

(Whereupon, at 12:10 p. m., the meeting was recessed until tomorrow, Thursday, July 7, 1955, at 10 a. m.)

CUSTOMS SIMPLIFICATION

THURSDAY, JULY 7, 1955

United States Senate,
Committee on Finance,
Washington, D. C.

The committee met, pursuant to call, at 10:15 o'clock a. m., in room 312, Senate Office Building, Senator Harry Flood Byrd (chairman) presiding.

Present: Senators Byrd, Millikin, Martin, Williams, Flanders, Long, and Barkley.

Also present: Elizabeth B. Springer, chief clerk.

The Chairman. The committee will come to order.

We are considering the bill H. R. 6040.

The first witness is Mr. Richard B. Tucker, vice president of the Pittsburgh Plate Glass Co.

I would like to state to the committee that I am glad to present Mr. Tucker. He comes from a prominent Virginia family and, likewise, speaks for one of the best companies in this country. I think Senator Martin will agree with me.

Senator Martin. Yes; we are very proud to have him.

Mr. Tucker. Thank you, Mr. Chairman.

The Chairman. You may proceed, Mr. Tucker.

STATEMENT OF RICHARD B. TUCKER, VICE PRESIDENT, PITTSBURGH PLATE GLASS CO.

Mr. Tucker. I am Richard B. Tucker, vice president of the Pittsburgh Plate Glass Co., with headquarters in Pittsburgh, Pa. Our company manufactures and distributes plate and window glass, paints, brushes, plastics, and fiber glass. Our wholly owned subsidiary, Columbia-Southern Chemical Corp., produces soda ash, caustic soda, chlorine, ammonia, and a wide range of associated and derivative chemical products. I have been associated with the flat-glass business for over 40 years, 26 of them with the Pittsburgh Plate Glass Co. Since 1944 I have been largely responsible for the research, manufacturing, and distributing operations of the company's glass division. Including all divisions, our company has 30,000 employees, and is owned by nearly 17,000 shareholders.

The Pittsburgh Plate Glass Co. is opposed to the bill H. R. 6040. While the bill may achieve some administrative simplification, my study convinces me that if so, it will result in giving broad arbitrary powers to customs appraising officers, and the net immediate effect will be to reduce the amount of duties collected on a broad range of products.

While most of the flat-glass products of the Pittsburgh Plate Glass Co. are subject to specific duties and hence, would not be affected directly by this bill, some ad valorem duties apply to other flat-glass products and would be affected. Also, according to the customs survey prepared by the Treasury Department, the amount of duties collected on industrial chemicals would be reduced by 7.33 percent and on pigments, paints, and varnishes by 10.07 percent. These are average figures only, and necessarily represent some higher and some lower reductions. We have been unable to ascertain the reductions applicable to specific commodities of direct concern.

The President, in transmitting his report on foreign economic policy to the Congress, stated that any reductions in tariffs should be gradual, selective, and reciprocal and that "across-the-board revisions of tariff rates would poorly serve our Nation's interest." H. R. 6040, as demonstrated by the Treasury Department's own study, will result in automatic across-the-board downward revisions of tariff rates and such reductions will not be gradual, selective, or reciprocal. Such action would be in utter disregard of the safeguards originated by the Senate Finance Committee to protect domestic industry in connection with any reductions in tariff duty.

In adopting H. R. 1 to extend the Trade Agreements Act, your committee carefully limited the tariff-reducing power delegated to the President for the next 3 years to 15 percent on rates in effect January 1, 1955, with such reduction to be spread over a 3-year period with not more than one-third thereof to be effective in any single year. The committee also accompanied this limited tariff reduction power with broadened and liberalized escape-clause provisions.

In the Customs Simplification Act of 1954, in directing the Tariff Commission to simplify tariff classification schedules, the Congress directed that such simplification should be effected without change in duties, but that if the desired simplification could not be achieved without change of rate, then public notice should be given and opportunity afforded for all interested parties to be heard before any recommendation be made for a change in duty.

As contrasted with these careful limitations and protections to American industry, the bill H. R. 6040 would bring about automatic duty reductions, and such reductions would, in many cases, equal or exceed the full amount of rate reduction made possible by H. R. 1 in a single year. Such reductions would be made effective without any study of the facts or the effect upon any industry or opportunity for such industry to present pertinent data.

Peril point determinations heretofore made by the Tariff Commission would be nullified by this measure. In fixing such peril points pursuant to trade-agreement statute, the Tariff Commission has necessarily taken into account the duty realized from the existing value bases. The lowering of such duty bases with a resultant lowering of duty must necessarily result in bringing many duties now in effect below such peril-point determinations. Thus, without notice, without investigation and without opportunity to be heard, this additional powerful protection to the American industry would be nullified.

The provisions of subsection 2 (e) of H. R. 6040 are apparently intended to meet, at least in part, the criticisms that the bill would bring about automatic duty reduction. That provision provides that in any tariff adjustment action taken by the Tariff Commission or

the executive branch, full consideration shall be given to any reductions in tariff protection resulting or likely to result from changes in dutiable value proposed by the bill. This is a weak and ineffective offer to lock the door after the horse is stolen. It is of little help to any American industry to be told that, while existing duties will be cut by an indeterminate amount without opportunity for hearing or investigation, the extent of such cut will be considered in the event that industry is under consideration for possible further duty cuts.

At the very least, the bill should provide affirmatively, that existing duties shall be adjusted to the new bases of value so that no reductions will result.

In conclusion, it is suggested that it is highly doubtful that the bill, H. R. 6040, will in fact bring about any real customs simplification. One of the chief benefits of the bill, its proponents claim, will be a saving in administrative work resulting from elimination of foreign value as a duty base, but the Treasury Department has placed on record a letter signed by the Secretary stating that it is the intention of that Department to continue to require furnishing of information as to foreign values and to continue to have available to it foreign-value information for possible antidumping purposes.

It would seem to follow, therefore, that the elimination of foreign value as a duty base will impair administration of the dumping statute, or if the same information is to be required and be assembled, then that no saving or simplification will result.

It follows inevitably that the only real result of H. R. 6040 is to bring about an across-the-board tariff reduction which the President has condemned.

For all the foregoing reasons, it is respectfully suggested that section 2 of H. R. 6040 be rejected and eliminated.

I want to thank you very much, Mr. Chairman, and members of the committee, for this opportunity to present this argument against H. R. 6040.

The CHAIRMAN. I think you made a very clear statement, sir. Are there any questions of Mr. Tucker by the committee?

(None indicated.)

The CHAIRMAN. Thank you very much, Mr. Tucker.

STATEMENT OF O. R. STRACKBEIN, CHAIRMAN, NATIONWIDE COMMITTEE OF INDUSTRY, AGRICULTURE, AND LABOR

Mr. STRACKBEIN. Mr. Chairman and members of the committee, my name is O. R. Strackbein. I am chairman of the nationwide Committee of Industry, Agriculture, and Labor. I do not have a prepared statement but wish to make a few comments, particularly on the section relating to valuation contained in H. R. 6040.

You may recall that this section or something very similar to it was contained in previous customs simplification bills all the way from 1950 or 1951 to the present time, and in none of the three previous occasions has that section survived Finance Committee consideration.

We have felt that this section, which would eliminate foreign value as a basis for duty assessment would place the United States in a very peculiar position. This bill would establish the value of exports on the basis of the price of those goods in a foreign country packed ready

for shipment to the United States. This would have no reference to the price of goods packed ready for shipment to other countries. It would make possible a concentration on the American market for whatever purpose might be had in mind by the foreign country, and they would be within our law. A cartel could concentrate on the American market, mark down their prices 10 to 15 or 20 percent and ship to this country for purposes of their own, and they would be within this law. A country devoted to state trading could do the same thing.

Now it is said by the Treasury Department that if any country or any exporter to this country engaged in such practices, that they would be subject to the provisions of the Antidumping Act of 1921, that this act would not repeal the Antidumping Act, but it seems to me that it would put us in a very ambiguous position. We might have a foreign exporter complying with the Customs Simplification Act of 1955 with respect to valuation and, having complied with that, still find himself in conflict with another law.

To me this appears to be on all fours with a system under which we had two different speed limits in exactly the same area. We might have 1 speed limit at 50 miles and another one at 25. This would indicate a conflict of laws.

It appears to me that the passage of this bill, with section 2 in it, would put the United States in a position of having two laws conflicting with each other on exactly the same subject. A foreign exporter, having complied with the one law could still be penalized under the other law.

Certainly the reaction abroad would be one of confusion. They would undoubtedly accuse us of having multiple laws on the same subject and might very well ask, "Well, which law do you really mean—this law or that law?"

So if it would come to a showdown in the case of a conflict of these two laws, it might very well be held that the most recently passed law would prevail. If that were the case the Antidumping Act would fall by the wayside.

I am not sure whether a change in the wording would overcome this difficulty, but if the mention of the United States were stricken out of section 2 where it says "for exportation to the United States" it might help to overcome this difficulty. In that case export value would be the value at which the goods are sold to all countries and not merely to the United States.

However, the Treasury Department, in testifying on this, were opposed to such a system. They maintained that it would be too difficult to obtain information on the price for exportation to all countries in order to make sure that the price offered to the United States was not a dumping price.

We have another objection. This is that if this bill passes and export value is adopted, the Antidumping Act will be neglected.

Once again, the Treasury Department denies this. In the report made by the Ways and Means Committee on June 18, 1955, on this bill, they say that the Secretary of the Treasury has written to the committee, stating:

> The intention of the Bureau of Customs and the Department of the Treasury is to continue to obtain the information on customs invoices necessary for such enforcement—

"for such enforcement"—that refers to the Antidumping Act of 1921. And there is a letter printed in this report of the Ways and Means Committee signed by the Secretary of the Treasury in which he says:

> I wish to advise your committee that it is the firm intention of the Bureau of Customs and the Treasury Department to continue to require foreign value information as a part of the information contained in customs invoices.

Now if the foreign representatives of the United States are going to continue to obtain this information which will make possible the enforcement of the Antidumping Act, I would like to know where the customs simplification would come in. Where would there be any savings in man-hours involved? If they are going to simplify, it can only be done by not investigating and by not obtaining information as broadly as they are doing now, and that would have the effect of relaxing the enforcement of the Antidumping Act.

It is true, again, that the Ways and Means Committee amended the bill, and the House passed the amendment, to the effect that—

> Nothing in this act shall be considered to repeal, modify, or supersede, directly or indirectly, any provision of the Antidumping Act of 1921.

It says further that—

> The Secretary of the Treasury, after consulting with the United States Tariff Commission, shall review the operation and effectiveness of such Antidumping Act and report thereon to the Congress within 1 year after the effective date of this act. In that report the Secretary shall recommend to the Congress any amendments of such Antidumping Act which he considers desirable or necessary to provide for greater certainty, speed, and efficiency in the enforcement of such Antidumping Act.

I do not know why it takes a study of the Tariff Commission to tell the Treasury Department how to obtain compliance with the law. If such a report is made they might very well find out that unless the Treasury Department does continue to obtain information on what is called foreign value as distinguished from export value, the Antidumping Act cannot be enforced. How would they know whether duming was taking place? You have to be able to compare the export value with the foreign value. Otherwise you are operating in the dark.

Now, either they obtain information on foreign value so that it will be possible to ascertain whether the export value is lower, in which case there will be no simplification, or they will not obtain this information on foreign value, in which case they will be setting aside the proper enforcement of the Antidumping Act. I see no possible alternative except some point between, where they might save some work and to that extent relax the enforcement of the Antidumping Act.

It may be that the Treasury Department can explain that situation or that paradox, but I have not heard any explanation or seen any explanation that really overcomes the difficulty.

This bill would also bring about, as the committee itself well knows, certain unilateral reductions in our duty collections. The calculation of the Treasury Department shows that on the overall duty collections on all items having ad valorem basis the reduction would be about 2 percent. That being an average, naturally some of the reductions would be considerably greater and some would be smaller or in some cases there would be no reduction at all. But this would

be a gratuitous tariff reduction quite serious in some cases, on some particular products.

There is no provision, of course, that there is to be any concession from any other country in turn for such reductions. The bill does say on page 10 of the bill as it came out of the House:

> If any action relating to tariff adjustment be executive action including action taken pursuant to section 350 of the Tariff Act of 1930 as amended—

that is the Trade Agreements Act—

> If any action relating to tariff adjustment by executive action * * * the United States Tariff Commission and each of the executive branch of the Government concerned—

that means the Commerce Department, Treasury Department, Defense Department, Agriculture, Labor, et cetera—

> shall give full consideration to any reduction in the level of tariff protection which has resulted or is likely to result from the amendment of section 402 of the Tariff Act of 1930 made by this act.

That is not very strong; that is not very strong language. There is nothing mandatory about it; it is completely discretionary, and I daresay it would lie in the land of conjecture.

> They shall give full consideration to any reduction in a level of tariff protection which has resulted or is likely to result.

I am not sure that they would have any evidence or information of the actual reduction that might occur as a result of this act, and then they are only to give "full consideration" to it.

This bill differs, changing the subject slightly, somewhat from the previous bills in the matter of foreign-exchange rates—rates of conversion of foreign currencies. The previous bills had the tendency or appeared to endorse multiple-exchange rates or to give recognition, official recognition, to multiple-exchange rates. The present bill does not appear to do so and in any case in the report accompanying this bill as it came out of the House is this statement:

> It was suggested in testimony presented in the hearings that where more than one rate exists for a currency the Federal Reserve bank be required to certify each such rate. Your committee does not wish even by implication to approve the use of multiple-exchange rates.

Assuming then that the bill as it came out of the House would not in any way recognize multiple-exchange rates, we would have no objection to the remainder of the bill.

I think there would be some simplification in the actual mechanics of determining exchange rates and publishing them if this bill were enacted. For example, it says that if an exchange rate does not vary 5 percent or more, the previous exchange rate continues in effect and will not be altered just for minor variations. Today there is an alteration each time there is a change, whether it is 5 percent or more or less, and I think the 5-percent limitation on change would have the tendency of stabilization. This might very well be helpful.

In summary, our position is that if section 2 is eliminated from the bill we have no objection to the rest of the bill. We do not say that section 2 might not be modified so as to make it acceptable—it might be—we have no language for it. But the obvious change that we suggest is opposed by the Treasury Department. This is to say that, if export value is defined as the export value offered to all countries

or the prices received on sales to all countries and not just the United States, we feel that that would overcome a good part of our objection, but the Treasury Department seems to feel that that would not produce simplification.

That is all I have to say, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Strackbein.

Are there any questions?

Senator MILLIKIN. Mr. Chairman, I would like to ask this question: From a reciprocal standpoint, how do they value our export to foreign countries?

Mr. STRACKBEIN. You mean in considering the making of concessions in a trade agreement?

Senator MILLIKIN. Well, in whatever the mechanics may be. They have the same problem that we have; they have a problem of putting a value on the stuff that we export. What is their rule?

Mr. STRACKBEIN. Well the rules vary. Taking Canada as an example, they have a very strict Antidumping Act which is applied and applied very rapidly. Other countries have certainly objected even to our act of 1954 in which we undertake to dispose of certain agricultural products in the rest of the world. There have been some very strong protests on the basis that it represented a two-price system and that it represented dumping. As a matter of fact, in the conference in Geneva this was one of the stumbling blocks and at the time appeared to offer great difficulties toward arriving at an agreement.

Senator MILLIKIN. In determining the value of our exports, how do they determine it.

Mr. STRACKBEIN. The practice is not uniform. In the case of ad valorem goods they take the value of the goods as sold in the United States just as we do in their cases, but where there is an appearance of dumping they have to have a basis of comparison just the same as we do—in other words, if we use a two-price system, and we have used it, some of our manufacturers have used it, have sold at prices abroad lower than they sell in this country. Of course, if the commodity is not competitive with any domestic producer in those countries they are probably delighted to get the goods at a lower price and there would be no protest, just as in this country. If there is no competitive domestic producer and a country wants to dump their goods in here, then the consumer of course has no objection. He gets the goods at a lower price, and so long as nobody protests there is no point in bringing up a case of dumping.

In order to answer your question more specifically, I think it would be necessary to examine country by country more definitely. What I have given you has been a more general impression of particular pieces of knowledge that I have. But to answer the question completely I would think would require a survey of the practices followed by other countries more specifically.

The CHAIRMAN. Are there any further questions?

(None indicated.)

STATEMENT OF RICHARD H. ANTHONY, EXECUTIVE SECRETARY, THE AMERICAN TARIFF LEAGUE, INC.

Mr. ANTHONY. What we shall say about H. R. 4060 you will hear over and over again, during these hearings, from witnesses representing American producer groups. This repetition cannot be helped because there is just one major fault in the bill: it uses the avenue of customs simplification to effect tariff reduction. If section 2 on valuation were out of this bill you would not be hearing from any of these groups or from the league.

Senator FLANDERS. May I interrupt for a moment? I have looked through this bill as printed and I do not find anything but section 2. What is the rest of it? I do not see any section 3, 4, 5, 6, or 7. I see nothing but section 2.

Mr. ANTHONY. It certainly takes up the major part of the bill, Senator.

Senator FLANDERS. Can you point out in the bill where section 2 ends?

Mr. ANTHONY. If you have the same copy that I have, which is the print that was referred to the Committee on Finance, section 2 ends on page 10, line 24. Section 3 begins on the last line of that page.

Senator FLANDERS. I missed that section 3.

Then section 3, in general, beginning at line 25 on page 10 is not under the same criticism that section 2 is?

Mr. ANTHONY. That's right, Senator Flanders.

The tariffs that help American producers compete fairly with low labor costs imports have been the target of one attack after another this year. Many rates have been chopped away by the concessions granted in the trade agreements recently negotiated in Geneva. Others are subject to possible cutting under the terms of H. R. 1 recently enacted. Congress has before it a bill to permit the United States to participate in the Organization for Trade Cooperation and thereby tie us to a strengthened General Agreement on Tariffs and Trade which latter instrumentality Congress has never been, and is not now being asked to approve. Yet GATT and, particularly, OTC would force us into a never-ending series of tariff-cutting negotiations.

Although these proposals total up to a major assault on our tariffs, they are, at least, forthright, selective and tied to safeguards for the American producer and worker.

Under section 2 of H. R. 6040 an unknown number of ad valorem and compound duties would be reduced in effectiveness to an unknown degree, without prior safeguards, such as peril points, without notice to the American producers of the items affected or an opportunity for them to be heard on the proposed reductions, and without the remedial safeguards, such as our escape-clause procedures provide.

Cuts under section 2 of H. R. 6040 could be more drastic than those permitted under H. R. 1. The latter has a 15 percent limit, at 5 percent a year, and with a termination of authority at the end of 3 years. Under section 2 of H. R. 6040 cuts would not be subject to any limitation in extent or time.

The Treasury Department's customs survey of the effect of the proposed changes in section 2 is in itself an admission that duty cuts will result, because the reductions in valuation shown in the survey

are equivalent to reductions in ad valorem tariff rates. One subcategory in the survey shows an average reduction in revenue of 15.39 percent, which is higher by 0.39 percent than the maximum cut of 15 percent permitted in H. R. 1.

Of course, a subcategory reduction of 15.39 percent presupposes reductions higher than that average figure for some individual items in the group. Hence, in that particular group, and in many others in the survey, there could be reductions of 25 percent or more. That statement, I believe, is too modest. It was written prior to the appearance here of the Assistant Secretary of the Treasury who is reported to have said that there may be cuts as high as 50 percent on some individual items.

Moreover, the Treasury Department survey does not tell the whole story about the possible effect of section 2 in reducing rates. Under the redefinitions of valuation terms new standards of appraisal would grow up gradually, according to new administrative and judicial rulings and interpretations. The extent of tariff reductions possible under section 2 therefore cannot be ascertained by a current sampling of importations. That determination will not be known until it is discovered how foreign shippers and domestic importers take advantage of the new law and the implementing regulations and judicial interpretations, and what kinds of appraisals are going to result.

Under the circumstances American producers and workers can only assume that the worst will happen to them under H. R. 6040; that duties on individual items might be cut 25 percent or more.

We believe Congress is always desirous of setting valuation standards for customs purposes that are reasonable and convenient to apply from information available in the United States. No present form of valuation is sacred forever and there is always room for improving and simplifying the procedures.

But Congress is also insistent, as evident in H. R. 1, that duty-cutting must be selective and surrounded by safeguards for the domestic producer and worker. Wholesale tariff cutting without safeguards, as proposed in section 2 of H. R. 6040, seems to us to run counter to the usual intent of Congress.

Certainly there could be valuation procedures devised that would be simpler than today's, and that would not result in tariff reductions. Until such desirable procedures are formulated it seems to the league that it would be advisable for Congress to drop section 2 from the bill and let the appraisal of duties continue as at present.

The fears of witnesses, expressed before the House hearings on H. R. 6040, that the antidumping laws would be weakened by the provisions of section 2, have not been dispelled by the addition of section 5 to the bill, nor by the assurances of the Treasury that information on foreign value would continue to be furnished to appraisers. The trend of customs legislation has been to ease the burdens of the foreign shipper, the domestic importer, and the United States customs officials. We are fearful that some of this consideration may spill over into the administration of the Antidumping Act and water down the enthusiasm for its enforcement. The administrators of the valuation procedures of the Tariff Act and the Antidumping Act are the same people.

We believe Congress ought to realize fully that it is being asked to enact H. R. 6040, not in answer to any clear domestic clamor for its

passage, but as another step toward bringing United States laws and practices into line with the principles of GATT.

GATT has just published a Comparative Study of Methods of Valuation for Customs Purposes, which appears on pages 103–125 of the third supplement to its Basic Instruments and Selected Documents. The member countries at GATT, including the United States, answered a questionnaire as to their methods of valuation. The results are tabulated and commented upon.

I think this study answers the question Senator Millikin asked of the previous witness. I think the committee might very well want to include in the record of the hearings this study which has appeared. It shows in tabular form the five main bases of valuation and shows that by far the larger number of countries use a landed price as the basis of their appraisal for customs purposes.

The United States does not do so. The United States is in the minority of countries and uses internal price in the country of export which is roughly what we call foreign value.

Also using that is Australia, Brazil, Canada, Cuba, Japan, New Zealand, Rhodesia, Nyasaland, and the Union of South Africa.

Senator FLANDERS. May I ask a question at this point?

Now, from personal experience of most Americans with import duties that experience is limited to the purchase of goods abroad to bring back with them under the limitations for personal import. It is simple to get the bills of prices actually paid abroad. It is also customary to have a statement from the merchant as to what the wholesale price of those goods is, but how do you get a landed price? I do not know whether there are the same difficulties, probably not; in large importations for the individual a landed price would be a very difficult thing to get.

Now, do those same difficulties apply in any way to commercial imports?

Mr. ANTHONY. On goods brought back by the individual it would be difficult to determine what would be a landed price. It would be a fictitious price. As a matter of fact, although you have a $500 maximum, that $500 may not be what you actually paid for the goods, but it would be what the appraiser thought was the foreign value of it. The American equivalent would be much higher.

On a commercial transaction, the landed price would be the price abroad plus the transportation, the commission, insurance, and whatever other charges might be on it. But, as I indicated in the study, the United States does not use that price as such. We have one kind of valuation called United States valuation where, in effect, the landed price is taken, but then there is deducted from that certain items and charges to try to bring it back to what it was before it left the country of export.

Senator MILLIKIN. It is not clear to me. I am sorry to interrupt, Senator Flanders. I do not see that picture. I do not get a clear picture of your answer.

Mr. ANTHONY. On United States value?

Senator MILLIKIN. Yes.

Mr. ANTHONY. As I understand United States value, and incidentally there will be witnesses who are customs attorneys coming later that can give you a better answer, I assure you, than I can; but as I understand United States value, it takes the value of the

goods as they arrive in this country with all of those charges in them. Then it proceeds to deduct certain items, such as commission or the duty and others, so as to create a price which is more like the foreign value or the export value in the country of origin or the country of export.

Senator FLANDERS. The majority of countries in this GATT questionnaire, however, take a landed value which does include all these things.

Mr. ANTHONY. Which does include all those. There are some that do not. There is a difference. They have a CIF value, usually, which includes the cost, insurance, and the freight. That is the general use in these countries that use landed price.

Senator FLANDERS. I used to know what CIF means. I have forgotten. Will you tell me?

Mr. ANTHONY. I believe that is cost, insurance, and freight added to the value of the article.

Senator FLANDERS. Just finally, is it your suggestion that we should follow the rules of the majority of these people who replied to the GATT questionnaire or would you be satisfied to leave it as it is?

Mr. ANTHONY. We are satisfied to leave it as it is because it has been in existence for many, many years and has had all these judicial interpretations and rulings, so we know we are—we know where we are, particularly when you consider that there are three variables involved:

You have valuation.

You have your conversion of currency.

You have your ad valorem duties.

It is supposed that the underlying bases on which those duties are applied should be standard and continuing, as far as it can be. The minute that you change one of the underlying bases, then you change the effective level of the tariff. So it would seem if you are going to make any changes, there ought to be a compensatory change in the rate itself.

Now, I think that it might be well worthwhile to make a study along these lines to see whether there is not a better way of valuing our imports for customs purposes, but I think it also should include a consideration of what you are going to do with the effective level of the rates that are going to be changed.

Senator FLANDERS. To clear my mind on the question asked of your predecessor, from what you have been saying that the present practice of valuation which, on the whole, you would like to see left as is until something better can be found, still results in lower price for valuation than do most of the fellow members of GATT.

Mr. ANTHONY. Not necessarily, Senator. It would——

Senator FLANDERS. That is the landed price—if that is the way a great many of them value their goods, would seem to be higher than our present practice.

Mr. ANTHONY. I would think in most instances it would. Undoubtedly, however, their rates are attuned to that particular valuation, just the same as in the tax on real estate your tax is set according to the valuation procedures you may have in your municipality.

Senator FLANDERS. I can see that you cannot give any quick or easy answer to the question of whether we are being unfairly treated in this matter.

On looking at valuation alone, it would seem as though our associates in GATT were charging imports from us on a higher basis of valuation than we charge imports from them but as you say you have to look at the rates and such.

Mr. ANTHONY. I think you do, Senator.

The CHAIRMAN. Did you suggest that be inserted in the record? Is that a report from GATT?

Mr. ANTHONY. That is a report from GATT and there is considerable tabular material at the end. Whether you can accommodate it or not, I do not know. It runs about 25 pages.

The CHAIRMAN. When you get through, if you will leave a copy we will try to condense it and put it in the record.

Mr. ANTHONY. Very well, Mr. Chairman.

The CHAIRMAN. Mr. Benson, will you undertake to condense this and put it in the record?

Mr. BENSON. Yes, sir.

(The information referred to follows:)

COMPARATIVE STUDY OF METHODS OF VALUATION FOR CUSTOMS PURPOSES

Adopted on 2 March 1955 (G/88)

GENERAL

1. The Technical Working Party, appointed at the Ninth Session of the CONTRACTING PARTIES has made in accordance with its terms of reference, a technical and factual study of the replies submitted by governments to the questionnaire on valuation.[1] The *Dominican Republic, Uruguay* and *Peru* have not furnished replies.

2. The particulars furnished by the various contracting parties regarding their methods of valuation have been summarized in the attached schedule, but insofar as the study has revealed any points of unusual character and of particular importance, they are referred to specifically in the later sections of this report. First, however, it may be useful to describe in general terms the main systems by which values are established for the purpose of charging customs duties.

3. *Valuation criteria.* It emerges from the replies that three main criteria are used:

(1) the price at which goods comparable with the exported goods are sold in the internal markets of the exporting country ("current domestic value");

(2) the price at which the imported goods are sold from the exporting country to the importing country ("transaction value");

(3) the price at which goods comparable with the imported goods are sold in the markets of the importing country ("import market value").

While national legislation introduces various refinements of detail into the definitions of value which are actually applied, these definitions are broadly based on one or other of the above criteria.

4. *Current domestic value.* Countries adopting this criterion base their value for duty purposes on the price at which goods comparable with those imported are sold under fully competitive conditions on the domestic markets of the country from which the goods were exported. All countries except one require this price to be declared by the exporter; arrangements are normally made for any necessary verification of the price by officials of the importing country stationed in the exporting country. No account is taken, for customs purposes, of export sales at prices less than the current domestic value. Where, however, the price at which the goods are sold to the importer is higher than the current domestic value, most countries using this system usually require that the actual sale price must be taken as the basis of value for duty purposes. Countries using this system normally establish their values at an f. o. b. level, but some countries do so at a stage earlier, i. e., an internal market price without inclusion of charges up to the f. o. b. point.

[1] L/228 and Addenda 1–10.

5. *Transaction value.* A second large group of countries base their value for duty purposes on the price at which the goods are sold to the country of importation, under fully competitive conditions. This can be looked at either from the standpoint of the exporting country as the export price at which the goods would be sold for exportation, or, alternatively, from the standpoint of the importing country as the import price at which the goods would be purchased. Except where the definition is subject to further qualifying conditions, the difference is often little more than a question of whether the sale price is to be taken at an f. o. b. or c. i. f. level.

6. An important group of countries in this category are the nine contracting parties which have adopted the Brussels definition of value, which, briefly stated, establishes a national standard of value, being the price which the goods would fetch on sale in the open market in the country of importation at the time and place of importation, and then sets out a number of considerations by which to judge whether the actual sales price of the imported goods does or does not correspond with the national standard of value.

7. The countries which adopt the transaction value as the basis for establishing the value for duty purposes do, in practice, find that the invoice price at which the goods are sold to the importer is usually acceptable as providing the value on which duty is to be paid. They are, however, under the necessity of establishing methods of valuation to be used when the price at which the goods pass from the foreign exporter to the importer is not acceptable as the basis on which to charge duty. In some cases this is done by inflating the invoice price, in other cases by basing the value on the price at which the goods are sold after importation, with various deductions.

8. *Import market value.* The study reveals a few countries have legislation requiring duty to be based on the price (generally on the wholesale level) at which goods comparable with the goods in question are currently sold in the internal markets of the importing country. In such cases deductions are made for duty, and for charges arising after importation. This basis is only applied to a very small proportion of importations, and it is clear that import market value is less significant as a valuation criterion than the two criteria previously mentioned.

9. *Differences in practice.* It emerges from the detailed replies which have been furnished that, apart from the nine countries which are operating a common definition of value under the Brussels Convention, there are numerous differences in practice even between countries which are using the same criterion for establishing value for customs purposes. Thus, countries which have regard to the current domestic value in the country of exportation do not all take the same time for establishing that value, some having regard to the time of the export sale, others to the time the goods are shipped from the port of exportation. Again, some countries establish the value at an f.o.b. level, others at a point prior to the f.o.b. level and others at a subsequent point, equivalent to c.i.f. Most of these countries require duty to be based on the actual export price if it is higher than the current domestic value, but this is not invariably the case (see *New Zealand*, page 112). In the countries which take as their criterion the transaction value there is considerable variation as to the time and place laid down for the purposes in the definition of value. In some countries it is the time and place of the export sale, in others the time and place of exportation, and in others the time and place of importation. The level of the price to be considered varies from ex-works to c.i.f.

10. *Currency conversion.* The method of converting prices which are not expressed in the currency of importation varies in detail from country to country, but in general it can be said that an official rate of exchange is adopted.

11. *Residual assessments.* All countries have procedures for establishing an acceptable value for duty purposes in cases where the commercial transaction is such that no satisfactory evidence of value can be produced by the importers. The method used varies according to the basis of valuation adopted and may involve either a suitable adjustment of the invoice price, calculation of import values by reference to the selling prices of the imported goods in the country of importation or valuation by reference to comparable goods. Establishment of values on the basis of cost of production in the country of origin is only rarely resorted to.

POINTS ARISING OUT OF CONTRACTING PARTIES' REPLIES TO THE QUESTIONNAIRE

I. *Do you have any administrative or legal provisions which permit valuation for customs purposes to be based on arbitrary or fictitious values, in the*

sense that such values are not related to the value of the imported merchandise in question or of like imported merchandise? If so, give particulars of any such provisions, of the class or nature of the importation to which they are applied, and of the method by which the values used are determined.

Some countries have provisions giving very wide powers of decision in residual cases to a Minister (*Australia, Canada*), or a high official (*Rhodesia and Nyasaland*). The delegations concerned said that in the rare cases where such provisions are called into play, the Minister or the high official would endeavour to establish a fair and reasonable value. The Canadian provision does not apply to GATT countries.

In the *United States* there are some arbitrary elements in the statutory limitations on certain deductions and additions which have to be made in computing United States value and cost of production when it is necessary to use either of these methods for establishing the value for duty purposes. The United States delegate stated that the application of the "United States value" and the "cost of production" (Section 402) is probably not unprecedented in the practice of other countries which inevitably have to use similar criteria if the value cannot be determined in a normal way. The difference as compared with other countries seemed to him to lie in the fact that other countries can use administrative measures more flexibly whereas under the American system, the administration has no right to act without precise legal provisions. However, consideration has been given to changing these provisions of law to remove the arbitrary elements.

2. *Do you have any administrative or legal provisions which permit valuation for customs purposes to be based on the values of comparable domestic products? If so, give particulars of any such provisions, of the class or nature of the importations to which they are applied, and of the method by which the values used are determined.*

The *United States* have a provision requiring the value of six classes of products to be established on the basis of the price at which comparable goods of United States origin are sold in the United States.

In theory, the *Burmese* definition of value would permit the market price of domestic goods to be taken into consideration in fixing values, but it was stated that in practice this did not happen.

In *Cuba* and *Japan* provision exists for duty to be based on the value of products of domestic origin where no other means of establishing the value can be found, but this provision is rarely resorted to in practice.

3. *Is valuation, apart from the cases mentioned in 1 and 2, based on a definition of value which seeks to establish as a standard the actual value of the imported merchandise on which duty is to be assessed or of like imported merchandise? If so, indicate what provision is made for establishing this standard and furnish a copy of the legal provision containing the definition.*

All the countries included in the schedule have definitions of value which seek to stablish as a standard the actual value of the imported merchandise or like merchandise. The application of these definitions is brought out in the replies to Questions 4, 5, 6, 7 and 8.

The replies for *Austria* and *Sweden* relate to the current legislation, but it is stated that these countries expect to put into force at a very early date the Brussels Definition of Value.

As regards *Brazil*, it was stated that the Brazilian tariff contains only 16 items for which the rate of duty is ad valorem (out of 3,800 tariff items). However, Brazil is considering the adoption of an ad valorem tariff and also of the Brussels Definition of Value.

In *Japan*, the normal basis for establishment of the value for duty purposes is the invoice price plus charges up to the c. i. f. point, but where such evidence is not available, the value is established at a c. i. f. level by reference to the value of like goods recently imported, or if necessary by reference to the value of like goods sold in the internal markets of the exporting country.

Attention was drawn to two exceptional features in the application of the *Canadian* valuation system. One relates to goods of the kind which are liable to fall sharply in price at the end of the season or marketing period. Where, as a result of the advance of the season or marketing period, the market price of such goods has declined to a level that does not reflect their normal price, the value for duty may be taken to be the average price, weighted as to quantity, at which the like or similar goods were sold for home consumption in the country of export during a reasonable period, not exceeding six months, immediately preceding the date of shipment of the goods to Canada. For the pur-

poses of the operation of this provision, exporters of such goods are required to declare, additionally, the highest price at which such goods were sold under comparable conditions during the preceding six months. The information so furnished is not used as the basis for appraisal, but as a means of indicating cases which may require investigation. The second relates to end of the day sales of cut flowers. Canadian customs collectors are in a position to fix minimum prices based on average market prices in the preceding season and duty is charged on the basis of these fixed prices in any case where it exceeds the actual selling price. Importers may, however, request that the duty be adjusted by reference to actual values and investigation is then made to determine the fair market value on the day and in the place of exportation. Where the value so determined is lower than the fixed price an adjustment is made.

Some countries have in force systems of fixed import values to which ad valorem rates of duty are applied. In *France* such values are applied to mineral oils. They are fixed by the fuel section of the Ministry of Commerce on the basis of prices ruling during the previous three-month period. It is stated that this system facilitates the assessment of internal taxes which are required to be collected at the same time as the customs duties.

India and Pakistan also have a system of fixed values for a number of products for which it is considered simpler both for traders and customs authorities not to assess the duty on the actual value. In the case of each product concerned the value fixed is based on the average values of importations during the preceding year, and the price is only fixed after consultation with the principal Chambers of Commerce. When fixed, the values normally remain in force for one year.

In this connection attention was drawn to the following extract from the notes in the Analytical Index of the General Agreement regarding the discussion of fixed values at Havana,[1] and in reference to Article VII of GATT:

"It was noted in the summary record that the system of tariff valuation in force in India for 'nonordinary products' was in order insofar as the actual value could not be readily ascertained under paragraph 3 (*b*) [GATT 2 (*b*)], and that paragraph 3 (*c*) [GATT 2 (*c*)] met the problem of India in respect to those particular products for which they found it necessary periodically to fix a value."

This question was also discussed in the Working Party on Valuation at the Eighth Session of the CONTRACTING PARTIES in October 1953. The discussion in that Working Party showed that there was general agreement that the system of fixed values as operated by India and Pakistan was not inconsistent with the principles of paragraph 2 (*c*) of Article VII.

In *Chile* an ad valorem duty is applied to only one tariff item, No. 954 (chemical products not specified elsewhere), and the rate is applied to fixed values, different values being fixed for different goods. These values are reviewed annually, and enter into force one month after they have been officially published. If important changes take place the values can be changed at any time. In this connexion attention was drawn to the Interpretative Note 2 to Article 35 of the Havana Charter.

3. (*a*) *Do you base your valuation for duty on the value of* (*a*) *the merchandise actually imported, or* (*b*) *like merchandise? If* (*b*) *do you use the price at which the merchandise is generally sold or offered for sale to the equivalent class of trade, e. g. jobbers, wholesalers, retailers, etc?* (Additional question circulated on 24 November 1954.)

In general, the countries using landed value as a method of valuation determine it by reference to the merchandise actually imported whereas the countries using current domestic vaue or import market value have regard to the value of like merchandise. In the latter case regard is usually had to the class of trade involved.

The discussions indicated that the principal aspects in the valuation system of the *United States* which have been objected to by exporters in other countries are the application of the provisions in Section 402 of the Tariff Act for the determination of "foreign value" on the basis of merchandise "freely offered for sale" and in "the usual wholesale quantities". Under judicial interpretations of these terms, if the goods are freely offered to all purchasers, but at different prices depending on the class of purchaser, then the highest price would have to be taken since that would be the only price at which anyone could buy. Also, the "usual wholesale quantity" is determined by the quantity most frequently sold. It will be seen that in these circumstances, the dutiable value could be based on

[1] Analytical Index, p. 23.

sales to retailers rather than sales to wholesalers, since the price to the retailers may be the price at which the goods are available to *all* purchasers, and the quantity most frequently sold is sold to retailers. The United States delegate drew attention to the fact that valuation methods in his country have been under continuing study in recent years with a view to improving them wherever possible, and consideration of the foregoing features has been an important part of that study.

4. *What is the time which is accepted in your legislation as the time of sale, or offer for sale, for valuation purposes?*

5. *What is the place accepted in your legislation as the place of sale, or offer for sale, for valuation purposes?*

The time and the place of valuation vary according to the basis of valuation used. Where the current domestic value is the basis, the time and place of valuation are usually either the time and place of the export sale, or else the time and place of exportation. Where transaction value is the basis of valuation, the time and place of valuation may be either the time and place of importation or the time and place of the sale for exportation. Where the import market value is the basis, the time is usually the time of importation.

It will be noted from the replies that there are a number of minor differences in these respects, even between countries using the same main criterion. As regards place of valuation, the different definitions of value in force result in duty being charged as between one country and any other, on the basis of various price levels, e. g., ex-works, f. o. b., c. i. f., c. i. f. plus landing charges and value in bonded warehouse. Time of valuation varies similarly in the various definitions but in practice, for the large proportion of shipments for which the invoice price is acceptable as the basis for charge of duty, that price is often accepted without particular regard to the date at which the sale was actually made, although some countries impose the further condition that the interval between the sale and the importation should not be too great and that there shall not have been any significant fluctuation in price in the interval.

Basis for valuation

Internal price in country of export	Export price	Landed price	Import market price	Fixed values
Australia	Australia			
		Austria		
		Belgium		
		Belgian Congo		
Brazil		Brazil		
		Burma	Burma*	
Canada	Canada			
		Ceylon	Ceylon*	
				Chile*
Cuba	Cuba			
		Czechoslovakia		
		Denmark		
		Finland		
		France		France*
		Germany		
		Greece		
		Haiti		
		India	India*	India*
		Indonesia		
		Italy		
Japan		Japan		
		Luxemburg		
		Netherlands		
	Neth. Antilles			
		New Guinea		
New Zealand				
	Nicaragua			
		Norway		
		Pakistan	Pakistan*	Pakistan*
Rhodesia and Nyasaland	Rhodesia and Nyasaland			
		Surinam		
		Sweden		
		Turkey		
Un. S. Africa	Un. S. Africa			
		United Kingdom		
United States	United States			

*For certain items only.

6. *State whether, and to what extent, valuations are based on—*
(a) *the internal price of the goods in the market of the exporting country;*
(b) *the export price in the exporting country; or*
(c) *the landed price in the importing country.*

On the information furnished in reply to this question, countries can be classified in the five headings shown in the table on the preceding page. It has been thought more informative to include under the landed price heading all the countries which base their value for duty at a c.i.f. level irrespective of whether their definition takes as a standard the value in the country of importation or the export value plus charges to the c.i.f. point.

Valuation by reference to products of domestic origin in *Cuba*, *Japan* and the *United States* is referred to on page 107.

In *France*, pharmaceutical products put up for retail sale are valued on the basis of the retail selling price, and in *Belgium*, the *Netherlands* and *Luxemburg* they are valued on the basis of the retail selling price less 15 per cent.

In *New Zealand*, where the value is established on the current domestic value in the country of exportation, this value is in all cases increased by 10 percent in order to arrive at the value for duty purposes. This increase represents a flat rate addition for freight and insurance.

7. *Where the price depends upon quantity, is the price used for valuation uniformly that which relates to quantities comparable to the quantity to be valued? If not, please state what quantity basis is used.*

In most cases valuation is determined by reference to the price for a quantity of goods comparable to the quantity which is actually imported. The exceptions are Cuba, Japan, Nicaragua, Rhodesia and Nyasaland, the Union of South Africa and the United States, which require values to be established by reference to the usual wholesale quantities in the principal markets of the country of exportation. In the case of the United States, the price used for establishing the value for customs purposes is based on the price at which the greatest number of sales are made, and not the price at which there is the greatest volume of trade.

8. *To what extent, and subject to what conditions, is the price at which the merchandise has been sold or is offered for sale (i. e., the invoice value) accepted as the basis for valuation? Where invoice value is not so accepted as a basis (because for example, the transaction does not take place under fully competitive conditions):*

(a) *Do you use, uniformly or as appropriate (state which), any of the following bases—*
the invoice price subject to corrections,
the sales price of the imported product on the importing market, adjusted to take account of expenses and profits incurred after importation,
the cost of production of the imported product?

(b) *If not, how do you assess the values? (Give particulars of any such methods.)*

The invoice price at which the goods pass to the importer is, in practice, the value on which duty is paid in the majority of cases, both in the case of countries whose definition is framed in terms of the current domestic value in the country of exportation and also the countries whose definition is framed in terms of the export or landed value. Where, however, the invoice price is not acceptable, most of the former have regard to the current domestic value of comparable goods, while the latter usually establish the value either by inflating the invoice price or making suitable deductions from the importer's resale price. The cost of production is only rarely resorted to as a means of establishing the value for duty purposes.

9. *If your administrative or legal regulations provide for the use of alternative methods of valuation, state to what extent the customs officer or appraiser is free to choose between such alternatives, or is obliged to adopt that which gives the higher value, or is obliged to make use of them in accordance with prescribed rules.*

No country has reported that its customs officers have freedom of choice between different methods of valuation. While some countries have two alternative standards in force, it is stated that customs officers are obliged to proceed to apply these alternatives as directed by the law, usually the highest value; they have no freedom of choice in the matter.

In the case of the *United States*, while it is true that the customs officials have no choice as to the methods of valuation which have to be applied (which must

be applied in accordance with the law), the point was brought out that the exporter and importer do not know in advance what basis will ultimately be applied. The exporter and importer are only required to state the transaction price; it is the appraiser who determines the alternative values which may in fact prove to be the basis on which duty is charged.

10. *Do you exclude from the value of imported goods the amount of internal taxes from which the imported product has been exempted in the exporting country?*

Do you limit this exclusion to specified taxes (such as purchase tax, etc.), or do you grant it to any internal tax or charge from which exemption has in fact been granted by the exporting country?

In almost all cases the value for duty purposes excludes the amount of internal taxes in the exporting country from which the exported product has been relieved.

In the *Federal Republic of Germany* while it is acceptable that the value for duty purposes should not include the amount of any internal tax from which relief has been given in the country of exportation, it is stated that steps may be taken soon to draw a line between direct taxes (including social charges) and indirect taxes, and the deduction of amounts of direct taxes may no longer be allowed.

In the *United States* a foreign internal tax not applicable to exports is, in some instances, included in the appraised value of the imported merchandise.

11. *What is the system adopted by your Administration for the conversion of foreign currencies for valuation purposes?*

Do you apply the official rate of exchange based on the par value recognized by the International Monetary Fund, or market rates?

If your currency has no par value recognized by the Fund, or if various rates are applied in your country for the purchase of foreign exchange, what rate do you apply for valuation purposes?

If the product is coming from a country applying multiple rates of exchange, do you always aply the official rate of exchange of that country as a basis for valuation, or do you apply different rates in certain cases, or do you apply other corrections?

Nearly all countries apply the official rates or market rates (which include par values where such values have been recognized by the International Monetary Fund).

Very few countries appear to have special provision for goods coming from countries applying multiple rates of exchange. In general, the official rate or the effective rate is adopted.

The delegate of *Indonesia* explained that in order to be able to acquire foreign exchange to pay for imported goods, the importer has to pay a charge ranging from nil to 200 percent of the amount of the foreign exchange. The amount of this charge has to be included in the value for duty purposes since it falls within the cost at which the importer can obtain the goods "in entrepot", all charges other than customs duty having been paid. The Indonesian delegate agreed that the exchange charge was in the nature of a multiple currency practice and stated that it had as such been reported to the International Monetary Fund. The Technical Group considers it desirable to draw attention to the considerable effect of the charge on the amount of duty payable.

12. *What charges on imports, other than ordinary custom duties, are assessed on the value of imported goods? Do you apply the same method of valuation for the levy of such charges as for the levy of customs duties?*

If so, in which cases? If not, what method does your Administration apply?

Do you apply the same methods of valuation in the case of internal taxes or equivalent charges levied on imported goods?

In some countries there are no ad valorem charges, other than ordinary customs duties, which are applied to imported goods. In others, there is a variety of charges ranging from small statistical taxes to various excise duties and internal taxes. In general, where the charge is a tax countervailing the charge made on similar goods produced domestically, the charge is based on the duty paid import value (sometimes with an addition to raise it to a higher market level) but other import charges are usually based on the import value exclusive of duty.

13. *Has your export trade met with serious difficulties resulting from methods or practices adopted by other contracting parties for determining the value of imported products?*

Several contracting parties drew attention to difficulties met by their exporters, particularly in some countries basing the value for duty purposes on the current domestic value in the country of exportation.

Senator MILLIKIN. Mr. Chairman, a little while ago you intimated there ought to be some compensatory change if there is a reduction of tariff. What is your thinking on that?

Mr. ANTHONY. As I said earlier, in answer to Senator Flanders, we assume that when the basic Tariff Act of 1930 was enacted, the rates therein were supposed to be on these bases of valuation which even then had had considerable judicial interpretation, and that, as far as possible, those bases of valuation would continue, plus the method of conversion of currency.

Of course, there was flexibility in that bill, and later on the Congress enacted the Trade Agreements Act, which provided for variation in the rates but not a variation in the valuation, so that any domestic producer, or any importer, for that matter, need only look at the rate to know where he stands.

If you change the basis of valuation, he not only has the rate but the valuation to try to figure out where he stands; and we feel that from the level of protection for the domestic producer he ought to be left in the same position he was before, if you are changing valuation bases, and have the same effective level of tariff protection that he had before, so that if they are going to change the rates you do it in a forthright manner; hear him and set the peril points, and have any of those changes subject to the escape-clause procedure.

The CHAIRMAN. Proceed, sir.

Mr. ANTHONY. In this questionnaire which GATT member countries answered, the first question asked was:

Do you have any administrative or legal provisions which permit valuation for customs purposes to be based on arbitrary or fictitious values, in the sense that such values are not related to the value of the imported merchandise in question or of like imported merchandise?

The United States reply is summarized by the GATT study as follows:

In the United States there are some arbitrary elements in the statutory limitations on certain deductions and additions which have to be made in computing United States value and cost of production when it is necessary to use either of these methods for establishing the value for duty purposes. The United States delegate stated that the application of the "United States value" and the "cost of production," section 402, is probably not unprecedented in the practice of other countries which inevitably have to use similar criteria if the value cannot be determined in a normal way. The difference as compared with other countries seemed to him to lie in the fact that other countries can use administrative measures more flexibly, whereas under the American system the administration has no right to act without precise legal provisions. However, consideration has been given to changing these provisions of law to remove the arbitrary elements.

Under section 2 of H. R. 6040, United States value is redefined and constructed value substituted for cost of production to accomplish the changes referred to, and thus to bring our law more nearly in line with the provisions of GATT article VII, 2 (a), which states:

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 or natural origin or on arbitrary or fictitious values.

Question No. 3 in the GATT study asks, in part:

Do you base your valuation for duty on the value of (*a*) the merchandise actually imported, or (*b*) like merchandise? If (*b*) do you use the price at which the merchandise is generally sold or offered for sale to the equivalent class of trade, e. g., jobbers, wholesalers, retailers, etc.?

The United States position is summarized in the study as follows:

The discussions indicated that the principal aspects in the valuation system of the United States which have been objected to by exporters in other countries are the application of the provisions in section 402 of the Tariff Act for the determination of "foreign value" on the basis of merchandise "freely offered for sale" and in "the usual wholesale quantities." Under judicial interpretations of these terms, if the goods are freely offered to all purchasers, but at different prices depending on the class of purchaser, then the highest price would have to be taken since that would be the only price at which anyone could buy. Also, the "usual wholesale quantity" is determined by the quantity most frequently sold.

It will be seen that in these circumstances, the dutiable value could be based on sales to retailers rather than sales to wholesalers, since the price to the retailers may be the price at which goods are available to all purchasers, and the quantity most frequently sold is sold to retailers. The United States delegate drew attention to the fact that valuation methods in his country have been under continuing study in recent years with a view to improving them wherever possible, and consideration of the foregoing features has been an important part of that study.

By the new terms in section 2 (f) "Definitions" of H. R. 6040, our laws would be changed to meet these objections of foreign exporters to the United States, and our laws presumably would then conform more closely to the principles laid down in GATT article VII, 2 (b), as follows:

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

Question No. 10 in the GATT study asks:

10. Do you exclude from the value of imported goods the amount of internal taxes from which the imported product has been exempted in the exporting country? Do you limit this exclusion to specified taxes (such as purchase tax, etc.), or do you grant it to any internal tax or charge from which exemption has in fact been granted by the exporting country?

The United States position is summarized in the study as follows:

In the United States a foreign internal tax not applicable to exports is, in some instances, included in the appraised value of the imported merchandise.

In section 2 (d) of H. R. 6040, constructed value is defined so that the cost of materials shall be—

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 * * *.

Thus our laws would be changed to match the principles found in GATT article VII, 3, as follows:

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.

The changes proposed in H. R. 6040 and related to the GATT questionnaire, are obviously motivated by the desire of the executive branch to bring our laws into line with GATT and thus push us toward the point where GATT can be proclaimed definitively despite the fact that Congress has never passed upon its provisions and still is being accorded no opportunity to do so.

For all the foregoing reasons and considerations, the American Tariff League respectfully urges your committee to recommend the deletion of section 2 from H. R. 6040.

The CHAIRMAN. Thank you, Mr. Anthony.

Are there any questions?

Mr. ANTHONY. Thank you, sir.

The CHAIRMAN. The next witness is Mr. John G. Lerch. Come forward, please, sir, and identify yourself for the record.

STATEMENT OF JOHN G. LERCH, ATTORNEY, REPRESENTING VARIOUS TRADE ASSOCIATIONS

Mr. LERCH. My name is John G. Lerch of the firm of Lamb & Lerch, 25 Broadway, New York City. I am an attorney specializing in the practice of customs law and I represent here the individual members of the nine following trade associations:

American Manufacturers of Thermostatic Containers
The Candle Manufacturers Association
Collapsible Tube Manufacturers Association
The Industrial Wire Cloth Institute
The National Building Granite Quarries Association
The Rubber Footwear Division of the Rubber Manufacturers Association
The Toy Manufacturers of the United States of America, Inc.
The Twisted Jute Packing and Oakum Institute
United States Potters Association

On behalf of the United States manufacturing concerns whom I represent here, and on my own behalf personally, I am opposed to enactment of H. R. 6040.

I have appeared in each of the Houses of Congress in opposition to so-called simplification bills where changes in the existing value provisions of the law have been attempted. That is my position with respect to H. R. 6040.

The definitions of value, as they appear in section 402 of the Tariff Act of 1930 and its predecessor, the Tariff Act of 1922, have been the subject of innumerable departmental rulings and years of judicial interpretation. In effect, each describes a set of facts which, if existent, were mandatory upon the appraising official, without offsets, allowances or other modifications.

As I have said, the courts have construed them. Every Government official, importer and domestic interest, understands them, or can readily ascertain their meaning. Every change in legislation carries with it the legal presumption that Congress intends a different construction to be placed upon the new language, regardless of how closely it may resemble the old, since the court will not impute to Congress an idle act.

Congress has never, since the original enactment in 1922, attempted to define "such or similar merchandise," "freely offered for sale," "in the usual wholesale quantities," and "in the ordinary course of trade."

H. R. 6040 attempts to define these terms, but in doing so it goes far afield from the interpretation which has been given them by our customs court.

In many respects the definitions in 6040 are entirely different, and in some instances, vest in the appraiser discretionary powers in applying them. We have grave doubt, following the decisions of the United States Supreme Court, whether the customs courts, or any other Federal court, would have jurisdiction to review an action which resulted from the exercise of a discretionary power, which Congress has placed in a Government official or agency, such as here.

While I hold no brief for foreign value as a basis for dutiable value, because of the ease with which it may be rigged, and the difficulty of its ascertainment, nevertheless, it has been in our law for almost half a century, and a large percentage of imports are now appraised on that basis. Since existing law requires that foreign value or export value, whichever is higher, shall be taken, it is obvious that the elimination of foreign value as a basis will result in a reduction of duty in all instances wherein it is now used. This, because it would not have been selected if it were not higher than the export value, which is the initial basis under the proposed law.

In one of the customs simplification bills, recently enacted, additional duties, resulting from a failure to declare on entry the correct value for imported merchandise, were abolished. In these bills, as in the present bill, other existing safeguards to the proper application of our customs laws were softened or eliminated. Although without legislative sanction, our Government is subscribing to the conditions erected by GATT and the Organization for Trade Cooperation. Some of the provisions of this bill lead one to the suspicion that its motive is to enact into law some of the practices outlined in GATT. There is also pending in Congress, and apparently endorsed by the administration, a bill for our adoption and membership in an administrative organization known as Organization for Trade Cooperation, which some of us believe would effectively reenact the International Trade Organization, which was overwhelmingly defeated by Congress a few years ago.

On reflection, one can hardly escape the conclusion that this practice, viewed as a whole, is gravitating toward a place where imported

merchandise will be appraised on the basis of the price paid by the importer. This would, indeed, be "simple."

Some of our Government officials, appearing before the House Ways and Means Committee, attempted to show that section 2 of this bill would not result in any material decrease in the amount of duty collected, or the amount of protection afforded. In the very presentation of this argument, the same officials had to admit that some decrease would result. Our industries do not so much fear the obvious decrease in the protection afforded by existing law as we do the hidden reductions, the discretionary powers accorded Government officials, and the removal of the safeguards that have grown up over a half century of legislation, prompted through trial and error.

In the report of the Committee on Ways and Means of the House of Representatives on this bill, it is stated that the definition of United States value should be amended to include only imported merchandise. The committee states:

> The committee finds this amendment unnecessary, since the definition of such or similar merchandise has reference only to imported merchandise.

The definition, as it appears in section (f) (4), in its subparagraphs (A), (B), and (C), by express language relates to merchandise "produced in the same country," whereas subparagraph (D) provides for "merchandise which satisfies all the requirements of subdivision (C), except that it was produced by another person." It is significant that the words "in the same country" were not included in (D). The omission therefrom gives rise to the question of whether or not the appraiser, in determining United States value, under the proposed definition, might not consider merchandise imported from another country, or even merchandise manufactured in the United States.

In the proposed setup, foreign value finds no place, allegedly because of the great difficulty experienced by our customs officials in its application. Most imported merchandise, particularly the staple lines, is sold in the country of origin for home consumption. Price lists, advertisements, and the like are readily available to our American consuls and Treasury agents. One of the attributes of the proposed export value is "usual wholesale quantity," and by this law it is defined roughly as the price at which the greatest quantity is sold for export. My question is how the appraiser is going to ascertain this fact without access to the books of the foreign exporter. The Antidumping law has been held out by our Government officials as a safeguard against abuse of the proposed system of valuation. Its application is dependent upon the ascertainment of foreign value. The constructed value, as defined in the proposed law, is built up on the cost of materials, fabrication or other processing of any kind employed in producing such or similar merchandise, plus an addition of—

> an amount for general expenses and profit equal to that recently 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. * * *

All of the illustrations I have just given depend for one or more of their facts on a foreign investigation in order that they may be accurately administered. Few of them can be accurately ascertained, and some of them can never be obtained except through an inspec-

tion of foreign books. My experience has shown that foreign producers do not invite such inspection, and very few will submit to it.

When one considers that a long term of years must elapse before the new language of this act could be judicially interpreted, and the scope of the new jurisdiction defined, if, as it is claimed, it is justiciable, it is inconceivable, in the light of the outline I have drawn here, that anyone can honestly say that this is a customs simplification act.

The CHAIRMAN. Thank you very much, sir. I submit for the record a copy of a telegram received from Mr. Lester B. Platt expressing further views in behalf of Collapsible Tube Manufacturers' Association, Candle Manufacturers' Association, and Twisted Jute Packing and Oakum Institute.

JULY 1, 1955.

CHAIRMAN, SENATE FINANCE COMMITTEE,
Washington, D. C.:

We strongly protest the enactment of H. R. 6040 particularly section 2 which Treasury survey shows resulting tariff reductions by classes up to 15 percent. Some items will go to 25 percent tariff reduction. Bill has no safeguards such as escape clause, peril point, or appeal. Earlier this year the President requested an extension of his authority to negotiate reductions on a gradual, selective, and reciprocal basis. Section 2 reduces abruptly, generally, without negotiation and gets nothing in return on a reciprocal basis. Congress complied with this Presidential request in H. R. 1. Will it now throw out gradual, selective, negotiated, and reciprocal tariff reductions because the President has evidently changed his mind?

Respectfully yours,

LESTER B. PLATT,
Collapsible Tube Manufacturers Association.
LESTER B. PLATT, *Secretary,*
Candle Manufactures Association.
LESTER B. PLATT, *President,*
Twisted Jute Packing and Oakum Institute.
LESTER B. PLATT, *Secretary.*

The CHAIRMAN. The next witness is J. Bradley Colburn, appearing for the Association of the Customs Bar. Please come forward, sir, and identify yourself for the record.

STATEMENT OF J. BRADLEY COLBURN, REPRESENTING THE ASSOCIATION OF THE CUSTOMS BAR

Mr. COLBURN. Mr. Chairman, my name is J. Bradley Colburn. I appear before the committee representing the Association of the Customs Bar which, as its name implies, is an organization of lawyers specializing in the practice of customs law before the courts and administrative departments of the Government.

I appeared before the Committee on Ways and Means in connection with this proposed measure and submitted a full statement which is in the record and I will therefore attempt this morning to confine myself to implementing and stressing two points there made.

They are, first, that under this proposed measure, we feel there is serious doubt whether the existing full and complete judicial review accorded in all questions relating to customs matters may be impaired or affected.

Secondly, we feel that the present law and this proposal are markedly defective in the failure to provide expressly that the appraising officer shall disclose in connection with his finding of value the basis of determination of that value.

In connection with judicial review, the bill at the outset omits section 402 (b) of the present law which is a provision giving express right of judicial review to all interested parties over actions of the appraiser in determining one or the other of the alternative bases of value.

Of course, it is a basic principle that Congress is deemed to act advisedly when it legislates and to have some intention in mind when it changes or omits language. We feel that the very omission of this provision, therefore, may raise questions as to whether it may have been the intention of the Congress to impair or diminish judicial review.

The Treasury Department has denied that is the purpose of this proposal. The report of the Committee on Ways and Means contains a statement to the same effect. I would be very happy to accept that statement and give it full faith and credit.

I feel impelled, however, to state again that the bar feels the question exists and may rise to plague us in the future. We feel no possible doubt should be allowed to remain on that score.

Reference has been made——

Senator MILLIKIN. Do you have a specific amendment to cover the point?

Mr. COLBURN. I would restore section 402 (b) of the present law.

Senator MILLIKIN. Have you the language to go in it?

Mr. COLBURN. May I submit that?

Senator MILLIKIN. If you please.

(The information referred to follows:)

It is requested that the following amendments be adopted:

1. To restore specific judicial review as provided in section 402 (b) of the present law, the Tariff Act of 1930, by adding a new provision immediately following line 23 on page 5 to read as follows:

"A decision of the appraiser that export value, United States value, constructive value, or American selling price cannot be saisfactorily ascertained shall be subject to review in reappraisement proceedings under section 501."

2. To require appraising officers to disclose the basis of appraisement by adding a new provision following line 24 on page 10 to read:

"No appraisement made hereunder shall be complete unless there be included therein a reference to the specific provision of this section upon which the appraisement is based."

Mr. COLBURN. Reference has been made to the suggested definitions of terms used which occur in these alternative bases of value, such as "wholesale quantities," "freely offered," and "such or similar" and "ordinary course of trade," all terms which are basic to a determination of these bases of value.

For the first time this bill would attempt to give statutory meaning to those terms. And in doing so, they use rather broad terms.

For example, in the definition of the term "freely sold or offered for sale," it is provided that sales to selected purchasers may be used provided such sales "fairly reflect the market value of the merchandise."

Then again it is provided that restrictions on the sale of the merchandise which do not "substantially affect the value of the merchandise to usual purchasers at wholesale," will not prevent an article to be considered from being freely sold.

Those are very broad terms. They seem to vest quite wide powers in administrative officers. We do not believe it is the policy of the

Congress to permit or to give irreviewable delegated powers to administrative officers, particularly in this field.

We want to be sure that in connection with the determination of values, that we will continue to give to both importers and domestic manufacturers alike a full and complete right of review.

The second point to which I wish to address myself is the lack of a requirement for disclosure of the basis of appraisement. That requirement was in the customs regulations at one time under present law. It was in the customs regulations of 1937, article 776 (e).

It was dropped out in a later customs regulation about 1943 for undisclosed reasons. Since that time, in fixing value of imported merchandise, it has not been the practice of appraisers generally to disclose the basis. That becomes particularly important by reason of the fact that the law provides in another place, in section 501 of the Tariff Act, that the value found by the appraiser shall be presumed to be the value of the merchandise and the burden shall rest upon the party who challenges its correctness to prove otherwise.

Now, that is a pretty difficult burden. There is a provision that gives a statutory presumption of correctness to the actions of appraising officers. It seems to us quite odd that in the light of that provision, and the general precedents with reference to taxing statutes, that the Treasury Department and the customs officers generally refuse to disclose to an importer the base on which the duty is being assessed. It makes it exceedingly difficult, frequently, to obtain an adequate review.

Now, what have the courts said in this connection?

I would like to refer, if I may, briefly, to two cases wherein this question has been discussed. One case is that of *Joseph Fischer* v. *the United States*, which is reported as Reappraisement Decision 6950 of March 1947 involving the appraisement of imported hides. There, without going into the issues and everything involved, which I don't think is particularly relevant here, I will extract, if I may, the statement of the court with reference to this matter of disclosure of the basis of appraisement.

The court said in part, and I quote:

> In subsection 402 (c), (d), (e), (f), and (g)—

that is of existing law, of course—

> we find congressional definitions of the respective values which the Congress has set up as the basis for all appraisements of imported merchandise. If the appraiser of merchandise is to be relieved of the duty of finding and also indicating the basis of his appraisement, that is, foreign value, export value, United States value, cost of production or American selling price, then the act of Congress in enacting this basis of appraisement would appear to be almost an idle gesture; and unless the appraiser indicates in some manner on some of the official papers the basis of his appraisement, no one will ever know whether or not he has found one of the statutory values required by section 402 or if so, which one.

I skip down and the court further said:

> By section 402 (b) the Congress has given an importer a specific right of action against the Government to file an appeal against a decision of the appraiser that foreign value, export value, or United States value, cannot be satisfactorily ascertained. In order for an importer to take advantage of this specific right of action against the Government, the importer must be advised in some manner of the statutory basis of the value of the merchandise found by the appraiser.

Then the court quoted from a prior case in Reappraisement Decision 5881, wherein the court said in part:

> Considering the small amount of labor required to place upon the official papers the proper letters indicating the basis of appraisement, after the same has already been determined by the appraising officer, in comparison with the benefits which would flow therefrom, there would appear to be little, if any, excuse for not furnishing this information, even in the absence of a statute requiring it.

The Court of Customs and Patent Appeals has made similar reference to this matter of determining the basis of appraisement, and I would refer to one case in that connection, which is the case of *Corrigan* v. *United States*, reported as C. A. D. 514, decided January 1953, wherein the court of appeals by Chief Judge Garrett said in part:

> The appraiser at Laredo did not note upon the official papers the statutory basis which he applied in his finding of value, nor is it otherwise disclosed in the record. So the courts are left in the dark as to the statutory provision on which his valuation was based. From our experience in this field of controversy we may say that we often would find it helpful to know what basis the appraiser adopts, and we know of no sound reason for keeping it secret, but we recognize the fact that there is no mandatory requirement that his reasons be made public. The actions of appraisers in this regard doubtless are usually dictated, when difficulties arise, by higher officials of the Customs Bureau, but technically and for the purposes of procedure, the appraisal always is treated as the act of the appraiser whose official status is defined in section 401 (j) of the Tariff Act of 1930, and whose duties are prescribed in sections 499, 500, 503, 504, and 509 of the act.

The court quoted in part from the lower court, the appellate division of the Customs Court, to this effect:

> Simply because the Government has seen fit to accept and follow a policy of secrecy as to the basis of the value found and adopted by an appraiser, without attendant notation by him on the official papers, does not mean that such tactics should go on forever. Value, as defined in the Tariff Act, is the very essence of the issue in litigation of this character. It is incumbent upon a plaintiff in an action like this to assert and prove a value different from that found by the appraiser, and yet the Government contends that the basis for the latter cannot be divulged if not noted on the official papers, because to do so would violate some supposedly between-the-lines intendement in the statute. It is inconceivable that such an essential should not and cannot be obtained.

That ends the quotation from the court.

Now, with reference to this matter, the report of the Committee on Ways and Means contains this statement at page 7:

> The committee also considered a proposed amendment which would have required the appraiser to state the basis of his appraisement. The committee concluded that such a requirement would be an unnecessary delaying factor in the majority of appraisement cases and that there were other means of obtaining information needed in connection with appraisements in litigation.

I dispute, Mr. Chairman, the fact that there would be an unnecessary delaying factor and I believe the references from the courts which I read establish and support that. I am completely at a loss to understand what the committee may have in mind when it says there are other means of obtaining this information. I know of no other satisfactory means of obtaining it.

And in any event, I respectfully suggest that a matter so important, which lies at the very threshhold of the determination of value for assessment of a tax, of a duty, should be disclosed and made known to all interested parties.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, sir.

Are there any questions?

Thank you, sir.

The next witness is Robert E. Canfield. Please come forward and identify yourself for the record.

STATEMENT OF ROBERT E. CANFIELD, AMERICAN PAPER & PULP ASSOCIATION

Mr. CANFIELD. Mr. Chairman, I have no formal, prepared statement. I have a lot of notes, but I think I can keep it within a reasonable length of time.

My name is Robert E. Canfield. My address is 122 East 42d Street, New York. I am appearing for the American Paper & Pulp Association of the same address.

In tariff matters, that association represents the entire paper industry which is the fifth largest industry in the country; and the industry most experienced in foreign trade, at least on the receiving end. Commodities manufactured by the American paper and pulp industry are imported into the United States, its normal market, at the rate of well over three quarters of a billion dollars a year. We know something about foreign trade.

The industry is not opposed to customs simplification. On the contrary, it favors true simplification not only of customs laws but any other laws. There is altogether too much redtape imposed by Government on business already. But the industry does object to changes in the duty rates on its products made under the guise of simplification. That is exactly what the bill before you does, in its amendment of section 402 (a) (1) of the Tariff Act of 1930.

That clause, as you know, would make value for ad valorem rate duty purposes dependent upon export price rather than fair value measured by the home market price as under existing law. The result is lower duty because dumping, perhaps not in the legal sense but certainly in the economic sense of selling here at a lower price than at home, is quite normal.

How much lower the duties would be no one knows. The Treasury Department estimates an average of 2 percent reduction in customs collections on ad valorem goods. But that estimate is based on the relationship in the past of home market price and export value.

Actually, it would be possible under construction of this proposed act, which can reasonably be anticipated, to reduce very substantially all ad valorem duties and in fact possible to eliminate them virtually entirely.

That sounds fantastic but it is true as an analysis of this bill will demonstrate. It results from as thorough a piece of legislative doubletalk as I have seen in a long time.

Export value is to be the criterion. Export value is defined as the price at which the merchandise is freely sold in the country of exportation in the ordinary course of trade for export to the United States. That doesn't sound too bad. If the words "freely sold" and "in the ordinary course of trade" meant what they said, the Treasury's estimates of duty reduction would probably be reasonably accurate. But they do not mean what they say.

Congress, of course, can (although I wish you wouldn't) say that for a particular piece of legislation black shall be deemed to mean

white. In this bill, the House has done exactly that. "Freely sold" is defined in the bill to mean not freely sold. A price made to a single customer who contracts to resell at a fixed price in a controlled area, believe it or not, is a freely made price under the definitions in this bill.

There is an apparent hedge to this legislative legerdemain. The bill says that goods so sold are freely sold only if sold in the ordinary course of trade and if the price fairly reflects the market price. But here again the black-means-white technique is applied.

"Ordinary course of trade" is defined as conditions and practices which for a reasonable time have been normal in the trade. "Reasonable time," "normal," "market price," are not defined. But it is clear that after some lapse of time, any condition or practice which had existed during that time would have to be considered normal. Normal means usual, when something has continued some length of time it is normal.

Suppose those conditions and practices had been, for a reasonable time, the sale of a grade of paper dutiable at 10 percent ad valorem, for $64 a ton to a wholly owned subsidiary, required to sell it in the United States only and only at $144 per ton, which is 10 percent below the home-market price and the prevailing price in the United States market. I have picked those particular figures because they are quite possible. The price of $64 compared with $170 home price is 60 percent off of home market price and such kind of pricing is of record in United States Customs Court cases.

The $144 price, 10 percent below home-market value, is typical of what goes on in paper where export price from Scandinavian countries is regularly about 10 percent under home market as near as we can determine.

Would that price of $64 per ton fairly reflect the market price? It would if market price were construed by the court to mean price for export to United States. And it would be so construed. What else could it be construed as? The clear intent of this bill is to predicate value on the price for export to the United States. To construe market price to be the export price in general, or the home market price, which are the only two possible alternatives, would be to flout clear congressional intent and to use the criteria of the old law rather than the criteria of the new law.

This proposed new law is supposed to achieve certainty, to simplify procedures, and to result in substantially the same tariff rates as at present. The analysis I have made, I think, clearly shows that none of these objectives will be achieved. There is no certainty when three vital phrases are left undefined. There is no simplicity when years of litigation will obviously be required to supply the construction to be given those three phrases.

If the construction to be given is that which I have stated, the duty collected under the new law will bear no resemblance to that established under the present law.

Using the example I cited, it would mean a reduction in duty from $16 per ton to $6.40 per ton, a 60 percent reduction.

Actually, the exporters, cartelized as they are, could fix the price still lower, clear down to a dollar a ton if they wanted to, which would end up with a 10-cent duty. What is to keep them from doing it? The principle is exactly the same.

If my anticipation of court construction is erroneous and the courts do what the Treasury Department assumed in arriving at their calculated lower figure which is, incidentally, the best that could possibly happen, there would still be years of uncertainty, years of litigation, and an actual reduction across the board in effective duty rates as admitted by the Treasury Department.

In my hypothetical case, that reduction would be 9 percent which is almost double the amount that the President is permitted to cut duties in any one year under H. R. 1. And that case of mine, although stated as hypothetical, it is an accurate picture of what is going on now. There is, for instance, a grade of paper, test liner board, which is dutiable at 10 percent ad valorem. It is having duty assessed on it now at home market value. The export value is 10 percent below that home market value. If your new law goes through as proposed it would mean immediately a reduction of 9 percent in the duty.

Now that, gentlemen, is not simplification.

Senator MILLIKIN. What is the product that you referred to?

Mr. CANFIELD. Test liner board, kraft pulp Fourdrinier board.

Senator MILLIKIN. What is it used for?

Mr. CANFIELD. It is used for making shipping containers.

This bill, labeled "customs simplification," is not customs simplification alone. It does do a lot of that and nobody is complaining about any part of that. But the part I have been talking about is a substantive amendment of the Tariff Act under the guise of simplification, and is directly contrary to the theory espoused by the administration, recommended by the Randall Committee, adopted by the Congress, that any reduction in tariffs should be on the basis of a reciprocal deal where the United States receives concessions from others comparable to the concessions given.

Now, true simplification is to be desired. How to achieve it in the respect under consideration is easy. It does not involve continuation of the present provision for use of freely offered home-market value.

As pointed out by the Treasury Department in its report to the House Committee, that provision of the law is being eliminated with growing rapidity by the action of cartels which are able to and in fact do eliminate its use simply by rigging the home market. The easy answer is to substitute American selling price as the criterion for determining all ad valorem rates, as is done already in the present law, and also in the proposed law, in the case of some ad valorem rates.

The American selling price is readily determinable. It is real; it is definite. The antitrust laws here see to it that it is not subject to the kind of cartel rigging which any use of either home market value or export price invites, and for all practical purposes insures.

If what is desired is certainty, simplicity, and duty protection as intended by Congress, use of American selling price as the criterion for ad valorem value rates is the answer.

I will admit that that still is something less than total simplicity. It does involve investigations of current domestic markets. There is another answer which is total simplicity but which requires a great deal of congressional study and evaluation. That would be to translate all of the ad valorem rates and the compound rates in the present Tariff Act to specific rates, that are the equivalent at present market values, and then to provide some mechanism for increasing or de-

creasing those rates in accordance with changes in general wholesale commodity values. If you did that, you would have specific rates over which there could be no argument, no room for judicial or administrative misinterpretation, no problems of certainty, and no chance of cartel rigging to avoid the results intended by the Congress.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, sir.

Are there any questions?

If there are none, the next witness is Mr. Lyle Jones who appears before the committee as a representative of the United States Potters' Association.

Mr. Jones, will you come forward, please, and identify yourself for the record?

STATEMENT OF LYLE W. JONES, DIRECTOR, WASHINGTON OFFICE, THE UNITED STATES POTTERS ASSOCIATION

Mr. JONES. My name is Lyle W. Jones. I am the Director of the Washington office of the United States Potters Association which has its national headquarters in East Liverpool, Ohio.

The association is comprised of domestic manufacturers of tableware and art pottery, both earthenware and china ware and represents in its membership most of the commercial production of these items in the United States.

After a careful study of H. R. 6040, the so-called customs simplification bill, the association wishes to be on record with the committee as being opposed to the enactment of section 2, which would change the preferred basis of valuation on which duties are assessed from "foreign" value to "export" value.

We believe that this proposed change would greatly weaken or make ineffective the antidumping and countervailing duty laws that were designed to protect American industry from the destructive impact of low-cost foreign competition.

We in the pottery industry are also cognizant that a change in the valuation basis is a wide-open invitation to foreign exporters to especially price goods for export to the United States and thus be privileged to a large extent to name their own low values on which duties would be assessed.

The change from "foreign" value to "export" value removes the only readily available means of determining whether the imported goods are being unloaded at "dump" prices or legitimately priced for the United States market as provided under this bill. We have no comparison left on which to conclude intelligently whether we are being hoodwinked or not.

The pottery industry is very sensitive to any proposal that would further add to its already critical situation that has been caused by imports from low-wage countries. These imports have steadily increased. During the period 1947–53 imports of earthenware, dinnerware increased over 300 percent and china dinnerware went up over 700 percent. This trend has continued to the present day.

The recent negotiations at Geneva, Switzerland, in connection with the Japanese trade agreement brought reductions in the tariff rates on dinnerware ranging from 5 percent to 25 percent. It was also observed that over 10 percent of the value of all the concessions granted

by the United States to all countries participating in the negotiations were on pottery items.

We are also concerned about the probability of further cuts authorized by H. R. 1.

The assurances of the Treasury Department official before the Ways and Means Committee that the countervailing duty and antidumping laws will be enforced are only the assurances of an individual who might be replaced by someone who might think differently about the matter.

The elimination of "foreign" value as provided in this bill removes a controlling factor in the enforcement of the antidumping and countervailing duty laws and leaves no means of readily ascertaining whether goods are being "dumped" but it does in our opinion encourage a two-pricing system

In answer to this argument the Secretary of the Treasury in a letter to the chairman of the Ways and Means Committee stated the following:

It has come to my attention that in the course of your consideration of section 2 of H. R. 6040 which would amend the valuation standards set forth in section 402 of the Tariff Act of 1930, concern has been expressed that the elimination of foreign value by this amendment would interfere with the enforcement of the Antidumping Act of 1921.

I wish to advise your committee that it is the firm intention of the Bureau of the Customs and the Treasury Department to continue to require foreign value information as a part of the information contained in customs invoices. Consequently the Treasury Department will continue to have available to it foreign value information upon which to initiate investigations of possible sales at a dumping price wherever the discrepancy between invoice price and foreign value appears to warrant it.

It is questionable to us why it is necessary to change the valuation basis from "foreign" to "export" value if it is the plan to continue to require "foreign" value information in customs invoices. If this information is still to be required, it would seem to defeat the argument for so-called simplification and at the same time lose millions in revenue from reduced valuations.

Following such reasoning it appears that the bill, perhaps unintentionally, is in reality a tariff-cutting proposal affecting hundreds of American industries without any provision whatsoever for peril-point hearings and contrary to the way Congress authorized tariff reductions to be made. The across-the-board cuts in tariffs that would result from the enactment of H. R. 6040 would be in violation of the spirit of the President's letter to Speaker Martin last winter when he said:

the administration of the foreign economic program will be gradual and selective in application, because * * * across-the-board revisions of the tariff rates would poorly serve our Nation's interest * * *

and that—

in the program's administration the principles of true reciprocity will be faithfully applied.

The United States Potters Association recognizes the desirability of simplified customs procedures and any other effort to increase efficiency in Government, but we believe that section 2 of H. R. 6040 goes beyond these objectives. It is therefore respectfully requested that this section be deleted from the bill.

The CHAIRMAN. Thank you very much, Mr. Jones.

The next witness is Mr. O'Brien. Please come forward, sir, and identify yourself for the record.

STATEMENT OF MATTHEW H. O'BRIEN, RAYON AND ACETATE FIBER PRODUCERS GROUP

Mr. O'BRIEN. Thank you, Mr. Chairman.

My name is Matthew H. O'Brien. I appear as secretary of the Rayon and Acetate Fiber Producers Group.

If I may, Mr. Chairman, I have a rather full statement which I should like to have inserted in the record. I should also like to summarize that statement.

(Mr. O'Brien's prepared statement follows:)

STATEMENT BY MATTHEW H. O'BRIEN, SECRETARY, RAYON AND ACETATE FIBER PRODUCERS GROUP

Mr. Chairman, members of the committee, my name is Matthew H. O'Brien, and I appear as secretary of the Rayon and Acetate Fiber Producers Group, 350 Fifth Avenue, New York, N. Y., whose membership includes: American Enka Corp., American Viscose Corp., Beaunit Mills, Inc., Celanese Corporation of America, Courtaulds (Alabama), Inc., Delaware Rayon Co., E. I. du Pont de Nemours & Co., Inc., Eastman Chemical Products, Inc., Hartford Rayon Co., Industrial Rayon Corp., and New Bedford Rayon Co.

Our principal interests in the pending bill are, first, to oppose the tariff reductions which the bill is designed to effect and, second, to preserve the safeguards against unfair competition which the Congress of the United States intended to afford to American industry in the Antidumping Act.

While this bill has been designated the Customs Simplification Act of 1955, the actual effect of the bill is to cause, under the guise of simplification, a unilateral reduction in tariffs on articles imported into this country which are subject to ad valorem duties. It is respectfully submitted that the customs procedures will not be effectively simplified by any provision of section 2 of the bill.

Under the present law, the customs official examines the customs invoice and, when there is a difference between the foreign value and the export value, he takes the higher valuation as the basis for duty. Under the assurances given in the letter of the Secretary of the Treasury to the chairman of the House Ways and Means Committee, the same foreign value information will be on the customs invoices if the bill becomes law but the customs official will only have to look at 1 figure and will not have to perform the simple task of determining which of the 2 figures is the higher in the assessment of regular duties. However, since the Antidumping Act is to remain in effect, he still has to consider foreign value when it is higher in order to determine whether there is dumping. What great administrative load has been removed from the Treasury Department? Can this benefit to these administrative officers warrant the wholesale reduction of ad valorem duties in uncertain amounts of reduction? We submit the foregoing effectively establishes that the proponents of this bill are indulging in semantics and that H. R. 6040 in section 2 is not really a customs simplification bill but is a tariff-reduction measure.

REDUCTIONS IN DUTIES

It is admitted by the Treasury Department and the proponents that the bill is, in effect, a tariff-reduction bill. Unfortunately, no one on this committee, in the Congress of the United States, or in our industry can determine, with any degree of certainty, the amount of the reductions which will be effected.

THE TREASURY SAMPLING SURVEY

While the Treasury Department has presented to the Congress some averages and estimates of reductions in duties based on a random sampling survey, we desire to point out to this committee that the sampling is too small to merit consideration and that the survey proceeds upon the fallacious basis of averaging

reductions on dissimilar products and products at all stages of manufacture which are now being imported under widely varying rates of duty. The averages presented by the Treasury Department do not even have the sanction of weighted averages and are subject to all the inaccuracies and misleading effects of averaging random entries of imports into the United States.

The statement of Mr. H. Chapman Rose, Assistant Secretary of the Treasury, to the House Ways and Means Committee in connection with this bill indicates that the Treasury Department has proceeded upon consideration of imports in general and not upon consideration of specific commodities.

At least 30 percent in value of the total imports subject to ad valorem duties, whatever the commodities may be, are not considered at all, according to his statement.

While the Treasury Department states that 70 percent in value of imports bearing ad valorem duties entered this country through some 8 ports, in its sampling it gives particular attention to the ports of New York and Laredo without indicating the total percentage in value of ad valorem imports in either or both of these ports and definitely without indicating the percentage of any particular commodity coming to these ports. As to these two ports, its sampling, which Mr. Rose properly calls random, considered only every twentieth entry. As to the other six ports, the Treasury Department considered only every fortieth entry. Imports at all other ports were totally disregarded.

It must be emphasized here that, while the arbitrary selection of every 20th entry at 2 ports and of every 40th entry at 6 ports may be described as representing 5 or 2½ percent of the entries, no claim is made that every commodity subject to ad valorem duties is considered or that even 5 or 2½ percent of the entries of any commodity have been included in the data presented.

Of course, the arbitrary selection of every 20th or 40th entry results in data which bear no relation to volume of imports.

SCHEDULE 13

Thus, on the data presented with reference to schedule 13, synthetic fibers and manufactures thereof, in which we are primarily interested, the Treasury Department applied the same random method of every 20th entry at 2 ports and every 40th entry at 6 ports, with no consideration of entries at other ports which handled some 30 percent in value of total imports subject to ad valorem duties, but which may in some cases handle a high percentage of a particular commodity entering this country. Nothing in the data indicates the high or low volumes of imports of synthetic fibers or manufactures thereof represented by these particular entries, and there is no reason to assume that the data included every commodity covered by schedule 13.

Schedule 13 includes a variety of products of rayon or other syntheic fibers at all stages of process and manufacture. The schedule includes, for example, fiber waste and the completely finished fabric, garment, or article, and synthetic textiles at every intermediate stage of processing. Only the Treasury Department knows whether the random selection of every 20th or every 40th entry produced even incomplete data relating to fiber waste or staple fiber or fine denier yarns or heavy denier yarns or fabrics or articles of apparel.

To attempt to estimate the effect of the reductions in duties by averaging waste which is of low value and bears a low duty with dyed and finished fabrics and with articles of apparel which are of considerably higher value and come in at much higher rates of duty is, in itself, a distortion of the effect of the tariff reductions in this bill.

The Treasury Department estimates on the basis of its random sampling survey that on imports of synthetic fibers and manufactures thereof the percentage of decrease in value under the proposed law will be 6.83. Obviously, this is an unweighted average. It is equally clear that on some commodities in the schedule there must be a more severe decrease in value. The range which produced the average is unkonwn, as are the commodities included or omitted in the random sampling.

It is equally obvious that American industry does not deal in averages but in prices and values of specific commodities. No one can now tell whether any commodity covered by schedule 13 will come in at a valuation reduced by 6.83 percent or more or less, nor can anyone, except the Treasury Department, tell what the actual reduction in value and consequent reduction in duty may be on any specific commodity.

In the enactment of this tariff reduction bill, therefore, the Congress will be applying a new method of valuation for purposes of duty without knowing, or even having a reasonable estimate of, the effect of the reductions on domestic production and employment. There are no data before the Congress by which this committee can determine the effect upon production or employment in any State of the reductions it is asked to enact.

PERIL POINTS

Since the Congress does not have information concerning the effect on specific commodities, it is impossible for any Member voting on this bill to determine whether the reductions sanctioned by the bill will take the duties on any commodity produced in any State below the peril point, a principle which the Congress has established in other legislation and which the Congress is now asked to abandon by this type of unilateral reduction in our duties.

No one can tell as to a specific commodity in schedule 13 or any other schedule of the tariff act whether the reductions will be enough to break the market and to cause widespread unemployment. In other words, there is no way of knowing what increased quantity of goods in any category may be imported into the United States by these reductions in duties nor is there any way of estimating the number of jobs which may be exported.

The only certainty in the bill is that it provides for the export of jobs in undetermined and uncertain numbers.

TREASURY DEPARTMENT AND ADMINISTRATIVE DUTIES

According to the Congressional Record (p. 7672), the Treasury Department has estimated that, for the expenditure of an additional $750,000 to $800,000, it could accomplish the purposes of this bill and the Treasury Department also estimates that the enactment of this bill will cause a loss of approximately $5 million in revenue. The Treasury Department may be accurate in its estimate of the cost of the administrative work, but it has supplied no reason to believe that it is accurate as to the loss of revenue. In any event, we submit that the country should not be deprived of a large amount of revenue to avoid appropriation of a comparatively small amount to pay the cost of performance of administrative duties.

The much more important question is, Does American industry and labor have to run the hazards of paying some prices of unknown magnitudes for the privilege of relieving the customs officers of their duties under the existing law?

It has been urged that the reduction in duties, the imponderable increase of imports, and the loss of domestic production, markets, and jobs should be assumed in order that the Treasury Department make take care of its backlog of cases and may act more promptly in the performance of its duties. The record, however, shows that, under the last two customs simplification acts, procedures have been established under which the Treasury Department is rapidly reducing its backlog and catching up with its work.

CUMULATIVE EFFECT OF TARIFF LEGISLATION

It is respectfully submitted that in the various tariff acts which the Congress has been asked to enact, and in some cases has enacted, we are progressing toward free trade on the installment plan.

In the last 2 years, the Congress has enacted 2 laws designated as customs simplification acts. If this bill were designated and titled by the name of its principal effect, namely, as the Tariff Reduction Act of 1955, it would be better understood and would probably have no chance for enactment.

In the Customs Simplification Act of 1954, provision is made for an objective study of tariff rates and classifications by the United States Tariff Commission. Why does not the Congress wait for that report which will shortly be received before effecting changes in methods of valuation and reductions in duties in unknown amounts?

In the Trade Agreements Extension Act of 1955, the Congress adopted a principle of tariff concessions to foreign nations on a reciprocal basis, theoretically on concessions from the nations which benefit by reductions in our duties. Without awaiting the effect of that act or indeed the effect of trade agreements recently negotiated with Japan and Switzerland, which may have drastically injurious effects on the domestic textile industry, the Congress is now asked to abandon

the principle of reciprocal concessions and to make unilateral tariff reductions in uncertain amounts.

By the introduction of the uncertain and variable reductions in this bill, no one can tell what the cumulative effect of all recent customs simplification acts, trade agreement extension acts, etc., will be except that the direction downward on duties is certain although the amounts and effects thereof may not be known.

Since the Congress cannot know now either the full effect of this bill or the cumulative effect of other enactments upon American industry and labor as a whole or upon production, or employment in any State, we respectfully submit that the time has come for the Congress to "Stop, look, and listen" in order to appraise the effects of its acts and to permit the industries and workers affected to know the amounts of reductions in duties which are proposed and to present to the Congress their views in relation thereto. Such delay will have no serious effect on foreign trade. Nearly 80 percent by value of the dutiable imports come in under specific rates which are not affected by this bill. Only imports protected by ad valorem rates are affected. The Congress has twice refused in consideration of the Customs Simplification Acts of 1953 and 1954 to adopt similar proposals eliminating foreign value and no untoward results have ensued. On the contrary, imports continue to enter in great volume and trade throughout the free world is flourishing. The proponents of the bill have made out no valid case and can make no valid case for action by the Congress without knowledge of its effects.

We come now to our second and final major interest, namely, the need for legislative action to restore the protection the Congress intended to give domestic industry in the enactment of the Antidumping Act.

With reference to the amendments which we intend to propose, because of the limitations of time, we will present now only the principles involved and will attach a written statement, which we now ask be made a part of the record of these hearings, containing a draft of each of the amendments we propose. We assume that, if the committee favorably regards the principles which we espouse, the matters will be referred to legislative counsel and that this is not the time or the place to engage in detailed discussion of the phrasing of legislative drafting.

The report of the Committee on Ways and Means of the House of Representatives indicates that Treasury spokesmen feel that the only effective discouragement of a two-price system comes from the enforcement of the Antidumping Act (Rept. No. 858, p. 5).

We would be more impressed by this statement if there could be produced some representatives of any American industry who feel that the Antidumping Act as it now stands under court decisions is effective. A study of the cases decided by the Treasury Department in recent years will show that in only a negligible number of cases has it been possible to enforce the Antidumping Act. This is not a criticism of the Treasury Department. In fact, this condition is due to the manner in which the Court of Customs and Patent Appeals has construed the act. On this problem, we believe we have the agreement of the Treasury Department that clarifying amendments are needed to overcome the court decisions which have made the Antidumping Act practically unenforceable.

As stated in a letter dated August 5, 1954 from H. Chapman Rose, Assistant Secretary of the Treasury, to Senator Eugene D. Millikin, chairman of the Committee on Finance of the United States Senate:

"There is great difficulty, under the existing statute and decisions construing it, in giving proper effect to the law in cases where the home market of the country in which the dumping originates is to any extent restricted in the way in which the commodity is offered for sale. This subject is also being studied. It may be that, as a result of these studies, the Treasury will have further suggestions regarding changes which, in its opinion, would improve the functioning of the act."

This committee in Report No. 2326 on the Customs Simplification Act of 1954 stated:

"The committee recognizes that further substantive changes in the antidumping law may be desirable, particularly in relation to price and injury definitions. The committee believes, for example, that it should be clear that injury in a particular geographical area may be sufficient for a finding of injury under the Antidumping Act."

Although almost a year has elapsed since the Treasury Department recognized the great difficulty in enforcing the act, the Treasury Department has not

yet come forward with any proposals for amending the act so as to permit more effective enforcement.

On the contrary, the amendment in section 5 contemplates that there will be a further delay of at least a year before the Congress may commence to make effective, on recommendation of the Treasury Department, the Antidumping Act.

We urge that the Senate Finance Committee recognize the difficulty stated in the above-quoted letter written in connection with the Customs Simplification Act of 1954 and that there be no further delay of 1 year or more in making effective the Antidumping Act.

We respectfully urge that the Congress do more than disavow the intent to nullify an act which, by court decisions, has become unenforcible and that the Congress proceed to make effective its original intent in the enactment of the Antidumping Act.

This question of dumping is particularly pertinent here because of the proposed elimination of "foreign value" and the substitution of "export value" and because the House committee was led to believe that the dual pricing which might be encouraged by the pending bill could be handled under the Antidumping Act.

There is no doubt that amendment to the Antidumping Act is required in order to give to domestic industry the protection intended by the Congress. The need for amendment arises out of the fact that court decisions have, as acknowledged by the Treasury Department, prevented the use of the home-market price of a commodity exported to the United States whenever there is any kind of restriction on the use of the commodity after sale in the home market. The result has been that the foreign producer of synthetic fibers can easily evade the provisions of the Antidumping Act by selling his goods at a high price to a purchaser in his home market or a third country who intends to weave, knit, or otherwise process the fibers with some restriction against resale without processing, whether or not this restriction is enforced. The foreign producer can then sell his goods at a lower price in this country without fear that the differential between his low price on export to this country and his higher price elsewhere can be considered in a dumping case. The decisions of the court have even questioned whether a transfer of goods from a producer to a consuming or wholesaling industry with restrictions as to resale or use is, in effect, a sale within the meaning of the Antidumping Act.

Accordingly, there is needed, for the effective enforcement of the Antidumping Act, and we propose an amendment to permit the consideration in dumping cases of home-market sales regardless of restrictions in the sales agreements on use or resale of the goods.

The Antidumping Act employs, without definition, the term "fair value" and also employs, with definition, the term "foreign market value," both of which must be ascertained in order to determine the fact of dumping and the amount of dumping duty. We, therefore, propose and submit herewith an amendment to the Antidumping Act designed to bring the undefined term "fair value" in section 201 (a) of said act in conformity with the definition of "foreign market value" in section 205 of said act.

The amendment which we propose, linking together fair value and foreign-market value, follows the meaning given to those words in the customs regulations from 1921 to this year and is in accord with the construction of the term "fair value" in court decisions. Within the year, the Treasury Department has attempted, by amendment to the customs regulations, to provide for the enforcement of the Antidumping Act, notwithstanding the court decisions with respect to restricted sales, by redefining the term "fair value." We understand, however, that the Treasury Department is in agreement that, while the fact of dumping may be determined on consideration of "fair value," the amount of dumping duty is measured by "foreign market value" and that the Treasury Department is not adverse to clarifying legislative amendments, its revised customs regulations having been adopted as apparently an interim measure pending the amendments which the Treasury Department in its 1954 letter indicated it might propose.

It was the desire of this industry to secure clarifying amendments to the Antidumping Act when procedural amendments to that act in the Customs Simplification Act of 1954 were under consideration by the Congress, but it withdrew its objections to the limited character of the amendments then proposed in the belief that the Treasury Department had indicated it would present to this Congress the necessary clarifying amendments. We are considerably disappointed to find that section 5 now contemplates a delay of another year before the Antidumping Act may be made effective and enforcible. We, therefore,

urge that the pending bill be amended to make the Antidumping Act enforcible and we are filing for the record a draft of an amendment for that purpose.

We also propose an amendment to the Antidumping Act to define the term "industry" as used in this act and in such amendment we are paraphrasing with only necessary changes the definition of an industry as it appears in the Trade Agreements Extension Act of 1955 recently enacted by the Congress.

The term "industry" as used in the Antidumping Act is not therein defined. The amendment which we are proposing is needed for essentially the same reasons as required the insertion of a definition in the Trade Agreements Extension Act of 1955 after which our proposal is modeled.

The purpose is obviously to provide that a multiple product organization shall be considered as a part of each industry to which each of its products belongs and shall be afforded protection against dumping for each of said products regardless of its production or profits on the sale of other products.

Industries, including ours, which have attempted to secure the protection intended by the Antidumping Act have also been confronted with the problem of establishing injury or likelihood of injury. By amendment in the Customs Simplification Act of 1954, the determination of injury has been taken from the Treasury Department and delegated to the United States Tariff Commission but no legislative standards have been adopted as a guide or control on the Tariff Commission in the determination of injury.

We respectfully submit that until such standards are adopted the Antidumping Act may continue to be ineffective. We are proposing a simple amendment designed to remove from domestic industry the burden of proving that dumping is the sole cause of injury and to establish the simple test of unused productive capacity. We do this on the assumption that the Congress does not desire that domestic productive capacity remain idle and that labor be unemployed in order to permit the dumping of foreign goods.

CONCLUSION

For the reasons stated at the outset of this presentation, we urge that the vague and uncertain reductions in tariff duties proposed by section 2 of the pending bill be avoided by elimination of that section from H. R. 6040 and that the matter be deferred for further consideration with ascertainment of the amount of proposed reduction on each commodity and with opportunity for the employers and workers affected to be advised of the exact amount of proposed reduction and be given opportunity to be heard thereon.

Regardless of the decision of the Congress on the retention or elimination of section 2 of the pending bill, we submit that there is urgently needed and should be enacted without further delay amendments to the Antidumping Act to eliminate the easy method of evasion now afforded to foreign producers through the device of restricted home-market sales which may not now be considered in dumping cases.

To establish some predictability on the questions of what constitutes "injury" and what is an "industry in the United States," we urge that standards and definitions such as we have proposed be legislatively established for the benefit and guidance of the Treasury Department and the United States Tariff Commission in dumping cases.

Attached hereto are drafts of the amendments which we believe necessary to make the Antidumping Act enforcible and to restore to domestic industry the protection which the Congress intended to give in the enactment of that law.

PROPOSED AMENDMENTS IN SUBSTITUTION FOR SECTION 5 OF H. R. 6040, 84TH CONGRESS, 1ST SESSION

SEC. 5. (a) Except as in this section provided, nothing in this act shall be considered to repeal, modify, or supersede, directly or indirectly, any provision of the Antidumping Act, 1921, as amended (U. S. C., 1952 edition, title 19, secs. 160–173).

(b) Section 201 (a) and section 205 of the Antidumping Act, 1921, as amended (U. S. C., 1952 edition, title 19, secs. 160 (a) and 164) are amended to read as follows:

"SEC. 201. (a) Whenever the Secretary of the Treasury (hereinafter called the 'Secretary') determines that a class or kind of foreign merchandise is being, or is likely to be, sold in the United States or elsewhere at less than its fair value, he shall so advise the United States Tariff Commission, and the said Commission shall determine within three months thereafter whether an industry in the United

States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. In making said determination the said Commission shall find that an industry in the United States is being or is likely to be injured in any instance in which, without regard to any absolute or relative increase in the volume of imports or in the productive capacity of such industry in the United States, it finds that the merchandise of the class or kind in question is being sold or is likely to be sold in the United States or elsewhere at less than its fair value during a period in which such industry in the United States is operating at less than its full capacity. The said Commission, after such investigation as it deems necessary, shall notify the Secretary of its determination, and, if that determination is in the affirmative, the Secretary shall make public a notice (hereinafter in this Act called a 'finding') of his determination and the determination of the said Commission. The Secretary's finding shall include a description of the class or kind of merchandise to which it applies in such detail as he shall deem necessary for the guidance of customs officers. The term 'fair value' as used herein means the foreign market value of imported merchandise or, in the absence of such value, the cost of production of such merchandise. As used in this Act, the term 'industry in the United States' means that portion or subdivision of the producing organizations manufacturing, assembling, processing, extracting, growing, or otherwise producing in commercial quantities products or articles which may be affected by reason of the importation of such or similar merchandise into the United States. In applying the preceding sentence, the Commission shall (insofar as practicable) distinguish or separate the operations of the producing organizations involving said products or articles from the operations of such organizations involving other products or articles.

"SEC. 205. For the purpose of this title the foreign-market value of imported merchandise shall be the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or offered for sale in the country from which exported, in the usual wholesale quantities and in the course of trade for home consumption (or, if not so sold or offered for sale for home consumption, then for exportation to countries other than the United States), plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of exportation, the foreign-market value shall be ascertained as of the date of such purchase or agreement to purchase. In the ascertainment of foreign-market value for the purposes of this Act no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, shall be taken into account."

Note re above amendments.—Problems of statutory construction will be solved if in a report recommending the foregoing amendments the committee indicates that they are designed to overcome court decisions interpreting the act in a manner which prevents consideration in dumping cases of sales made in the foreign producers' home market or in countries other than the United States on a basis which contains any restriction concerning the use or resale of the merchandise by such purchasers.

The CHAIRMAN. Proceed, sir.

Mr. O'BRIEN. In summary, Mr. Chairman, our first interest in this bill is the tariff reductions which it is designed to effect; and second, in section 5, and the problems arising on the enforcement of the Antidumping Act.

Referring to this question of foreign value and foreign-value information, which is required for enforcement of the Dumping Act; as the last speaker just noted, the Secretary of the Treasury has said they will continue to collect on customs invoices the foreign-value information. That is a fair test of what simplification there is in section 2.

Now, the customs official looks at two figures, the foreign value, the export value. He will continue to get that information. He will look at one for the assessment of duty. But he will have to consider the

other unless they are going to omit dumping or enforcement of the Antidumping Act. There is no real simplification in that.

I want to say a word about the Treasury survey and the estimates that have been given this committee on what effect this will have in reduction of duty. This survey which Assistant Secretary Rose properly called random sampling is too small to merit consideration and it proceeds on the fallacious basis of averaging reductions in value on dissimilar products and products at all stages of manufacture.

Thirty percent of the imports subject to ad valorum duty are not considered at all in his statistical survey. Of the 70 percent that come in through 8 ports they selected 2: New York and Laredo. They examined 1 out of every 20 entries in each of those ports. In the other 6 ports for some reason not explained they considered only 1 out of every 40 entries. Imports at all other ports were totally disregarded.

I want to emphasize that the word "entry" here, they may represent 2½ and in 1 case 5 percent of entries, but those figures have no relation to the volume of goods. It is whatever is shown on a particular entry.

Now, specifically relating that to the schedule we are interested in, schedule 13, synthetic fibers and manufactures, they applied that same principle. But nothing in the data indicates the high or low volume of imports of synthetic fibers or manufactures represented by the entries and there is no reason to assume that the data covers every commodity covered in schedule 13. That schedule covers a variety of products of rayon and other synthetic fibers at all stages of manufacture from waste, finished fabric, garments, articles, at every stage. Only the Treasury Department knows whether the random selection of every 20th or every 40th entry produced even incomplete data relating to each commodity in that schedule. And the same is true, gentlemen, of every other schedule.

Now, to attempt to estimate the effect of reductions in duties by averaging entries of waste, which is of low value and bears a low duty, with dyed and finished fabrics and articles of apparel which are of considerably higher value and come in at much higher duty is, I submit, a distortion of the effect of the tariff reductions in this bill.

The Treasury Department comes out with a figure of percentage of decrease in value on this whole schedule of the man-made fibers and products thereof, over which they estimate to be 6.83 percent. Of course, it is an unweighted average. It is equally clear, as has been stated here, some commodities in the schedule must have suffered a more severe decrease in value. But the range is unknown.

Now, it is equally obvious and I hardly need to remind the committee that the American industry does not deal in average price of goods but of prices and values of specific commodities. No one can tell whether any commodity covered by schedule 13 will come in at valuations reduced 6.83 percent or more or less. Nor can anyone except the Treasury Department tell what the actual reduction in value and consequent reduction in duty may be on any specific commodity.

I want to refer again without elaboration to the matter of the peril point. Since we do not know the range that produced the average, we cannot possibly know, no member of this committee or of Congress or of our industry can know whether this bill authorizes and indeed causes reductions below the peril point. The only thing you can

really be certain of is that it is going to reduce some duties. It is going to increase imports of goods and export jobs.

The Treasury Department estimated before the House that at a cost of some $750,000 to $800,000 it could substantially accomplish the purposes of this bill. It also estimated that the enactment of the bill would cause a loss of approximately $5 million in revenue.

Now, the Treasury Department may be accurate in its estimate of the cost of its administrative work, but on the data it has submitted there is no reason to believe it is accurate as to the loss of revenue.

In any event, we suggest that Congress should not agree to the loss of a large amount of revenue to avoid appropriation of a relatively small amount for administrative duty. And the more important question is: Does American industry have to run the hazard of paying some prices of unknown magnitude for the privilege of relieving the customs officers of their duties under the present law.

In the last 2 years, Congress has enacted 2 customs simplifications acts. I submit we are approaching a position where the Congress needs to view the cumulative effect of the various tariff proposals some of which effects are not immediatelly known.

If this bill were designated and titled by the name of its present effect, for example, it would be called the Tariff Reduction Act of 1955 and it would be much better understood and probably have no chance for enactment.

In one of the customs simplifications acts, the one of 1954, provision is made for objective study of tariff rates and classifications by the United States Tariff Commission. That report will shortly be received. It is suggested that that will provide a more positive method of evaluation and Congress might well await it.

In the Trade Agreements Act of 1955, Congress again renewed and adopted the principle of tariff concessions on a reciprocal basis. Without awaiting the effect of that act, or indeed the trade agreements recently negotiated with Japan and Switzerland, which may have drastically injurious effects on the domestic textile industry, Congress is now asked to abandon the principle of reciprocal concessions and make unilateral tariff reductions in unknown amounts.

A resolution recently introduced in this Congress indicates a large number of the Senators desire some fact finding to determine what are the effects of recent tariff reductions. By the uncertain variable reductions in this bill, no one can tell what the cumulative effect will be of the recent Customs Simplification Act, the trade agreements extension law, and the recent trade agreements. We cannot tell what the effect will be on American industry or labor, production or employment in any State. Therefore, gentlemen, we most respectfully submit that the time has come for the Congress to stop, look, and listen in order to appraise the effects of these acts and trade agreements, and to permit the industries and the workers affected to know the amounts of reduction in duty which are proposed, and to give them an opportunity to present to the Congress their views.

Such a delay will have no serious effect on foreign trade. Nearly 80 percent by value of our dutiable imports come in under specific rates. The Congress has twice, at least, refused consideration in the last two customs simplification acts to adopt similar proposals as are in section 2. No untoward results have ensued. On the contrary,

imports continue to come in at great value and trade throughout the free world is flourishing, even the backlog of cases about which the Treasury Department has been complaining by their own statement is being reduced under the simplification already effected.

Now, coming to our final major point: Much has been said about the Antidumping Act and much of the discussion has gone on the theory that it is an enforceable piece of legislation. My purpose now is to demonstrate to this committee that section 5 of the bill which merely provides against nullification of the act is not enough because the act is at present for all practical purposes unenforceable.

In our prepared statement, we have submitted proposed amendments to the act to make it enforceable, but if the committee will permit—I will not discuss legislative drafting now in the interest of time—but simply will discuss some of the principles involved.

Now, the report of the Ways and Means Committee indicates Treasury spokesmen feel that effective discouragement of the two-price system comes from the Antidumping Act. Gentlemen, we would be much more impressed with this statement if there could be produced some representatives of any American industry who feel that the Antidumping Act as it now stands on the court decisions is effective. A study of the cases decided by the Treasury Department in recent years will show that in only a negligible number of cases has it been possible to enforce the act. This is not a criticism of the Treasury Department. This condition is due to the manner in which the Court of Customs and Patent Appeals has construed this act. On this problem we believe we have agreement of the Treasury Department that clarifying amendments are needed to overcome the court decisions which have made the act unenforceable.

In a letter from H. Chapman Rose, Assistant Secretary of the Treasury, to Senator Eugene Millikin, dated August 5, 1954, Mr. Rose said:

> There is great difficulty under existing statute and decisions construing it, in giving proper effect to the law in cases where the home market of the country in which the dumping originates is to any extent restricted in the way the commodity is offered for sale. This subject is also being studied. It may be that, as a result of these studies, the Treasury will have further suggestions regarding changes which, in its opinion, would improve the functioning of the act.

This Senate Finance Committee, in its report on the Customs Simplification Act of 1954, said:

> The committee recognizes that further substantive changes in the antidumping law may be desirable, particularly in relation to price and injury definition. The committee believes, for example, that it should be clear that injury in a particular geographical area may be sufficient for a finding of injury under the Antidumping Act.

Almost a year has elapsed since the Treasury recognized the great difficulty in enforcing the act. But the Treasury has not come forward with any proposal for amending the act. The need will be tremendously increased if there is enacted a law which stimulates dual pricing as in this case.

On the contrary, while the Treasury indicates that it will study the act and may come back with suggestions, section 5 of this bill contemplates further delay of 1 year more before we can have recommendations and amendment and make the act enforcible.

There is no doubt that amendment to the act is required. It arises out of the fact that court decisions, as acknowledged by the Treasury, prevent use of home market price of commodity exported to the United States whenever there is any kind of restriction on the use of the commodity after sale in the home market. The result has been, to give an example, a foreign producer of synthetic fibers, it is true of any other commodity, can easily evade the provision of the antidumping provision by selling goods at a high price to purchasers in the home market or to a third country for processing, weaving, or knitting, with some restriction against resale without processing. Whether or not the restriction is ever enforced, the foreign producer can then sell his goods at a lower price in this country without fear that the differential between his low price on exports to this country and his higher price elsewhere can be considered in a dumping case. That is the thing that is stymying the enforcement of this act.

There are 2 or 3 other things that I want to mention and I will conclude.

The Antidumping Act employs without definition the term "fair value" and also employs with definition the term "foreign market value." The purpose of one of our amendments is simply to reconcile those two words as they have been reconciled for years under court decisions and under customs regulations. We propose to link them together to give them the meaning they have had until this year in customs regulations.

The Treasury Department, within the year, attempted by amendment to give a new definition to fair value. But we understand that the Treasury Department recognizes that while the fact of dumping may be determined on consideration of fair value, the amount of dumping duty, which is the only effective means of enforcement, is measured by the foreign market value.

It was the desire of this industry to secure clarifying amendments to the Antidumping Act when the procedural amendments to the Customs Simplification Act of 1954 were under consideration, but it withdrew its objections to the limited character of the amendments then proposed in the belief that the Treasury Department would present necessary clarifying amendments.

We are disappointed to find that section 5 now contemplates delay of another year. We urge that the bill be amended to carry into effect the intent of the Congress when it was enacted.

We have also proposed a definition of the term "industry." I won't go into it except to say that we have followed the Trade Agreements Extension Act of 1955 to define what an industry is and to insure protection to multiple-product companies.

We have also proposed a simple amendment to the Antidumping Act that is designed to remove from domestic industry the burden of proving that dumping is the sole cause of injury and to establish the simple test of unused productive capacity.

Therefore, gentlemen, in conclusion, we join with those who have suggested the elimination of section 2. We regard as even more important whether or not Congress eliminates section 2 of the pending bill a further amendment to section 5 of this bill to make the Antidumping Act effective and enforceable and to eliminate the easy method of evasion now afforded foreign producers through the device

of restricted home market sales which may not now be considered in dumping cases.

Gentlemen, I thank you for your attention. If you have any questions, I will try to answer them.

The CHAIRMAN. Thank you very much, Mr. O'Brien.

Senator MILLIKIN. Mr. Chairman, if you were working at this job from the Government standpoint, how would you simplify without reducing tariffs?

Mr. O'BRIEN. Simplify——

Senator MILLIKIN. How would you have a Customs Simplification Act without having a tariff reduction act?

Mr. O'BRIEN. I have not considered that, Senator. I imagine it could be done. But let me say in relation to this act specifically, I doubt that we have to pay the price of unknown reductions of duty in order to simplify.

Senator MILLIKIN. I am trying to get at that very point. How can we simplify without running the risk of dangers of reductions of tariff?

Mr. O'BRIEN. In other sections of this bill, and in the last two acts that have been passed, there have been various elements relating to customs procedure which are properly called simplification.

Frankly, Senator, I think in section 2, and in changing the basis of valuation, we are simply indulging in semantics to call that simplification. It is really tariff reduction.

Senator MILLIKIN. I am asking you how can we reduce without running the risk of serious reduction in tariffs?

Mr. O'BRIEN. I don't think you can reduce by changing the base of valuation without running that risk, sir.

Senator MILLIKIN. How can you have a simplification without running that risk?

Mr. O'BRIEN. You cannot if you are attempting simplification in the field of changing valuation.

Senator MILLIKIN. I am now talking about what you think would be the right way to simplify without running the risk of harmful tariff reductions.

Mr. O'BRIEN. I don't think it is unnecessarily complex at the moment. I think definitions of foreign-market value would simplify enforcement, and I think we can continue under the present basis of valuation. I don't think simplification is needed or effective here.

Senator MILLIKIN. You are not impressed with the point that the courts are cluttered with too much litigation?

Mr. O'BRIEN. I am not impressed.

Senator MILLIKIN. Over the present system.

Mr. O'BRIEN. I am not impressed by that, Senator Millikin. When the Assistant Secretary reports the backlog of cases is going down and when he indicates with additional appropriation of, say, three-quarters of a million dollars instead of a sacrifice of estimated revenue of $5 million, they can clear up their backlog.

Senator MILLIKIN. Your point there is that there is not as much administrative difficulty as there purports to be?

Mr. O'BRIEN. I am taking his estimate of the cost of doing it, and I don't think that industry should pay the price rather than having

the money appropriated and having these administrative officers do their duty.

Senator MILLIKIN. I am not arguing with you about it. I am trying to find out what you think about it.

The CHAIRMAN. Would it be possible or advisable to try to transfer some of these from the ad valorem category to the specific category?

Mr. O'BRIEN. Yes; of course it would be possible as an earlier witness suggested. It would be a rather tremendous task.

The CHAIRMAN. You do not advocate that?

Mr. O'BRIEN. I think that is about comparable to a complete tariff revision; that would take months.

I might suggest that that information along that line may be available when you have the Tariff Commission report on the study of rates which you authorized last year.

The CHAIRMAN. Thank you very much, Mr. O'Brien. You made a very clear statement, sir.

The next witness is Mr. Vincent J. Bruno.

STATEMENT OF VINCENT J. BRUNO, WORLD TRADE DEPARTMENT, COMMERCE & INDUSTRY ASSOCIATION OF NEW YORK, INC.

Mr. BRUNO. Mr. Chairman, I am Vincent J. Bruno, manager, import division, world trade department, Commerce & Industry Association of New York, Inc.

The Commerce & Industry Association of New York, Inc., which is the recognized service chamber of commerce for the New York metropolitan area, includes within its membership well over 1,000 firms engaged directly or indirectly in the importation of goods and materials from abroad for sale and distribution in this country.

This association, since its founding in 1897, has consistently maintained an interest in matters relating to United States foreign trade and, in that connection, has supported various measures designed to improve and simplify customs procedures, achieve a more efficient administration of the Tariff Act, and reduce cost and effort for both the Government and import traders.

Our association has supported customs simplification measures in previous Congresses, and has been gratified that action was taken on various phases of customs administration which has proved beneficial.

Deleted from the customs simplification measures of the past, however, was the proposal to eliminate "foreign value" in section 402 of the Tariff Act, and to substitute therefor "export value" as the primary basis of appraisement for ad valorem imports.

The measure before your committee at this time has as its main feature the enactment of this proposal, and we wish to go on record again in support of such an amendment to section 402 of the present law.

Before duties may be determined, it is necessary at present for appraisers to ascertain both the price at which imported merchandise is sold for home consumption, foreign value, and the price at which it is sold for export to the United States, export value, since existing law requires that duties be assessed on the higher of these two values, if both exist.

Foreign value must be determined on the basis of conditions in a foreign market. Investigations are ordered by the Treasury Depart-

ment for this purpose, and involve visits by Treasury agents to manufacturers abroad, the examination of their production records, inquiries into their pricing policies, and other questions regarding commercial practices followed by foreign producers respecting the sale of goods within their own countries. We believe such investigations create unnecessary delays and inconvenience for importers, represent an undue intrusion into foreign manufacturers' operations, and defeat the efficient administration of the law. Removing this unrealistic basis of appraisement would do much to improve commercial relations between American and foreign firms, as well as overall economic relations between their governments.

We wish to emphasize that the proposed legislation is designed to facilitate the administration of the Tariff Act. Any incidental effects it may have on the amount of import duties collected should not be permitted to overshadow the desirable benefits which will accrue to both the Government and the trade by the elimination of these costly and time-consuming investigations to determine foreign value.

Should there be any question as to the loss of protection against competitive foreign imports, we believe this should be considered as a separate matter by the Congress. The immediate question is whether Congress should eliminate "foreign value" and so remove a recognized hindrance to our country's expanded international trade.

While there are other significant features to this bill, including those relating to currency conversion, we feel that the elimination of "foreign value" is the most important provision of H. R. 6040 and justifies early and favorable committee action.

Therefore, we wish to record our support of this bill, and urge that it be reported favorably by your committee for final enactment during the current session of the Congress.

The CHAIRMAN. Thank you very much, Mr. Bruno.

Are there any questions?

Mr. BRUNO. Thank you, sir.

The CHAIRMAN. The committee will adjourn now until 10 o'clock tomorrow morning.

(By direction of the chairman, the following are made a part of the record:)

STATEMENT OF JAMES G. PATTON, PRESIDENT, NATIONAL FARMERS UNION

Mr. Chairman and members of the committee, in keeping with the program of National Farmers Union favoring extension of the Reciprocal Trade Agreements Act and United States customs simplification, National Farmers Union endorses and supports H. R. 6040.

Many United States farmers produce products which have traditionally entered into export trade, like cotton, wheat, tobacco, hogs and other livestock, and certain fruits. The export market for such crops is important to farmers. We are constantly aware that it depends on low-trade barriers abroad, on prosperity and buying power in foreign countries, and especially on foreigners' supplies of dollars. We know, too, that one of the chief ways in which foreigners obtain dollars is through the sale of goods and services to the citizens of the United States and that the amount they can sell is dependent in large measure on the simplicity and ease with which their goods can be brought into the United States under our customs procedures.

United States farmers sold abroad in 1951 crops from approximately 52 million acres; farmers sold abroad in 1953 crops from about 30 million acres. The loss of foreign markets means that the farmers' acres involved must be shifted to production of other crops or be taken out of production. Much more desirable

than either of these alternatives is the continued large-scale export of United States agricultural produce.

The United States economy as a whole suffers unless agricultural exports are maintained at a level commensurate with increases in domestic production. Recent drops in farm exports have adversely affected farmers and nonfarmers alike. Severe cuts in farmers' domestic prices coupled with cuts in agricultural exports have resulted in fewer purchases of farm machinery and consumer goods generally. These series of events have resulted in a spiraling down of retail sales and employment levels.

While there has been some increase in exports from fiscal 1953–54 to fiscal 1954–55, export losses from the fiscal years 1951–52 and 1952–53 have not been made up.

Farm exports in 1952–53 were 31 percent below the value of such exports in 1951–52 and 20 percent below the average value of the preceding 5 years. An increase of 4 percent in farm exports from 1952–53 to 1953–54 means we still have not accomplished much more than merely to hold steady at the reduced export rate.

Mr. Chairman, this problem of maintaining agricultural exports is related to the provisions of H. R. 6840 which are designed to eliminate obsolete provisions of the customs laws and which amends the Tariff Act.

CHANGES IN METHODS OF VALUATION

We favor the feature of the bill before you which revises section 402 of the Tariff Act. The present act provides that values of all products be determined on the basis of "foreign value"; which may be either the domestic wholesale value in the exporting country or the wholesale value for exportation to the United States, whichever is higher. H. R. 6040, as we understand it, would eliminate the highly complicated and time-consuming procedure of determining such "foreign value" and make "export value" the basis of value of all imported items which are not duty free or are subject to specific rates.

Alternatives to the "export value"—in the event it cannot be satisfactorily determined—setting forth the value of imported merchandise for the purpose of the act shall be as follows:

(1) *United States value.*—This is the going wholesale value at which imported merchandise is sold in the United States.

(2) *Constructed value.*—This means of evaluation is designed for use if all else fails. If we understand the basis for constructed value, it is to figure cost of production.

Each of the above means of calculating values of imports is closely related to the export value or a realistic commercial value, if one had existed, and is a change from the calculation of values through arbitrarily fixed minimum percentages now contained in the law.

Uncertainty as to the ultimate value and the customs obligation, always present under the present law, is eliminated. We feel that this revision of section 402 of the Tariff Act of 1930 will aid in the earning of additional dollars by foreign countries from which we buy. These additional dollars will make possible purchase of greater quantities of United States agricultural produce and industrial goods for export.

DOLLAR SHORTAGE PROBLEM

We are convinced that the dollar shortage abroad is the major reason for the sharp decline in farm exports during the 1952–53 fiscal year and feel that the correction of the problem is greatly in the interest of United States farmers, particularly those who grow cotton, wheat, rice, barley, tobacco, soybeans, and certain fruits.

EFFECT OF AGRICULTURAL IMPORTS

Major supplementary agricultural import commodities are wool, cane sugar and molasses, oilseeds and their products, hides and skins, unmanufactured tobacco, beef and beef cattle, nuts, feed grains, and cheese. Where the quantity imported of any of these commodities exceeds the quantity of exports, it makes litle difference pricewise what the ratio of imports is to United States production. No such imports would come in at all if they could not be laid down here at, or under, the domestic United States price. In the absence of supply-diversion type price-support program, the imported part would set the price for the entire supply and therefore establish the market price received by United States farmers.

The farm families who produce such commodities, therefore, have a direct and important interest in the terms under which such imports are allowed to enter the domestic market. For these families, the advantages gained from the exportation of other farm products and of nonfarm products is general, diffused, and indirect while the competitive nature of supplementary imports is direct and immediate.

However, the farm families who produce those commodities that must compete with imported supplies also share in whatever advantages accrue to citizens generally from an intelligent foreign policy and from whatever general advantages they gain as consumers and as buyers of production items from increased importation of low-cost manufactured commodities and nonagricultural raw materials.

CURRENCY COVERTIBILITY

H. R. 6040 amends the Tariff Act of 1930 to provide the buying rates of foreign currencies certified by the Federal Reserve Bank of New York on the first day of any quarter will be used for that entire quarter, unless such rate varies 5 percent or more from the first certified rate for that particular quarter.

National Farmers Union approves this provision as we believe it will result in greater ease and speed of administration. It is understood that the change would aid materially collectors who have heretofore spent more time than considered necessary in maintaining a current daily certified rate list.

Mr. Chairman, National Farmers Union supported the bill to simplify customs procedures passed by the House in 1953. While there are some minor changes between H. R. 6040 and the bill passed in 1953, we believe that the same benefits to farmers and to the Nation generally would accrue. While we have not made a detailed study of the differences, we believe them to be clarifications of and improvements in the previous similar bill passed by the House. For example, we strongly favor the addition of the new subsection (g) in section 402, which provides for review of transactions between related companies.

INTERNATIONAL RAW MATERIALS RESERVE

Higher farm family living standards in all nations, including our own, are dependent upon expanded international trade in farm commodities and other raw materials. The United States generally is becoming increasingly dependent upon foreign sources for low-cost essential industrial raw materials. It is ordinary commonsense for each of the various nations to expend its greatest efforts in producing those sorts of goods they can produce at greatest efficiency, and the domestic surplus of which they can exchange for those commodities produced more efficiently in surplus in other nations.

Pending the time when the democratic nations of the world can come together in solid economic union, it would seem desirable to establish an interim agency to develop and operate an International Raw Materials Reserve.

This agency would be charged with the responsibility to prevent extreme fluctuations in prices of agricultural commodities and other raw materials in the international market; to encourage expanding production to meet the world's pressing need for increased supplies of food, fiber, and other raw materials; to make available foodstuffs in circumstances of famine; to absorb temporary market surpluses; and through use of national currencies involved, to make self-liquidating loans through appropriate international lending agencies for economic development, as well as for the purchase, in food, fiber, and merchandise importing countries, of raw materials needed in food and merchandise exporting countries.

I urge the members of this committee to give this suggestion careful study with a view to introducing and helping to bring about the enactment of a joint resolution of the Congress directing the executive branch of the Government to initiate negotiations, through the United Nations or otherwise, to establish an International Raw Materials Reserve. Resolutions introduced in both the House and Senate would make possible negotiations for the purpose of preparing a specific plan to be presented to the Congress for approval.

INTERNATIONAL WHEAT AGREEMENT

A similar mechanism for conducting consciously directed, democratically controlled international economic planning is the International Wheat Agreement. I am relieved and gratified that this agreement was renegotiated in 1953. Na-

tional Farmers Union supports its renewal when it expires next year. Along with the successful establishment of an International Food Reserve or an International Raw Materials Reserve of the type I have just suggested, the renewal of the International Wheat Agreement and the development of other international commodity agreements are essential to the continued stability of the United States wheat industry and of the economic opportunities of farm families who produce wheat and export and import farm commodities.

Mr. Chairman, National Farmers Union testified on January 21, 1955, on the Trade Agreements Extension Act of 1955. We supported it as another negotiation type of consciously directed international economic cooperation that should be encouraged.

Just as we supported the Trade Agreements Extension Act, we support H. R. 6040. However, we do not believe that tariff elimination or custom simplification as such by unilateral action of the United States is the complete answer to the solution of foreign-trade problems with which we are faced.

We do not believe that United States farmers who produce for export or who produce commodities that must compete with imports should be asked to bear the full cost, respecting this production, of an intelligent United States foreign policy. I accord the same right and privilege to other domestic raw material and industrial producers. The benefits of better international economic cooperation accrue to all people and the cost involved should be borne by all the people. This means that in the case of both exports and imports, programs and policies should be established, as in the case of the International Wheat Agreement, to spread the costs to all the people instead of putting all the costs directly on the small number of producers concerned.

With respect to such measures, there is always a clear-cut choice of how the cost is to be spread to all the people. By some methods the cost is spread to all in their capacities as consumers and they pay the bill in increased retail prices of the things they buy in relation to the quantities of such purchases.

By other methods the cost is spread to all the people in their capacities as taxpayers and they pay in accordance with the ability-to-pay principle incorporated in the Federal personal and corporate income and excise tax schedules. This is the method followed in connection with United States operation of the International Wheat Agreement.

As a general principle, Mr. Chairman, I urge you to accept the proposition that no United States farmer or other producer whom we expect to remain in production, be required to produce for export or to meet the competition of imports at any price less than the full parity price.

There are probably some industries in which the entire United States need and demand can be met continuously and safely through complete dependence on imports. In such cases, I recommend that the injured domestic industry be helped to make adjustments by means other than excluding imports, such as through extension of unemployment insurance, assistance in retraining workers, conversion to other lines and outright purchase, where required.

May I hasten to add that I know of no domestically produced agricultural commodity to which this applies.

In all other cases, programs and policies affecting imports and exports should be designed to provide full parity returns to domestic producers in ways that will be consistent with minimum hindrance to international trade and economic cooperation, and preferably by methods that will spread the temporary costs of the adjustments to all the people in accordance with ability to pay rather than through increased retail prices to consumers.

TARIFFS ON RAW MATERIALS OTHER THAN FOOD AND FIBER

The situation with respect to tariffs on metals, minerals, petroleum, and other raw materials except food and fiber products is a special case in point. These materials are irreplaceable natural resources, which are destroyed in a single use and cannot be maintained or increased. In a troubled world it makes a great deal of sense to make as little inroad as possible on our natural supply of such materials. From a purely selfish national viewpoint, it would be better to import a maximum of such materials while conserving the supply within our own boundaries. However, within the framework of international economic cooperation, the wiser course would seem to be the establishment of a balanced drain on natural irreplaceable resources of the different countries.

Establishment of the International Raw Materials Reserve would be admirable for this task. In the absence of such an international agency, it would

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seem desirable to combine a United States national stockpiling program with the reduction and ultimate elimination of import duties and restrictions on metals, minerals, and petroleum, with a domestic program that will protect the legitimate interests of domestic producers.

PEACE, PROSPERITY, AND DEMOCRACY

Farm people share with all other citizens a broad interest in promoting increased domestic and democratic world production and economic expansion, development, and maintenance in all countries, including our own, of high levels of employment and real income and the creation of economic conditions conducive to world peace. It is a matter of commonsense to realize (1) that everybody would be better off if we would produce and distribute more goods and services in the most economical manner possible in terms of manpower and resources, and (2) that people all over the world have common aspirations, needs, and vested interests similar to our own.

In terms of the total economy of the free world, this means that each country should put its resources and people to producing what it can most efficiently in excess of its own needs and trading that excess for the excess of goods produced more efficiently by other countries. In this way the total goods and services produced by the countries of the free world will be at a maximum.

National Farmers Union urges the enactment of H. R. 6040 as a step toward such a goal.

PERTINENT PARAGRAPHS FROM NATIONAL FARMERS UNION PROGRAM

Policies and objectives outlined in this statement are the outgrowth of democratically considered and determined policies of National Farmers Union. In this connection, pertinent paragraphs from the National Farmers Union program are being made a part of this statement for study and consideration by the committee.

World affairs

Farmers Union will continue to strive for the earliest possible attainment of a democratic world brotherhood of nations living at peace with one another in a United Nations that derives its just governmental powers directly from the people of the world and that provides the basis and opportunity for constantly increased production and improved living standards.

The United States should give steadfast and increasing support to the United Nations as a place where differences between nations can be settled by democratic processes of conciliation, arbitration, and negotiation. We shall give full support to the rapid development of stronger international agencies and to democratic regional and functional groupings and unions of nations consistent with the United Nations Charter and the Constitution of the United States.

United States foreign policy

The trend of world events has thrust the responsibility of world leadership on the United States. We reaffirm our support of United States efforts to assist in the expansion and strengthening of the productive capacity and living standards of democratic nations. We emphasize the great importance and decisive role that abundant United States food production can play in the implementation of these policies. In many areas better nutrition for low-income people can be more potent than weapons of war. United States and United Nations programs of economic and technical assistance should be established separately from military programs. Until such time as a world brotherhood is fully established, we assert, also, the responsibility of a free democratic nation to protect itself and, through the United Nations, protect weaker nations against aggression.

Expanding economy of abundance

We assert our conviction that our aims and aspirations can only be attained in an expanding full employment economy.

International Food and Raw Materials Reserve

We urge establishment of an international agency to perform the following functions:

(*a*) Prevent extreme price fluctuations in the international markets for food and other raw materials and encourage expanding production in order to meet the world's increasing foodstuff and other raw material needs, both in terms of raising existing per person consumption and of future increased population;

(*b*) Maintain gainful employment not only in agricultural production, but also in those industries supplying agriculture and engaged in the processing and distribution of agricultural products and other raw materials;

(*c*) Absorb temporary market surpluses of food and other raw materials;

(*d*) Prevent famine and starvation; and

(*e*) Provide for a self-financing operation through the orderly international exchange of raw materials and through the development of an international program of loans for raw material development, and for corollary economic development.

International commodity agreements

The International Raw Materials Reserve should be buttressed and coupled with additional international commodity agreements similar to the International Wheat Agreement.

We urge the extension of the International Wheat Agreement, when it expires, on a basis adapted to current conditions and related to an international farm parity index.

Expanded use of abundant United States farm production for promotion of peace

We urge immediate steps by the United States to make fullest possible use of abundant United States farm production to further the aims of United States foreign policy through establishment in Foreign Operations Administration of a farm trading post to be used as the operating arm of the United States Government to promote—

(*a*) The sale, barter or loan of United States farm commodities for dollars, local currencies, or other commodities at the world price or below or as a donation to friendly foreign nations and to friendly peoples to promote economic development, to relieve famine and other emergencies and to relieve starvation and nakedness.

(*b*) Foreign sale of exports at the world price through regular channels of trade, if possible, and preferably in connection with international commodity agreements. The difference between world price and the domestic support price would be made up by the United States Treasury, preferably by means of parity payments to producers, or if that is not done, through export subsidies.

(*c*) Use donations of United States food to promote development of vocational training schools and other activities that will increase productive ability of the country involved.

(*d*) Use, to the fullest extent possible, the voluntary foreign relief organizations so that United States food will actually reach those who need it, rather than those who could purchase it normally.

"Supplementary" or "competing" imports of farm products

Respecting imports of farm commodities that compete with domestic farm production, we favor adoption of policies that will give United States consumers an adequate supply at a fair price, preferably in connection with negotiated international commodity agreements, with provisions for protecting 100 percent parity returns to family farmers. If this can be done in no better way, we shall support an automatic flexible tariff that will eliminate imports at prices less than 100 percent of parity.

Cost to be charged to foreign policy

We are convinced that when American food and fiber are used to promote the aims of national policy, consumption expansion, civilian defense, national security, or United States foreign policy, the costs of such programs should be charged to those appropriations and not to farmers and farm programs.

Foreign policy to promote permanent peace

There are today two major obstacles to the attainment of true world brotherhood and permanent peace. One is the continued existence throughout the world of colonialism and other uncorrected and indefensible evils which provide the seedbed for agitation, uprising, and revolt. The other is the fact that the rulers of the Soviet Union, instead of cooperating to end these conditions under free government, have revealed imperialistic world aims and a determination to exploit every wrong for their own imperialistic purposes. We must work to ease and ultimately to end starvation, exploitation, feudalism, dictatorships, bad land tenure systems, discrimination, and all other injustices and threats to world peace.

Universal disarmament

We are convinced that the United States, while assisting and encouraging development of free world defensive strength, should take world leadership in trying to work out a foolproof means to universal disarmament including definite assurance of being able to become forewarned of breaches of disarmament agreements.

International court of justice and police force

We favor participation of the United States in an international court with an international police force with sufficient power to prevent aggression and bring the aggressors to trial.

United Nations

We urge full United States support of the United Nations and the specialized agencies such as the Food and Agricultural Organizations and World Health Organization. To that end we will support full appropriation of United States contributions to the support of these international agencies.

Democratic world economic union

Solution of the fundamental problems of our time requires the earliest possible establishment of an economic union of the democratic nations consistent with the United States Declaration of Independence and the Constitution and its Bill of Rights. Any nation that will accept democratic principles, conduct free democratic elections, and abide by the laws enacted by the governing body of such a union should be eligible for membership. These laws would direct the administrative agencies of the union to establish and carry out programs to vastly speed up economic development and improved productivity of human labor and land and water resources; and to eliminate progress-retarding and opportunity-denying legal and institutional arrangements.

Economic development

We reaffirm our support for United States efforts to assist in the development of a coordinated program of aid to relieve hunger and suffering, and for expansion and strengthening of the national economies of the democratic nations in ways that will not destroy the principle of self-determination of people. The United States should help these nations to develop economic conditions that will—

(*a*) Create an international community of economic effort for common purposes, avoiding the extremes of either forcing unwanted policies on others as a condition of our help, or of undertaking actions ourselves in the absence of appropriate efforts in the countries that participate;

(*b*) Promote material well-being and allow employment, production, trade, and investment in ways that will enrich human life and eliminate economic weaknesses that threaten political stability and invite totalitarian imperialism;

(*c*) Afford all democratic nations increasing opportunities for economic growth and improving standards of living in ways that will operate so that economic gains are distributed equitably within countries; and

(*d*) Attract peoples and governments toward the democratic system of political freedom.

To attain these objectives we support continued international economic negotiation; increased United States contributions to the specialized agencies, such as the Food and Agriculture Organization, and expansion of United States foreign economic assistance and of the program by which our advanced technological knowledge and farm know-how is made available to other nations to assist them to increase the efficiency of production and marketing and to improve their agricultural land-tenure systems, eliminate colonialism, and reform economic and social structures.

Industrial imports and exports

We see no reason why other domestic producers of exported and imported commodities should not be accorded the same treatment we have recommended in the farm sphere. We feel that in certain instances, particularly in case of metals, minerals, petroleum, and other irreplaceable natural resources, it would be better public policy for the Government to buy up and preserve the reserves and capital investment of domestic private owners and allow imports to come in unrestricted.

United States Customs simplification and extension of Reciprocal Trade Agreements Act

We favor further simplification of customs procedures and negotiated tariff reduction consistent with the principles enumerated above.

International Federation of Agricultural Producers

We support the continued membership of National Farmers Union in the International Federation of Agricultural Producers, an international organization of national farm organizations.

BURROUGHS WELLCOME & CO. (U. S. A.), INC.,
Tuckahoe, N. Y., July 5, 1955.

Hon. HARRY F. BYRD,
Chairman, Senate Finance Committee,
Washington, D. C.

DEAR SENATOR BYRD: We note that H. R. 6040, the Customs Simplification Act of 1955, passed the House last week and will now be taken under consideration by the Senate Finance Committee.

We urge your favorable consideration of this bill for the reason that it proposes to eliminate "foreign value" and substitute "export value" as the primary basis for customs appraisement.

You may be interested in the following instance in which the present law works to the disadvantage of the American consumer of drugs. This company imports from its English parent bulk ergonovine maleate. We supply this drug widely, both in tablets and injectable form, for hospital use in obstetrical control of postpartum hemorrhage and in assisting involution of the uterus. Naturally, in purchasing the bulk drug in quantity from our English parent company we pay a lower price than do British users who purchase the drug in finished tablet or injectable form in 1-gram packings. Yet, because our English parent company does not offer the drug in bulk to British purchasers, our United States Customs authorities feel obliged to assess duty on the basis of the home-consumption price of the 1-gram packing sold to British users. The result is that we pay a substantially higher duty which is based upon a price not logically related to the bulk-purchase price of the drug. Ultimately it is the United States consumer who suffers from such an unrealistic assessment.

We trust that this specific example will indicate the need for amendment of the foreign-value provision of our customs law.

Sincerely yours,

WILLIAM F. DOWLING, Jr., *Secretary.*

S. STROOCK & CO., INC.,
New York, N. Y., July 6, 1955.

Hon. H. F. BYRD,
Chairman, Senate Finance Committee,
Senate Office Building,
Washington, D. C.

DEAR SENATOR BYRD: Relative to the consideration by your committee of H. R. 6040, the proposed customs simplification bill of 1955, we wish respectfully to go on record with our strong objection to section 2 of the bill.

Our company is an established manufacturer of wool textiles. The textile industry for the past few years has been in a depressed condition. Recently, the Trade Agreements Extension Act authorized a substantial tariff reduction on imported wool textiles. The large-scale competition of foreign imports in the textile field, as a result of this reduction, has posed a serious threat to our industry, already in a financially weakened condition. We are already face to face with the greatest difficulty in competing with goods manufactured by cheap foreign labor. Now comes the proposed customs simplification bill, the net effect of which would be to allow a further tariff cut on imported wool textiles and other fabrics. We, as well as other companies similarly situated, are not in a position to compete against the favored treatment which will be accorded to these imports.

We are cognizant of the fact that an amendment was written into the proposed customs simplification bill to cope with the problem of dumping. However, the antidumping review, under the terms of the act, does not go into effect until 1 year after its enactment. By that time the market can be so flooded with

imports as to cause irreparable injury to textile firms, particularly those in the wool textile field. The impact of such a circumstance, in the light of poor business conditions already existing in the industry, would be catastrophic.

We have no quarrel with customs simplification as such. What we do object to are further tariff reductions in the guise of customs simplification, as contained in section 2 of the bill. It seems to us that a simplified Customs Act can be legislated without adversely affecting whatever tariff protection now exists in favor of domestic textile manufacturers.

We respectfully urge that section 2 as it now exists in the proposed bill be deleted or be redrafted in such a way that no further tariff reduction is accorded to imported textiles.

Sincerely yours,

ELSIE M. MURPHY, *President*

DISTRICT 50,
UNITED MINE WORKERS OF AMERICA,
LOCAL No. 12075,
Midland, Mich., July 1, 1955.

Senator HARRY F. BYRD,
Chairman Senate Finance Committee,
Senate Office Building,
Washington, D. C.

DEAR SENATOR BYRD: Resolution of Local 12075, District 50, United Mine Workers of America, 321 S. Saginaw Rd., Midland, Mich., while assembled in their regular meeting on June 21, 1955:

"Whereas the President of the United States has promised that any tariff reductions be gradual, selective, and reciprocal, and that no American industry will be placed in jeopardy by the administration of H. R. 1, extending the Trade Agreements Act, and whereas H. R. 6040, the Customs Simplification Act of 1955, is a part of a determined campaign to liberalize world trade by lowering United States tariffs which is neither gradual, selective, nor recprocal.

"*Resolved*, That the Senators and Representatives from the State of Michigan be urged to use every effort to discourage consideration of H. R. 6040."

Sincerely yours,

CARL J. MITCHELL,
President.
JOHN B. SCHLOTTER,
Chairman, Legislative Committee.

STATEMENT OF C. P. McFADDEN, RUBBER FOOTWEAR DIVISION, RUBBER MANUFACTURERS, ASSOCIATION, INC.

Gentlemen, you have before you for consideration, H. R. 6040 known as The Customs Simplification Act of 1955. This is the latest in the line of such bills introduced in Congress over the past several years proposing radical changes in customs procedures.

The members of the rubber footwear division of our association have vigorously opposed the bills that have been presented in the past and with the same vigor they oppose H. R. 6040. Their opposition is centered on the provisions of section 2 of the bill.

It is their contention that this bill, like its predecessors, is not truly a simplification bill, but is actually a bill to reduce tariffs. In this they have the support of the Treasury Department which admits that H. R. 6040 will bring about a reduction in the duties paid on certain imports.

Our members accept this general conclusion of the Treasury Department's report which was submitted to the House Ways and Means Committee by the Honorable H. Chapman Rose, Assistant Secretary of the Treasury, when this measure was before that committee. But, they do not agree that the cuts that will result are as insignificant as the Treasury Department contends. They respectfully refer your attention to the statement on their behalf appearing on page 124 of the report of the Ways and Means Committee hearings.

The members of our rubber footware division manufacture both waterproof rubber footwear and rubber-soled fabric footwear. Duties on both these have been drastically cut under the reciprocal trade program. This industry has suffered and will suffer further under these reductions. Further cuts in duties on competitive products would be grossly unfair.

While the members of our rubber footwear division are sympathetic with the desire of Congress to simplify customs procedure, they respectfully urge you to reject H. R. 6040, because:

1. It does not simplify; and
2. It does cut import duties, piling additional burdens on domestic industries who must complete with imports from low-wage producers abroad.

MEMBERS OF THE RUBBER FOOTWEAR DIVISION, THE RUBBER MANUFACTURERS ASSOCIATION, INC.

Bata Shoe Co., Inc., Belcamp, Md.
Bristol Manufacturing Co., Bristol, R. I.
Cambridge Rubber Co., Cambridge, Mass.
Converse Rubber Co., Malden, Mass.
Endicott Johnson Corp., Johnson City, N. Y.
Goodyear Footwear Corp., Providence, R. I.
Goodyear Rubber Co., Middletown, Conn.
Hood Rubber Co., Watertown, Mass., division, B. F. Goodrich Co.
La Crosse Rubber Mills Co., La Crosse, Wis.
Mishawaka Rubber and Woolen Manufacturing Co., Mishawaka, Ind.
Servus Rubber Co., Rock Island, Ill.
Tingley Rubber Co., Rahway, N. J.
Tyer Rubber Co., Andover, Mass.
United States Rubber Co., New York, N. Y.

NEW YORK, N. Y., *July 7, 1955.*

SENATE FINANCE COMMITTEE,
Senate Office Building, Washington, D. C.:

We strongly urge the defeat of H. R. 6040, Customs Simplification Act, particularly as it applies to radical changes in methods of calculating import value which would reduce tariff duties on thousands of product entries and would encourage exporters to dump merchandise into this country by establishing export values lower than foreign values.

The proposed H. R. 6040 would also nullify any opportunity for recourse under Antidumping Act. Urge continuance in force of present section 402 of Tariff Act of 1930.

THE FELT ASSOCIATION.

MONSANTO CHEMICAL CO.,
St. Louis, Mo., July 6, 1955.

The CHAIRMAN, SENATE FINANCE COMMITTEE,
Senate Office Building, Washington, D. C.

DEAR SIR: This memorandum is submitted for inclusion in the record of proceedings of public hearings on H. R. 6040 to be held by your committee beginning July 6, 1955, and is in lieu of an appearance at these hearings.

Monsanto Chemical Co. strongly opposes enactment of the valuation provisions proposed in section 2 of H. R. 6040. It is the company's studied opinion that the primary purpose and effect of these provisions is to reduce tariffs. The Treasury Department has publicly reported the fact that practically all of the changes in value which would occur under the proposed law would be reductions. The obvious result would be lower assessed duties. We submit that such tariff reductions are beyond the proper scope of legislation purporting to simplify customs procedures.

Such tariff reductions, furthermore, would be arbitrary and across-the-board cuts imposed without benefit of any reciprocity from foreign governments, and thus would be contrary to the President's pledged policy of "gradual," "selective," and "reciprocal" tariff action.

The valuation provisions of this bill would bring about an estimated reduction of 8 to 16 percent in the appraised value of half of our country's organic chemical imports. The total effect on all organic chemical imports other than those dutiable in paragraphs 27 and 28 would be an estimated reduction of 4 to 10 percent in appraised value.

The lower duties which would follow these reduced valuations would put downward pressures on the price schedules of more than 50 products and product categories manufactured and sold by Monsanto here in competition with foreign

producers. Tariffs on practically all of these chemicals have been reduced 50 percent or more under the Trade Agreements Act, and H. R. 1, just enacted, authorizes further substantial reductions in their tariffs.

A caveat calling for "full consideration" of H. R. 6040's tariff reductions in subsequent executive action on tariffs does not adequately cover the bill's transgression of purpose. Rather, H. R. 6040 should restrict itself to those changes in valuation procedure which would eliminate customs delays but which would not lead to lower assessed values than those obtained under present methods of valuation.

Further, the abandonment of foreign value as a basis for appraisal cannot simplify customs procedure measurably because the Treasury Department intends to continue to obtain information as to the foreign value of imports. The Secretary of the Treasury, in a letter to the chairman of the House Ways and Means Committee quoted in that committee's report on H. R. 6040, said that "it is the firm intention of the Bureau of Customs and the Treasury Department to continue to require foreign value information on imports for antidumping investigations."

By abandoning foreign value in favor of export value, H. R. 6040 would permit the use of invoice value as the basis for import valuation. Obviously, invoice value could be manipulated by foreign exporters to result in lower duties on their merchandise. Even without such manipulation, however, invoice value cannot be construed to be a fair commercial value on imported merchandise. It too frequently can reflect the exporter's strong desire for very negotiable dollar credits, or his willingness to undersell for purposes of strategically displacing a like kind and quantity of domestic goods in the American market.

Export value computed as provided for in H. R. 6040, rather than being based on invoice value, still would fail to reflect a true commercial value for imported merchandise. The fact that export value is influenced by the competitive conditions in world markets is borne out by a study of organic chemical imports compiled in 1954 by the Foreign Trade Division of the Bureau of the Census. In this study, based on a Treasury Department sampling of organic chemical imports during 1952, a comparison was made between the appraised foreign value of 31 organic chemical imports and their export value as it would be computed under provisions such as those of H. R. 6040. It showed that foreign value exceeded export value by an average 12.1 percent. Based on this study, the elimination of foreign value alone would have the effect of reducing tariffs 12.1 percent on more than half of the United States' organic chemical imports.

Abandonment of foreign value as a basis for customs valuation would result in an automatic and substantial increase in dumping by foreign producers. The Antidumping Act provides a special dumping duty "* * * if the purchase price or the exporter's sales price is less than the foreign market value (or in the absence of such value, than the cost of production)." Each future instance of valuation based on an export value lower than foreign value could become a case for antidumping action under that act. Far from simplifying customs procedures, this fact would complicate them extremely.

Further hidden tariff reductions would result from the changed definition of "usual wholesale quantities" embodied in H. R. 6040. By defining this as the quantity in which the greatest aggregate volume of the merchandise is sold, the bill would base valuation on prices lower, because of quantity discount, than that price at which the usual transactions in such merchandise take place. Thus, in the determination of either export value or United States value, this provision could operate to bring the appraised value on a particular consignment lower than its actual invoice value. We have pointed out earlier that invoice value frequently is lower than export value which, in turn, is consistently lower than foreign value as appraised under existing law.

It should be noted, too, that the proposed new definition of "usual wholesale quantities" in H. R. 6040 conforms closely to article VII, 2 (b) of the General Agreements on Tariffs and Trade (GATT) which provides that: "To the extent to which the price of such or like merchandise is governed by the quantity in a particular transaction, the price to be considered should uniformly be related to either (i) comparable quantities, or (ii) quantities not less favorable to importers than those in which the greater volume of the merchandise is sold in the trade between the countries of exportation and importation."

Thus, there appears to be an attempt here to alter the body of existing law to conform to an international executive agreement that lacks the approval of Congress or the status of treaty. We participate in GATT only to the extent that its provisions do not contravene our existing law. It is a dangerous course of action to amend existing law to make it conform to such a provisional agreement.

The vagueness of terms in H. R. 6040's provisions for arriving at United States value and constructed value would complicate rather than simplify customs procedure, and also would permit a too hasty or haphazard arrival at "usual" commissions, profit and general expenses or "usually reflected" general expenses and profits.

In summary, Monsanto Chemical Co. strongly urges that section 2 of H. R. 6040 be amended to retain the following provisions of the present law:

(*a*) Foreign value as a basis for assessed valuation;
(*b*) The definition of "usual wholesale quantities";
(*c*) The procedure for determining United States value; and
(*d*) The procedure for arriving at cost of production.

In this way, H. R. 6040 will effect important customs simplifications in line with the President's desires. At the same time, it will remain within its proper purpose of customs simplification without subjecting domestic industry, and especially the organic chemical industry, to damaging imports through hidden but effective tariff reductions.

Sincerely yours,

EDWIN J. PUTZELL, Jr., *Secretary.*

MUNRO KINCAID MOTTLA, INC.,
Boston, Mass., July 6, 1955.

Hon. GEORGE A. SMATHERS,
United States Senator,
Senate Office Building, Washington, D. C.

DEAR SENATOR SMATHERS: Referring to H. R. 6040, the customs bill. I sincerely hope that you will strongly oppose section 2 of this bill because it would permit tariff cuts under the guise of customs simplification. I believe section 2 would arbitrarily and indiscriminately cut United States tariffs without previous notice to, or safeguards for, domestic producers. No peril points would be fixed for these cuts. Therefore, I hope you will work for the deletion of section 2 of H. R. 6040.

Woolen and worsted imports, particularly from Great Britain, are seriously hurting our domestic industry. For the fifth successive month British woolen exports to the United States showed substantial gains in the month of May, rising by almost one-third over May 1954. Our mills and labor could use the domestic business that these imports have displaced and it would also make for a higher consumption of domestic wool. I sincerely hope that you will do everything in your power to stop the increase of these imports.

Sincerely yours,

HUGH MUNRO, *President.*

AMERICAN FABRIC GLOVE ASSOCIATES,
Gloversville, N. Y., July 1, 1955.

Hon. HARRY FLOOD BYRD,
Chairman, Senate Finance Committee,
Washington, D. C.

MY DEAR CHAIRMAN BYRD: The proposed legislation to simplify customs procedure under H. R. 6040 appears to have much merit, and the elimination of provisions which have become obsolete is certainly a forward step.

We do, however, direct our objections, both generally and specifically, to section 2 of the bill for the following reasons:

Generally speaking, we are now faced with certain tariff reductions that may be forthcoming as the result of the Japanese trade agreements and any further reductions compounded on those as a result of H. R. 1, plus those that may be gained under H. R. 6040, which will be very harmful and dangerous to the industry. These facts were pointed out to your committee during hearings on H. R. 1.

Specifically, it is our opinion that section 2 opens up the door for dumping and is contrary to the Antidumping Act. To eliminate foreign value as the basis of valuation for customs and rely solely on export value opens up, as you know, too many occasions for error, fraud, and dumping.

We strngly suggest and urge that you and your committee leave in the new law the words "foreign value" and "export value" as a determining factor for duty classification and as a definite aid to the customs offices.

Very truly yours,

JAMES H. CASEY, Jr.

CHAMBER OF COMMERCE OF GREATER PHILADELPHIA,
Philadelphia, Pa., June 24, 1955.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance, United States Senate,
Senate Office Building, Washington 25, D. C.

DEAR SENATOR BYRD: The Chamber of Commerce of Greater Philadelphia, representing over 1,600 business firms in an 11-county area within the States of Delaware, New Jersey, and Pennsylvania, desires to be placed on record as endorsing, in principle, H. R. 6040, the Customs Simplification Act of 1955.

An effective means of expediting the valuation of import shipments is most desirable, as well as a means of eliminating the expensive valuation investigations of import shipments that have been so prevalent in the past. We believe these objectives can be fulfilled through passage of H. R. 6040, although we were concerned with the rather loose phraseology of the original bill. This was particularly true with respect to the definition of "export value," which might invite dumping practices as worded in that bill.

We realize the bill was subsequently amended to safeguard against dumping practices. Nevertheless, we suggest that consideration be given as to how the language of the bill may be further improved in this regard, without effecting the stated purpose, and with this in mind, we urge your support of H. R. 6040.

We would appreciate having these views incorporated in the proceedings on the bill before your committee.

Very truly yours,

WALTER P. MILLER, Jr., *President.*

SANDOZ CHEMICAL WORKS, INC.,
New York, N. Y., June 27, 1955.

Re amendment to H. R. 6040.

Hon. HARRY FLOOD BYRD,
Chairman, Committee on Finance,
United States Senate, Washington, D. C.

SIR: Sandoz Chemical Works, Inc., are importers and domestic manufacturers of coal-tar dyes, coal-tar intermediates, textile auxiliaries, and pharmaceuticals, with offices at 61 Van Dam Street, New York, N. Y., and plants at Fair Lawn, N. J., and Hanover, N. J. This concern has imported for upward of 30 years from Switzerland coal-tar dyes, coal-tar intermediates, and textile auxiliaries of coal-tar derivation.

Paragraphs 27 and 28 of the Tariff Act of 1930 cover coal-tar products and provide that if these products are competitive with domestic coal-tar products, the ad valorem rate of duty provided for therein is assessed on the American selling price, and if noncompetitive, on the United States value. American selling price is defined in section 402 of the Tariff Act of 1930 as the price at which a comparable domestic product is freely offered for sale for consumption in the United States to all purchasers in the usual wholesale quantities. United States value is defined in that section as the price at which the imported product is freely offered for sale in the principal markets of the United States in the usual wholesale quantities, less not to exceed 8 percent for profit, less not to exceed 8 percent for general expenses, less duty, less cost of transportation and insurance and other necessary expenses from the place of shipment to the place of delivery.

The duty assessed on coal-tar product on the basis of American selling price is invariably two or more times the duty assessed on the basis of United States value. There is always a risk in the importations of coal-tar products which have been previously regarded as noncompetitive. There should be incorporated in paragraph 27 and paragraph 28 a provision for a period of grace from the time that an article is considered competitive before there is an assessment of the ad valorem rate of duty on the American selling price. Due to this fact, very frequently importers of coal-tar products are penalized. In the event that

between the date of the placing of the order of an importation of a noncompetitive product from abroad and the date of the exportation of that product, if it has become competitive in the meantime, the ad valorem rate of duty will be assessed on the American selling price, with a consequent increase of approximately 100 percent of duty. It very frequently happens that 1 month to 3 months may elapse between the date of the order and the date of the exportation of a coal-tar product. The importer has taken an order to import a coal-tar product at a price which includes the rate of duty based upon the United States value. If, on the date of exportation, this product has become competitive, he will be forced to pay the ad valorem rate of duty on the American selling price which will materially increase his cost. Having sold the coal-tar product at a price including a much lower rate of duty, he will be compelled to sell it at a loss. In order to alleviate this situation with the consequent penalties paid by importers, we suggest that there be added to subparagraph (d) of paragraphs 27 and 28 of the Tariff Act of 1930 the following phraseology or similar phraseology:

"*Provided*, That the ad valorem rate of duty based on the American selling price shall not be assessed on any imported coal-tar product considered competitive until ninety days subsequent to the inclusion of such imported coal-tar product in a public list promulgated by the Secretary of the Treasury."

In accordance with the provisions of paragraph 28 (d) of the Tariff Act of 1930, an imported coal-tar product is competitive if it accomplishes results substantially equal to the domestic product when used in substantially the same manner. Therefore, the domestic product is the standard for comparison. The imported product may be far superior to the domestic product, and if a dye, used on different fibers, but nevertheless, will have to pay duty on the American selling price of the domestic inferior coal-tar product. Today there are many man-made fibers which are replacing natural fibers, such as rayon, nylon, dacron, orlon, etc. There are new dyes being produced especially for dyeing these man-made fibers since the present dyes will not satisfactorily dye these fibers. Notwithstanding this fact, these new dyes are made competitive with the domestic old dyes which will not satisfactorily dye these new man-made fibers. Consequently, the domestic textile industry must either pay the increased duties predicated on the American selling price of the old dyes, or not dye the new man-made fibers. This situation stifles progress and handicaps the domestic textile industry in its competition with the foreign textile industries in export markets.

The definition in paragraph 28 (d) of the Tariff Act of 1930 should be changed so as to make the imported product the standard. To accomplish this purpose, we suggest that paragraph 28 (d) be amended to read as follows:

"For the purposes of this paragraph any imported coal-tar product provided for in this act shall be considered similar to or competitive with any domestic coal-tar product when the domestic coal-tar product accomplishes results substantially equal to those accomplished by the imported product when used in substantially the same manner."

In view of the foregoing we respectfully request additional provisions to H. R. 6040 so as to provide for the foregoing amendments in order to accomplish the purposes as stated.

Respectfully,

JAMES C. WALKER, *Vice President.*

Attest:

[SEAL]

MARTIN O'HANLON,
Notary Public, State of New York.

My commission expires March 30, 1957.

SPORTING ARMS & AMMUNITION MANUFACTURERS' INSTITUTE,
New York, N. Y., June 30, 1955.

Hon. HARRY FLOOD BYRD,
Chairman, Senate Finance Committee, Senate Office Building, Washington, D. C.

DEAR SENATOR BYRD: The Sporting Arms & Ammunition Manufacturers' Institute is an unincorporated association of most of the sporting arms and ammunition manuafacturers in the United States, which provide employment for 20,000 people. Its membership is gravely alarmed with the customs simplification bill, H. R. 6040, and the detrimental effects upon this vital defense industry which will occur if H. R. 6040 is enacted in its present form.

The institute position on this proposed legislation may be briefly summarized as being in unalterable opposition to the inclusion of section 2 in the bill, for the following reasons:

1. By the Treasury Department's own figures, section 2 arbitrarily reduces duties on firearms 13 percent or more without hearings and without redress.
2. Section 2 will invite increased pricing manipulations ineligible for redress under United States antidumping provisions.
3. Section 2 does not represent customs simplification, but is in effect, a tariff reduction measure, and is in direct conflict with the generally accepted theme that tariff reductions are to be made on a gradual and selective basis.
4. In essence, section 2 is an attempt to obtain congressional approval for the indirect implementation of certain obligations under the General Agreement on Tariffs and Trade (GATT) without examination of the true merits of the proposals.

Sections 1, 3, and 4 of H. R. 6040 appear to serve the true purposes of customs simplification and need no further comment. Therefore, attention is directed to section 2, which would revise the procedures for determining the value for duty purposes of imported merchandise.

To gain some measure of the possible effects of these valuation proposals, the Treasury Department applied the new procedures to a number of import entries according to a test sampling pattern set up in a number of ports of entry across the country.

In checking over the individual merchandise categories as assembled from this sampling, it was found that only two categories contained the products of this industry. In one, which included ammunition, there were only five sample entries indicating no change. This represents an insufficient number of entries to be representative of anything. In the second category, firearms and parts, there were 22 entries demonstrating a drop of 14.39 percent in dutiable value, under the new definitions and a corresponding drop, 13.07 percent in customs revenue. This number of entries is hardly a representative sampling, but it does give an indication of the outlook.

Chart 2 appended to the testimony of Assistant Secretary Rose of the Treasury before the Ways and Means Committee of the House, indicates that the firearms and parts category is the second highest as regards the drop in appraised value that would follow from use of the proposed value definition in section 2. In addition, chart 4 indicates in excess of a 4 percent reduction (the largest one on the chart) in after-duty cost resulting from the reduction in customs revenue likely under these proposals.

The data used in the Treasury Department study have not been made available sufficiently broken down for interested persons to observe just where and how the effective reductions in revenue will come about. It is not clear whether the reductions are attributable to the elimination of foreign value, or whether the new definitions of terms and phrases applying to the general valuation definitions are the cause.

In examining the test, it is observed that the protective umbrella of foreign value is to be taken away, leaving export value alone and apparently subject to very easy price manipulation. Even the United States antidumping procedures could be administratively difficult and confusing under such circumstances. This does not appear to be a desirable type of customs simplification.

Even without these duty reduction proposals, a large number of imported automatic shotguns are finding an easy market here in the United States in competition with domestic products. This competition is already of a severity to cause real concern for the domestic producers. The adoption of these valuation proposals could provide the impetus these imported guns require to completely take over the American market.

The products of this industry have already undergone tariff reductions of approximately 68 percent in trade agreements. These products also face a further possible reduction of 15 percent as provided in H. R. 1. For firearms, the additional reduction likely under H. R. 6040 could mean another 13 percent (or maybe much more) cut without any safeguards or redress for the American industry. It is even more important to our Government to apply safeguards to preserve the small arms and ammunition industry in this country. This industry has demonstrated most impressively in all past national emergencies its know-how and its readiness to act quickly in supplying enormous quantities of such vital war materiels.

The sporting arms and ammunition industry supports true customs simplification, but it does not support duty reductions wrought in the name of simplifica-

tion. H. R. 6040 would appear more satisfactory if section 2 were deleted, which in turn would automatically eliminate the need for section 5.

We respectfully request that this letter be made a part of the printed record of the hearings of your committee.

Very truly yours,

RICHARD F. WEBSTER, *Secretary.*

FORSTMANN WOOLEN CO.,
Passaic, N. J., June 30, 1955.

Hon. HARRY F. BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.

DEAR SENATOR BYRD: We respectfully submit this statement to the Senate Finance Committee in connection with the public hearings on H. R. 6040, commonly known as the customs simplification bill.

This bill, which is under current consideration, in changing the method of valuation for duty purposes, by dropping "foreign value" in favor of "export value," and by other redefinitions in this field, constitutes in effect a further hidden tariff reduction on those articles which are imported under ad valorem or compound rates.

These proposed changes in valuation methods extend a standing invitation to foreign cartels to adopt a two-price system—one price for other markets and another price for entrance into the American market. If such abuses are to be held in check by reliance on our antidumping law, we believe it unwise to encourage the malady to invoke the cure.

The method of valuation for duty purposes now in operation has been clarified and adjudicated in many court decisions through the years. Consequently, the proper application of the rules is well understood by those whose business it is to deal with such matters. The proposed changes in the customs simplification bill would alter this, and new variances of opinion and questions of reasonable doubt would again have to follow a long path of appeals and court decisions. This, we believe, is not simplification; it is just the opposite.

The testimony presented by the Forstmann Woolen Co. to the Senate Finance Committee during the hearings on H. R. 1 earlier this year demonstrated the fact that our business and our level of employment have been injured, and continue to be injured, by the competition of cheap European labor and the still cheaper labor of Japan because even our existing tariff rates are too low to offset such labor differentials.

Since our urgent need is for more, rather than less tariff protection, against wage rates that are but a fraction of what we pay, we respectfully ask that these proposed changes in the bases of valuation under section 402 of the Tariff Act of 1930 be omitted from H. R. 6040.

Very truly yours,

JULIUS G. FORSTMANN,
President.

THE OKONITE CO.,
Passaic, N. J., July 5, 1955.

Hon. HARRY F. BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.

DEAR SENATOR BYRD: I represent some 50 electrical manufacturing companies who testified before both the House and Senate committees on H. R. 1. I had hoped to appear before your committee during the public hearings on H. R. 6040, known as the customs simplification bill.

Unfortunately, prior commitments prevent my so doing.

Reference to our testimony on H. R. 1 will plainly indicate our justification for opposing any reductions of present tariffs. H. R. 6040 is plainly in this category since it provides tariff reductions up to 15 percent as was indicated in the statement of Mr. H. Chapman Rose, Assistant Secretary of the Treasury, before the House Ways and Means Committee.

In the case of electrical manufacturers their reduction is 2½ percent on electrical machinery and apparatus and 5 percent on copper manufacturers. Inasmuch as net profits in our industry rarely exceed 3 to 5 percent, it is quite obvious that any reduction in tariffs poses a threat, particularly as foreign competition pays wage rates of one-tenth to one-third of our rates.

The valuation procedure of H. R. 6040 is not a simplication but does imply an open invitation for foreign manufacturers to employ a double-price market—a feature of interest to international cartels. The present procedure is thoroughly tested and fully as simple as what is proposed.

We submit further than H. R. 6040 is another attempt to cut tariffs by those irresponsible frenzy for free trade could upset the economy and defense of this country. The bill is plainly an effort to reduce tariffs under the guise of simplification as is evidenced by the long list of tariff reductions and nothing in the way of upward adjustment.

These reductions further provide no recourse by way of peril point or escape clause procedure.

Most foreign departments of other important countries rightfully and loyally defend their own industries. We seem to have generated a lack of responsibility to some of our most vital defense and most important job-making industries. We strongly urge that any change in tariffs be subject to product-by-product hearings and proper recourse—for the good of our economy and for the good of our defense.

Sincerely,

A. F. METZ, *Chairman.*

NEW YORK, N. Y., *July 1, 1955.*

Senator HARRY F. BYRD,
Chairman, Committee on Finance,
Senate Office Building, Washington, D. C.:

The Associated Representatives of Staffordshire Potters comprising 13 American importing firms are unanimous in support of H. R. 6040, the customs-simplification bill, which they consider a vital and necessary step in the promotion of free world trade. We request that this statement be included in the record of hearings.

S. V. HOPKINS,
Secretary, care Hugh C. Edmiston & Co.

SYRACUSE, N. Y., *July 5, 1955.*

Hon. HARRY F. BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.:

We protest section 2, H. R. 6040, customs-simplification bill. We are advised retention this section would nullify antidumping act. As you well know china industry severely cut in Japanese agreement. We vigorously protest H. R. 6040 as furthering the general policy of attrition affecting chinaware industry for many years past.

E. L. TORBERT,
Vice President, Onondaga Pottery Co.; Chairman, Foreign Trade Committee, Vitrified China Association, Inc.

CALIFORNIA POTTERY GUILD,
Los Angeles, Calif., June 30, 1955.

Re hearing on customs simplification (H. R. 6040)

Hon. HARRY F. BYRD,
United States Senate,
Senate Office Building, Washington, D. C.

DEAR SENATOR BYRD: The California manufacturers of pottery and dinnerware are strongly opposed to the substitution of "export value" for the present basis of customs valuation which is designated "foreign value."

Section 2 of the bill should be eliminated, otherwise the domestic manufacturers will have no protection whatever from the dumping of foreign-made goods in this market. This practice would be a severe blow to the producers of dinnerware and pottery in this country.

We are counting on you for your support.

Respectfully yours,

J. J. STEIN, *Secretary-Manager.*

NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION,
New York, N. Y., July 1, 1955.

Re H. R. 6040.

Hon. HARRY F. BYRD,
*Chairman, Senate Finance Committee, Senate Office Building,
Washington, D. C.*

DEAR SIR: The telephone equipment section of the National Electrical Manufacturers Association, including Automatic Electric Co., Cook Electric Co., Kellogg Switchboard & Supply Co., Leich Electric Co., Reliable Electric Co., Stromberg-Carlson Co., and Western Electric Co., Inc., would like to express its views regarding H. R. 6040, the bill to amend certain provisions of the Tariff Act of 1930 and to repeal obsolete provisions of the customs laws. We request that this letter be included, if possible, as part of the records in connection with the Senate Finance Committee's hearings which are now being conducted.

On November 15, 1954, this section sent a brief to the United States Tariff Commission with regard to the studies which that Commission was then making in connection with the Customs Simplification Act of 1954. In that brief, we outlined in detail the many reasons why the telephone equipment manufacturing industry is indispensable to the United States from a defense standpoint, and why no action should be considered or taken which would encourage or cause the communications industry of this country to become dependent, to any degree, upon any foreign source of supply which cannot be depended upon in any emergency. A copy of that brief is attached hereto.

Since January 1, 1945, the tariff on telephone equipment entering this country has been reduced from 35 percent to 17½ percent, and the enactment of H. R. 1 will permit still further reductions. For reasons detailed in the attached brief, we feel that the tariff on communications equipment should never have been reduced, and that steps should be taken to restore the tariff rate to its original rate of 35 percent.

While we fully appreciate that H. R. 6040 is not concerned with the question of raising or lowering tariffs, we are convinced that the procedures which have been suggested for valuing imports could, and in many cases will reduce the amount of duty which would be payable. In other words, it could have the same overall effect as a tariff reduction.

It is a well-known fact that many foreign manufacturers sell their products in highly competitive export markets at price levels substantially below their normal home-market levels. There are two primary reasons for this: (a) Business so taken increases their productive volume with resulting overall manufacturing economies and larger profits on that portion of their output which is sold at home at normal price levels, and, (b) it provides the exporting country with badly needed foreign exchange. To secure such exchange, and especially dollars, foreign governments not only encourage, but at times instruct, their manufacturers to penetrate export markets, even if such action necessitates the application of completely uneconomic price levels. Where this results in losses, the foreign manufacturers are compensated by a variety of subsidy operations.

H. R. 6040 proposes to base customs valuations on the "export value" of equipment or merchandise imported. In many cases, and especially in the case of communications equipment, this could result in a big reduction in the amount of duty payable. As previously stated, this comes to the same result as reducing the tariff, and for defense and other reasons, there should be no reduction in either the tariff rate or the amount of duty payable on telephone or other communications equipment.

The manufacturers comprising the telephone equipment section of the National Electrical Manufacturers Association therefore strongly recommend that the valuations applied to imports be based on either the home-market value of the imported product or that product's export value, whichever is higher. Any other method would not only be unfair and contrary to the interests of the United States, but would appear to involve complications in connection with the application of the Dumping Act.

We feel that this matter is of sufficient importance to warrant your most careful consideration, and we will be grateful for any support which you or your committee may give to our position. Needless to state, we will be very glad to supply any additional information which you may desire.

Sincerely yours,

JOHN BROWN COOK,
Chairman, Telephone Equipment Section.

RECOMMENDATIONS OF THE TELEPHONE EQUIPMENT SECTION OF THE NATIONAL ELECTRICAL MANUFACTURERS ASSOCIATION

NOVEMBER 15, 1954.

Subject: United States Tariff Commission Study under the Customs Simplification Act of 1954.

GENERAL COUNSEL,
United States Tariff Commission,
Washington, D. C.

DEAR SIR: In accordance with the invitation recently extended to domestic producers and other interested parties, the telephone equipment section of the National Electrical Manufacturers Association, including Automatic Electric Co., Cook Electric Co., Leich Electric Co.; Kellogg Switchboard and Supply Co., Reliable Electric Co., Stromberg-Carlson Co., and Western Electric Co., Inc., beg to submit their joint views in connection with the Customs Simplification Act of 1954.

The group of telephone equipment manufacturers listed above have for over 50 years been principal suppliers to the more than 5,000 independent telephone companies, as well as to the Bell System, which combined provide this country with the finest and most reliable telephone service available in any country of the world. In addition, these same companies are major suppliers of communication equipment to the Armed Forces of the United States.

RECOMMENDATIONS

The suggestions which we wish to make are twofold:

1. We feel very strongly that communications equipment, including telephone equipment and apparatus, should be reclassified for tariff purposes. At the present time, such equipment is included in a category with X-ray apparatus, electric motors and fans, locomotives, furnaces, washing machines, and a variety of other miscellaneous items which could not, in the wildest flight of the imagination, be considered as having any common characteristics or uses. Because of the vital importance of communications, both in time of peace and war, equipment used in this field should have its own separate and distinct category in the tariff schedule.

2. No action should be taken, either in making reclassifications, or in negotiating agreements with other nations, which will result in any reduction in existing tariff rates applicable to communications equipment imported from other countries.

There are excellent reasons for the foregoing suggestions, and we will elaborate on both in the following paragraphs.

Essentiality of communications industry and need for protection

Attached hereto is a copy of a letter which was dispatched on May 19, 1954, by this section of the National Electrical Manufacturers Association, to the chairman of the Ways and Means Committee of the House of Representatives, and to the chairman of the Finance Committee of the United States Senate. That letter covers in detail the importance of communications to the security of our country, and the many reasons why the importation of foreign communication equipment should not be encouraged or facilitated by reductions in the existing tariffs on such equipment or by any other concessions. We can fully appreciate that your present deliberations do not include raising or lowering tariffs on specific items. However, the facts contained in the attached letter will clearly demonstrate the vital urgency of protecting the communications system in the United States, and will substantiate our request for reclassification so that problems involving telephone or other communications equipment can be dealt with appropriately and not be confused by being mixed with a heterogenous group of other products having different uses, backgrounds, and importance.

Other countries protect, absolutely, their communications equipment manufacturing industry

Although we have elaborated on the point in the attached letter, we should like to emphasize at this time, because of its importance, the dangers involved in permitting any substantial infiltration of foreign telephone equipment into the operating telephone system of the United States. Countries such as Great Britain, Germany, Sweden, Holland, and Switzerland, where the telephone-

operating systems are owned and operated by the government, and where ample manufacturing facilities exist to supply their telephone-equipment requirements, purchase exclusively from their own manufacturers. They are keenly aware of the danger of becoming dependent, to even a limited extent, on foreign manufacturers for extensions, maintenance, or repair parts for their communications systems. They know, and we know, that in time of war such apparatus and parts would not be available from foreign sources for obvious reasons. It has been truly said that in time of war, disaster, or national emergency, a country's defense is only as effective as its communications facilities, and any breakdown or lowering of efficiency in the latter can only result in most serious consequences. As of now, no other nation has communications facilities comparable to ours. That picture could change, but we must not permit it.

Clear classification of communications equipment is absolutely necessary to avoid serious effects which could result from casual trading

It is common knowledge that, in the months ahead, multilateral trade negotiations are going to materialize, and that efforts are going to be made to reduce tariff rates on a fairly broad scale. Tariff classifications, as they now exist, could, and undoubtedly will, be confusing to those delegated the authority to negotiate. Telephone equipment must not be on the list for casual trading, nor should it be included in any tariff classification with any equipment of a dissimilar nature, or with any type of equipment that can be included in tariff concessions without serious repercussions to the security, health, welfare, and safety of the United States.

It is respectfully requested that you agree to create a new tariff classification for communications equipment, without reducing existing tariff rates on such equipment. This is a logical move and one which could only be beneficial to all concerned. If further details are required, we will be very glad to supply you with facts in writing or at the oral hearings which will be held in due course.

Yours very truly,

John Brown Cook,
Chairman, Telephone Equipment Section,
National Electrical Manufacturers Association.

The Relation of the Telephone Equipment Manufacturers in the United States to the Security, Health, Safety and Welfare of this Country

Hon. Eugene D. Millikin,
Chairman, Finance Committee,
The Capitol, Washington, D. C.

Hon. Daniel E. Reed,
Chairman, Ways and Means Committee,
House of Representatives,
The Capitol, Washington, D. C.

My Dear Mr. Reed: The telephone equipment section of the National Electrical Manufacturers Association, including Automatic Electric Co., Cook Electric Co., Kellogg Switchboard & Supply Co., Leich Electric Co., North Electric Manufacturing Co., Reliable Electric Co., Stromberg-Carlson Co., and Western Electric Co., Inc., beg to submit their joint views on the above subject.

It is common knowledge that careful consideration is currently being given by our Government to substantial changes in the foreign trade policy of the United States, and that in an effort to foster a greater degree of free trade than now exists, an effort is being made to delegate to the President broad powers under the Trade Agreement Act to enter into multilateral negotiations for the purpose of reducing tariff rates, simplifying customs procedures, and the streamlining of valuation for duty purposes.

It is certainly not our intent to argue against the desirability of increasing the volume of our trade with foreign countries provided it can be accomplished through reciprocal tariff adjustments and other concessions of a mutually advantageous nature. However, the attempt to assist other nations, by helping them to sell more of their products in this country, is laudable only up to the point where American industry is not seriously injured, American labor is not deprived of the opportunity to work, and the health, general welfare, and security of the Nation are not threatened. In considering possible tariff reduction and other concessions, those who are delegated the authority to make the

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decisions should under no circumstances think in terms of averages, or across-the-board reductions, but should make careful studies of each individual situation and let their considered ultimate action in each case be based upon the circumstances involved and the effect of such action on our economy. It is not necessary for us to state, or attempt to prove, the obvious fact that whereas a tariff reduction on one item might be advantageous to all concerned, or of minor inconvenience to a segment of our population, a similar reduction in some other item might have most serious consequences, not only to many thousands of American workmen but to the Nation as a whole in times of war, disaster or other national emergencies.

From the standpoint of the communication industry of the United States, we feel that it would be a major mistake to open this market to the foreign manufacturers of communication equipment by making any reductions in our existing tariffs. In making this statement, a number of irrefutable facts have been taken into consideration, which facts we will comment upon below.

In the first place, there could be no real reciprocity. The principal foreign manufacturers of communications equipment who would benefit from reduced United States tariffs are located in Great Britain, Germany, Sweden, Holland, and Switzerland. In all of those countries the operating telephone systems are owned and controlled by the local governments, who give complete protection to their local manufacturing industries. It has been impossible for United States communications equipment manufacturers to sell to the operating telephone systems in those markets, and even if the foreign governments involved made a gesture of reducing their import tariffs to facilitate future sales it would actually be only a gesture, as the Government agencies who control the operating telephone systems and their purchasing policies would certainly not give serious consideration to purchasing any equipment from abroad which could be supplied from local sources.

In contrast to the foregoing, there are in the United States over 5,000 operating telephone companies, none of which are Government owned or controlled, and all of which are completely free to purchase equipment from any source, domestic or foreign. Foreign manufacturers, with their extremely low wage rates, currency manipulations, and well-entrenched policies of subsidies in many forms, are in position to compete for such business on terms which would be virtually impossible, under existing conditions, for United States manufacturers to meet. As a matter of fact, most foreign countries are dollar hungry and have urgent requirements for dollar exchange to pay for raw materials, military equipment, and manufactured products not available from local sources. To secure dollars, they would be most happy to attempt to penetrate a new lucrative market at completely uneconomic price levels. From their standpoint, to obtain substantial orders from the United States at actual cost, or at a price which would give them no profit but which would enable them to recover their cost of raw materials, labor, and a part of their overhead would be considered most attractive and desirable business. The effect of such unfair competition on United States manufacturers requires no elaboration.

To the idealistically minded economist unlimited free competition might appear to provide incentive for the production of better machines, processes, and products, and to be a beneficial situation for the public. That might be true if all manufacturers could have the same basic manufacturing conditions, governmental selling assistance, et cetera. However, as previously indicated, foreign manufacturers would, in the situation under consideration, have tremendous and unfair advantages over our domestic manufacturers.

It is also most important to consider the basic facts on the question of quality. There is no other country in the world where communication facilities are as good, fast, or dependable as they are in this country. This has to a large extent been made possible by the extremely high standard of quality and precision workmanship set by our manufacturers, which high standards are not generally found in the products of our foreign competitors who, in designing their equipment, are more concerned with the problem of meeting the heavy competition in export markets, moneywise, than in providing the utmost in perfect service. The infiltration of substandard foreign equipment into our nationwide system could only result in poorer service, a deterioration of overall efficiency, and eventual problems of tremendous magnitude and importance to our economy.

In addition to the question of mixing quality and nonquality equipment and apparatus, there is the vital question of obtaining equipment to expand existing systems, to maintain such systems, or to replace a part or all of such systems under disaster conditions or in time of national emergency. Prior to 1939, a

majority of the operating telephone companies in Latin America were equipped with telephone switching equipment supplied by European firms. A few were equipped, at least partially, with equipment manufactured in the United States. When hostilities began in 1939, the supply of materials for expansion, maintenance, and repair were progressively shut off from the European factories, not only because the local factories in England, Germany, Sweden, et cetera needed all of their facilities for pressing local requirements, but because it became physically impossible to make deliveries under war conditions. The South American operating companies immediately turned to the United States for their requirements, and while some small relief could be given, it was impossible to provide a complete service of materials and supplies for maintenace and repairs as the United States manufacturers were not tooled up to furnish the thousands of small parts required in a telephone system of foreign design. Also, under the then existing conditions, toolmakers and machine capacity were at a premium for our own defense requirements, and it was not economically or commercially feasible to allocate any part of our capacity to any such end use except in special high priority situations with vital defense implications. The result was that the efficiency of such foreign installations rapidly deteriorated, many became substantially inoperative, and many were forced to cannibalize some segments of their systems in order to keep the balance in operation. In time of war, disaster, or national emergency, a country's defense can truly be said to be only as effective as its communications faciliities, and any breakdown or lowering of efficiency in the latter can result in most serious consequences.

In the continental limits of the United States today there are slightly over 600 individual suppliers who manufacture some of the many thousands of items used in the telephone business, and currently supply its day-to-day requirements. These suppliers are all motivated by a high sense of public duty and requirement, and recognize an unusual interdependence in the manufacture and supply to the industry. Many are dependent for their end product on other manufacturers to the industry, so that each bears an important relationship to the other. In addition, the major manufacturers have established warehouses throughout the Nation wherein they maintain stocks of materials to meet the normal and abnormal needs of the operating telephone companies. This not only provides rapid and dependable service, but makes it unnecessary for operating companies to carry more than a minimum of maintenance and repair parts. This, in turn, provides economies for the operating telephone companies which is reflected in lower rates for their subscribers. A substantial infiltration of foreign equipment could gradually disrupt this smooth-working and efficient system of supply, which has given this Nation the best and most dependable telephone system on earth.

The minority report of the Randall Commission stated, and we quote:

"Recognizing that certain industries, particularly public-service industries such as transportation, electricity, and gas, and communications, are basic to the entire economy in both peace and war, any sound policy should consider the necessity of insuring that their operation is not dependent upon any foreign sources of supply of equipment or maintenance which cannot be depended upon in any emergency."

We agree with and endorse the foregoing conclusion in its entirety. It is unthinkable that the United States should ever get into the position where it is dependent, even to a limited degree, on a foreign source for the service and expansion of its communication system. Even if the source be physically available, actual supply under emergency conditions would depend upon the decision of a foreign government on the relative value of supplying our needs rather than their own at a time when total demands always exceed total available supply. If the source of physically unavailable, due to such emergency conditions, the only solution would be to divert scarce and skilled personnel in this country to the design and production of tools at the precise period when experience shows that such skills are a major bottleneck to the overall economic and military effort.

The United States has the largest and most progressive telephone manufacturing capacity in the world. To willfully permit the introduction of equipment of foreign manufacture into its operating communications system and thus jeopardize its operations can scarcely be considered in accord with the national welfare, especially when ample manufacturing capacity exists in this country to handle all normal requirements.

It is difficult in a short presentation of this kind to more than mention the various points involved. However, we have much more detailed information

at our disposal, and would be happy to either augment or substantiate any aspect of the situation.

In conclusion, the position of the manufacturers comprising the telephone equipment section of the National Electrical Manufacturers Association may be summarized as follows: Experience acquired during World War II has shown conclusively the folly of Western Hemisphere countries relying upon European sources for equipment and supplies to maintain and/or expand their telecommunications systems during war conditions. Tariff action to encourage the entry of foreign telecommunication equipment to the United States during peacetimes would not only be detrimental to both our domestic telecommunications manufacturers and labor force now, but might threaten seriously the ability of our native communication industry to duplicate in future emergencies their magnificent achievements during the crises of World War II. Prudence and sound judgment dictate that Congress should not consider tariff reductions for this industry. Instead, they should take steps to implement the recommendations included in the minority report of the Randall Commission which stated in effect that since public-service industries, including communications, are basic to the entire economy in both peace and war, any sound policy should consider the necessity of insuring that their operation is not dependent upon any foreign sources of supply of equipment or maintenance which cannot be depended upon in any emergency.

Very truly yours,

JOHN BROWN COOK,
Chairman, Telephone Equipment Section,
National Electrical Manufacturers Association.

PLASTIC COATINGS AND FILM ASSOCIATION,
New York, N. Y., July 1, 1955.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
United States Senate,
Senate Office Building,
Washington, D. C.

DEAR SENATOR BYRD: The members of the Plastic Coatings and Film Association who produce the major portion of the national production of pyroxylin and vinyl coated fabrics and all-plastic vinyl sheeting, wish to go on record in regard to the customs simplification bill, H. R. 6040.

The membership views with concern section 2 of the customs simplification bill because of provisions it contains that would revise the procedures for determining the value of imported merchandise for duty purposes. We oppose these proposals because—

1. They would effectively bring about an arbitrary reduction in tariffs as demonstrated in the test samplings made by the Treasury Department;
2. They do not represent true customs simplification;
3. They would tend to encourage manipulated pricing practices; and
4. They appear designed to gain congressional approval for implementing obligations adopted in the General Agreement on Tariffs and Trade (GATT).

It is impossible to determine from the data made publicly available by the Treasury Department on its test applications of the new value proposals to sample shipments, whether or not the products of this industry have been included in the study. We have every reason to believe, however, that the same effects experienced for the other products included in the sampling will apply similarly to the products competing with those of this industry. The figures demonstrate that the new value provisions will mean lower dutiable values and therefore lower customs revenue. This, in effect, is the same as a duty cut but is accomplished without any safeguards or redress for American industry.

One effect of these value proposals would be that of eliminating from the present bases of customs valuation foreign value. Removing this protective umbrella opens wider the opportunity for manipulated pricing against which United States antidumping law would be administratively difficult and confusing.

The PCFA membership believes that sections 1, 3, and 4 of H. R. 6040 serve the purposes of customs simplification and are therefore properly included. Section 2, which would alter the valuation procedures, is in reality something other than Customs Simplification and, therefore, should be stricken from the bill, thus eliminating the need for section 5.

Thanking you for your attention and cooperation, I am,

Respectfully yours,

PAUL F. JOHNSON, *Executive Secretary.*

THE ELASTIC FABRIC MANUFACTURERS INSTITUTE, INC.,
New London, Conn., July 1, 1955.

Hon. HARRY FLOOD BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.

DEAR SENATOR BYRD: The purpose of this letter is to bring to the attention of the Senate Finance Committee the views of elastic braid and elastic webbing manufacturers on H. R. 6040 and on its relation to certain subsidies, concessions, or rebates which evist, and which we believe have an important bearing on the basis of determining the value of imported goods, which value provides the basis for assessment of ad valorem tariff duty.

Others will have pointed out to you the danger of liability to domestic manufacturers when foreign manufacturs ship goods into this country at prices below which they sell in the foreign domestic market. In such situations, where a finding of dumping exists, we are aware that relief is supposed to be available under the Anti-Dumping Act of 1921. However. we understand that actual antidumping findings have been very few.

But even though there may be some doubts as to whether an antidumping finding will be made to prevent bankruptcies or hardships in an industry, still the remedy of the Anti-Dumping Act, 1921, should be maintained and used when necessary. We are therefore concerned as to whether this will be so if H. R. 6040 becomes law.

It is important to note that the Anti-Dumping Act bases its investigations and special dumping relief upon fair value of the imported or foreign merchandise. It should also be noted that TD 53773 defines fair value as the first applicable of the following tests:

(1) Fair value based on price in country of exportation; the usual test.

(2) Fair value based on sales in country of exportation and in other countries, not including United States.

(3) Determination based on sales by other foreign producers.

(4) Fair value based on cost of production.

It seems reasonable to conclude that if export value as defined in H. R. 6040 is adopted, we can expect a new Treasury decision which will change the definition of fair value as used under the Anti-Dumping Act, 1921. It will mean that instead of preferred fair value being the price "at which such or similar merchandise is sold by the foreign producer for consumption in the country of exportation," preferred fair value will become any lower price at which the merchandise is offered for export to the United States.

We also particularly call your attention to the conflict between "export value" as defined in H. R. 6040 and "value" as defined under section 402 of the Tariff Act of 1930, from which we quote:

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

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

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

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

Your attention is also directed to section 303 of the Tariff Act of 1930 with reference to countervailing duties. It should be noted that as of March 17, 1955, there were 11 commodities for which it had been determined that a bounty or grant existed and for which countervailing duty was being assessed under section 303, of the 11 commodities, 9 pertained to agricultural or related products as follows:

Sugar content of certain articles—Australia
Butter—Australia
Fortified wines—Australia
Cheese—Canada
Butter—Denmark

Spirits—United Kingdom
Sugar—United Kingdom
Spirits—Ireland
Wool tops—Uruguay

The remaining two commodities are:

Cordage—Cuba
Silk and silk articles—United Kingdom

From the foregoing, it can be seen that our domestic manufacturers have received little or no assistance from countervailing duties under section 303 of the Tariff Act of 1930. Moreover, it is important to note that many concessions or rebates granted in foreign countries, frequently but not always of a confidential nature, do not come within the definition of a bounty or grant under section 303. This is important, because such concessions, rebates, or subsidies can sometimes contribute to a substantial reduction of "foreign domestic value" to a lower "export value." As examples of such debates, concessions, or subsidies, we point to the following:

(1) The rebate equal to 36 percent of cost or value of rubber thread in exports of elastic fabrics, woven or braided, from Western Germany.

(2) The approximately 20 percent refund on value of rayon yarn in elastic fabrics exported from Western Germany. This rebate, as well as that in No. 1 above, are arranged on a confidential basis between elastic fabric manufacturers and the trade group or association for the raw material suppliers.

(3) The rebate amounting to 27 to 30 percent on value of rayon-yarn contest in elastic fabrics exported from Italy. In this situation a representative of the Italian rayon syndicate or association is delegated to the customs office in Italy, to there act as the third party in the arrangements of the rebates.

(4) The rebate on elastic fabrics and other merchandise exported from France, which governmental rebate approximates 40 percent of the labor involved in the export merchandise; this 40 percent, more or less, represents a refunding of social-security or welfare-payroll taxes which apply only to goods exported; it is reported that the refund to French exporters represents the difference between total French social-security payroll taxes and similar security payroll taxes assessed to manufacturers in certain other European countries.

The above examples are undoubtedly only a few of the many secret arrangements existing in countries exporting merchandise to the United States. The effect of the secret arrangements is to enable the foreign manufacturer to export to this country at "export value" which will usually be lower than the "foreign domestic value" at which the same merchandise is sold for consumption in the foreign home market.

For the foregoing reasons, we believe that section 402 of the Tariff Act of 1930 should remain as is and not be amended as provided for in H. R. 6040. We believe it is vitally important to maintain the preferred "foreign value" as defined under paragraph (c) of section 402.

As H. R. 6040 comes before the Senate Finance Committee (and perhaps the Senate itself) we will appreciate your full consideration of the foregoing information as you vote your convictions. Simplification, as set forth under H. R. 6040, seems to have merit in part; but not when simplification means weakening statutory safeguards and cutting tariffs. We urge your support, for eliminating from H. R. 6040, any amending of section 402 of the Tariff Act of 1930 (as amended as of July 1, 1952).

Respectfully submitted.

E. B. POMEROY,
Managing Director.

CLEVELAND, OHIO.

Senator HARRY F. BYRD,
Chairman, Committee on Finance,
Senate Office Building, Washington, D. C.:

The Cleveland World Trade Association, affiliate of the Cleveland Chamber of Commerce, wishes to be included in the record of hearings by the Committee on Finance on bill H. R. 6040 as urging approval of this bill. We regard it as exceedingly important to our international trade.

CHARLES J. EWALD,
Executive Director, Cleveland World Trade Association.

MUSHROOM GROWERS COOPERATIVE ASSOCIATION OF PENNSYLVANIA,
Kennett Square, Pa., July 6, 1955.

Re customs simplification bill, H. R. 6040.

FINANCE COMMITTEE,
United States Senate, Washington, D. C.

GENTLEMEN: On behalf the domestic mushroom canning industry we wish to register our opposition to section 2 of the above-mentioned bill which provides for the substitution of "export value" for the existing "foreign value" or "export value" whichever is higher.

The increased importation of canned mushrooms, due to three lowerings of the tariff, has put the domestic industry into a chaotic condition. It is our firm belief that adoption of section 2 would result in a further price advantage to the foreign producer.

We respectfully request that proper consideration be given to our request for elimination of section 2 of H. R. 6040.

Yours very truly,

WALTER W. MAULE, *Secretary.*

MARRINER & CO., INC.,
Lawrence, Mass., July 6, 1955.

Hon. SENATOR H. F. BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.

DEAR SIR: I am addressing you as chairman of the Senate Finance Committee in connection with H. R. 6040, so-called customs simplification bill. I am sure it is not necessary to point out to you that our textile industries, and especially wool textiles, are experiencing depression times here in New England in spite of great prosperity in the Nation as a whole.

The unsatisfactory condition of our wool industry is due to three causes:

1. Overproductive capacity.
2. Competition from synthetic fibers.
3. Competition from foreign imports.

I have listed the above causes of our troubles in the order of their seriousness and although you will note that the imports are currently third on the list, this could very quickly be changed if foreigners are given any further encouragement by tariff reductions or relaxation in the tariff regulations.

I, therefore, strongly recommend that you oppose the part of H. R. 6040, namely, section 2, that will permit ad valorem tariff calculations to be made on invoice value rather than the current foreign-market value in the country of shipment.

It seems obvious to me that our tariff regulations should always be based on foreign-market value, the latter to be determined by our customs department, rather than permitting foreign countries to put a lower-than-market price on exports to this country for the purpose of dumping excess production.

Respectfully submitted.

KENNETH W. MARRINER.

GLOVERSVILLE KNITTING CO.,
Gloversville, N. Y., July 6, 1955.

Hon. H. F. BYRD,
Senate Office Building, Washington 25, D. C.

DEAR SENATOR: Section 2 of H. R. 6040 is loaded with potential duty cuts strictly at the discretion of those foreign countries who would export goods to us. It would actually encourage a two-price system in countries like Japan. Is this good?

Further, the American producer wouldn't know the rules of the game (the tariff base) from day to day.

We oppose H. R. 6040, but if it is a "must," section 2 should be deleted.

Yours very truly,

E. F. VONDERAHE, *Vice President.*

DRUG, CHEMICAL AND ALLIED TRADES SECTION,
NEW YORK BOARD OF TRADE, INC.,
New York 7, N. Y., July 7, 1955.

Hon. HARRY F. BYRD,
Chairman, Senate Committee on Finance,
Senate Office Building, Washington 25, D. C.

MR. CHAIRMAN: The Drug, Chemical and Allied Trades (DCAT) section of the New York Board of Trade, with more than 800 members, represents a cross-section of the country's drug and chemical manufacturing industry and others closely related thereto.

This section is in favor of true simplification of our tariff customs laws and procedures.

As chairman of this section, I am charged with the responsibility of presenting to you and your committee, the written testimony of the section on the subject of H. R. 6040, the Customs Simplification Act of 1955. Accordingly, this letter is submitted for the record and your consideration.

We find no cause for concern with those sections of the bill relating to conversion of currency and the repeal of obsolete provisions. Accordingly, we will direct attention only to section 2 of the bill which contains the new bases for valuation purposes.

The net result of the new valuation bases will be tariff reduction measures rather than simplification. The United States Treasury Department's own survey and summary of the effect of the new value provisions indicate reductions of as much as an average of 15.39 percent. In the medicinal and pharmaceutical group the survey shows the average reductions in revenue to be 1.22 percent and in the chemical field an average of as much as 7.33 percent.

The elimination of "foreign value" as the alternate to "export value," together with the new definitions which would be applied in ascertaining dutiable value, will combine to reduce the tariff margin. This will lead to confusion and litigation arising out of the change of meaning which will have to be applied to words and phrases which are presently well understood after years of application.

It has been argued that "foreign value" is difficult to establish and is the cause of considerable delay in the liquidation of customs entries. It should be noted, however, that the requirement to determine foreign value will not be eliminated, since the Anti-Dumping Act will continue to be administered on the basis of "fair value" which in practice is "foreign value." Foreign value information will still be necessary for the effective administration of the Anti-Dumping Act. Therefore, the first proposal in H. R. 6040 does not represent any simplification.

With regard to the admitted reduction in duty which will result from the new value provisions, the effect will generally be an across-the-board reduction over and above the recently authorized reductions by Public Law 86 of the 84th Congress. These reductions would be neither gradual or reciprocal. Neither would they be selective. Domestic industry would be denied the opportunity for hearings on the determination of peril points. Action under the escape clause safeguard will be precluded since these reductions will not have been made by trade agreements.

With regard to the survey of imports and the summary which was published by the United States Treasury Department, we note that 19,908 customs entries, dutiable on an ad valorem basis, were recomputed to determine the effect on revenue. It would seem that the sampling was statistically adequate only for the purposes of establishing a probable revenue pattern which would result from the overall application of the new value basis. However, the sampling is inadequate in that it is limited to eight ports of entry and it gives no assurance to any particular industry that specific products which might be of vital importance were actually included in the survey. The samples were classified according to the Department of Commerce schedule "A" subgroups and range in number from as little as 1 sample in subgroup 21 to as high as 1,480 in subgroup 57. However adequate the survey might be for the purpose of establishing the probable effect on revenue, it is completely inadequate in that the use of averages by groups cannot indicate the actual effect on specific commodities. It certainly gives no indication of the effect of these changes on the customs duty to be assessed on individual commodities. In the survey the average of 7.33 percent shown for industrial chemicals might mean an actual reduction of 25 percent or more on some specific commodity.

In short, section 2 of H. R. 6040 does not appear to be simplification. It appears to be a measure which improperly reduces the tariff further. In addition, it ap-

pears quite probable that it will give rise to new problems which will result in confusion and litigation perhaps more troublesome than those which it purports to eliminate. For these reasons we are not in favor of the inclusion of section 2 in this bill.

Respectfully submitted.

CLAUDE A. HANFORD, *Chairman.*

THE DOW CHEMICAL CO.,
Midland, Mich., July 6, 1955.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance, the United States Senate,
Senate Office Building, Washington 25, D. C.

DEAR SIR: This memorandum on H. R. 6040 is submitted for inclusion in the record in lieu of an appearance during the committee's public hearings on this bill.

The Dow Chemical Co. considers simplification of customs regulations and procedures a worthy objective, but is convinced that H. R. 6040 embodies more tariff reduction than simplification. Accordingly, we are opposed to section 2 which would change the valuation base for calculating import duties and hence the amount of excise tax collected and the protection afforded by existing tariff rates.

The House bill H. R. 6040 proposes two changes which would lower the valuation for calculating duties. One consists in discarding foreign value as a basis for valuation, and the other proposes definition changes. Both of these will result in tariff reduction.

Present law requires the customs officials to use foreign value, or export value to the United States, whichever is higher. H. R. 6040 would require use of only export value, which is usually lower than foreign value. It is quite natural for the export value to be lower than foreign value for several reasons. When a foreign producer ships to this country, the importer serves as his distributor and as such receives a distributor's or agent's discount. These discounts are, in part, offsets against his advertising and distribution costs.

The urge for dollar credits may be another reason why export values will be lower than foreign values. Whenever foreign governments and foreign producers feel the need for dollar exchange credit, they may reduce their export prices to the United States to increase sales here.

It is well known that many European industries operate through cartel agreements. It is not uncommon for cartels to depress export prices to penetrate a selected market.

While it is true that these may be common and in some cases accepted business practices, this does not constitute justification for changing the basis for customs valuations. Any basis selected for calculating import duties is more or less arbitrary, and has no other use except as a basis for calculating the duty. The key point is that the result of the changes proposed in H. R. 6040 is a reduction in the duties collected.

In those cases where export values cannot be applied, the use of United States value and constructed value, as defined under H. R. 6040, would also constitute tariff reduction. The removal of limitations on commissions, transportation costs, and other business costs applicable to United States value, and the removal of limits on reductions for profits and the like in the case of constructed value, both result in lower values upon which to calculate duties. Again, the argument of realism has no bearing because both the present and the proposed changed procedure is purely arbitrary.

Two studies have been made in an attempt to determine to what extent changes proposed in H. R. 6040 would constitute tariff reduction. In one study a sampling of invoices on synthetic organic chemicals covering a period in the latter part of 1953 showed an average tariff reduction of more than 12 percent for those synthetic organic chemicals bearing ad valorem rates. In a second study during 1954, the Treasury Department sampled invoices on imports and found that application of the procedure proposed by H. R. 6040 would have resulted in an average reduction of appraised values of more than 7 percent for industrial chemicals. This includes a much broader range of chemicals than the previous study and averages inorganic chemicals, many of which have quite low tariff rates, with synthetic organic chemicals. Both of these studies show extensive tariff reduction under the proposed new procedures for valuation. We would like to emphasize that these are average figures which means, of course, that much higher percentage reductions would of necessity occur for some individual products.

It would mean discriminatory tariff reduction against certain products, without study or consideration as to the desirability of reduction, or the injury which might result.

Moreover, H. R. 6040 proposes changing certain definitions such as "freely offered for sale" and "usual wholesale quantities." These definition changes are all such as will result in reducted valuations for calculating duties. For example, the change in definition of "usual wholesale quanties" would be like changing from the prices which a wholesale distributor charges to general retail hardwares, to the lower prices which a single large purchaser like Sears Roebuck would pay for similar merchandise.

We suspicion that the tariff reduction inherent in these definition changes has not been included in the Treasury Department studies. It seems doubtful that information was available on past import transactions to take account of these new definitions. If the changed definitions were not applied then the tariff reduction will be somewhat greater than the studies show. Estimates for some organic chemicals have indicated that appraised valuation reductions may be quite substantial, and will of course add to the reduction from elimination consideration of foreign value.

All this leads Dow to believe that tariff reductions somewhat greater than the 7 and 12 percent averages would result for many of the chemical praducts which we sell. The result would be downward price pressure, coupled with increased imports and, therefore, reduced sales for our own products.

There is no doubt that H. R. 6040 does in fact represent tariff reduction, but there is considerable doubt as to whether it constitutes customs simplification. Experienced customs counsel in testifying before the Committee on Ways and Means of the House of Representatives, pointed out that years of litigation would be required to establish the legal meaning of the new definitions set forth in H. R. 6040. Such litigation could hardly represent customs simplification to the importer. Moreover, one of the chief claims to simplification resides in the proposal to eliminate consideration of foreign value. If this was done, then data required for application of the antidumping law would not be available. In fact, the Treasury Department forwarded a letter to the Ways and Means Committee indicating the, "intentions of the Bureau of Customs and the Treasury Department to continue to require foreign value information as a part of the information contained in customs invoices." So if foreign value data continues to be collected to maintain the effectiveness of the Antidumping Act, we fail to see how the proposed simplification will not result.

We note in testimony by Hon. H. Chapman Rose, Assistant Secretary of the Treasury, that reduction of the backlog of cases had been progressing rapidly as a result of the customs simplification bills passed in 1953 and 1954. These previous bills, along with the proposals in sections 3 and 4 of H. R. 6040 would seem to have met the need for customs simplification.

As a result of the fact that H. R. 6040 constitutes substantial tariff reduction, especially for chemical industry, tariff reduction applied without being either selective, gradual, or in some cases moderate, and because past simplification bills have largely eliminated the need for more simplification and because it appears doubtful that H. R. 6040 will actually lead to significant simplification, the Dow Chemical Co. urges that section 2 of H. R. 6040 be deleted to remove those parts which are primarily tariff reduction.

Sincerely,

CALVIN A. CAMPBELL,
Secretary, Vice President, and Chief Counsel.

SHULER & BENNINGHOEEN,
Hamilton, Ohio, July 5, 1955.

Hon. H. F. BYRD,
Senate Office Building,
Washington, D. C.

DEAR SIR: It is my understanding that the Senate Finance Committee at the present time is giving consideration to the customs simplification bill H. R. 6040.

Section 2 of this bill I further understand provides for determining the amount of duty on any merchandise imported into this country, which would permit United States Customs appraisers to use the export value alone as a base. In other words, the foreign exporter could make the export value almost anything they wanted to, and actually charge more for the same merchandise in their own country than they would charge when exporting to this country.

No doubt you have heard all about the extremely low rates of pay in most European countries, and in fact, most all countries in comparison with the rates of pay in the United States.

You know about the condition in textile plants in this country. It is in my opinion possible for foreign exports, that is, imports to this country, to really wipe out our textile industry. Surely you wouldn't want this to happen.

Section 2 of H. R. 6040 could arbitrarily and indiscriminately cut United States tariffs without safeguarding the domestic producers. No peril points to be fixed for these cuts.

The bill I am told, has passed the House. I do hope you will do all you can to eliminate section 2 from the same.

Yours very truly,

PAUL BENNINGHOFEN.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
July 8, 1955.

Hon. HARRY F. BYRD,
Chairman, Senate Finance Committee,
310 Senate Office Building, Washington, D. C.

DEAR SENATOR BYRD: I am writing to express to the Senate Finance Committee my serious objections to section 2 of H. R. 6040, the proposed Customs Simplification Act of 1955, now being considered by the Senate Finance Committee.

I have no objection whatsoever to simplifying customs procedures. However, I object strenuously to the enactment of any legislation which would further reduce or tend to reduce tariffs on foreign goods imported into the United States. My understanding of H. R. 6040 is that section 2 would eliminate "foreign value" as a basis of customs valuation. Further, that it would cause "export value" to be used as the primary basis of customs valuation.

My objection to this change in the present law is that it would have the effect of further reducing tariffs which have already been cut drastically by the negotiations recently concluded at Geneva under authority of the old Reciprocal Trade Agreements Act of 1951 and prior to the enactment of H. R. 1 this year with its protective and restrictive provisions. H. R. 1 as amended was designed to prevent further tariff reductions to items which had undergone tariff cuts of more than 15 percent at the GATT Conference at Geneva.

If section 2 of H. R. 6040 were to be enacted, it would bring about further tariff reductions due to the primary use of "export value" as a basis of customs valuation. This would be in spite of the drastic tariff reductions on certain items at Geneva and in spite of the safeguards established by the passage of H. R. 1.

On May 23, 1955, Mr. H. Chapman Rose, Assistant Secretary of the Treasury, appeared before the House Ways and Means Committee and testified in favor of H. R. 6040. Mr. Rose is quoted in the published hearings on page 34 as saying, "There is no provision for any peril point determination in this bill."

The following testimony by Mr. Rose was brought out under questioning by Mr. Simpson of Pennsylvania, these questions and answers appearing on pages 34 and 35 of the hearings.

"Mr. SIMPSON. I do not want to get too far away from the point. The point I am trying to make—and I think you agree with me—is that there is nothing in here in the nature of a peril point protection for an American business as there is in connection with the reciprocal trade program.

"Mr. ROSE. That is correct, sir. I think nothing of that kind would be appropriate in a situation where you are talking about methods of valuation only and not cutting tariff rates.

"Mr. SIMPSON. But the net result is a cut in the tariff rate. You have showed us that. The net result is a cut in certain tariff rates.

"Mr. ROSE. It has the effect of a reduction in revenue, to the extent that the reduction in valuation produces that.

"Mr. SIMPSON. From the standpoint of the American manufacturer, he will have less protection in some instances under this bill than he has under existing law.

"Mr. ROSE. That is correct."

These statements by Mr. Rose make two points clear:

(1) That enactment of H. R. 6040 would further reduce tariffs;

(2) That American industry would not have peril point protection under such tariff cuts effected by administrative procedure of the Bureau of Customs.

The House Ways and Means Committee submitted a report to accompany H. R. 6040 on June 18, 1955. On page 4 of this report reference is made to the testimony of witnesses from the Treasury Department regarding a survey conducted by the Department to determine what change section 2 of this bill would have had on valuation of imports during the fiscal year 1954.

The House report stated: "The survey indicates that there would have been a probable decrease of 2.5 percent in total dutiable value of merchandise subject to ad valorem duties with a still smaller decrease of 2 percent in customs collections on such ad valorem goods * * *."

Because of the fact that certain American industries such as the textile industry, which employs more than 1 million persons, have already suffered serious damage by the reduction of tariff rates at Geneva, I urge the Finance Committee to amend H. R. 6040 so that it will prevent any further reductions in tariffs rather than to permit reductions by the application of section 2.

With best wishes,

Sincerely yours,

STROM THURMOND.

FISHERMEN'S COOPERATIVE ASSOCIATION OF SAN PEDRO,
San Pedro, Calif., July 6, 1955.

SENATE FINANCE COMMITTEE,
Senate Office Building, Washington, D. C.

GENTLEMEN: It is my understanding that your committee is to begin hearings on H. R. 6040, customs simplification bill, today.

The Fishermen's Cooperative Association of San Pedro is decidedly opposed to section 2 of this bill which substitutes "export value" in place of the present "foreign" or "export" value, whichever higher.

It would appear that section 2 as presently written practically eliminates the effect and basis of the Anti-Dumping Act. The tuna industry only recently had cause to request our Government to investigate the proposed dumping of many thousands of cases of Japanese tuna in the United States market. The large shipment never appeared after the request.

Unless section 2 is eliminated from the bill, we urge that H. R. 6040 not be passed.

Sincerely yours,

MASON CASE, *Manager.*

P. S. Kindly include this statement in the record.

UNITED STATES SENATE,
COMMITTEE ON BANKING AND CURRENCY,
July 7, 1955.

HON. HARRY F. BYRD,
Chairman, Committee on Finance,
United States Senate, Washington, D. C.

DEAR SENATOR BYRD: For the consideration of yourself and your committee, in connection with H. R. 6040 and H. R. 6041, the Customs Simplification Act of 1955, I hand you herewith letter from Mr. W. E. Bittle, factory manager of the United States Rubber Co. footwear plant at Naugatuck, Conn.

Last year, I worked very hard and was successful in having passed Public Law 479, to amend paragraph 1530 of the Tariff Act of 1930 with respect to footwear. This legislation was for the benefit of the United States Rubber Co. in its footwear plant. This action by the Congress was completely nullified by the recent action at the GATT Conference in Geneva, which reduced the tariff on rubber footwear.

I certainly hope that no action will be taken by your committee in this proposed legislation which will further hurt this company and affect the whole economy of that area of my State, which is dependent on the operations of this plant. Mr. Bittle expressly mentions certain changes in definitions which would have an effect of tariff reduction, quite aside from the reductions made by H. R. 1, recently enacted tariff legislation. I hope these provisions will be deleted by the Finance Committee before reporting the measure to the Senate.

I trust that you and your committee will give very careful consideration to the statements made by Mr. Bittle in his letter.

Sincerely yours,

PRESCOTT BUSH,
United States Senator.

UNITED STATES RUBBER CO.,
Naugatuck, Conn., July 1, 1955.

Hon. PRESCOTT BUSH,
The United States Senate,
Washington, D. C.

DEAR SENATOR: On July 6 the Senate Finance Committee will start hearings on the Customs Simplification Act of 1955, H. R. 6040 and H. R. 6041. These bills are identical, and I urge you to protest their adoption as in their present form they could prove very injurious to the rubber footwear industry and our Naugatuck plant in particular.

I favor simplification of procedures, but, when such procedures are complicated to such a degree that in reality they reduce tariffs, I definitely am opposed. The bills being considered have tariff-cutting features that are not directly visible but through specific definition can reduce tariff on canvas footwear by another 20 percent.

The Geneva Conference, as you are aware, reduced the tariff in rubber and rubber soled canvas footwear, directly affecting our plant: and as yet we are unable to clearly determine the detrimental effect H. R. 1 bill will have on our business. To further provide additional tariff cuts by adoption of H. R. 6040 and H. R. 6041 would place the rubber footwear industry in an extremely untenable position.

Complications, such as I have mentioned above, result from the definitions placed on "wholesale prices." Under present customs procedures, wholesale prices are either:

(*a*) The manufacturer's price to retailers; or

(*b*) The jobbers' or wholesaler's price to retailers.

Under the Customs Simplification Act of 1955 they propose to substitute for (*a*) and (*b*) the manufacturer's price to wholesaler as a procedure to determine valuation and place a duty on same. This procedure definitely is a tariff reducing feature that can cause a reduction as great as 20 or 25 percent on rubber and rubber soled canvas footwear. From appearance their method as proposed could be termed simplification, but in reality it is a further tariff reduction procedure which I definitely oppose. Section (a) and (b) as mentioned above are clear-cut procedures and which, in my opinion, need no further simplification.

To tamper with these features appears to be a method to reduce tariffs. No doubt our customs procedure can be simplified, but let's stick to simplification and not have other motives in mind to accomplish by so doing.

Another proposed definition change which would automatically reduce the amount of duty assessed is the term "usual wholesale quantities." Under present customs procedure, the usual wholesale quantity is the quantity resulting from the largest number of transactions and, in my opinion, the proper method for determination of same. The proposed legislation establishes as the usual wholesale quantity the quantity at which the greatest aggregate amount of the goods involved are sold. This definition would set up chain stores, jobbers, or wholesalers in the category in which the largest aggregate volume of goods are sold, resulting in a lower valuation and a resulting lowering of duty charges. We contend that sales to the small and independent retailer greatly outnumber any other sales and are more properly and logically classified as the usual wholesale quantities. To make a determination contrary to the above could serve only as a tariff reducing procedure.

I hope I have alerted you to a condition which could cause our Naugatuck plant great concern and ultimate injury and that you will take steps to have these provisions deleted from H. R. 6040 and H. R. 6041 bills.

Should you feel additional information is necessary, please feel free to call on me.

Sincerely yours,

W. E. BITTLE,
Factory Manager.

NEWBURGH, N. Y., *July 8, 1955.*

Hon. HARRY F. BYRD,
Senate Office Building:

The Greater Newburgh, N. Y., Chamber of Commerce views with alarm section 2 of H. R. 6040, customs simplification bill which would permit United States customs appraisers to use export values alone as a base on which ad valorem duties would be assessed on many commodities.

This will not simplify customs precedure which is the intent of the act and could result in a two-point system and dumping of freight products in this market. Section 2 therefore has no place in H. R. 6040 of customs simplification bill and we urge its deletion in committee.

E. WILLIAM ZOLA,
Executive vice president, Greater Newburgh Chamber of Commerce.

TEXTILE WORKERS UNION OF AMERICA,
New York, N. Y., July 7, 1955.

Senator HARRY FLOOD BYRD,
Chairman, Senate Finance Committee,
Senate Office Building Washington, D. C.

DEAR SENATOR BYRD: You are now considering H. R. 6040 for the simplification of the customs.

We have appeared before your committee in connection with the Reciprocal Trade Agreements Act and asked that our industry not be further injured through additional concessions to foreign producers which will enable them to land goods in our market for competition on a wholesale basis with us.

The present bill, through its section 2, would enable reductions through the use of "export value" rather than "foreign value." Even in the sample survey by the Bureau of Customs of the Treasury Department, it is apparent that such change will result in substantial reductions in effective duty beyond the reductions effected through the new reciprocal trade agreements.

We urge that this action not be taken so that the customs officers may take the higher of the values as between "export value" or "foreign value" in determining the base for the application of the tariff schedule.

This is the minimum protection necessary to prevent an additional injury to the textile industry.

For the detailed statistical basis and considerations underlying our position, may we refer to the previous statements which we submitted to your committee.

Very truly yours,

SOLOMON BARKIN.

BOARD OF COMMISSIONERS OF THE PORT OF NEW ORLEANS,
FOREIGN TRADE ZONE NO. 2,
New Orleans 15, La., July 6, 1955.

Hon. HARRY F. BYRD,
Chairman, Committee on Finance,
Senate Office Building,
Washington, D. C.

DEAR MR. CHAIRMAN: The Foreign Trade Zone Committee of the American Association of Port Authorities desires to go on record in support of H. R. 6040.

Your support of this important measure to improve the economic well being of our country is urgently requested.

Very truly yours,

J. H. BOYD,
Chairman, Foreign Trade Zones Committee,
American Association of Port Authorities.

A. W. CHESTERTON CO.,
Everett 49, Mass., July 6, 1955.

Senator HARRY F. BYRD,
Senate Finance Committee, United States Senate,
Washington, D. C.

DEAR SENATOR: We understand that the Customs Simplification Act., H. R. 6040, will be heard commencing July 6.

We wish to go on record as being very much in favor of this necessary and constructive legislation.

Our export sales comprise a very important part of our business and we feel that the removal of restrictions of the nature of which this legislation is designed to correct, will increase the amount of dollars abroad, which in turn, means additional purchases of our materials.

We also import in small quantities and, while the dollar value involved is small, we find the fictitious values as set foth for purposes of valuation to be arbitrary, unrealistic, uncertain, and unfair.

We hope your committee will recommend this legislation in its present form and without crippling amendments.

Yours very truly,

T. W. CHESTERTON.

SHARP & BOGAN,
Washington 5, D. C., July 11, 1955.

Hon. HARRY F. BYRD
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.

DEAR MR. CHAIRMAN: Our law firm represents several substantial groups of United States importers in a variety of customs matters, and, therefore, has a continuing interest in the formulation and administration of customs duties and procedures. However, we had decided to refrain from testifying on H. R. 6040, the customs simplification bill of 1955, because of the complete presentation which has heretofore been made on the merits of this legislation.

We present this brief statement for your consideration only because the specter of the Antidumping Act of 1921 has been raised by several witnesses before your committee to becloud the merits of the simplification measure.

We agree with these witnesses, as with almost every student of the antidumping program, that the 1921 statute demands revision. However, the suggestion of at least one witness that this can be done quickly and simply is not supported by the facts or by the studies which have been made of the dumping procedure.

The relationship of the dumping problem to the customs simplification bill is nebulous, at best. The definition of "foreign value" in section 402 of the Tariff Act differs from the definition of "foreign market value" in section 205 of the Antidumping Act. The legislation before your committee specifically prohibits a change in the dumping definition by reason of the change proposed in the definition of section 402. The experts of the Treasury Department and the Customs Bureau have testified that the change sought by this legislation will in no way affect the administration of the Antidumping Act.

Accordingly, there seems to be little warrant for revision of the antidumping procedures by reason of the changes proposed in H. R. 6040. However, there are many other considerations that make modernization of this 1921 statute essential. Such changes can be made only after a full discussion and extended consideration of the many problems involved in our antidumping legislation.

The "star chamber" procedure by which a finding of dumping is issued has been criticized most recently by Chairman Daniel Reed and Representative Richard Simpson in the minority report of the Randall Commission. The majority of that Commission recognized the need for effective streamlining of the procedure in order to avoid the inequity of undue delay and retroactive penalties. The Treasury Department has recently recognized some of the inequities inherent in the administration of the Antidumping Act and has acted within its administrative discretion to remedy some of these inequities. The fears of substantial United States importers as well as friendly foreign manufacturers that the 1921 United States statute is being misused as a protectionist weapon has been expressed many times in the past 2 years.

All these factors, and many others which a full public discussion of dumping procedures would reveal, support the repeated plea for amendment of the 1921 Antidumping Act in the light of today's national needs and national policies. We sincerely hope the Congress will see fit to initiate such a study at the next session. At this juncture, however, we respectfully urge this committee not to take precipitate action by acceding to the request of some witnesses for piecemeal amendment of the statute.

Respectfully yours,

JAMES R. SHARP.
WM. J. BARNHARD.

NATIONAL MILK PRODUCERS FEDERATION,
Washington 6, D. C., July 8, 1955.

Hon. HARRY FLOOD BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, 25, D. C.

DEAR SENATOR BYRD: In connection with the hearings on H. R. 6040, the customs simplification bill, we would greatly appreciate having the following comments included in the hearing record.

The National Milk Producers Federation is a national farm organization representing nearly half a million dairy farmers and the dairy cooperatives which they own and operate and through which they act together to process and market at cost the milk and butterfat produced on their farms.

Prices for milk and butterfat are presently supported at 75 percent of parity (about 80 percent under a revised formula). Even at this low support level, domestic prices for dairy products are substantially above world price levels. For example, the support price for butter in New York is 58¼ cents per pound. Butter being sold in world trade by the Department of Agriculture is bringing about 39 cents per pound. With this disparity between domestic and world price levels, dairy farmers are vitally interested in effective import controls.

The federation has not opposed customs simplification, and we do not now oppose those provisions of H. R. 6040 which are strictly customs simplification. We have opposed in the past attempts to make substantial changes in our foreign-trade policies under the guise of customs simplification. For example, we have opposed provisions in previous bills which we feared would be a recognition of the use by foreign countries of multiple exchange rates and controlled multiple export prices.

We are concerned that the present bill may have in it some of these same objectionable features. We are concerned in particular with the substitution of "export value" for "foreign value" for the purpose of computing United States tariffs. Since export value would be the price for export to the United States, the bill seems to contemplate, if not invite, an export price to the United States which would be different from the export prices to other countries. The use of controlled export prices by foreign nations would make possible an abuse of this provision.

Unless section 2 of the bill is adequately safeguarded against the use of controlled multiple export prices, we believe it should be deleted from the bill.

Sincerely,

E. M. NORTON, *Secretary.*

SOFT FIBRE MANUFACTURERS' INSTITUTE,
New York, N. Y., July 8, 1955.

Hon. HARRY F. BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.

DEAR SENATOR BYRD: After extensive hearings and careful consideration your committee adopted amendments to H. R. 1 and later persuaded the Senate to enact the measure as amended. The press has quoted you as hailing this accomplishment of the Senate Finance Committee as providing the "first adequate safeguard to United States industry, since the reciprocal trade program was inaugurated in 1934."

We are therefore hopefully expecting that your committee will refuse approval of H. R. 6040 in the form in which it was passed by the House of Representatives. It is our belief that section 2 of H. R. 6040 would weaken and might completely nullify the safeguards placed in H. R. 1. We cannot believe that your committee will support legislation which would result in the reduction of tariffs by indirection outside the properly constituted procedures already laid down by Congress under its constitutional authority and responsibility.

Furthermore the recent reenactment of the caveat in the Trade Agreements Extension Act of 1955 makes us confident that your committee will prevent the inclusion in H. R. 6040 of "language taken directly from GATT."

In behalf of the domestic soft fibre manufacturing industry we respectfully urge that section 2 be deleted.

Respectfully yours,

GEORGE F. QUIMBY,
Secretary-Treasurer.

BUFFALO CHAMBER OF COMMERCE,
Buffalo, N. Y., July 7, 1955.

Hon. HARRY FLOOD BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.

DEAR SENATOR BYRD: We hope the enclosed Buffalo Chamber of Commerce position on the customs simplification bill (H. R. 6040) will be helpful to you in arriving at a decision on this much-needed legislation.

Sincerely,

CHARLES C. FICHTNER,
Executive Vice President.

BUFFALO CHAMBER OF COMMERCE STATEMENT ON THE CUSTOMS SIMPLIFICATION BILL OF 1955 (H. R. 6040–H. R. 6041)

The proposals to change sections 402 and 522 of the Tariff Act of 1930 and to repeal obsolete provisions of the act are enthusiastically endorsed.

Any changes that will simplify procedures, speed up customs handling and eliminate costly delays in importing and exporting will tend to enhance international trade.

The simplified method of determining the rate of currency conversion is sound. And the elimination of obsolete provisions in the act is long overdue.

The measures proposed in the customs simplification bill of 1955 should be enacted with the least possible delay.

IMPORTERS' ASSOCIATION, INC.,
Chicago, Ill., July 8, 1955.

Hon. SENATOR HARRY F. BYRD,
Senate Office Building, Washington, D. C.

MY DEAR SENATOR: At a meeting of our board of directors yesterday it was unanimously voted that we support the customs simpification bill H. R. 6040. We would appreciate your good efforts in seeing that this bill is passed because it is unnecessary for me to tell you how vital imports are to our economy. Inasmuch as I just returned from a prolonged visit to the Orient, I am sure this will go a long way toward international trade relations.

Thanking you for your kind cooperation in the matter, believe me to be,

Most sincerely,

JOE GOLDSTONE, *President.*

DENVER, COLO., *July 8, 1955.*

Hon. HARRY FLOOD BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.

We desire to express for the record in hearings on H. R. 6040 our opposition to section 2. Our objection is based on a belief that section 2 will virtually nullify the anti-dumping act. We, therefore, strongly urge the elimination of section 2.

AMERICAN NATIONAL CATTLEMEN'S ASSOCIATION,
RADFORD HALL,
Assistant Executive Secretary.

UNITED STATES SENATE,
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE,
July 7, 1955.

Hon. HARRY F. BYRD,
Chairman, Senate Finance Committee,
Washington, D. C.

DEAR SENATOR: I am enclosing a letter addressed to me and a copy of which was sent to my colleague, Theodore Francis Green, from Mr. Norman E. Randall, president, Columbia Narrow Fabric Co., Shannock, R. I., with reference to H. R. 6040 presently being considered by your committee.

Mr. Randall is a highly respected member of the Rhode Island business community and as you can see from the contents of the letter he sets forth some very

definite opinions regarding H. R. 6040 which I know will be of extreme interest to the members of your committee.

With warmest personal regards, I am

Sincerely yours,

JOHN O. PASTORE,
United States Senator.

JULY 1, 1955.

Senator JOHN O. PASTORE and Senator FRANCIS GREENE,
Senate Office Building, Washington 25, D. C.

DEAR SENATORS: The purpose of this letter is to bring to the attention of the Senate Finance Committee the views of elastic braid and elastic webbing manufacturers on H. R. 6040 and on its relation to certain subsidies, concessions or rebates which exist, and which we believe have an important bearing on the basis of determining the value of imported goods, which value provides the basis for assessment of ad valorem tariff duty.

Others will have pointed out to you the danger of liability to domestic manufacturers when foreign manufacturers ship goods into this country at prices below which they sell in the foreign domestic market. In such situations, where a finding of dumping exists, we are aware that relief is supposed to be available under the Anti-Dumping Act of 1921. However, we understand that actual antidumping findings have been very few.

But even though there may be some doubt as to whether an antidumping finding will be made to prevent bankrupcies or hardships in an industry, still the remedy of the Anti-Dumping Act, 1921, should be maintained and used where necessary. We are therefore concerned as to whether this will be so if H. R. 6040 becomes law.

It is important to note that the Anti-Dumping Act bases its investigations and special dumping relief upon "fair value" of the imported or foreign merchandise. It should also be noted that TD 53773 defines fair value as the first applicable of the following tests:

(1) Fair value based on price in country of exportation; the usual test.

(2) Fair value based on sales in country of exportation and in other countries, not including United States.

(3) Determination based on sales by other foreign producers.

(4) Fair value based on cost of production.

It seems reasonable to conclude that if "export" value as defined in H. R. 6040 is adopted, we can expect a new Treasury decision which will change the definition of fair value as used under the Anti-Dumping Act, 1921. It will mean that instead of preferred fair value being the price "at which such or similar merchandise is sold by the foreign producer for consumption in the country of exportation," preferred fair value will become any lower price at which the merchandise is offered for export to the United States.

We also particularly call your attention to the conflict between "export value" as defined in H. R. 6040 and "value" as defined under section 402 of the Tariff Act of 1930, from which we quote:

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

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

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

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

Your attention is also directed to section 303 of the Tariff Act of 1930 with reference to countervailing duties. It should be noted that as of March 17, 1955, there were 11 commodities for which it had been determined that a bounty or grant existed and for which countervailing duty was being assessed under section 303. Of the 11 commodities, 9 pertained to agricultural or related products as follows:

Sugar content of certain articles, Australia
Butter, Australia
Fortified wines, Australia
Cheese, Canada
Butter, Denmark

Spirits, United Kingdom
Sugar, United Kingdom
Spirits, Ireland
Wool tops, Uruguay

The remaining two commodities are:

Cordage, Cuba
Silk and silk articles, United Kingdom.

From the foregoing, it can be seen that our domestic manufacturers have received little or no assistance from countervailing duties under section 303 of the Tariff Act of 1930. Moreover, it is important to note that many concessions or rebates granted in foreign countries, frequently but not always of a confidential nature do not come within the definition of a bounty or grant under section 303. This is important because such concessions, rebates, or subsidies can sometimes contribute to a substantial reduction of "foreign domestic value" to a lower "export value." As examples of such rebates, concessions or subsidies, we point to the following:

(1) The rebate equal to 36 percent of cost or value of rubber thread in exports of elastic fabrics, woven or braided, from Western Germany.

(2) The approximately 20 percent refund on value of rayon yarn in elastic fabrics exported from Western Germany. This rebate, as well as that in No. 1 above, are arranged on a confidential basis between elastic fabric manufacturers and the trade group or association for the raw material suppliers.

(3) The rebate amounting to 27 to 30 percent on value of rayon yarn content in elastic fabrics exported from Italy. In this situation a representative of the Italian rayon syndicate or association is delegated to the customs office in Italy, to there act as the third party in the arrangements of the rebates.

(4) The rebate on elastic fabrics and on other merchandise exported from France, which governmental rebate approximates 40 percent of the labor involved in the exported merchandise: this 40 percent, more or less, represents a refunding of social security or welfare payroll taxes which apply only to goods exported; it is reported that the refund to French exporters represents the difference between total French social-security payroll taxes and similar security payroll taxes assessed to manufacturers in certain other European countries.

The above examples are undoubtedly only a few of the many secret arrangements existing in countries exporting merchandise to the United States. The effect of the secret arrangements is to enable the foreign manufacturer to export to this country at export value which will usually be lower than the foreign domestic value at which the same merchandise is sold for consumption in the foreign home market.

For the foregoing reasons, we believe that section 402 of the Tariff Act of 1930 should remain as is and not be amended as provided for in H. R. 6040. We believe it is vitally important to maintain the preferred foreign value as defined under paragraph (c) of section 402.

As H. R. 6040 comes before the Senate Finance Committee (and perhaps the Senate itself) we will appreciate your full consideration of the foregoing information as you vote your convictions. Simplification, as set forth under H. R. 6040, seems to have merit in part; but not when simplification means weakening statutory safeguards and cutting tariffs. We urge your support, for eliminating from H. R. 6040, any amending of section 402 of the Tariff Act of 1930 (as amended as of July 1, 1952).

Respectfully submitted.

NORMAN E. RANDALL,
President.

Columbia Narrow Fabric Co., Shannock, R. I.

LOWELL, MASS., *July 6, 1955.*

Senator HARRY F. BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D. C.:

It is our firm belief that section 2 of H. R. 6040 serves no constructive purpose and its inclusion in this bill can result only in harm to the domestic textile in-

dustry. We are therefore strongly opposed to this section and request that it be eliminated from H. R. 6040.

MERRIMACK MANUFACTURING CO.,
L. S. COX,
Executive Vice President.

THE STEUBENVILLE POTTERY CO.,
Steubenville, Ohio, July 8, 1955.

Senator HARRY F. BYRD,
Senate Office Building,
Washington, D. C.

DEAR SENATOR BYRD: We in the pottery industry are very much concerned because our business seems to be slowly dwindling to the point where we are now operating at a loss in most instances with no glimmer of hope in the future. We sincerely believe that the customs simplification bill, H. R. 6040, will be another blow to our struggling industry. We would appreciate very much your very serious consideration of this matter and the effect it will have on our plants and their workers.

We hope in your important committee it will receive the benefit of consideration of all parties concerned.

Sincerely yours,

HARRY WINTRINGER, Jr.,
Vice-President.

UNITED STATES SENATE,
COMMITTEE ON APPROPRIATIONS,
Washington, D. C., July 11, 1955.

Hon. HARRY F. BYRD,
Chairman, Finance Committee.
United States Senate, Washington, D. C.

DEAR CHAIRMAN BYRD: Early this year, I received a communication from Munsingwear, Inc., of Minneapolis, Minn., regarding the current valuation practices for merchandise imported into the United States.

In view of the studies of the Senate Finance Committee at the present time of H. R. 6040, the Customs Simplification Act of 1955, I wished to bring to the attention of the committee members the initial letter I received from Munsingwear, Inc., together with a subsequent report received from the Bureau of Customs. As the committee will be giving consideration to section 2 of H. R. 6040 which amends section 402 of the Tariff Act of 1930, I felt that this correspondence would be pertinent to the question of revising the valuation procedures of imported merchandise as proposed in said section.

Sincerely yours,

EDWARD J. THYE, *United States Senator.*

MUNSINGERWEAR, INC.,
Minneapolis, Minn., January 20, 1955.

Senator EDWARD THYE,
United States Senate.
Washington, D. C.

DEAR SENATOR THYE: In my opinion, Munsingwear, Inc., the firm with which I am associated, is being penalized unjustly because of certain rulings of the customs department. Briefly, the facts of this case follow.

During the years of 1950 and 1951 Munsingwear, who is a manufacturer of merchandise and a jobber of men's and boys' hosiery, bought hand-framed men's argyle socks from the Hudson Hosiery Co., of Hudson, Quebec. The Hudson Hosiery Co. during these same years evidently sold the same quality and kinds of goods to certain retail outlets in the United States.

As a jobber who has to sell through retail stores there are certain costs including warehousing, insurance, taxes, selling costs, etc., and these costs, as you well understand, have to be included in the offering price if we are to continue in business. That offering price to the retailer serving the consumer customer must permit the retailer to sell the goods supplied by the jobber at a profit and the retailer must also be competitive with other retail outlets offering like merchandise. This develops a situation which is unfair.

Under section 402 of the Tariff Act of 1930 an appraiser whom I believe was Mr. B. C. Arnold found a value on the socks which we were importing for duty purposes at which everyone could buy—retailers, jobbers, wholesalers, etc. This value was found to be the price at which the supplier sold to the retailer.

The Hudson Hosiery Co. had two classes of customers—

(1) Wholesalers or jobbers serving the retail outlets

(2) Retailers serving the consumer customers.

Munsingwear, being jobbers, bought at the jobbers' price which was the same price at which these goods were offered to all jobbers.

Following the appraiser's finding, the collector of customs under the authority granted him in section 8.40 and 24.11 of customs regulations, billed Munsingwear on customs form 5107 for the difference between the liquidated duty and the estimated duty on entry which in dollars and cents amounts to $1,800 to $2,000.

Mr. F. L. Fox of the local customs office has been very understanding in explaining the rulings of the customs department and I have no fault to find with this office or Mr. Fox. It is my contention Munsingwear as the jobber should not have to pay a customs charge represented by the difference between the price at which Munsingwear bought these hand-framed argyles from the Hudson Hosiery Co. and the price at which they were sold to the retail store because the economics of business do not follow that pattern.

It is not my purpose to suggest you change the rulings of the customs department but am very certain you as an individual can well understand and appreciate the position in which you put a jobber by continuing with the present customs regulations.

It does seem to me this is something which the Senate should study and be certain the customs regulations are equitable and that they follow the economics of business pattern.

Very truly yours,

RAY A. HARTMAN.

TREASURY DEPARTMENT,
BUREAU OF CUSTOMS,
OFFICE OF THE COMMISSIONER,
Washington 25, April 4, 1955.

Hon. EDWARD J. THYE,
United States Senate,
Washington 25, D. C.

MY DEAR SENATOR: Please refer to your letter of January 26, 1955, concerning the communication of January 20, 1955, from Munsingwear, Inc., Minneapolis, Minn., regarding current valuation practices for merchandise imported into the United States.

Briefly, it is the contention of Munsingwear, Inc., that the duties on imported merchandise should be assessed on the price paid by the importer even though such price is lower than the price at which the manufacturer is freely offering his merchandise to all purchasers. Present value requirements are based on section 402, Tariff Act of 1930, as amended, and Munsingwear, Inc., understands that the adoption of its theory would require a change in the law.

As to the merits of the proposal, for many years, the value for customs purposes under United States law has been, in theory and to a large extent in practice, independent of the actual transaction concerning the merchandise undergoing appraisement, though the actual transaction may afford evidence of the value. The careful consideration given to this question to date has not developed any basis for departing from this principle. It has been the Department's opinion that a system would not be acceptable which gave the large importer, who was able to negotiate a favorable price through his greater buying power, a customs advantage over the small importer who was obliged to pay list prices or secure smaller discounts.

It has been recognized that the existing customs valuation statute is not perfect and has disadvantages. It may also result in injustices in some cases and studies are being made of changes to be advanced. The Treasury Department has already submitted proposals for revising the statute (H. R. 6584, 83d Cong., 1st sess.), and it is hoped that we shall soon submit somewhat similar proposals again, with such revisions as have been derived so far from our studies. However, our studies, which are continuing, have not so far indicated that any change would be desirable which could result in different duties being assessed on identical merchandise made by the same producer and imported at or about the same

time by different importers. The studies do indicate that there would be considerable new administrative difficulty if our appraising officers had to determine the reasons for different importers of like articles paying different prices at about the same time so that the prices could be adjusted for duty purposes if not fixed by arm's-length transactions in an open market.

Munsingwear, Inc., also wrote to the Bureau and a reply along these lines is being sent to it.

Your enclosure is returned.

Very truly yours,

D. B. Strubinger,
Acting Commissioner of Customs.

(Whereupon, at 12:30 p. m., the committee recessed until 10 a.m., Friday, July 8, 1955.)

CUSTOMS SIMPLIFICATION

FRIDAY, JULY 8, 1955

UNITED STATES SENATE,
COMMITTEE ON FINANCE,
Washington, D. C.

The committee met, pursuant to call, at 10:15 a. m., in room 312, Senate Office Building, Senator Harry Flood Byrd (chairman) presiding.

Present: Senators Byrd, Millikin, Carlson, and Bennett.

Also present: Elizabeth B. Springer, chief clerk.

The CHAIRMAN. The meeting will come to order. First, I should like to submit for the record the statement of Frank A. Barrett, of Wyoming.

(The material referred to is as follows:)

STATEMENT OF HON. FRANK A. BARRETT, UNITED STATES SENATOR FROM THE STATE OF WYOMING

Mr. Chairman, I am opposed to the provisions of section 2 of this bill. The language in that section will make possible the accomplishment of arbitrary tariff reduction without previous notice to domestic producers and without regard to peril-point protection for American manufacturers under the guise of legislation for custom simplification. In other words, Mr. Chairman, it seems that this section will do indirectly that which the Congress refused to do directly earlier this year when it considered and passed the bill extending the Reciprocal Trade Act. Under that act, Mr. Chairman, reductions were limited to 15 percent and not more than 5 percent per year during the 3-year extension of the act. Under section 2 there is no limitation of the extent of the cuts that might be made or the time of making.

Wyoming is the second largest wool-producing State in the Union. Our only market for domestic wools is the American manufacturers. I am deeply concerned, Mr. Chairman, with the tremendous increase in woolen and worsted imports. It has slowed down the domestic wool textile industry to a walk at a time when practically every other segment of our economy has been booming. Over 100 of our textile mills have closed down in recent years and many today are operating on a short-time basis. At the same time the market for domestic wools has been lower than the world market for comparable wools. Although we consume more than twice as much wool as we produce, the market for domestic wools has been the worst in many years. According to the Department of Commerce, woolen exports from the United Kingdom to the United States has increased 1 million square yards the first 4 months of this year over the same period of last year. The dollar value of these imports is $1 million higher this year for the same period this year as against the same period last year. I am reliably informed, Mr. Chairman, that British woolen exports to the United States have increased during the month of May this year more than one-third over May of last year. It seems to me, Mr. Chairman, that it is much worse to export jobs to the four corners of the earth than it is to export our dollars.

I hope that the committee in its wisdom will eliminate section 2 of this bill.

The CHAIRMAN. The first witness is Mr. R. Houston Jewell. Identify yourself, please, sir.

STATEMENT OF R. HOUSTON JEWELL, VICE PRESIDENT, CRYSTAL SPRINGS BLEACHERY, CHICKAMAUGA, GA.

Mr. JEWELL. My name is R. Houston Jewell; I am the vice president of the Crystal Springs Bleachery of Chicamauga, Ga., and I am here representing the American Cotton Manufacturers Institute and the Underwear Institute.

Mr. Chairman, the American Cotton Manufacturers Institute takes strong exception to certain provisions of section 2 of this bill and urges that the section be stricken in its entirety.

The proposed changes in the methods of determining dutiable value are drastic in character and would tend to impair, or remove altogether, authentic standards of appraisement in the application of ad valorem duties.

The proposed changes in consequence would:

1. Subordinate the tariff function to considerations of "easy" administration.
2. Transfer the power of value determination to foreign exporters without the offset of legally dependable correctives.
3. Establish a pattern of legalized price discriminations in international trade.
4. Remove the factor of competition, whether national or international, from value determination.
5. Establish dumping as a legalized practice by removing the means of identifying it.
6. Distort the dollar measurements of imports, thus crippling further their use in trade analysis.

The customs survey made by the Treasury to provide statistical presumptions in favor of the bill has exceedingly limited meaning. Its comparison of the proposed methods with present methods is based on the same entries. The value declines attributed to the proposed system, therefore, are naturally not too great, as would be expected. Even so, for certain groups the results are serious enough.

The true difference of effect between the present and proposed systems can be visulaized only by anticipating the changes of motive and incentive which the proposed system would bring about. Had the proposed method been in effect as an alternative method in 1954, when the survey was made, it would have produced an entirely different set of entries on the same goods.

There can be no doubt that the difference would have been tremendous. Exporters would have been operating under an entirely different set of conditions in terms of procedures, incentives, and opportunities.

During the period of the survey, cutoms entries were made with the certain knowledge that appraisals would be at export value or foreign value whichever was the higher. In all cases of doubt, this dual test necessarily involved the process of checking and verification in order that the appraiser might ascertain the higher of the two alternative values.

Under such conditions, considerations of self-interest to avoid delays and penalties were strongly on the side of value declarations which would conform to the basic intent of tariff law.

From this highly desirable situation to the one proposed under the present bill is a far, far cry. The method proposed would make wholly unnecessary the filing of customs declarations in accord with basic tariff intent and also make entirely fruitless, and therefore unnecessary, any verification or investigation by the appraiser. The language of the bill does not merely invite this outcome—it guarantees it.

The bill authorizes four possible methods of determining dutiable value. Only the first three are controversial and to these we confine our attention. The preferred method, listed as No. 1 in the bill, is designated as "export value." The elements of most drastic change are contained in this method, and they are so designed to assure the highest possible use of "export value" with respect to imports subject to ad valorem duties.

Accordingly, the other two methods are reduced to incidental status and are in fact described by the Treasury spokesman as "backstoppers."

"Export value" as we find it in H. R. 6040–6041, is given new definitions widely different from present law. At the same time, it is given unprecedented significance by the deletion of "foreign value." Previously the two have functioned arm-in-arm, mutually providing the checks and balances so essential to judicious value determinations.

The bill would now force "export value"—as newly defined—to do the job of both, to do it alone, and without any rational connection with the realities of the market place. Since it must work without a rational concept of its value, it cannot qualify as an instrumentality of value appraisement. It can only be an instrument of tactical maneuver to support an offside assault on the tariff structure.

"Export value" as defined in this bill in its associations with goods, is restricted to those for exportation to the United States. If exactly identical goods are being exported at the same time to other countries at different prices, that fact cannot be taken into account.

Moreover, even the goods being exported to the United States do not have to be sold competitively to qualify for "export value" appraisal. In fact, they do not have to be sold at all. It is only required that they be offered for sale; and the offer need not be made to more than one "selected" purchaser at wholesale. The purchaser, of course, is not supposed to accept the offer. Should he do so the entire set of conditions, so carefully drawn for the making of the most advantageous export value, would be knocked down; and our particular exporter in that case would lose the business.

To make sure that the exporter, along with his friendly competitors, if any, it not embarrassed by unintended acceptances, he is specifically permitted by the bill to attach strings to his offer. To the potential purchaser, or indeed to all purchasers, he may say, "I offer an X quantity of these goods at Y price for resale only in New Mexico at Y price plus 1." Since this offer is meant to be unacceptable by reason of the territorial, quantitative and resale price conditions, it is declined. In a cartel or some other cooperative arrangement an offer and refusal would be still easier. In either case, export value for American customs purposes has been established.

In lines 5 to 8 of page 6, of the bill, it is indicated that an offer to a "selected" purchaser be "at a price which fairly reflects the market value of the merchandise." This language has no support elsewhere in the bill:

1. The bill does not define "market value." If by it is meant "foreign value," it restores a criterion which this bill is designed to eliminate. An appraiser could not therefore undertake the determination of "market value" in the country of export without being called upon to do what he is doing under present law. Why then should the authority be removed from the present law?

2. The "market value" test is further nullified by the failure to apply it to "all purchasers" in line 4, page 6. No notice is taken of collusion, or of cartels which in most countries are accepted legalized practice.

Omitting Canada, we would have difficulty in naming any country where "market value", in the absence of legislative definition, could not be fitted to "export value" as defined by the bill. The use of the two terms seems to be merely an example of redundancy; and, in consequence, the offering of goods to one or more purchasers at wholesale "at a price which fairly reflects the market value" would seem to be a distinction without a difference as a test of "export value."

An orderly concept of "export value" with its meaningless criteria, or of "market value" with no criteria, is made even more difficult by a change of definition of "usual wholesale quantity." The "usual" is now defined to mean a "quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quality."

By this device, appraisements are given the advantage of the greatest quantity discount which can be contrived whatever the actual size of shipments. No reference is made to the period of time necessary to determine an "aggregate volume" which commands the maximum quantity discount; and the methods of determination are left just as free and easy as those relating directly to export value. In fact, they are a component of the same composite.

The exceptions so far taken to the criteria of "export value" are those which relate to the incentives, opportunities, and actions of private individuals.

But the bill not only invites foreign exporters as individuals to have a field day at the expense of the American Treasury and American industry. It also specifically encourages foreign governments to continue the practices of trade discrimination and exchange manipulation which are the avowed enemies of world trade recovery and which for 10 years we have been struggling to overthrow.

Many countries from time to time resort to artificial measures to promote the sales of certain types of merchandise to the United States. Export bonuses, exchange retention certificates, the use of the so-called link system, the granting of export credits at rates lower than for other purposes, the conversion of dollar proceeds into national currency at rates above the market—all of these and many more devices influence directly, or determine, the market in which "export value" is established.

Senator MILLIKIN. What does that mean please, "exchange retention certificate"?

Mr. JEWELL. That means, as I understand it, sir, that the foreign exporter might retain a portion of his dollar proceeds.

Senator MILLIKIN. Thank you.

The CHAIRMAN. What is the so-called link system?

Mr. JEWELL. The so-called link system, Mr. Chairman, is the system whereby—we should take a specific example where the country export-

ing might buy cotton or might buy—I am thinking in terms of textiles, sir, and that is the reason I mentioned cotton—that they might use the money received from exports to a certain country, we will say the United States, which were exported at a low price to purchase cotton to protect their exports to the other countries. It is quite a common device, sir.

Hence it is often an artificial and arbitrary market. Under this bill, customs can take no notice of restrictions on sales or offerings which "are imposed or required by law." By various implements of government policy selected exports to the United States could actually be priced below cost of production without occasioning any legal reason to question that price as the applicable measure of "export value."

If we combine these consequences of foreign government action under the bill with the unrestrained actions of private traders which the bill invites, the outcome will almost certainly be a dissolution of import value standards.

The proposed course removes the means of attaining fair competitive standards in international trade. It brushes aside the concept of equality of trade treatment as between any given country and its customers. It assumes that it is fair and sound from every country to have a different set of prices for each country to which it exports.

To realize the enormity of such a proposal, let us suppose that American exporters were given the same rights and privileges as are accorded by this bill to foreign exporters. Selling procedures in the export trade would immediately adjust themselves to take advantage of the fact that in any foreign country, dutiable value could be established without reference to competition or to sales to other countries, or to cost of production.

We have only to visualize the certain repercussions to know that a wide-scale adoption of such a system is unthinkable and impossible.

Even GATT, whose chief purpose is to reduce tariffs has refused to go to such lengths. Article VII, which is one of the basic commercial policy provisions of GATT concerns itself wholly with "valuation for customs purposes."

Section 2 (a) of this article states:

"The value for customs purposes of imported merchandise should be based on the actual value * * * and not on arbitrary or fictitious values."

Section 2 (b) states:

"Actual value should be the price at which * * * such or like merchandise is sold or offered for sale, in the ordinary course of trade under fully competitive conditions."

Of all countries, the United States should be the first to champion the principle of using for tariff purposes actual value as determined by "fully competitive conditions." But H. R. 6040 actually repudiates it, thus leaving in the lurch both GATT and the American tradition.

Under H. R. 6040, dumping would cease to exist as a separate definable feature of trade. It would become a normal and legally indistinguishable component of trade. There would be no way to give it definition in a particular case, and no effective way to provide a remedy. The criteria of "export value" as defined in the law gives respectability and acceptance to dumping under the guise of customs simplification.

No further analysis would seem needed to show that the use of "export value" as the first and preferred method of appraisement would represent a drastic change of policy as well as of administration. Viewed merely as a method, wholly apart from motives, it is indifferent to the actualities of value.

Being inherently of this nature, it offers to international traders positive incentive to value distortion.

The remaining two alternatives—"United States value" and "constructed value"—would have, in consequence, greatly diminished significance as "back-stoppers." They would be used only under very exceptional circumstances such as (1) goods of a new type without previous history of shipments; (2) goods handled exclusively by a single exporter; (3) goods manufactured abroad under exclusive contracts and restrictive as to delivery; (4) goods manufactured by American owned or controlled facilities, with exports to the United States under single and direct control.

Even under present law, these conditions, singly or in combination, often preclude a finding either of foreign value, or export value, and necessitate the use of United States value or constructed value (cost of production). Under the proposed law, the number of such cases would undoubtedly be reduced.

To qualify for assessment under United States value, the goods must have a United States wholesale price determined by sale or offer of sale, of identical or like goods from the same country, and preferably from the same exporter, in the principal market of the United States. To fulfill this condition, under the proposed law, the importer may have a 90-day extension.

By token sale or offer of sale, or otherwise, the incentive and the opportunity are present to contrive a most favorable price as the starting point for the calculation of the dutiable base.

The procedure is to work back to the theoretical equivalent of export value by subtracting from the United States price certain charges, or allowances, representing commissions not to exceed 6 percent, profits not to exceed 8 percent, import duties, and other costs incidental to shipment and delivery. After these deductions, the value remaining is the dutiable base. The 10 plus the 8 percent gives you 18 percent that might be taken out of this determination.

It is significant that the proposed law would remove the profit commission limitation specified above substituting for them such amounts as are found to be usual, which incidentally the Treasury interprets as actual. The request for this change necessarily implies that authority is sought for deductions which are larger than the maximum of the present law. Obviously the larger the deductions the lower the dutiable base which is ultimately arrived at, and the lower the duties assessed.

And in this instance the tariff reduction is accomplished not by less but by more difficult administrative procedures.

It is proposed that changes of similar significance be made in the use of constructed value (or cost of production) as a method of appraisal. Under this method the procedure is just the reverse of the United States value procedure. It begins not in the United States but in the country of origin at the raw material level and builds up to the product value by adding together the charges incurred, directly or indirectly,

in the operations of manufacture and sale. Because of the unique circumstances often surrounding the manufacture and export of goods in this value category, present law stipulates that the item of general expense shall be treated as not less than 10 percent, and that profit shall be treated as not less than 8 percent. These minima we consider as both necessary and reasonable.

The CHAIRMAN. Can you give a figure, percentagewise, as to what increase that would be over the past year? I am speaking of the increase in exports from Japan. Have you got any figures to show the increase?

Mr. JEWELL. Yes, sir, I have. This is only for piece goods, sir, and in 1955 for the January to April inclusive the total imports from Japan were 23,096,987 square yards against for 1954 10,000,772, which is an increase of approximately 130 percent.

The CHAIRMAN. That is the same period, January to April, for both years?

Mr. JEWELL. Yes.

The CHAIRMAN. Does that cover the whole textile importations?

Mr. JEWELL. This is the United States imports of countable cotton cloth for consumption.

The CHAIRMAN. Does that cover what we call all kinds of textiles?

Mr. JEWELL. Cotton cloths.

The CHAIRMAN. Are there any other importations from Japan in the textile field?

Mr. JEWELL. Yes, many other textile items are imported—such as sheets, towels, blankets, rugs, and table covers. But the sharpest increase is in ready made apparel, particularly shirts, blouses and underwear.

The CHAIRMAN. Percentagewise to the consumption of this country, what is this 23 million yards of piece goods worth? What is the percentage that we consume?

Mr. JEWELL. I don't have that information in my head, sir.

The CHAIRMAN. But, there has been an increase from 10 million to 23 million—is it yards?

Mr. JEWELL. Yards. Yes, sir. That is square yards of countable cotton cloth for the first 4 months, January through April, an increase of 130 percent.

The CHAIRMAN. All right.

Mr. JEWELL. I have them for 1953 and 1954, sir.

The CHAIRMAN. All right.

Mr. JEWELL. The total imports in 1954 of cotton cloth were 73,369,000 square yards. We have imported in the first 4 months of 1955 almost half as much as we did the whole year of 1954 and more than half as much as we did in the whole year of 1953. The Japanese imports have increased more than the increase of all the exports. The Japanese increased from 10 million to 23 million, which is an increase of 130 percent.

The CHAIRMAN. 10 million to 23 million, those are the figures you gave before.

Mr. JEWELL. Yes, sir.

The CHAIRMAN. That is for how many months?

Mr. JEWELL. Four months.

The CHAIRMAN. Thank you.

The minimums now in the law do not stand in the way of higher charges should they prove to be justified.

Therefore, the intent of the proposed bill to remove these minimums is addressed solely to the possibility of lower valuations for duty purposes.

The customs simplification bill of 1951 endeavored without success to remove these same minimums from the computations of United States value and constructed value (or cost of production). At that time the Treasury analysis of the bill (p. 23) criticized these minimums as follows:

> If "United States value" is used, the deductions allowed may be insufficient to produce a true value, and if the appraisement is based on the "cost of production" there may be excessive additions to it required.

In other words, when used in subtraction they are too small, when used in addition they are too big.

In the same paragraph the Treasury analysis goes on to say:

> At present, there is a certain amount of jockeying by experienced importers to bring the valuation of their imports under the statutory formula most favorable to them.

This we do not doubt, but such jockeying would be increased, not diminished by the removal of the deductible minimums. When all items entering the computations are made subject to manipulation, the experienced importer obviously has more room within which to jockey.

The Treasury itself, in 1951, supplied the proof of this. At that time, the Treasury's objective was to diminish the use of "cost of production" or "constructed value" by introducing ahead of it a new catch-all method called comparative value. The attempt failed, but left on the record the Treasury's very illuminating criticism of the cost of production "or constructed value" method:

> The use of "cost of production" or "constructed value" as the final residual method needs not only information as to the economic conditions in the country of origin, but also a type of cost accounting which is difficult to accomplish even in the United States, where cost accounting is carried to much greater refinement than in most foreign countries. It is common knowledge among accountants that when any manufacturer produces two or more products, it is impossible to determine with any exactness the cost of making any particular product because the allocation of labor costs, overhead, etc., depends on a more or less informed estimate. These observations are doubly true of the determination of costs in a foreign country.

Since 1951, the Treasury has apparently reversed itself regarding the accounting difficulties under cost of production. What it previously had flatly described as "impossible" it now defends as the "actual" and would extend it to wipe out the minimum safeguards on general expense and profits—the most elusive items in the entire category of calculations.

We have only to visualize certain trade situations to see clearly the tariff significance of the proposed changes. It is well-known that a large and growing volume of imports consists of parts of products manufactured abroad for cheapness and entered here for assembly and merchandising. They are manufactured on specifications, for a particular end use, in a particular product assembled in the United States for American distribution.

By their very nature such articles would not qualify for export value, would rarely have foreign value, would not have United States value

and would be appraised under the cost-of-production method. In most cases the foreign manufacturer would be producing many other types of items, either for his home market or for shipments to other countries. There would in consequence be great freedom of judgment as to direct cost allocations, general expense distribution, and profit determination. I have quoted with approval the Treasury's own description of the accounting difficulties and the tendency of experienced importers to do some jockeying under the circumstances.

The articles above referred to cover a vast range of component parts and mechanisms in the field of machinery, electrical equipment, timing devices, scientific instruments, optical goods, photographic devices, and many others.

A different type of situation confronts the textile industry and within the past year has become a source of major concern. Ready-made apparel, particularly shirts, blouses and underwear, is now being imported from Japan in huge and growing volume. A wireless dispatch from Tokyo published in the trade press of July 6 reported, on the authority of the Japanese Ministry of Trade and Industry, that 2 million dozen shirts and blouses would be exported to the United States this year. In this connection the average import of shirts into this country in 1954, the average value, was about $4 a dozen which is less than the cost of the cloth in the same garment in this country.

These goods are not ordinarily made up and exported by the Japanese garment manufacturer on his own initiative and for his own account. The American buyer supplies samples and patterns, along with complete specifications as to quality, design, and trim. It is also customary for the American buyer to supply the cloth and accessories. As the work progresses or upon its completion, the American buyer makes payment for wages and rent of plant. The Japanese manufacturer, in effect, is an overseer manager.

In the type of operation here considered, he has no raw-material cost, no working capital requirements, no risk, an almost negligible capital investment, no sales expense and very little general expense. The profits are thought to be large, but the method of accounting would probably be not too revealing.

Goods, with such a history, if imported into the United States by a wholesaler would probably be appraised by the United States value method. If imported by retailers, the method of constructed value (cost of production) would probably be used.

Both types of merchants are now importing these goods, among them the largest and best known of the country's wholesalers and retailers. The visits of their buyers to Japan are events of interest to the trade and are freely published in the trade press.

Only last Tuesday, July 5, the leading textile trade paper made a front-page story of a large department store's buying activities in the Orient. One significant paragraph reads as follows (we omit the name of the store):

X store's "commissionaires will take its samples to the Orient beginning in August or September. By January, the copies made in Japan should be ready for" X.

Whether the importations are made by wholesalers or retailers, the customs officers face a difficult task in the appraisement of goods possessing such a history as we have indicated. At best the appraised

values are absurdly low at any reasonable standards. We have reason to believe that in many instances these Japanese shirts are coming in at appraised values which are actually less than the American wholesale price of the cloth from which they are made.

In the absence of the statutory requirements regarding the treatment of profits, commissions, and general expense, the valuations would almost certainly be much lower than the incredibly low levels already prevailing.

The proposed changes, therefore, would greatly magnify the cost disadvantage which our industry already suffers in competition with Japanese goods.

At the same time they would have the effect of causing undermeasurement and understatement of the volume of our imports. The undervaluation of American imports in terms of total dollar volume is already present in serious degree and is a factor of major deception in our trade relationships with other countries.

This factor of distorted trade measurement, important as it is, is the only one of the many byproducts of a bill which has not been thought through in terms of its economic consequences.

While the goal of customs simplifications is being sought, we should remember that there are two ways of going about it. One way is to do the job more efficiently. The other is to do away with the job.

This bill is an acceptance of the latter alternative, and we ask that this section be stricken in its entirety.

The CHAIRMAN. Have you got any suggestion you could make as to amendment of section 2?

Mr. JEWELL. Mr. Chairman, I think it would be presumptious on my part to tell the committee how to do it.

The CHAIRMAN. I mean do you think the only thing to do is to repeal it, in your judgment?

Mr. JEWELL. Yes, sir. I see no reason to change the methods of valuation. This is definitely—to us it seems that it is just another case of it being definitely designed to reduce an already low tariff. The possibilities in this bill of reducing the tariff rates are just unlimited.

The CHAIRMAN. Thank you, Mr. Jewell. I think you have made a very able statement.

Senator CARLSON. Mr. Jewell, it is your suggestion, as I understand it, that we strike out section 2. Do you realize that would be a very severe handicap to this bill?

As I check it we would strike beginning on line 1, pages 2, 3, 4, 5, 6, 7, 8, 9, down to the bottom of page 10.

Mr. JEWELL. Yes, sir; our position is we don't see any use in changing the present law, sir.

The CHAIRMAN. Thank you, Mr. Jewell.

I understand that Mr. Joseph L. Miller, of the National Association of Cotton Manufacturers, desires to make an insertion into the record.

Mr. MILLER. That is right, Mr. Chairman. Our president was unable to be here today and I just have his statement to put in.

The CHAIRMAN. We will insert it into the record, sir.

Mr. MILLER. Thank you very much.

(The statement of William F. Sullivan, president, National Association of Cotton Manufacturers is as follows:)

The National Association of Cotton Manufacturers represents cotton and manmade fiber textile mills located predominantly in New England. The New England textile industry, of which the cotton and manmade fiber textile mills constitute a significant portion, is the region's largest manufacturing employer with 176,000 workers.

The National Association of Cotton Manufacturers is in accord with the objective of simplifying customs procedures but is opposed to section 2 of H. R. 6040.

We urge that this section be eliminated from the bill. Retention of section 2 will not be of any material assistance in simplifying customs law or procedure but will only result in serious damage to many domestic industries, including the textile industry.

Section 2 of H. R. 6040 changes the valuation base on which ad valorem duties are assessed and would result in significant tariff reductions on textile items. Abandonment of the present method of basing ad valorem rates on either export value of the textile product or the value of the product in the foreign market, whichever is the higher, and substituting the export value, as determined by the foreign exporter, as the sole basis on which ad valorem duties would be leveled, is simply a device for tariff reduction under the guise of customs simplification.

Section 2 of H. R. 6040 presents completely unjustifiable hazards and dangers to domestic textile producers. Itemization of the reasons why serious damage to the domestic textile industry would result from the operation of section 2 include:

1. Section 2 actually enables foreign producers to take unilateral action in lowering the United States tariff on goods which they are exporting to the United States. This can be done by the simple expedient of selling textile products to the American market at a lower price than in their own domestic market. Foreign producers organized into cartels can use a two-price system—a high price in their own country where they control the market and a lower price for export to the United States. Section 2 of H. R. 6040 places a very desirable premium on the use of this system and is an open invitation to foreign producers to exploit the American textile market.

Even in situations where a cartel does not control the foreign market, textile producers in other countries are offered a strong temptation to maintain an export price lower than the price in their own market in order to break into the American market. Foreign producers would be given a free hand to abuse and distort our ad valorem rates of duty. There would be no real protection for the domestic textile industry against price manipulation by foreign producers.

2. Reductions in ad valorem rates resulting from the operation of section 2 would be in addition to the tariff concessions granted by the United States in the Japanese treaty recently concluded at Geneva.

3. Reductions in rates of duty which would result from the use of section 2, would be in addition to the 15-percent tariff reduction authorized under the Trade Agreements Extension Act.

4. Tariff reductions would be made without any advance notification and the domestic textile industry would be denied any opportunity to present its case at peril-point hearings, because there is no peril-point provision with respect to the reductions which would be effected under section 2.

5. The domestic textile industry, damaged by tariff reductions under section 2, could receive no relief from the escape-clause procedure established under the Trade Agreements Extension Act, because there is no escape clause applicable to section 2 of H. R. 6040.

6. Despite the provision in H. R. 6040 which states that "Nothing in this act shall be considered to repeal, modify or supersede, directly or indirectly, any provision of the Antidumping Act * * *." Section 2 of H. R. 6040 would result in an increase in dumping since many cases would go undetected if the present routine of checking the export value against foreign value is abandoned.

Under the present law this routine check automatically reveals any cases of dumping and acts as a deterrent to this practice by foreign producers.

Although the Anti-Dumping Act would remain in effect it would afford completely inadequate protection to the domestic textile industry against the abuses resulting from section 2 of H. R. 6040. The Anti-Dumping Act operates only in extreme cases and any relief it might afford would come too late to be of any real help to textile mills damaged by tariff reductions effected under section 2. Additionally, no protection would be afforded against the variety of price manipulations which would be practiced by foreign textile producers.

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It is our firm belief that section 2 of H. R. 6040 serves no constructive purpose and its inclusion in this bill can result only in harm to the domestic textile industry. We are, therefore, strongly opposed to this section and request that it be eliminated from H. R. 6040.

The CHAIRMAN. Our next witness is Miss Irene Blunt.

STATEMENT OF MISS IRENE BLUNT, EXECUTIVE DIRECTOR, THE NATIONAL FEDERATION OF TEXTILES, INC.

Miss BLUNT. My name is Irene Blunt. I am executive director of the National Federation of Textiles, Inc.

The National Federation of Textiles, Inc. is the trade association representing the textile manufacturers of the United States who use manmade fibers and silk in the production of their fabrics. The members of the federation operate 266 mills in 19 States and in Puerto Rico. Of these, 125 are located in the Southern States of Alabama, Georgia, North and South Carolina, Tennessee, and Virginia; 46 are located in the New England States of Connecticut, Maine, Massachusetts, New Hampshire, and Rhode Island; and 94 are located in the Middle Atlantic States of New Jersey, New York, and Pennsylvania. The products of these mills represent 72 percent of the total machine (loom) capacity of the industry reported by the United States Census Bureau as working on broad-woven goods of manmade fibers and silk.

In our branch of the textile industry, there are approximately 100,000 workers, earning an average of $47 per week, or a total potential annual payroll of about $230 million.

On March 17, 1955, I appeared before this committee in opposition to H. R. 1. At that time I suggested in behalf of our industry, a review of the entire reciprocal trade program to determine whether it had achieved the original objectives set up for it or whether these objectives had become mere catchy slogans without any real meaning or foundation in fact. In its consideration of H. R. 6040, our industry commends to the committee this same approach: Does H. R. 6040 actually simplify customs procedures and how does it affect tariffs?

While the members of our industry are sympathetic with the desire to simplify customs procedures, we do not believe that H. R. 6040 accomplishes this objective. On the contrary, we feel that the proposed legislation would tend to establish at least one procedure which would nullify the work of this committee in revising H. R. 1 so as to provide some measure of protection for American industry and labor. We are, therefore, impelled to state our opposition to H. R. 6040, as presently proposed, except for section 4 which repeals outmoded legislation.

Our industry is especially concerned about Section 2 which redefines export value in such a way as to lower existing tariffs on synthetic fibers and manufactures. Our branch of the textile industry is particularly affected by this change in the method of valuation since tariffs on textiles of manmade fibers and silk are almost exclusively assessed on an ad valorem basis and since it is ad valorem tariffs which are affected by the proposed legislation.

In connection with the statement by Mr. H. Chapman Rose, Assistant Secretary of the Treasury, before the House Ways and Means

Committee on May 23, 1955, the Treasury Department submitted a survey made by the Tariff Commission in 1954 which purported to show—among other things—the "effect of proposed legislation on valuation of imports subject to ad valorem duties."

According to this survey, synthetic fibers and manufactures ranked 10th on the list of 17 commodity groups which would show a decrease in valuation exceeding 4 percent under the proposed legislation. In terms of dollar imports as shown in the customs survey, synthetic fibers and manufactures were imported into the United States in 1954 at the rate of $25 million annually. The importation of synthetic fibers and manufactures is exceeded by only 4 other commodity groups of the 17 which would receive a valuation decrease of more than 4 percent.

In other words, although $25 million worth of synthetic fibers and manufactures are already being imported into the United States, the proposed legislation, the Treasury witness testified, would reduce the valuation on this commodity group by at least 6.83 percent. This would naturally result in a decrease in existing tariffs on this commodity group and a corresponding increase of imports to the detriment of our industry and its 100,000 employees.

The CHAIRMAN. Are these average figures you are giving?

Miss BLUNT. Yes; they are.

The CHAIRMAN. What is the highest reduction in any particular category?

Miss BLUNT. That I could not tell you, but I will be glad to supply the information, Senator. The figure that we quote is the one given by the Treasury Department. We have not analyzed the individual items.

The CHAIRMAN. Mr. Jewell, do you have anything on that? The largest reduction that is possible or probable on any particular commodity, instead of the average figures?

Mr. JEWELL. The largest possible reduction?

The CHAIRMAN. Yes.

Miss BLUNT. I think I can supply it, Senator.

The CHAIRMAN. All right.

Miss BLUNT. We regard the above as the very minimum damage to our industry which would result from the proposed change in valuation and have drawn parallels from the Tariff Commission survey to demonstrate this point only. It is our understanding that the accuracy of these figures is widely open to question and we believe that a change in the present methods of valuation on import commodity groups would result in much greater decreases in protection to our industry than the survey purports to predict.

The Treasury itself recognizes the danger inherent in export value as defined in H. R. 6040. In his statement before the House Ways and Means Committee, Mr. Rose said:

> * * * we have sought to minimize the incentive to create artificial conditions in the trade in a particular product for the purpose of shifting the valuation basis to a more favorable standard.

Mr. Rose does not claim that the act is written to preclude or counterbalance this dangerous incentive, he says only that the Treasury has attempted to minimize it.

If we examine the manner in which this danger was minimized, we find ourselves right back where we started with the definition of "export value." What Mr. Rose called backstopping is not, as he would have us believe, a means of checking or counterbalancing the valuation of merchandise by export value, but merely alternative methods to be used whenever the export value cannot be determined. Nowhere in this act do we find the backstops which Mr. Rose admits are needed to prevent cynical use of the export value method of valuation by foreign exporters.

It does not seem necessary to dwell upon the reasons—such as the need for dollars, the desire to break into the American market—which might impel a foreign exporter to use to his own advantage the export value method of valuation as defined in this act, but we do wish to point out that no official yardstick or mechanism exists, as in H. R. 1, for stopping a foreign exporter from undercutting American industry and labor. It is for this reason, primarily, that the National Federation of Textiles, Inc. expresses its opposition to H. R. 6040.

We appreciate the opportunity to present our views. We sincerely hope they will be of value to the committee.

The CHAIRMAN. Thank you very much, Miss Blunt, for your contribution.

Miss BLUNT. Thank you.

The CHAIRMAN. The next witness if Mr. Harry A. Moss, Jr.

STATEMENT OF HARRY A. MOSS, JR., EXECUTIVE SECRETARY, AMERICAN KNIT HANDWEAR ASSOCIATION, INC., GLOVERSVILLE, N. Y.

Mr. MOSS. My name is Harry A. Moss, Jr., executive secretary of the American Knit Handwear Association, Gloversville, N. Y.

The CHAIRMAN. Go ahead, sir.

Mr. MOSS. The members of this industry manufacture gloves and mittens and slipper sox tubes, knit directly from yarn. We have no export market. The American market is our only market principally because our higher labor costs preclude a foreign demand for our products. We have already lost over 60 percent of our market, resulting in a commensurate loss of employment and production, and the mortality of over one-third of our companies.

Therefore, we vigorously oppose enactment of section 2 of this bill, because the deletion of "foreign value" as a base of valuation would result in hidden tariff rate costs, as admitted by the Treasury Department.

Although the projected cuts revealed in the Treasury survey averaged 2.5 percent we have no way of knowing how deeply specific product rates may be cut. To thus legislate unpredictable cuts on specific products is capricious and unethical.

Such legislation would be an unreciprocated gift to foreign producers and, as such, would be contrary to congressional intent inherent in all trade-agreements legislation.

This leads us to question the philosophy which proposes the enactment of section 2, in order to delete "foreign value" and to establish statutory definitions of certain terms.

Foreign value is not obsolete. The term, "foreign value" and all corollary terminology has been adjudicated clearly in the past 30 years of litigation before the courts. It is effectively in use today. It is not outmoded. It is realistic, and the bases of good commercial practice, acting as a safeguard against fraud. The proposed section 2 would, rather, open the door to another generation of litigation to interpret the new definitions. This result is obvious. It would not be simplification. Apparently, the proponents are willing to perpetuate confusion and litigation as a calculated risk, in order to bring about another round of tariff cuts in the guise of repealing obsolete provisions of the customs laws.

Such a scheme, we submit, is unethical, contrary to the established policy of gradual, selective, and reciprocal tariff reductions, and would further jeopardize industries such as ours which are already suffering import injury from current inadequately low tariff rates.

The members of this industry, therefore, urge deletion of section 2 of this bill, but recommend passage of the other sections which appear to be in the interest of true customs simplification.

The CHAIRMAN. Thank you very much, Mr. Moss.

Our next witness is Mr. Edwin Wilkinson.

STATEMENT OF EDWIN WILKINSON, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF WOOL MANUFACTURERS

Mr. WILKINSON. My name is Edwin Wilkinson, I am executive vice president of the National Association of Wool Manufacturers from New York City.

Gentlemen, we appreciate this opportunity to present our views on H. R. 6040 the so-called Customs Simplification Act. As I flew in from a more primitive vacation spot to take advantage of this opportunity, I fear the form and number of copies may not be up to requirements. I hope the clarity of statement suffers none from the simplicity of environment in which it was developed.

First off I would like to disqualify the Honorable H. Chapman Rose, Assistant Secretary of the Treasury as a predictor. During his appearance before the House Ways and Means Committee in regard to H. R. 6040 in a passage with Congressman Simpson,[1] he, in effect, predicted that everybody would be happy about this measure. Well, we're not happy and I think we have lots of company.

The importance of this disqualification should become more apparent as one studies the implications of section 2 and particularly the projections and guesstimates arising out of a sample survey of 1954 imports which is now in the record.

When we recorded our objection to section 2 of this measure before the House Ways an dMeans Committee we pointed out that if "foreign value" was eliminated as a criterion of value for the assessment of duties the enforcement of our antidumping laws would become a memory, if not a farce. In recognition of this valid complaint raised by us and practically every other witness in opposition, the House wrote in—

> Nothing in this Act shall be considered to repeal, modify, or supersede, directly or indirectly, any provision of the Antidumping Act, 1921, as amended.

[1] Hearings, p. 83.

Now just what does the above language do? Precisely what it say, but little or nothing of what it is intended to infer. In other words, this bill, H. R. 6040, does not repeal, modify, or supersede a single provision of the Antidumping Act of 1921 but even so, without doing any of these things, it pulls the rug out from under effective enforcement of the Antidumping Act of 1921. As a matter of fact H. R. 6040 would be better titled if, instead of being called customs simplification, it were entitled: "A Bill To Reduce Tariff Revenues, Reduce Duties, To Emascuate the Antidumping Act of 1921, To Amend Currency Conversion Procedures and To Prune Obsolete Provisions." Obviously only the latter two qualify as customs simplification.

REDUCTION OF TARIFF REVENUE

Treasury admits that tariff revenues will be reduced by the abandonment of "foreign value" and the Tariff Commission says:

> It is believed that the substitution of "export value" for "foreign value" would, as a rule, be more favorable to importers * * *.

Thus it will be seen that there is no argument on this point. The only question is, How much will revenues be reduced? The witness for Treasury projectings findings in a sample survey, estimates the revenue loss at 2 percent or $250 million.

Senator BENNETT. Mr. Chairman, may I interrupt the witness? My memory is that the figure of the Treasury was $5 million not $250 million.

The CHAIRMAN. That is my recollection.

Mr. WILKINSON. I may stand corrected on that, sir.

Senator BENNETT. A reduction from $259 million to $254 million; and maybe your $250 million was a picture of the total involved rather than the amount of the reduction.

Mr. WILKINSON. I may have inadvertently erred in which case the estimate was a 2 percent figure.

Senator BENNETT. Two percent figure and $5 million.

The CHAIRMAN. That is my recollection.

Mr. WILKINSON. Measured against current Federal expenditures and deficits this may seem small. But we caution, large or small, it is but an estimate. Before its acceptance we would recommend careful inquiry into the methods employed in the underlying study.

We are told that every 20th entry at New York and Laredo and every 40th entry at Detroit, Buffalo, Los Angeles, San Francisco, New Orleans, and Houston comprised the sample. While we are informed that 70 percent by value of imports subject to ad valorem duties were appraised at these 8 ports in 1954 we are not told what portion of the sample was comprised of duty-free entries or entries on which only specific duties applied. The importance of this lacking information is highlighted by chart 1 of the Treasury exhibit where it is shown that of the over $10 billion of entries nearly 6 billion were duty free and over 3 billion subject to specific duties only. Thus $9 billion worth of the total entries would be nonsensitive to the change proposed here. Because of their preponderance in the universe sampled could they not inject an unrealistic bias in the results brought about by the reported sampling procedure?

REDUCTION OF DUTIES

Concomitant with this admission that tariff revenues would be reduced is, of course, the admission that the protective incidence of individual duties will be reduced. While Treasury has presented imposing charts intended to minimize the hazard here the fall short of mollifying those who seek equalization by tariffs of the unfair competition from abroad arising out of ludicrous wage rate comparisons. Averages are exclusively resorted to in an attempt to allay our concern. True, averages are developed for 77 commodity groups into which the Department of Commerce breaks down our imports. Examining chart 2 of the exhibit submitted by Treasury, we find that the decrease of valuation, according to their own study, ranges from 0 to 16 percent in these particular commodity groups. With mathematical precision Treasury asserts that the valuation reduction will be 2½ percent. That, of course, is of little solace, in fact meaningless, in areas where the reduction is in the higher magnitudes of 5, 10, or 15 percent or more. What is of greater importance, nowhere is the range of reductions within the specific groups indicated. Just as 2½ percent is a bland appraisal of overall reduction in a situation where the reduction may soar as high as 16 percent so is 1.24 percent estimate of value reduction noncomforting to wool manufacturers. We are concerned with the range of reduction and the items affected.

As what we are dealing with here is duty reduction rather than customs simplification we assert that this proposal falls short of the criterion established by the President when he said:

> * * * reduction in tariffs * * * must be gradual and selective * * *.

The instant proposal, developed at random and projected on estimated averages, has none of these qualities and is more like a shotgun blast in the dark.

When one considers the time, thought, and debate that preceded enactment of H. R. 1 which enabled the President to reduce tariffs 15 percent over 3 years, when it is realized that this authorization was accompanied by devices designed to protect the national interest, such as the peril-point and escape-clause provisions, it does not seem logical that such a scheme as is here proposed haphazardly to reduce tariffs should receive your approval.

EMASCULATION OF ANTIDUMPING ACT

At the outset we recalled the part of the amendment of the House commitee reasserting intent with respect to maintaing the integrity of the Antidumping Act of 1921. May we now point up the reasonable doubt that lingered as revealed by the additional language in that amendment. After declaring there should be no change in the Antidumping Act the House continues:

> The Secretary of the Treasury, after consulting with the United States Tariff Commission, shall review the operation and effectiveness of such Antidumping Act and report thereon to the Congress within 1 year after the effective date of this act.

Not only does this reveal a lingering doubt but the language continues and indicates that the House anticipates that strengthening measures will be required, for it says further—

In that report, the Secretary shall recommend to the Congress any amendment of such Antidumping Act which he considers desirable or necessary to provide for greater certainty, speed, and efficiency in the enforcement of such Antidumping Act.

We submit that so far as the dumping of items subject to ad valorem duties is concerned one of the most effective safeguards presently available is the requirement that the duty assessment be based on foreign value or export value whichever is higher.

The immediate retort is, "But this will not reduce the present burden on the Treasury Department." Perhaps not. But neither will the proposed elimination of the "foreign value" base reduce this burden for Secretary Humphrey, in a letter to the Honorable Jere Cooper, chairman of the House Ways and Means Committee, said:

I wish to advise your committee that it is the firm intention of the Bureau of Customs and the Treasury Department to continue to require foreign value information as a part of the information contained in customs invoices. Consequently, the Treasury Department will continue to have available to it foreign value information upon which to initiate investigation of possible sales at a dumping price wherever the discrepancy between invoice price and foreign value appears to warrant it.

Thus we see the elimination of "foreign value" is not, in the eyes of Treasury, intended to reduce its obligation or its task. But what is more important, and not recognized in the above official statement, is the hamstringing of the Treasury Department in pursuit of its legal obligation should this section 2 be enacted. If section 2 is enacted, and we pray it not be, the statutory definition of "foreign value" evaporates into nothingness. By what rules, then, will the "foreign value" information to be required on customs invoices be devised? Gentlemen, this is a needless exposure to dumping—an exposure brought about not by revision of the Antidumping Act itself but by alteration of companion law. The House was right in manifesting concern but did not go far enough. We ask you to go the needed distance and reject section 2 of H. R. 6040.

Maintain "foreign value" as one of the bases for the assessment of ad valorem duties and protect the domestic market from the dumping opportunities available to trading states and cartels should this proposal carry. Even if we could accept the proposition that foreign imports should be increased we cannot accept the proposition that the importation of foreign business concepts, many illegal under our laws here, should be stimulated.

Enact sections 1, 3, and 4 of H. R. 6040 and achieve an additional measure of customs simplification but let us not indulge in tariff tinkering in the dark under the guise of customs simplification.

The CHAIRMAN. Thank you, Mr. Wilkinson. Any questions? Thank you very much, sir.

Mr. WILKINSON. Thank you.

The CHAIRMAN. I would like to make a part of the record at this point a statement submitted by Mr. J. M. Jones, in behalf of the National Wool Growers Association.

NATIONAL WOOL GROWERS ASSOCIATION,
Salt Lake City, Utah, July 6, 1955.

Re H. R. 6040.

Hon. HARRY F. BYRD,
Chairman, Senate Finance Committee,
United State Senate Office Building,
Washington, D. C.

DEAR MR. CHAIRMAN: Inasmuch as it is impossible for representatives of the National Wool Growers Association to appear personally before your committee in opposition to H. R. 6040, it will be appreciated if this communication will be made a part of the record of your proceedings with respect to the Customs Simplification Act of 1955.

Our objections are mainly threefold:

1. It is admitted by the Treasury Department that the new valuation methods and definitions to be used would reduce effective tariff rates. Regardless of how large or small this reduction would be, it is our feeling that the domestic wool manufacturer is entitled to and should receive an increase in tariff rates rather than any reduction. Our raw material producers are interested in this because the domestic manufacturer is our only customer.

2. The proposal as written, when taking into account present statutes, would not simplify customs procedures unless present laws were changed and in addition the so-called "export value * * * for exportation to the United States" could only result in using the United States as a dumping ground for foreign countries with lower wage and living costs. Foreign countries could, and no doubt in many instances would, set prices so as to undersell domestic-made competitive commodities.

3. The passage of this legislation would nullify, in our opinion, both the Anti-Dumping Act and section 303 of the Tariff Act of 1930. These are not permissive laws, but are mandatory upon the Secretary of Treasury. An export price as defined in section 2 of H. R. 6040 might be established which would conform to the legal requirement under these proposals with respect to valuation, but it would not conform to the present provisions of law. This would result in 1 of 2 situations: (*a*) Either the United States would be accused of double-talk and create the ill will of the exporting country, or (*b*) present statutes would have to be overlooked. Since these proposals would be enacted subsequent to the provisions of present law mentioned above, the most recently enacted legislation, without doubt, would take precedence. This is extremely bad legislation.

In section 3, if it can be interpreted that multiple rates of exchange for the same foreign currency can be established at the same time, we are opposed to this provision. Multiple rates should not be recognized and should be plainly stated. This would not simplify customs procedures.

Sincerely yours,

J. M. JONES.

The CHAIRMAN. Mr. A. C. Cramer.

STATEMENT OF ALBERT C. CRAMER, SECRETARY AND ASSISTANT TO THE PRESIDENT, ALBANY FELT CO., ALBANY, N. Y.

Mr. CRAMER. Mr. Chairman and members of the committee, my name is Albert C. Cramer, and I am speaking today on behalf of the Albany Felt Co. of Albany, N. Y., of which I am secretary and assistant to the president, and also on behalf of the Woven Woolen Felt Industry, a trade organization of 11 companies producing woven woolen felts.

The CHAIRMAN. Proceed, sir.

Mr. CRAMER. Thank you.

Perhaps it would be helpful if I could take just a few more words than appear in our written statement to describe the nature of our products which are not generally understood.

The felts our industry produces are used primarily in the manufacture of paper, where they are a part of the essential operating

equipment. They are made in the form of long endless belts, the function of which is to transport a wet sheet, being formed, through those sections of the paper machine where the water is drained off.

They vary greatly in size all the way from 15 or 20 feet in length to better than 200 feet in length and from 40 or 50 inches in width and some as wide as 300 inches; in other words, 25 feet. They must have individual characteristics depending upon the type of paper machine on which they are to be used, the type of paper to be produced. They must drain water readily, they must impart the desired finish to the sheet of paper. Because of this, they are designed individually for each machine. In fact, you might say they are tailor made.

We do produce many other types of industrial fabrics, primarily for use in the textile industry and the chemical industry, where they are also essential equipment.

To proceed:

1. H. R. 6040 which has been described as a technical simplification bill, would have the immediate automatic effect of reducing tariffs in our industry by at least 10 percent and on some of our products, as much as 20 percent. This automatic cut of 10–20 percent is on top of the authority given to the President under H. R. 1 to reduce tariffs an additional 15 percent over the next 3 years. This presents a real threat when you realize the ad valorem rate on our products has already been cut 75 percent.

2. H. R. 6040 not only reduces tariffs, but by eliminating the foreign value as a basis for customs valuation it will destroy a very important line of defense against foreign cartels. Double pricing is a standard cartel practice; one price for domestic sales, another for exports. So long as foreign value is in the tariff law, the foreign cartel cannot use the double price system effectively against American industry.

3. The Antidumping Act is not an adequate substitute for the automatic protection provided in the present law. Moreover, the enforcement of the Antidumping Act is closely related to the tariff act. If the customs staff abroad should be reduced and no longer determines foreign values, the Tariff Commission and the Secretary of the Treasury will inevitably do a less effective job of stopping dumping in the United States.

To understand the importance of the tariff cut inherent in this bill, I would like to explain to the committee the situation of our industry.

We have a special tariff problem. The industry employs 5,000 workers in 6 States in 11 plants. As I have said, felts are not a standardized product. They vary greatly in size and weight depending on the type of paper to be made. Skilled labor therefore is a very large part of the cost of production.

The industry has no geographical advantages in competing for the American market over foreign plants.

I would like to interpose here that the market for paper machine felts is not an expandable market depending on price. It is determined entirely by the quantity of paper produced and the need for felts to make such a paper.

It is cheaper to ship felts from Europe to our North Pacific ports than it is to ship by rail from our felt mills in Wisconsin, Massachusetts, Maine, New York, Ohio, and Pennsylvania.

Our industry has no advantages in raw-material costs. Wool represents 80–95 percent of the raw-material cost. If anything, we are at a price and quality disadvantage compared to our foreign competitors in purchasing wool.

We have no advantage in machinery costs. The machinery used to produce felts in the United States and the rest of the world is substantially similar and European feltmaking machinery is cheaper than American machinery. Since felts can never be mass produced, there will probably never be any significant machinery advantage.

With regard to labor, we are even worse off. Labor costs represent approximately one-third of the total cost of producing woven woolen felts. Studies have shown that there is no significant difference between the output per man-hour in the woven woolen felt industry in the United States and in foreign countries. But the United States felt industry pays wages ranging from 400 as much as 1,000 percent more than our foreign competitors.

Our labor force as I have said is highly skilled and if it were once dissipated, it would require a long training period to reconstitute the labor force.

Senator MILLIKIN. How many employees do you have in your industry?

Mr. CRAMER. In the industry, roughly, 5,000, Senator.

I would like to say here, that our industry is vital to any defense efforts. In fact, I have here a letter from the Department of the Navy, written June 1954, which says, in brief:

> The Department of the Navy wishes to inform you that the Albany Felt Co. is considered by the Department of Defense to be of major importance to the security of the Nation.

As we have said, paper cannot be produced without felts, and we all know the extent to which paper was a factor in the late wars, not only in cartons for ammunition, wrappings for emergency rations, but I might add that we also made a particular form of felt which, after impregnation, was used in self-sealing gas tanks for airplanes.

It is, therefore, apparent that an adequate level of tariff protection is essential if the $50 million felt industry and the jobs of thousands of American workers are not to be undermined.

The tariff on woven woolen felts is a compound rate. First, there is a specific duty per pound which is designed to equalize foreign and domestic costs of the raw material—wool. Second, there is an ad valorem tariff rate.

Since the enactment of the Tariff Act of 1930, our tariffs have been cut three times. Our tariff rate has been cut by 75 percent, that is, a total of 75 percent, from an ad valorem rate originally of 60 percent to an ad valorem rate today of 15 percent. This is a greater, by the way, cut than has been imposed upon any other segment of the wool manufacturing industry. Moreover, the compensatory portion of the tariff has dropped from 50 cents to 37½ cents per pound.

A further 10–20 percent reduction in tariff under the guise of simplification of valuation procedure will have very serious consequences for our industry and all other industries where foreign cartels operate.

Let me get down to cases to show you what this means. We have checked on the European cartel prices for felts. I have here a brief summary or statement of the pricelist put out by the British Felt Association which I would be glad to furnish the committee if desired.

(The document referred to is as follows:)

Disparity between English domestic prices and export prices on 3 most important types of woven woolen felts

(1) Common wets:		(2) Pulp felts:	
United Kingdom price	$3.63	United Kingdom price	$3.09
Argentina	3.27	Argentina	2.79
Norway	3.54	Norway	2.21
Mexico	3.28	Mexico	2.79
British Commonwealth	3.54	British Commonwealth	3.01

(3) Pickup felts:	
United Kingdom price	$6.06
Argentina	5.45
Norway	4.54
Mexico	5.46
British Commonwealth	5.90

Mr. CRAMER. It shows for the standard grade of felts making up the largest segment of our business the prices charged by the English mills for foreign export to the Western Hemisphere are in fact 10 to 20 percent lower than the prices charged for the same felts in the English domestic market. This price differential seems to be the standard practice of European mills. If H. R. 6040 is adopted, the export price, not the foreign price, will determine the duty. Since the difference between the foreign price and the export price is 10 to 20 percent, American tariff protection will drop automatically 10 to 20 percent by the elimination of foreign value.

I understand the distinguished Assistant Secretary of the Treasury, Mr. Rose, presented a chart minimizing the effect of this bill by speaking of after-duty cost. I hope the committee will keep in mind the fact that so far as our industry is concerned this bill will reduce the tariff protection by 10 to 20 percent. This is an automatic, ex parte reduction as large or larger than any cut in tariff authorized by H. R. 1.

The manufacture of felts in Europe—and, of course, exports of felts to the United States—is controlled by a few large producers in England, France, and Sweden who are members of closely knit trade organizations. And, as we have said, they have a dual-price system (one price for exports and another for domestic sales).

The valuation provisions of the Tariff Act of 1930 are an automatic defense for American producers against this cartel dual pricing.

One of the important reasons that the cartels have not invaded the United States market, is the built-in protection in the present law which imposes tariff on foreign value when it is higher than the export price. This automatic protection guards against export practices which verge on dumping. A foreign producer who sets prices for the United States market without regard for costs is checked because the ad valorem tariff is applied to the higher base value established by sales in the foreign market. H. R. 6040 would abandon this self-enforcing safeguard against dumping.

I understand the Assistant Secretary of the Treasury, Mr. Rose, said that the automatic protection in the present law could be made ineffective if the foreign producer decides to adjust his prices. By this simple device, Mr. Rose said, he can achieve the effect of lowering the tariff to the same extent as provided in H. R. 6040. However, we believe this appears to be an oversimplified analysis where foreign cartels are involved. The foreign cartel has the choice of lowering its

domestic price to make it equal to the export price, thereby losing the higher profit in the domestic market, or else abandoning its low export price, thus losing its monopolistic advantage in the export market. The cartel continues to be faced with these unpalatable choices which require a complete change of cartel policy, so long as the present law is in effect. Moreover, the fact that Customs continually investigates foreign prices means that foreign cartels are reluctant to ship into this market under a dual price system. To do so would expose them to the risk of an antidumping proceeding. This fact is doubtless one explanation of the small amount of exports of felts to the United States by the European cartel.

If foreign value should be completely eliminated from section 402, the only protection for an American manufacturer from arbitrarily low-priced imports would be the Antidumping Act. Frequent investigations under this act would become necessary. At the same time that American manufacturers were forced to rely increasingly upon the Antidumping Act for protection against the pricing policies of foreign cartels, the effectiveness of the Antidumping Act would be decreased by the elimination of the continuing investigations of foreign prices.

To substitute antidumping for the present law would lead to multiplication, not simplification, of customs problems. No one familiar with the procedure for enforcing the antidumping law would encourage a great increase in antidumping investigations. The long investigations and interference with shipments create intense antipathy abroad and embarrass our commercial relations. Yet the American producer will be compelled to invoke the cumbersome antidumping law to protect against cartel dual pricing practices, rather than rely on the relatively clear and well-understood valuation provision now in the law.

Moreover, an antidumping proceeding depends on showing that a cartel export price is a dumping price together with proof of an injury. To get this proof may entail a long, costly investigation for the American manufacturer and it is really locking the barn door after the horse is stolen. The present law deals with the situation currently by protecting automatically against dual pricing.

It is generally accepted that H. R. 6040 will decrease the general level of tariff protection for American industry—in our case 10 to 20 percent. Yet, the bill has none of the safeguards written into trade-agreement legislation before such reduction is effected.

Tariff protection will be cut without hearings; we cannot argue our case in peril-point hearings. It is questionable whether we will be entitled to invoke the escape clause because of these cuts. H. R. 6040 says that the executive branch and the Tariff Commission shall give "full consideration" to any reduction in the level of tariff protection resulting from the change in valuation provisions. "Full consideration" is cold comfort when there are no practical provisions for relief or even for a hearing.

In changing valuation provisions which have been interpreted and applied for over 20 years it would seem the committee is moving into uncharted territory. Only one thing is clear; this bill will decrease the level of tariff protection. The decrease is automatic and cumulative, that is, in addition to the 15-percent cut provided in H. R. 1. No one is sure who will be hurt or how much. We do not know how far this bill will go to undermine the philosophy against cartels and

dumping by giving a weapon to the cartels which have always had multiple-price systems for monopolistic reasons.

For these reasons, I am compelled to register my opposition to H. R. 6040 so long as section 2 is in the bill. Nothing less than removal of this section would make the bill acceptable.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Cramer.

Any questions?

Senator BENNETT. Mr. Chairman, I would like to ask just one question.

What percentage of the American market for these felts is now taken up by imports?

Mr. CRAMER. I would say, in the case of paper machine felts, less than 10. I would say in the case of a few other items, which I have not mentioned specifically, imports have made great inroads.

Senator MILLIKIN. Can you give us some examples?

Mr. CRAMER. One example is what we call card clothing foundation cloth which is a very heavy, rigid fabric used after it is fitted out with steel pins, to wrap the cylinders of a carding machine.

We formerly made a considerable quantity of that, but the English are able to undersell us today, and I think other countries are, too.

The CHAIRMAN. Thank you very much, Mr. Cramer.

Mr. CRAMER. Thank you.

The CHAIRMAN. Is Mr. Klurfeld in the room?

STATEMENT OF ARTHUR M. KLURFELD, EXECUTIVE DIRECTOR, TEXTILE FABRICS ASSOCIATION

Mr. KLURFELD. My name is Arthur M. Klurfeld, and I am executive director of the Textile Fabrics Association located at 40 Worth Street, New York City.

As a former attorney in the Bureau of Customs in Washington and in my work in the trade association field, I can speak with some knowledge of the administration of the Tariff Act since 1937.

The Bureau of Customs has earned a high reputation for its fair administration of the customs laws. If importers have experienced delays in the appraisement or liquidation of entries, the reason for such delays can be found as much in understaffing as in the complexities of the Tariff Act.

The report made by the Committee on Ways and Means on H. R. 6040 states that the purpose of the bill is as follows:

> H. R. 6040 would provide improved procedures for the valuation of imports and the conversion of foreign currency into dollars for the purpose of assessing customs duties. This will bring about greater speed of administration, increased certainty, and commercial realism in our customs laws. Your committee's bill would also repeal a number of obsolete provisions in these laws.

Insofar as the changes contemplated by section 2 of the bill are concerned, the avowed purpose is undoubtedly correctly stated. However, it is my considered judgment that the changes proposed in section 2 of the bill relating to import valuation will bring about results that are not only not contemplated, but which will also be harmful to domestic manufacturers of items that compete with items imported into this country.

The most outstanding change in section 2 of the bill is the elimination of foreign value as a possible basis for determining the import value of merchandise under the Tariff Act. Ostensibly this change would eliminate the necessity of determining the foreign value and thereby cut down appreciably the backlog of entries awaiting appraisement. If this were the sole result of this change, no one could legitimately quarrel with it.

In an effort to meet the claim that this and other changes in the valuation provisions would result in substantial reductions in the amount of duty paid on goods subject to an ad valorem duty, the Treasury Department made a survey of a number of entries of goods imported during 1954. The survey shows the value of various commodities under the present law, their value under the proposed law, H. R. 6040, and the difference expressed in dollars, as well as a percentage figure. It also shows the estimated loss of revenue expressed in dollars, as well as a percentage figure.

We do not question the method used by the Treasury Department in selecting the entries on the basis of which this survey was made. We assume that it represents a fair cross section of various commodities imported during the base year. We do question the conclusion reached by this survey of the small percentage decrease that would result from the proposed change in the valuation provisions as set out in H. R. 6040.

It is apparent that the Treasury Department did a purely mechanical job in this instance in making this survey. Wherever it was shown that the foreign value was used by the appraising official because it was higher than the export value, the survey apparently assumed that the difference between the two would represent the actual change in valuation of that commodity under the proposed law. I submit that the fallacy in that reasoning lies in that very assumption. Up to this time foreign producers have been deterred from decreasing their export prices since they well understood that the foreign value of those goods would be used by our customs officials in determining their import valuation if it proved to be higher than the export price. If the proposed change that eliminates foreign value takes place, foreign producers will no longer be deterred by that safeguard in setting their export prices. Accordingly, it is submitted that the survey lacks the validity of a proper and fair prognostication of what will happen in the event that foreign value is eliminated as a basis of import valuation.

The Committee on Ways and Means of the House inserted a new section 5 to H. R. 6040 to make certain that the Antidumping Act of 1921 retains its full force and effect and is in no way repealed by implication by virtue of the proposed changes in this bill. The theory of the House committee is apparently that any two-price system established by foreign producers after H. R. 6040 goes into effect would be quickly stopped by an effective administration of the Antidumping Act. I can only respectfully point out that the administration of that law up to this time would lead one to the opposite conclusion. The number of cases in which an actual finding of dumping has occurred is very small in comparison with the number of complaints made by domestic manufacturers since the law went into effect.

Aside from that important historical fact, the Antidumping Act was never designed to take care of the vast bulk of cases that could arise if foreign value is eliminated from the law. A finding of dumping normally contemplates two things.

1. The Treasury must find that the imported commodity is being sold for export to this country at prices below those charged for goods of the same class or kind in the home market abroad or for export to other countries or in this country. Under that law this means that the Treasury must first find that the goods are being sold below their fair value.

2. The case then goes to the Tariff Commission with respect to the question of injury. The Commission must find that the goods are being imported in such quantities as to cause or threaten serious injury to producers of competing articles made in the United States.

A mere recital of these factors should indicate why the Antidumping Act has been invoked successfully in the past so infrequently. The very elimination of foreign value will create, in my opinion, an incentive to foreign producers to juggle their export prices in order to reduce the amount of duty to be paid and at the same time they will be able to avoid a possible finding of dumping by controlling the quantity of gooods of that character exported to the United States. The importer of such goods can likewise avoid a finding of dumping by virtue of the prices he charges for such goods and by limiting the quantities of such goods he places on sale at any given time.

If the purposes of these changes in the valuation provisions of the Tariff Act is to bring about greater speed of administration, it is suggested that this can be accomplished by a very simple device without changing the law so drastically. The Treasury survey indicates an estimated loss of revenue by virtue of the proposed change in the valuation provision of $5,173,405. If even a part of that amount were used to increase the number of personnel in the Bureau of Customs, any undue delays in the appraisement of entries by reason of having to determine foreign value would be appreciably reduced. This solution to the problem should satisfy importers and at the same time avoid such drastic changes that admittedly reduce present tariff protection in many commodities.

The textile industry demonstrated to this committee when H. R. 1 was being considered that it faced very serious competition from Japanese textiles under existing rates of duty. Although the Congress eliminated any further reductions in the duties on textiles under H. R. 1, the State Department used its authority under the prior Trade Agreements Act to negotiate with Japan very substantial reductions in the existing rates of duty on both finished and unfinished cotton textiles and on a number of textile manufactured goods. It was this committee that recommended to the Senate that H. R. 1 be amended to eliminate further reductions on such items as cotton textiles. It, therefore, seems highly unjust that a further reduction in the present effective tariff should be made indirectly in the duties on cotton textiles. It, therefore, seems highly unjust that a further reduction in the present effective tariff should be made indirectly in the duties on cotton textiles under the guise of a so-called simplification act. At the present moment a resolution is being circulated among the members of the Senate to have the Tariff Commission investigate the effects of the reductions in tariff rates on cotton textiles negotiated recently in

Geneva. If, as we believe, this investigation will show that these reductions will injure the domestic textile industry, it would seem only fair that the Congress not permit further reductions through the device of changes in the valuation provisions of the Tariff Act.

The proponents of the proposed change in the valuation provision of H. R. 6040 point to the existence of the Antidumping Act on the one hand the escape clause provisions in section 7 of the Trade Agreements Act on the other as remedies that can be invoked to prevent serious injury to domestic industries by reason of these proposed changes in the law. I believe the answer to them is very simple. The Antidumping Act, as I previously pointed out, was not designated by the Congress to meet this type of change in the law. It has always been considered a drastic remedy and has been administered for that reason with the utmost caution.

Likewise, the escape clause in the Trade Agreements Act was designed to give relief only when the domestic industry could make out a case of severe injury under the criteria established in that provision. Here, too, the prior administration of this provision would lead one to conclude that the Tariff Commission and particularly the economic advisers of the President intend to have its application limited to as few cases as possible.

I would like to interject at this point that another very great difference betweeen the use of the escape clause, or even the Antidumping Act, where a reduction in the tariff rate has taken place under the Trade Agreements Act is this:

Domestic manufacturers have no way of finding out from the Bureau of Customs what a particular importer pays by way of duty, at what rate, at what evaluation these goods are set, what is the basis of the evaluation. The only way the domestic manufacturers learn about any possible harm is after the harm has been done; in other words, when they find those goods in the market place competing with their own. And then they have no way of going back and obtaining the necessary proof to make out their case. In other words, not only are the figures not made available to them, but in presenting a case, all they can point to is the bare fact of injury and the rest is left up to the administrative agency to do all the investigating and, in effect, make out the case for them.

That is a situation which I believe is very serious and one that should indicate to you why the remedy of the Antidumping Act in that phase of it is so unworkable. Actually, at no time does the importer and the domestic manufacturer face each other and submit their cases at the same time. Each presents his case individually, and the other party is never advised of what arguments or what facts his opponent produces. So, it is one of these blind games in which the rules are such that a man's hands are tied behind him and, where serious injury is shown, I believe the fairest thing would certainly be that he be advised what his opponent's case is, in keeping with the American tradition of fair administration, and be allowed to answer that case and given the advantage of obtaining the facts in the case.

It is for these reasons that I strongly urge this committee to eliminate section 2 from H. R. 6040 when it reports the bill to the Senate.

The CHAIRMAN. Thank you very much, Mr. Klurfeld.

Any questions?

64934—55——12

Senator MILLIKIN. No questions.

The CHAIRMAN. The next witness will be David H. Harshaw, John B. Stetson Co.

STATEMENT OF DAVID H. HARSHAW, PRESIDENT OF JOHN B. STETSON CO.

Mr. HARSHAW. Mr. Chairman and members of the committee, the purpose of this presentation is to register my opposition, on behalf of my company and the felt hat industry, to H. R. 6040, particularly section II of the bill.

DISCRIMINATION

First of all, the bill, in its efforts to accomplish simplification of customs procedures, opens the door to a discriminating practice frowned upon in international trade circles—a practice the United States looked down upon in all of its trade conferences. The bill not only substitutes the "export value" for the "foreign value," but it substitutes "the export value for exportation to the United States" for the "foreign value"—a deliberate discrimination. The words, for exportation to the United States have little bearing on the simplification feature of the bill. The bill deliberately justifies and encourages selling at lower prices to the United States than to other countries, to say nothing about selling to the United States at lower prices than charged for the same product at home.

If this bill is made the law of our land, I strongly urge that the phrase, "for exportation to the United States", be deleted from section 402, subsection B, as this clause does not add greatly to the purpose of the bill; that is, simplification of customs procedures.

LOWER PRICES TO THE UNITED STATES

The bill encourages the foreigner to sell to the United States at lower prices than he sells to either his home market or to other foreign markets. This means the price will be artificially set for exportation to the United States. It is an invitation for the foreigner to enter our markets with "rigged" prices to meet domestic competition. The bill is made to order for cartels and monopolies abroad. They can enter our markets, and if strong enough, can drive domestic producers out of business, of course anticipating the time when they can have their own way and sell at higher prices. This principle is in restraint of trade, and contrary to the laws of our land.

DUMPING

The bill opens the door for dumping, even though the amendment to the bill states "that nothing in the bill shall be considered to repeal, modify, or supersede directly or indirectly the provisions of the 1921 Antidumping Act." Exporters can bring merchandise into our country at ridiculously low prices and be justified under the proposed bill. At a later date, their action may be determined to be dumping, or it may not. The exporter has the law with him until it is determined. In the meantime, the damage to the domestic producer will have taken place, and before the case is settled he may be forced out

of business. As they say in medical circles, "the operation was successful, but the patient died." This was so in our industry, even under the present laws. What will happen under the proposed bill is anybody's guess, where dumping and subsidization are encouraged.

LOWER TARIFFS

The bill will lower tariffs. There's no question about it. The Treasury Department admits it, and they state as a result of their survey some reduction in valuation will result; however, they add the percentage will be small on the average. It may be all right for the Treasury Department to work on averages. A particular company or an industry cannot work on averages. Averages will lead you astray. I know it will in the hat business. The export value of hats and hat bodies out of Italy, France, and Czechoslovakia have been as much as 50 percent below the real or foreign value. Dumping charges have been brought. Perhaps some have been sustained in other industries—but not in ours. In fact, the situation got so serious that our industry was one of the few industries in the United States that received some relief under the escape clause procedure. The relief was granted for hat bodies in price brackets between $9 to $24 per dozen. Now we find the exporter bringing in the same goods at prices a few pennies below the $9 bracket—the price at which the relief applied. In other words, we find ourselves almost in the same place we were before the relief was granted.

Incidentally, gentlemen, on a technicality in the wording of the Executive order giving relief to our industry, exporters have been successful so far in setting aside the relief that was granted under the escape clause procedure.

There is no question about it in my mind that, under the proposed bill, tariffs will be lowered on hats and hat bodies coming into the United States. The main question is, how much they will be lowered. This is difficult to answer, but I can assure you that they will be lowered just as much as the exporter knows he can get away with, and will, at the same time, benefit his business. For example, hat bodies that sell abroad at $13.75 per dozen might sell at $8.95, or 35 percent less to the United States. Such an importation will not only pass the customs, but will be justified under the proposed bill. It is complete conjecture on the part of anyone (the Treasury Department notwithstanding) to estimate how much the tariffs will be lowered by the proposed bill. All admit they will be lowered, and most are of the opinion that the tariffs will be lowered much more than estimated by the Treasury Department.

SIMPLIFICATION

The substitution of export value for foreign value in the proposed bill will, of itself, greatly reduce the paperwork and save time in the Bureau of Customs. However, unless our antidumping laws are set aside, it will still be necessary to ascertain the foreign value; otherwise there will be no way of knowing whether the dumping laws are being violated. Therefore, if both values must be ascertained to comply with both laws, that is the proposed bill and the Anti-dumping Act, are we not back where we started, with no saving of time?

The question then arises, What will the bill simplify? Whatever is accomplished, could it not be accomplished by simplifying the procedure under the present law where the foreign value or export value is used, whichever is higher?

It seems to me that the logjam in customs is one of procedures and methods, that can be solved by applying modern techniques and mechanization without drastically changing the law. A solution should and can be found without lowering tariffs, without opening the door to encourage dumping, subsidization, monopolies, cartels and discrimination in foreign trade. The seemingly difficult situation in which the Treasury Department finds itself, I am sure, can be solved without resorting to changing the law. Automation has solved more difficult problems in other large governmental departments, and I don't see why it couldn't be applied to the customs.

It seems that the bill is getting the green light by flying the banner of simplification. There is more in this bill than meets the eye, and I trust you will not let it go through in its present form.

The CHAIRMAN. Thank you very much, Mr. Harshaw.

I see you made a suggestion for an amendment to section 2; page 2, line 21——

Mr. HARSHAW. That is right.

The CHAIRMAN. What would be the effect of that suggested amendment?

Mr. HARSHAW. It would take out only one phase, the discrimination of selling to the United States cheaper than it sells to another country. It will not take out the discrimination of selling cheaper to the United States than they do in their own counry, which in many cases is the case.

The CHAIRMAN. Does it put back the foreign price, or does it take out the export——

Mr. HARSHAW. No, it won't do that. Eliminating for exportation to the United States will only cure part of the evil of the proposed bill in my contention.

The CHAIRMAN. Could you submit to the committee a memorandum as to the effects of your suggested amendment would have? Have you a memorandum prepared, or can some attorney prepare a memorandum of the effect of this amendment? You say it cuts out part of the complaint. Did I understand you to say that?

Mr. HARSHAW. I do not know how, in quantity, or in dollars, what it would cut out. It would cut out some of the evil.

The CHAIRMAN. Has anybody studied the effects of this so that a definite statement could be given to the committee as to how it would effect the bill?

Mr. HARSHAW. I will have such a statement prepared and sent to you as soon as possible.

The CHAIRMAN. We would be glad to have it.

Mr. HARSHAW. I will see that you get it.

The CHAIRMAN. Thank you very much.

Any questions?

The next witness is George L. Bell.

STATEMENT OF GEORGE L. BELL, EXECUTIVE VICE CHAIRMAN, COMMITTEE FOR A NATIONAL TRADE POLICY

Mr. BELL. My name is George L. Bell. I am appearing as executive vice chairman, Committee for a National Trade Policy, in support of H. R. 6040.

Mr. Chairman, I appreciate the opportunity to testify in support of H. R. 6040, the Customs Simplification Act of 1955. I would like to urge upon the members of the Finance Committee that they report out the bill favorably as passed by the House of Representatives on June 22.

I should say at the start that I do not regard myself as a technical expert qualified to discuss the intricacies and complexities of our customs law and customs procedures. I, and the Committee for a National Trade Policy, for whom I am testifying, are, nevertheless, very much concerned with our customs procedures and with legislation relating to customs matters. We share the view of a great many people, including that of the administration, that the procedures relating to the valuation and assessment of customs duties require simplification in the interest of economy and simplicity in administration. For this reason, in the recommendations which we submitted to the Randall Commission shortly after the Committee for a National Trade Policy was founded, we emphasized that—

> The statutory provisions and administrative regulations governing the valuation of imported goods should be reviewed to allow simpler and more easily computed assessment of duties by customs authorities.

I think it is fair to say that there is almost universal agreement that legislation providing for simplification of the valuation provisions of our customs law is necessary. This was reiterated by President Eisenhower at his press conference only last week, when he said that legislation providing for customs simplification was terribly important and of high priority.

The recommendations contained in H. R. 6040 which are designed to provide for such simplification are recommendations that have been put forward by experts for some time. For example, the Randall Commission had the following recommendation to make in its report last year:

> The Senate should promptly consider H. R. 6584 now before it which would amend and improve the customs valuation provisions of our law by eliminating so-called foreign value as a basis of valuation and by other simplifying changes. In addition the Department of the Treasury should be directed to make a study and report to the Congress on the feasibility and effect of making greater use of the actual invoice price of imported goods for valuation purposes in transactions between a buyer and a seller who are independent of each other. In that connection it should also consider a report upon feasibility of making more efficient use of the antidumping law.

H. R. 6040 proposes to do what the Randall Commission recommended should be done and provides essentially for those changes in our customs legislation that have been recommended by previous advisory groups. This bill provides for essentially the same changes in valuation procedures which were contained in bills that have been passed by the House on previous occasions. By deleting the use of the foreign-value base and by substituting the single preferred standard of export value, H. R. 6040 would go far towards providing a standard

for valuation which is commercially realistic and which could be administered with equity and with efficiency.

Studies that have been made by the Customs Bureau point to the fact that the use of foreign value is a major cause of the backlog of invoices on hand in the appraiser's office. Not only is there delay involved at present due to the need for the exact computation of duties on the basis of two different valuation standards, but the fact is that the use of foreign value very often requires costly and time-consuming inquiries for the purpose of ascertaining the exact foreign value that should be applied to a particular imported item.

The staff papers of the Randall Commission contain a table, on page 338, showing the number of invoices on hand in the appraiser's office over 30 days on which action cannot be completed pending receipt of data from other sources. The date on which this snapshot photo of the customs situation was taken by the Treasury Department was late in 1953. Let me say here, parenthetically, that the situation, as I understand it, has improved somewhat since that date due to previous legislation that has been enacted in the area of customs simplification. The staff papers examine the problem of customs valuation and conclude:

> A good share of the cost of the customs service is due to the process of applying the valuation provisions of the law.

They go on to say:

> The size of the valuation problem is indicated by the fact that, as of September 30, 1953, there was a backlog of 313,000 entries which were awaiting action by the appraisers or the outcome of appeals on appraisement. The 313,000 entries for which valuation had not been settled was the equivalent of well over a year's entries of imports requiring valuation.

The table which I have referred to on page 338 of the staff papers shows that 64 percent of the entries had been on hand for longer than 6 months, and 39 percent had been on hand for longer than a year. And I quote again from page 339:

> The data indicate also that the most intractable source of delay has been that arising from the need for information from foreign sources required to fix the appropriate valuation. Some 29 percent of the backlog were awaiting such foreign reports. The data show also that this problem accounted for a higher proportion of the long-delayed entries than of those held for a relatively shorter interval; indeed, about 44 percent of the entries held from 12 to 24 months were awaiting foreign reports.

Now this is exactly the situation the bill before you is designed to remedy. Involved in this legislation is an attempt—and apparently the best attempt which the technical experts in the Treasury and the Customs Bureau have been able to come up with—to provide some equity, simplicity and certainty for our customs valuation system, and, at the same time, to reduce the burdens and the costs of administering that system.

I think it entirely fair to say that we have, in general, provided adequate protection to domestic producers from the unsettling changes that may on occasion result as a byproduct of international trade. It seems to me also entirely fair to say that we must protect the flow of international commerce from the vagaries, uncertainties and delays, that are brought about through a cumbersome customs system. We must remember that United States importers, the vast majority of whom are American companies or individual citizens, employing

thousands of Americans, are entitled to the consideration of reasonable laws and administration just as any other American business is. Such consideration is essential in the interest of the growth and prosperity of American business and of our whole economy.

But the issue here is not protection of the domestic producer versus the expansion of international trade. There is nothing in this legislation which would impair the existing procedures we have for the protection of the domestic producer, nor does it seem to me that there is anything in this legislation which would necessitate additional provisions for the protection of domestic industry. On the contrary, this legislation is neutral and unrelated to the question of protection.

Let me cite one instance of what I mean. The allegation has been made that the changeover from foreign value to export value would result, in certain instances, in a decline in the tariff protection accorded to the domestic producers of certain commodities. Now I feel that it may be somewhat gratuitous of me to examine this question in view of the fact that you have heard the testimony of the very able Assistant Secretary of the Treasury, Mr. Rose, on this question. But the Treasury study which Mr. Rose and others have referred to, shows how minimal would be the change in the level of protection that would result from the shift over to export value. The report of the Committee on Ways and Means says on page 4 that—

> The reduction in afterduty cost for all imports for which value is an element of duty would average about one-half of 1 percent.

The point I wish to emphasize is that the change in valuation base itself has nothing to do with the level of tariff protection. For the simple fact is that irrespective of the valuation base that is used and irrespective of the duty that is applied against that value to determine the level of protection for American producers—irrespective of these things, changes may be taking place in the price and condition of sale of imported products to the United States which would change the dollar valuation assigned to an imported article even if foreign value were to continue to be used as a primary basis of valuation. By way of illustration, let me point to the fact that prices of commodities entering into international trade, just as those in domestic commerce, change from time to time. Such price changes would bring about changes in the valuation of the imported article irrespective of the valuation base used. There would also be a change in the amount of duty collected and, of course, this change would have nothing to do either with the valuation base or the rate of duty involved. Such price changes result from the operation of many factors including changes in commercial practices. One effect of these changes is that "export value" may be higher than "foreign value" at some times, and lower at others. The conclusion therefore suggests itself, that we should be concerned with the purpose and major effect of this legislation, and that is to simplify the customs valuation procedure.

I said earlier in my testimony that we do not regard ourselves as experts on the customs problem. At the same time, we have felt an obligation to look into the allegations that have been made in opposition to this legislation in order to satisfy ourselves on the question of whether H. R. 6040 is adequate the way it is or whether it should be amended. Our conclusion is that no amendment of the bill is necessary. The only amendment which the Ways and Means Committee

of the House and which the House of Representatives itself felt was necessary was one providing that nothing in the legislation shall impair the operation of the Antidumping Act. We are in accord with that amendment because we feel that the antidumping statute is necessary to protect outselves against the predatory pricing activities that may on occasion be used by foreign sellers. Indeed, we find nothing in this legislation that should in any way cause any concern about the operation of the Antidumping Act. You have heard highly competent testimony on that subject already. Permit me only to add that the economies in administration and in the use of personnel that would result from this bill could result in a more efficient administration of the Antidumping Act. I refer particularly to the fact that the deletion of "foreign value" would mean that no longer would there be required the computations of foreign value for each item dutiable on an ad valorem basis and no longer would the Customs Bureau have to undertake costly and time-consuming investigations abroad in order to ascertain the foreign value of an article. One of the problems both from the point of view of the importer as well as from the point of view of the domestic producer in the administration of the Antidumping Act is the amount of time involved in undertaking a foreign investigation in order to determine whether an article is being sold in the United States below fair value. The domestic producer is concerned that too much time elapses before a penalty duty is imposed if, in fact, it is found that a commodity is being dumped on the United States market. The importer chafes under the uncertainty and likely burden of penalties that is involved in the suspension of appraisement of the imported article pending the investigation. The economies that will result from enacting H. R. 6040 could be applied to the more efficient and expeditious administration of the Antidumping Act.

I appreciate full well, Mr. Chairman, that there are many aspects of this legislation which I have not been able to discuss here; but I do wish to emphasize our belief that enactment of this legislation would bring good returns to our economy, and that it is in our overall national interest. We, therefore, wish to urge upon the committee that you report out H. R. 6040 without amendment.

The CHAIRMAN. Thank you very much, Mr. Bell.

Mr. BELL. Thank you, sir.

The CHAIRMAN. Any questions?

The next witness is Mr. John Hilldring.

STATEMENT OF JOHN HILLDRING, VICE PRESIDENT, THE SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION

Mr. HILLDRING. My name is John Hilldring. I am president and a member of the board of directors of General Aniline & Film Corp. New York City.

I appear before you today in my capacity as vice president of the Synthetic Organic Chemical Manufacturers Association of the United States which includes in its membership 88 domestic manufacturers of synthetic organic chemicals. These producers account for about 90 percent of the entire production capacity in the United States for synthetic organic chemical products.

I am authorized also to speak today on this bill for the Manufacturing Chemists' Association, Inc., which includes in its membership

more than 140 manufacturers of chemicals. Such products include, in addition to organic compounds, heavy chemicals such as acids, alkalies, and their salts; plastic materials; gases such as chlorine; synthetic fibers; pesticides; and thousands of other chemical compounds. Together, these 2 associations represent in excess of 90 percent of the entire production of chemical products in the United States.

The chemical industry opposes section 2 of this bill. We appeared also in opposition to the bill before the Ways and Means Committee of the House of Representatives. I shall not endeavor to repeat what was said there. I would, however, like to emphasize some of the points there made and to add one or two perhaps new thoughts.

The members of this committee are familiar with the products of the chemical industry. The accomplishments of this industry, its contributions to the national welfare, and above all, its paramount importance to the national security and to the defense of the country are well known to each of you. I regard it as unnecessary to present to you gentlemen any detailed documentation in this regard and will pass directly to a discussion of the provisions of the bill before you.

Proponents of this measure assert that it deals with customs procedures only and is intended to and will bring about a marked simplification of customs administration dealing with valuation of imported merchandise. It has further been said that customs procedures were not intended in themselves to be used as a wall of protection against imports. Simplification of customs procedures, including determination of valuation of merchandise subject to ad valorem duties, is undoubtedly desirable. No valid objection would be made to true simplification. Clarification of the existing law, assuming it is needed, and particularly a speeding up of determination by customs appraisers of dutiable values, would be applauded on all sides. But section 2 of the bill, H. R. 6040, goes beyond these objectives.

Representatives of the Treasury Department have presented to your committee a customs survey purporting to show the effect of the proposed changes in section 402, Tariff Act of 1930, on dutiable values and the amount of revenue collected. That survey indicates a probable decrease of only 2½ percent in total dutiable values of all merchandise subject to ad valorem duties and an indicated decrease of only 2 percent in customs revenue collections. On specific products and industries, however, the effect is far greater. The customs survey itself discloses that on products of the chemical industry, reductions in the amount of duties collected on competing imported products would range from an average of 4½ percent to an average of over 10 percent. Thus, the Treasury Department survey estimates the loss of revenue on coal tar products to be an average of 4.52 percent, on industrial chemicals an average of 7.33 percent, on pigments, paints, and varnishes an average of 10.07 percent, and on soap and toilet preparations an average of 10.92 percent.

On another class of products, drugs, herbs, roots, et cetera, which classification apparently includes a number of undisclosed chemical products, duties collected would be reduced under this bill by an average of 15.39 percent. Photographic goods, a classification which would hit my own company, General Aniline & Film Corp., very directly, would be reduced by an average of 5.19 percent.

The CHAIRMAN. Sir, do you have any examples of the maximum reductions, the average figures? Are there any particular items which would have larger reductions?

Mr. HILLDRING. Mr. Chairman, I am not prepared to give you those. I am sure there are, and I would be glad to submit them to the committee in a memorandum if that is agreeable to the chairman.

The CHAIRMAN. Thank you, we would be glad to have it, sir.

(The following information was later received for the record:)

NEW YORK, N. Y., *July 11, 1955.*

Senator HARRY F. BYRD,
Chairman, Senate Finance Committee,
Senate Office Building, Washington D. C.:

In the course of testimony of Gen. John Hilldring on behalf of this association and the Manufacturing Chemists' Association on the customs simplification bill (H. R. 6040) given before the committee on July 8, Senator Millikin requested information as to the effect of the bill on specific chemical products, particularly as to maximum percentage reductions indicated by the Treasury Department survey.

The survey supplied by the Treasury Department furnished average figures reflecting the estimated result on broad classes of products only, and we regret that we do not have available any maximum percentage figures by specific product involved in this survey.

The only information available to us at this time is based on a specific survey of invoices of synthetic organic chemicals for selected months of 1952, conducted at our request by the Bureau of the Census and also designed to measure the effect of eliminating foreign value. A copy of this survey was submitted to the committee by General Hilldring.

Subsequent to this latter survey, the Treasury Department developed and tabulated information on some specific products demonstrating the effect of elimination of foreign value on such products. The reduction in appraised value on certain entries has been developed in the testimony of Mr. Richard F. Hansen before the committee and shows the following significant figures, which are repeated for the convenience of the committee.

Imports:	Percent reduction in dutiable value
Ascorbic acid	[1] 24
Vitamin D_2	13
Vitamin B_1 hydrochloride	39
Theopyllinic compound	21
Cyanmethine	15
Polyethylene resin	14
Chloral hydrate	23

[1] 42 percent based on statement by Mr. H. Chapman Rose, Assistant Secretary of the Treasury before the committee on July 6.

Respectfully yours,

S. STEWART GRAFF,
Secretary, Synthetic Organic Chemical Manufacturers Association.

Mr. HILLDRING. The foregoing reductions in amounts of duties collected as reported by the Treasury Department are apparently based on the proposed elimination of foreign value as a base of duty only. If the additional duty lowering effect of redefinition of the remaining bases of dutiable value be taken into account, it is believed that the duty-lowering effect of this bill would be shown to be markedly increased, at least insofar as the products of this industry are concerned.

The Foreign Trade Division of the Bureau of the Census made a special study of imports of synthetic organic chemicals not subject to duty on the American selling price basis covering the calendar year 1952 at the request of this industry to determine the possible effect of elimination of foreign value as a base of duty. That report demonstartes that of all the entries examined 47 percent were appraised for value purposes at the foreign market value, while only 33

percent were appraised at export value. The balance was subject to duty at United States value or cost of production. Entries appraised at foreign value represented 53 percent by value of all ad valorem organic chemical imports included in the study compared with entries appraised on the basis of export value which accounted for only 16 percent by value of the total. Based upon the special study prepared for SOCMA by the Bureau of the Census, it is reasonable to conclude that the customs simplification bill would have the effect of reducing the appraised value of roughly half of organic chemical imports, other than coal-tar products, subject to ad valorem or compound duties as much as 16 percent or as low as 8 percent; while it would appear that the overall reduction in value on all organic chemical imports other than coal-tar products, on the basis of the study, could be as great as 10 percent or as low as 4 percent. It is requested, Mr. Chairman, that the report of the Bureau of the Census referred to be reproduced in the record at the end of this statement.

The CHAIRMAN. That will be done, sir.

Mr. HILLDRING. Whether the reduction figures indicated by the Government survey done at the request of the synthetic organic chemical branch of the chemical industry, or the reductions ranging from 4½ to 15½ percent on all chemical products indicated by the Treasury Department survey, be accepted, these reductions in tariff levels would be effected automatically with no investigation or examination of the effects thereof on the products or industry concerned, and with no opportunity on the part of this or any other industry, in fact, to demonstrate the need or lack of need for such changes. If tariff simplification is to be accomplished, and there can be no objection to it as such, let it be confined to simplification and do not permit it to be used as a method to bring about a further lowering of tariff duty levels.

The Congress has always been exceedingly careful to study and weigh the effects on all interests concerned of possible reductions in tariff rates of duties. The safeguarding procedures embodied in the Trade Agreements Act, such as the peril point and escape clause, which are largely the product of this committee, illustrate the care exercised to insure that no reduction in duty be made without full opportunity for all interested parties to be heard and for an examination and weighing of the effects of any contemplated reduction.

The Trade Agreement Extension Act of 1955, known as H. R. 1, is a very recent example of an extension of this policy again initiated by this committee. In that measure this committee insisted on amendments subsequently incorporated in law which limited the tariff reducing powers of the President to 15 percent of the rates of duty in effect January 1, 1955, or to reduce to 50 percent any rate in excess of 50 percent or its equivalent. This limited reduction power was further qualified to provide that not more than one-third of such reduction in duty could be made effective in any single calendar year. The recommendations of this committee for a broadened and strengthened escape clause were also carried into law. This industry, and I am sure, American industry generally, is grateful to you for this action.

The Customs Simplification Act of 1954 is another case directly in point. That act, as shown by its title was a simplification measure dealing with customs. There the Congress instructed the Tariff Commission to simplify the determination and application of tariff classifications, but wherever possible, to accomplish this result without any

change in rates of duty. In any case where the Commission found it could not accomplish the desired result without change in duty, the Congress, in line with its historic policy, prescribed that notice of such change and the probable effect thereof be given, and opportunity afforded for all parties interested to present evidence and be heard at public hearings.

The bill now before you, H. R. 6040, would disregard the limitations and safeguards embodied in H. R. 1 and in the Customs Simplification Act of 1954. This bill, would, by one stroke, bring about reductions in amounts of duty which, in some cases, would exceed the total amount of reductions in rates authorized under H. R. 1.

The President has stated, in enunciating his foreign economic policy, that reductions in tariffs should be gradual, selective, and reciprocal, and that "across-the-board revision of tariff rates would poorly serve our Nation's interest." We agree with this statement. We assert, however, that the bill, H. R. 6040, would not be gradual, selective, or reciprocal, and that it would flatly constitute and result in across-the-board reductions of tariffs. Many of the reduced tariff rates of duty applicable to products of the chemical industry have never been fairly tested by reason of depressions and abnormal conditions during and as an outgrowth of wars. Despite this fact, and the position of the chemical industry in the national economy, many of the rates of duty applicable to its products have been cut in half or more under the trade-agreements program.

The tremendous resources of the chemical industries of Germany, England, Switzerland, France, Italy, and Japan are a matter of common knowledge. It may not be so well known, but it is certainly a matter of grave concern to this industry, that products of these foreign countries are finding their way into our markets in increasing quantities. The foreign chemical industries in the countries referred to are constantly expanding. They have ample capacity now and cost low enough to undersell many of the products of this American industry in its own market under the present reduced rates of duty. Further reductions, particularly when applied across the board, could be harmful to this industry.

I am not an expert in customs administration or in customs law. I believe, however, that I am able to assess the possible effect on the operations of my company of these constant attacks on the tariff structure of our industry. These frequently recurring actions designed to invite low-cost products of foreign origin into the markets of the United States and to facilitate their sale herein are gravely unsettling.

I am advised by our customs counsel, however, that it is highly doubtful that the bill now before you would, in fact, achieve simplification. Each of the alternative bases for duty under present law is carefully defined. These defintions have been substantially unchanged for more than 30 years. Administrative practice and judicial interpretations during that time have fully clarified their meaning and application. It is now proposed to revise extensively these bases of valuation by eliminating use of foreign value and making export value the first and preferred method of valuation. United States value and then cost of production would be retained as alternative bases of value, but all such bases would be considerably changed by redefinitions. As a result, new interpretations, both administrative and judicial, will be necessary and the full and proper scope and application of the new

provisions may not be known for months or even years. Thus we substitute uncertainty for long continued and well-known practice.

It is impossible to assess in advance the effect of the changed meanings of these terms in application of the various alternative bases of dutiable value. Each case is different and the final result can only be determined by relation to specific facts connected with a particular article. The proposals, however, offered at this time accent the confusion and uncertainty which flows from the unremitting attacks on the tariff rate structure.

Some of the changes in definitions proposed are in accord with the claimed commitments of the United States under the General Agreement on Tariffs and Trade. To that extent, the bill seems to be another example of a piecemeal submission to the Congress of provisions of GATT without identification as such, despite the specific reservation by the Congress of its approval of that agreement in recent extensions of the trade agreements law and the fact that it has never been submitted as such to the Congress.

H. R. 6040 in subdivision (e) at page 10 makes some effort to meet criticisms that it would result in automatic reductions in duties. That section provides that in any action relating to tariff adjustments by executive action, including trade agreements, the Tariff Commission and the executive branch shall give full consideration to any reductions in tariff protection resulting or likely to result from changes in dutiable value proposed by the bill. The requirement that "full consideration" shall be given to reductions in duty falls far short of preventing cumulative tariff reductions.

If the purpose of the bill is not to reduce duties, subdivision (e) in question should specifically provide that an appropriate adjustment in rates shall be made to compensate for any reduction resulting from a change in the duty base, and that such adjusted rates only shall be subject to possible modification under the trade-agreements law. In the alternative, or at the very least, subdivision (e) should specifically provide that any reduction in duty resulting from a change in dutiable value under the bill, shall reduce by a corresponding amount, the power of the President to reduce any rate of duty pursuant to section 350 of the Tariff Act of 1930, as amended.

In conclusion, I should like to refer briefly to the possible effect of the bill, H. R. 6040, on the Antidumping Act of 1921. The Antidumping Act, as the committee is aware, requires a knowledge of foreign values in its administration. In the course of debate on the bill in the other House of the Congress, proponents of the measure asserted that elimination of foreign value in H. R. 6040 would have no effect whatever on administration of the dumping statute. A specific amendment was added to the bill in section 5 at page 16, that nothing in the bill should be construed to repeal, modify, or supersede any provision of the Antidumping Act. The Secretary of the Treasury, in answer to criticisms, wrote to the Committee on Ways and Means, stating that—

> it is the firm intention of the Bureau of Customs and the Treasury Department to continue to require foreign value information as a part of the information contained in customs invoices. Secondly, the Treasury Department will continue to have available to it foreign value information upon which to initiate investigation of possible sales at a dumping price wherever the discrepancy between invoice price and foreign value appears to warrant it.

The effect of this statement is to raise in my mind a very serious question as to whether this bill will, in fact, achieve any simplification in administration. If the Treasury Department and customs officers are, as stated, to continue to assemble, study and use information as to foreign values of imported merchandise, then the claimed benefits flowing from elimination of foreign value as a base of regular duties would seem to be largely dissipated. I suggest to the committee that this emphasizes the real character of section 2 of this bill as, in fact, a tariff lowering measure without any of the usual safeguards attached to similar measures.

The Treasury Department does not know, and this industry does not know, all of the products which would be affected by the changes proposed by this bill, nor the full extent of changes in valuation on such products. The bill contains many provisions, the full meaning of which can only be determined by practical application of its terms. One result is, however, manifest, namely, that the bill would reduce the amount of duties collected on a very broad range of products, and specifically, insofar as the chemical industry is concerned, would reduce ad valorem duties on coal-tar products by an average of 4½ percent, industrial chemicals by an average of 7.33 percent, and pigments, paints, and varnishes by an average of 10.07 percent.

It is our position that such substantial reductions in duties should not be permitted to be made effective in disregard of established uniform procedures. We urge that the committee delete from the pending bill entirely, section 2 thereof.

In order to save your time, I request authorization of the chairman to have filed with this verbal testimony, and included in the record, a supplemental written statement where we have gone to some detail to show how all the proposals and new definitions in section 2 tend to reduce duties.

The CHAIRMAN. Thank you very much; we will accept your supplemental statement.

Mr. HILLDRING. Mr. Chairman, that completes my testimony and I want to thank the committee for giving us this opportunity of presenting our views.

The CHAIRMAN. We are glad to have you before the committee, sir. Any questions?

(The report of the Bureau of the Census and the supplemental statement are as follows:)

SUPPLEMENTAL STATEMENT OF JOHN HILLDRING, VICE PRESIDENT, SYNTHETIC ORGANIC CHEMICAL MANUFACTURERS ASSOCIATION ON H. R. 6040

There can be no question but that, in any case where both foreign value and export value exist under present law and duty has been based on foreign value as the higher of the two bases, elimination of foreign value will automatically lower the dutiable base and hence result in collection of a less amount of duties. The full impact of this result is not susceptible of exact determination, but certainly the net effect is to reduce duties.

The tariff lowering effect of elimination of foreign value as a duty base would be aggravated to a considerable but unknown extent by proposed redefinitions of the bases of value to be retained in the law. For example, export value is substantially the same as present law, but far-reaching and different values will result because of new meanings specifically given to terms used in the definition.

Under present law, determination of whether an article is freely sold or offered for sale, the usual wholesale quantities and the ordinary course of trade have all been administratively and judicially defined. Under present law, freely sold or

offered for sale, means the sale or offer to sell without any restrictions of any kind, to any and all purchasers at wholesale, including sales ot retailers. H. R. 6040 would change this long-continued interpretation by providing that sales or chandise could be used as the basis of value even though such sales or offers be offers to selected purchasers which fairly reflect the market value of the merchandise could be used as the basis of value even though such sale or offer be restricted by law, or the resale price be fixed, or sales be limited to a prescribed geographical area, or be otherwise restricted in a manner which did not substantially affect the value of the merchandise. Thus, sales and offers which have historically been considered as restricted, and hence, not freely made for purposes of use as representing export value, would now be used. The immediate result must be to considerably broaden the application and scope of export value as a base for duty.

Under present law, it has frequently been found that sales at wholesale to retailers constitute the only sales freely made. Such prices are usually higher than prices to large industrial users or wholesalers. The provision, therefore, that sales to industrial users and to persons other than retailers shall be the primary base, would automatically mean use of lower prices as representing dutiable values.

Perhaps the most significant change proposed in the meaning of terms and the one change which would bring about the greatest reduction in duty, is the proposed definition of usual wholesale quantities. For many years, the administrative authorities and the courts have interpreted the expression "usual wholesale quantities," in the present law to mean the quantity in which the greatest number of individual transactions occurred. The greatest number of individual transactions has frequently been to small buyers or retailers at prices higher than the price at which buyers in large quantities or industrial users bought the merchandise. H. R. 6040 would substitute a new definition requiring usual wholesale quantities to be determined on the basis of the price for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.

It is fairly common trade practice for merchandise to be sold at a scale of prices differing as to the quantities, with the lowest price being applicable to the highest quantity. It follows, therefore, that under the proposed definition of usual wholesale quantity, in any case where an article is offered at different prices, dependent upon quantity, the lowest price which is applicable to the greatest quantity would be adopted as representing market value.

This change is in exact accord with the provisions of article VII, 2 (b) of the GATT agreement.

Proposed changes in the definition of United States value as the first alternate to be used where export value cannot be found are of direct and immediate concern to this industry.

Under paragraphs 27 and 28 covering coal-tar products, ad valorem duties are required to be based on the American selling price of competitive products. but if such American selling price cannot be determined for any product, the law provides assessment shall be made on the basis of United States value. United States value is also applied to some of the non-coal-tar products produced in this industry, for which a foreign or export value does not exist.

Under present law, United States value is defined with allowances made for a commission not exceeding 6 percent, if any has been paid or agreed to be paid on merchandise secured otherwise than by purchase. If merchandise is secured by purchase, then the law provides for allowance of general expenses not to exceed 8 percent and profit not to exceed 8 percent.

The proposed changes in definitions of terms referred to in discussion of export value would apply also to United States value as a base for duty. H. R. 6040 would further amend the definition of United States value by removing any limitation whatever on the amount of commission which might be deducted. Elimination of this percentage limitation might well result in establishment of commission rates on the part of foreign consignors for the purpose of securing the largest deduction possible in the calculation of United States values.

The bill apparently makes some effort to control such a manipulation in the provision found in subdivision (g) on pages 8 and 9, providing that transactions between certain related persons may be disregarded if the amount involved is found to not fairly reflect usual transactions. Nevertheless, the opportunity would seem to exist for widespread possible evasion.

H. R. 6040 would remove entirely the existing limitation of 8 percent on the amount of profit and of 8 percent on the amount of general expenses which might

be deducted in calculation of United States value and would fix no limitation whatever on such amounts. This again is likely to result in substantial reductions in dutiable values on a number of commodities.

The bill, in subdivision (c) (3) furthermore would permit deduction in calculation of United States value of Federal excise taxes imposed on wholesale transactions in the United States, a practice not permitted under present law. The effect, therefore, is to permit taxes to be deducted which are not included as part of United States value—another lowering of the duty value base.

Cost of production, or constructed value, the final possible dutiable base, would be changed under the proposed bill by deletion of minimum additions now required for general expenses and profit. Under present law, the addition for overhead must be not less than 10 percent of the cost for material and fabrication, and the amount of profit to be added must be not less than 8 percent of the cost of the sum for materials and fabrication and overhead—a further change, the inevitable result of which must be to lower the possible base for application of duties.

The definition of so-called constructed value would be further changed by providing that the cost of material should not include any internal tax applicable in the country of exportation which is remitted or refunded upon exportation of articles in which the materials are used. This provision is in accord with the GATT agreement, article VII, 3.

[U. S. Department of Commerce, Bureau of the Census, Washington 25, D. C.]

FOREIGN TRADE REPORT

Values for Certain United States General Imports of Synthetic Organic Chemicals (Excluding Imports of Coal Tar Products) Dutiable at an Ad Valorem or Compound Rate of Duty, by Valuation Basis Under Section 402 of the Tariff Act of 1930 and Under the Proposed Revision of Section 402 in H. R. 6584

(The information on the values and the valuation basis under sec. 402 of the Tariff Act of 1930 and under the proposed revision of sec. 402 in H. R. 6584 presented in this report was obtained from Bureau of Customs records based on a 10 percent random sample of all dutiable entries filed at the port of New York in alternate months of 1952.)

The data shown in the statistical tables in this report are those contained in a special report prepared on a cost basis in February 1954 by the Bureau of the Census for a subscriber outside the Government. This report also contains a more detailed explanation of how the data were derived.

COVERAGE OF IMPORT STATISTICS

The import statistics include Government as well as nongovernment shipments of merchandise from foreign countries to the United States. However, American goods returned by the United States Armed Forces for their own use are excluded. Shipments into the United States from its Territories and possessions and shipments between the Territories and possessions are not reported as United States imports, but imports from Alaska, Hawaii, and Puerto Rico from foreign countries are considered to be United States imports and are included in this report. Merchandise shipped through the United States in transit from one foreign country to another is not reported as imports. In general, the import statistics are a complete record of merchandise which moves into the United States from foreign countries (except for intransit shipments), but there are some exclusions of items of relatively small importance in terms of total value such as gifts valued at less than $100.

Import statistics are usually compiled on an import-for-consumption or general-import basis. Imports for consumption consist of merchandise entered into United States consumption channels, i. e., merchandise released from customs custody immediately upon arrival, merchandise entered into bonded manufacturing warehouses (other than smelting and refining warehouse), merchandise withdrawn from bonded storage warehouse for release into domestic-consumption channels, and imported ores and crude metals which have been processed in bonded smelting warehouse. General imports represent total arrivals of imported goods (except for intransit shipments), i. e., merchandise released from

customs custody immediately upon arrival, plus merchandise entered into bonded-storage warehouse, bonded-manufacturing warehouse, and bonded-smelting-and-refining warehouse, immediately upon arrival.

SAMPLING OF SHIPMENTS OF $250 OR LESS

As described in the February 1954 issue of Foreign Trade Statistics Notes, effective with the January 1954 statistics, the values for immediate consumption shipments valued $250 or less, whether filed on formal or informal entries, are estimated from a 5 percent probability sample. These estimated values are excluded from the detailed commodity statistics and are presented in the monthly data in terms of commodity subgroups (groupings of commodities), and in terms of countries, customs districts, and economic classes, without cross classification (i. e., subgroup by country, country by customs district, etc.).

Prior to January 1954, informal entries were excluded from the import statistics and effective with July 1953, the regular schedule A commodity statistics excluded under $100 shipments filed on formal immediate consumption entries.

SOURCE OF INFORMATION

The source of information for all of the imports included in this report, is the import entry (various customs forms), which importers are required to file with collectors of customs for each shipment arriving in the United States.

VALUATION

The values are in general based on market or selling price, and are in general f. o. b. the exporting country. (Transportation costs to the United States may inadvertently be included in the case of merchandise which is not subject to an import duty based on value.) United States import duties are excluded.

COMMODITY INFORMATION

Commodity information is generally reported according to the classifications established in Schedule A, Statistical Classification of Commodities Imported into the United States, and is reported in the order of the numbered classifications in that schedule.

COUNTRY OF ORIGIN

The country of origin is defined as the country where the merchandise was grown, mined, or manufactured. In the event the importer cannot readily obtain information as to the country of origin for a shipment, it is credited, for statistical purposes, to the country of shipment. Countries reported by the importer and included in the statistics as country of origin may actually represent shipment instead of origin for merchandise which is transshipped before it reaches the United States. Countries are reported as defined in schedule C, Classification of Country Designations Used in Compiling the United States Foreign Trade Statistics.

SOURCES OF FURTHER INFORMATION ABOUT IMPORT STATISTICS

A complete discussion of the compilation procedures and coverage for import statistics, will be found in the foreword to the latest edition of Foreign Commerce and Navigation of the United States. Regular subscribers to FT reports are automatically supplied with copies of Foreign Trade Statistics Notes, a monthly publication containing information of value to users of foreign trade statistics. A catalog of United States Foreign Trade Statistical Publications is also available. Free copies of the foreword and the catalog are available upon request to the Bureau of the Census.

GENERAL EXPLANATION

Source

This report covers imports of synthetic organic chemicals dutiable at ad valorem or compound rates of duty, excluding coal-tar products, which were included in a 10 percent random sample made by the Bureau of Customs of all dutiable imports entered at the port of New York in alternate months of 1952 (January, March, May, etc.). The Bureau of Customs study showed the import entry number, the invoice value, and the appraised value and valuation basis

(foreign market value, export value, etc.) under section 402 of the Tariff Act of 1930 and under the proposed revision of section 402 in H. R. 6584 for each importation included in the sample.

Selection of the data

Since the Bureau of Customs study did not show commodity descriptions for each importation in the above-described sample, the data included in this report was extracted from the customs study by first locating the entry numbers shown in the basic machine code listings of the Bureau of the Census for all months of 1952 for imports of commodities covering synthetic organic chemicals and then locating which of these entries fell in the customs sample for alternate months of 1952.

Schedule A commodity numbers used in this report

The schedule A, Statistical Classification of Commodities Imported Into the United States, commodity numbers used in the preparation of this report are listed below. Complete commodity descriptions for these commodities are presented in schedule A.

1250 780
2098 710
2220 470 (P)
2220 490 (P)
2260 280
2330 100
8110 120
8130 090
8130 100
8130 300
8130 630
8130 640
8130 860
8130 870
8130 900 (P)
8130 950 (P)
8170 000
8170 020
8170 030
8170 050
8170 090
8170 100
8170 120
8170 160
8170 180
8170 200
8170 250
8170 300
8170 400
8170 450
8170 500
8170 570
8170 580
8170 600
8220 480 (P)
8350 530
8350 600 (P)
8380 050
8380 225
8380 305
8380 470
8380 490
8380 930
8380 938
8380 939
8380 950 (P)
8722 100
8722 200
8722 600
8722 700
8722 810
8722 870
8722 890 (P)

These schedule A commodity classifications represent those classes, for imports dutiable at ad valorem or compound rates of duty, previously determined by other Government agencies and the subscriber as covering imports of synthetic organic chemicals. For those commodities which bear the symbol (P) immediately after the commodity number (indicating that only a part of the entire commodity may cover imports of synthetic organic chemicals) only the data covering imports of synthetic organic chemicals, as determined by the Tariff Commission on the basis of import entry commodity descriptions, were used. For all other commodities all the imports in the classification were used. The appraised values for each of these two categories of commodities shown in the customs study and reflected in the data for the 66 entries shown in this report are as follows:

Description	Number of entries	Value appraised under sec. 402 of Tariff Act of 1930	Value appraised under proposed revision of sec. 402 in H. R. 6584
Schedule A commodities for which all data were used	31	$144,830	$132,284
Schedule A commodities for which only part of data were used	35	336,777	316,390
Total	66	481,607	448,674

Values used in this report

The values used in this report were obtained from the previously described Bureau of Customs study which showed the invoice value and the appraised value and valuation basis (foreign market value, export value, etc.) under

section 402 of the Tariff Act of 1930 and under the proposed revision of section 402 in H. R. 6584, as determined by customs, for each importation included in the sample.

Variability due to sampling

If the figures in the report are used to calculate the estimated percentage decrease in the appraised value which would result from the proposed revision of section 402 of the Tariff Act, the extent to which such a derived percentage could be affected by sampling variability should be considered.[1]

It was found that for the 66 entries in the special report identified as synthetic organic chemicals, the sampling variability is such that in 2 times out of 3 an estimated percentage calculated from the figures in the report to show the decrease in appraised value which could result from the proposed revision of section 402 of the Tariff Act might be as great as 3 percentage points. In other words, if the percentage figure had been derived from data based on an examination of all the New York entries filed during the alternate months, instead of the 10 percent sample used in the customs study, the chances are 2 out of 3 that the estimated 7-percent decrease which can be derived from the data for the 66 entries in the report would have been between 7 percent plus 3 percentage points and 7 percent less 3 percentage points. Thus a derived estimated percentage figure of 7 percent might be as low as 4 percent or as high as 10 percent.

It was found that for the 31 entries which were appraised on the basis of foreign market value, of the 66 entries, the sampling variability is such that in 2 times out of 3 an estimated percentage calculated from the figures in the report show the decrease in appraised value which could result from the proposed revision of section 402 of the Tariff Act might be as great as 4 percentage points. In other words, if the percentage figure had been derived from data based on an examination of all the New York entries appraised on the basis of foreign market value filed during the alternate months, instead of the 10-percent sample as used in the customs study, the chances are 2 out of 3 that the estimated 12-percent decrease which can be derived from the data for the 31 entries in the report could have been between 12 percent plus 4 percentage points and 12 percent less 4 percentage points. Thus a derived estimated percentage figure of 12 percent might be as low as 8 percent or as high as 16 percent.

The derived estimated percentage decreases and their range are applicable to only the figures presented in the special report for imports through the port of New York based on the 10-percent sample of alternate months' entries. The derived estimated percentage decreases and the ranges are not directly applicable to, and may not be representative of, imports not covered by this report, for example—

1. United States imports of synthetic organic chemicals through all ports or through ports other than the port of New York.
2. United States imports of any other commodity or groups of commodities through all or any port.
3. Imports of any commodities (including synthetic organic chemicals) during any period not covered by the report.

Value and valuation basis under existing sec. 402 of the Tariff Act of 1930

Total number of entries	66
Total invoice value	$434, 864
Total appraised value	[1] $481, 607
Foreign market value:	
Number of entries	31
Value	[1] $255, 279
Export value:	
Number of entries	22
Value	$76, 902
Cost of production:	
Number of entries	12
Value	$113, 249

[1] Information on the sampling variability was furnished to the subscriber subsequent to the release of the original report in February 1954. (May 28, 1954, for the 66 entries and June 24, 1954, for the 31 entries.)

[1] Data are as released to the subscriber. In preparing this report for general distribution a minor clerical error was found in the figures. This error affects the figures shown by no more than three-tenths of 1 percent.

Value and valuation basis under existing sec. 402 of the Tariff Act of 1930—Con.

United States value:
- Number of entries 1
- Value $36,177

Value and valuation basis under the proposed revision of sec. 402 in H. R. 6584

Total number of entries 66
Total appraised value .... [1] $448,674
Export value:
- Number of entries 57
- Value .... [1] $364,702

Contracted:
- Number of entries 9
- Value $83,972

[1] Information on the sampling variability was furnished to the subscriber subsequent to the release of the original report in February 1954. (May 28, 1954, for the 66 entries and June 24, 1954, for the 81 entries.)

Comparison of value and valuation basis under sec. 402 of the Tariff Act of 1930 and the proposed revision of sec. 402 in H. R. 6584

SEC. 402 OF THE TARIFF ACT OF 1930

Number of entries	Invoice value	Value basis	Value
31	$216,715	Foreign market value	[1] $255,279
22	72,463	Export value	76,902
12	111,597	Cost of production	113,249
1	34,089	United States value	36,177

PROPOSED REVISION OF SEC. 402 IN H. R. 6584

Number of entries	Value basis	Value
31	Export value	[1] $224,491
22	do	76,902
9	Constructed	83,972
3	Export value	29,227
1	do	34,082

[1] Data are as released to the subscriber. In preparing this report for general distribution a minor clerical error was found in the figures. This error affects the figures shown by no more than ³⁄₁₀ of 1 percent.

Value and valuation basis under existing sec. 402 of the tariff act of 1930 [1]

Total number of entries 13
Total invoice value $78,498
Total appraised value $87,100
Foreign market value:
- Number of entries 7
- Value $50,294

Export value:
- Number of entries 2
- Value $27,877

Cost of production:
- Number of entries 3
- Value $5,929

American selling price:
- Number of entries 1
- Value $3,000

[1] Separate data are provided for these importations since the merchandise was not described in sufficient detail to permit positive identification as a synethetic organic chemical. These data therefore may or may not cover imports of synthetic organic chemicals.

Value and valuation basis under the proposed revision of section 402 in H. R. 6584 [1]

Total number of entries	13
Total appraised value	$80,340
Export value:	
Number of entries	11
Value	$75,189
Constructed:	
Number of entries	1
Value	$2,151
American selling price:	
Number of entries	1
Value	$3,000

[1] Separate data are provided for these importations since the merchandise was not described in sufficient detail to permit positive identification as a synethetic organic chemical. These data therefore may or may not cover imports of synthetic organic chemicals.

Comparison of value and valuation basis under sec. 402 of the Tariff Act of 1930 and the proposed revision of sec. 402 in H. R. 6584 [1]

SEC. 402 OF THE TARIFF ACT OF 1930

Number of entries	Invoice value	Value basis	Value
7	$44,453	Foreign market value	$50,294
2	27,887	Export value	27,877
3	4,258	Cost of production	5,929
1	1,900	American selling price	3,000

PROPOSED REVISION OF SEC. 402 IN H. R. 6584

Number of entries	Value basis	Value
7	Export value	$43,934
2	do	27,877
2	do	3,378
1	Constructed	2,151
1	American selling price	3,000

[1] Separate data are provided for these importations since the merchandise was not described in sufficient detail to permit positive identification as a synthetic organic chemical. These data therefore may or may not cover imports of synthetic organic chemicals.

The CHAIRMAN. The next witness is Mr. Richard F. Hansen, of the Allied Chemical & Dye Corp.

Mr. Hansen, will you take a seat here, sir, and identify yourself?

STATEMENT OF RICHARD F. HANSEN, ASSISTANT TO THE PRESIDENT, ALLIED CHEMICAL & DYE CORP.

Mr. HANSEN. Mr. Chairman and members of the committee, my name is Richard F. Hansen. I am assistant to the president of Allied Chemical & Dye Corp.

We are told H. R. 6040 is intended to reduce uncertainties, confusion, and delays in the administration of our customs laws. In our opinion, this is a thoroughly desirable objective and one which should be welcomed on all sides. As businessmen, we would gladly subscribe to any reasonable measures to improve and increase the efficiency of government. For these reasons we are happy to support section 3, which would simplify currency conversion procedures; section 4, which would repeal obsolete provisions of customs laws; and section

5, which would direct the Secretary of the Treasury to study and make recommendations to provide for greater certainty, speed and efficiency in the enforcement of the Anti-Dumping Act.

Section 2 of the bill is of an entirely different character. While it would simplify valuation procedures, it is subject to two fundamental objections: (1) it would indiscriminately reduce the duties imposed on most categories of imports subject to ad valorem duties; and (2) it would contravene safeguards which this committee helped to incorporate into existing law for the protection of domestic industry.

I. Section 2 of H. R. 6040 would reduce duties on most classifications of imports subject to ad valorem duties.

As you know, the primary basis of valuation of articles subject to ad valorem duties under existing law is foreign value or export value, whichever is higher. Section 2 of H. R. 6040 would eliminate foreign value entirely as a basis of valuation and make export value the first and preferred method of valuation. Since many commodities have been and now are appraised on foreign value because it frequently is higher, the effect of section 2 would be to reduce the amount of the duties collected on such commodities just as effectively as if the applicable rates were reduced.

This result is confirmed by the Treasury Department survey, to which reference has previously been made. It indicates that average duties would be reduced on 68 out of 77 classifications of commodities included in the study. Attempt has been made to belittle these reductions on the ground that the changes are quite small on the average, that the overall average decrease in customs revenue collections would amount to only 2 percent, and that the loss of revenue protection is not significant as to any commodity group.

However, the average to which the Treasury Department refers represents merely a medial point between two extremes, a quotient obtained by dividing the sum total of many unequal figures by the number of those figures. Of necessity, the impact on many of the commodity classifications would exceed the average, while others would be affected less than the average. In fact, reductions in 4 of the 6 chemical commodity classifications exceed the average (2 percent), as shown by the following tabulation:

Chemical classifications:	*Percent reduction in duty*
Coal-tar products	4.52
Industrial chemicals	7.33
Pigments, paints, and varnishes	10.07
Soap and toilet preparations	10.92
Medicinals and pharmaceutical preparations	1.22
Explosives, fireworks, and ammunition	[1]

[1] No change.

Another, "Drugs, herbs, roots," and so forth, which includes a number of chemicals, would be reduced 15.39 percent.

But even this does not tell the complete story since the percentage decrease in revenue for each of these chemical classifications is itself an average which similarly is made up of reductions of greater and lesser magnitude. Just what individual chemical commodities were included in the survey, and which of them would be affected more or less than the average, the survey does not disclose. Whether the peril

point has been established (in proceedings unrelated to H. R. 6040) for any of the products comprising these classifications, and whether it too would be exceeded, we have no way of ascertaining.

A special study of chemical imports made by the Bureau of Census in February 1954, is more informative and reveals the effect of section 2 of H. R. 6040 on a wide variety of chemicals. It indicates that during the year 1952 (the most recent year for which data were then available) 53 percent by value of all synthetic organic chemicals (except coal-tar products) imported through the port of New York and subject to ad valorem rates of duty were appraised at foreign value, while only 16 percent were appraised at export value. Since foreign value was used only because it was higher than export value, this study indicates that the elimination of foreign value, as proposed in section 2, would reduce the value base, and hence the duty collections, on over half of all imports of synthetic organic chemicals other than coal-tar derivatives.

On the basis of this data, the Census Bureau calculated that the proposed revision of section 402 of the Tariff Act of 1930 would result in a decrease of 7 percent in average appraised value which, because of a sampling variability, might be as low as 4 percent or as high as 10 percent. For the same reason, a calculated reduction of 12 percent in appraised value of nearly half of the entries examined might be as low as 8 percent or as high as 16 percent.

Like the Treasury Department survey, this study did not identify the individual products covered, or disclose the basis on which each had been appraised, or would be appraised under the proposed revision of section 402 of the Tariff Act of 1930. However, the Treasury Department subsequently developed and tabulated all of this information for each of the products. This tabulation showed that a number of the products would not have been affected by the proposed change, but that the appraised value of many individual items would have been reduced, with corresponding reductions in duty. For example, on certain entries the appraised value would have been reduced substantially, as shown in the following table:

Imports:	Percent reduction in dutiable value
Ascorbic acid	24
Vitamin D_2	13
Vitamin B_1 hydrochloride	39
Theophyllinic compound	21
Cyanmethine	15
Polyethylene resin	14
Chloral hydrate	23

At this point, Mr. Chairman, I understand, that when Mr. Rose was testifying the other day that he discussed ascorbic acid said that according to information in his possession the rate on duty on ascorbic acid would have been reduced about 42 percent. It presumably was based upon the 1954 imports and involved different prices. However, I think it is important to insert that at this point.

In a general way this situation is revealed and confirmed by the Treasury's own figures. You have been told that in making its survey the Treasury made 19,908 recomputations of dutiable value. Testimony before the House Ways and Means Committee disclosed that of the 19,908 entries recomputed, 3,605—roughly one-fifth of the

total—resulted in changes in valuation and hence of duty. In releasing the results of the survey the Treasury announced that "practically all" of the changes were reductions. Putting these three sources of information together it becomes clear that the projection which it makes to arrive at the overall average decreases of 2.5 percent in value and 2 percent in duties results entirely from the much greater reductions which would be incurred by one-sixth of the entries.

This would indicate that average reductions on the commodities actually affected would be not 2.5 percent but 15 percent in value, and not 2 percent but 12 percent in duties. It would also mean that under section 2, protective duties on one-sixth of such commodities would be sacrificed, in greater or lesser degree, for the sake of simplification. In our opinion, this is not simplification but oversimplification. Clearly reductions of this magnitude are significant to the commodity groups involved, and doubly significant to each of the individual commodities most affected.

This data indicates not only what would have happened in the case of the specific imports studied, but also what could happen in the case of thousands of other products. It is a clear warning that section 2 of H. R. 6040 would do far more than merely simplify the administration of our customs laws.

To us it is inconceivable that the Congress would knowingly reduce the duties on thousands of commodities in this hit-or-miss fashion, in which the consequences would only be ascertained after the fact.

In our opinion, customs simplification should be accomplished without effecting such radical changes in duties established for the protection of domestic industry. Other and far preferable means are available for altering our tariff structure. Whatever method is adopted for simplification, the very least that should be done is to provide for simultaneous adjustment in the duties on items adversely affected to offset unavoidable reductions in dutiable values.

Senator MILLIKIN. Have you a proposed amendment to accomplish that?

Mr. HANSEN. Senator Millikin, we have not, other than to offer these suggestions. We labored long and tried to come up with something and were unable to find any specific amendment which did not lead us into complications elsewhere. And time did not permit us to work on it any longer.

Senator MILLIKIN. Thank you.

Mr. HANSEN. II. Section 2 of H. R. 6040 would contravene safeguards deliberately incorporated into existing law for the protection of domestic industry.

In connection with previous proposals which would or could affect tariff levels, this committee has established a fine record of providing safeguards for the protection of domestic industry which is, of course, the purpose of our tariff laws.

You will recall the history of the Customs Simplification Act of 1954, first in the form of H. R. 9476 and later H. R. 10009. In reporting out the latter bill, this committee referred to the amendments which it had made to the bill as passed by the House and stated:

> The amendments make plain that it is the intent of the committee that the Tariff Commission shall submit recommendations to accomplish desirable simplification of classifications; that any changes in rates of duty is not to be recommended unless in the opinion of the Commission desirable simplification cannot

be accomplished without such tariff rate change. Such recommendations involving any changes of rates shall not be made until after adequate public hearings of the affected industries have been held by the Commission for the purpose of determining the effect of such tariff rate changes on such industries.

More recently this committee made a number of changes in H. R. 1, as passed by the House, to safeguard domestic industry by provisions designed to guarantee that the authority therein granted would be used gradually, selectively, and reciprocally. In addition, it added a number of provisions clarifying and fortifying the peril-point and escape-clause procedures. In so doing, the committee emphasized in its report to the Senate that all authority granted to the President to reduce tariff rates—

* * * is subject to all requirements of existing law for full public notice (including a list of products upon which concessions might be made by the United States), public hearings, peril-point determinations, and escape-clause procedures (as modified by the committee).

Section 2 of H. R. 6040 would circumvent virtually every one of these safeguards. It would subject many products to double jeopardy. Duties reduced by it would be subject to further reduction under H. R. 1. There would be no notice or list of products on which duties would be reduced, and no provision for hearings. The reductions would be automatic and immediate. They would go into effect without the protection of prior peril-point determinations and in many cases they would not even be subject to subsequent escape-clause procedure. The resultant duties would have no necessary relation to the necessities of the case. They would be established in the interests of simplification.

The effect of section 2 on peril-point determinations heretofore made should be carefully noted. As this committee knows, a peril-point determination is a finding made by the Tariff Commission, after notice and hearings, of the level beyond which a rate of duty—and consequently the duty itself—on a particular product may not be reduced without causing or threatening serious injury to domestic industry or portion thereof producing like or directly competitive products. If any such peril-points have been determined, there is nothing to prevent section 2 from reducing duties beyond such peril points.

The admonition in subsection (e) of section 2, line 16, page 10, that, in connection with tariff negotiations and peril-point and escape-clause proceedings, the executive branch of the Government and the Tariff Commission "shall give full consideration to any reduction in the level of tariff protection" resulting from the proposed amendment of the valuation provisions, does not answer the point.

In the first place, it merely requires that "full consideration" be given.

In the second place, if existing peril points are exceeded by reductions which flow from passage of H. R. 6040, there may be no occasion for the Commission to consider the injury which has resulted therefrom. If the duties so reduced do not become the subject of negotiation for a trade agreement, the peril-point procedure does not come into play and neither the executive branch nor the Commission will have occasion to consider it in that connection.

Representatives of the chemical industry have consistently maintained that duty reductions should be made only with careful selectivity, after a study of the possible and probable effects, and that they should be applied gradually so that their actual effects could be deter-

mined and corrected, if necessary, before too great harm could result. We believe these principles should apply in any legislation affecting the amounts of duty collected on specific commodities, whether resulting from changes in valuation as in H. R. 6040, or from changes in rates as provided in H. R. 1.

Mr. Chairman, I happen to be a fair amateur cabinetmaker. It is a hobby that I enjoy a great deal. Whatever ability I have I owe an excellent craftsman and a fine teacher who taught me most of what I know. Forty years ago he told me that the most valuable lesson I would ever learn would be to always measure twice and cut once. I am here to say that he was absolutely correct and that most of the mistakes I have made have been through failure to follow his advice. A hole that is too large is hard to plug, and a plank that is too short is hard to lengthen.

I am here to say that I think that lesson is just as applicable to the tariff structure of the country and the cutting of tariff rates. We have not measured this change, this reduction that is proposed in H. R. 6040. We do not know what it would lead to. In my opinion, it would behoove us to find out before we cut again.

That completes my statement and I thank you for listening to me.

The CHAIRMAN. Thank you, Mr. Hansen. That was a very admirable statement.

Any questions?

Senator MILLIKIN. No questions.

The CHAIRMAN. We will recess.

(Whereupon at 12:55 p. m. the committee recessed.)

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