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DEFINING PARTS OF CERTAIN TYPES OF FOOTWEAR FOR TARIFF PURPOSES

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Mr. BYRD, from the Committee on Finance, submitted the following

REPORT

[To accompany H. R. 9291]

The Committee on Finance, to whom was referred the bill (H. R. 9291) to define parts of certain types of footwear, having considered the same, report favorably thereon with an amendment and recommend that the bill, as amended, do pass.

COMMITTEE AMENDMENT

The House-passed bill was amended by the Finance Committee to provide for a possible later effective date. The bill as referred provided for an effective date to be "specified by the President in a notice to the Secretary of the Treasury" but in any event not later than July 1, 1958. The committee amendment provided that the effective date should be not later than September 1, 1958.

PURPOSE

The purpose of H. R. 9291 is to clarify and define certain sections of the tariff law pertaining to footwear; in particular those sections relating to rubber-soled footwear with uppers of fabric or related material. Its adoption will result in some revision of the paragraph of the Tariff Act (par. 1530 (e)) relating to the importation of such footwear, by broadening its scope so as to include rubber-soled footwear with fabric uppers whether or not such footwear includes patches, tongues, eyelets, or similar parts of leather. Duties on rubber-soled footwear are somewhat higher than the import duties on leather types and these higher duties have been avoided in some instances by the addition of sufficient small amounts of leather to put them in the leather-shoe category for import purposes, although the basic nature and function of the shoe remains unchanged.

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GENERAL STATEMENT

Rubber-soled footwear with uppers of fabric and certain other materials, including tennis shoes, "sneakers," etc., was originally dutiable under paragraph 1530 (e) of the Tariff Act of 1930 at the rate of 35 percent ad valorem. In 1933 the Tariff Commission, after investigation under section 336 of the tariff act (the flexible tariff provision) recommended to the President that such rubber-soled footwear be valued on the basis of "American selling price" under section 402 (g), Tariff Act of 1930, in order to equalize the differences between the costs of production of such footwear in the United States and in the principal competing countries. The President proclaimed the recommended change in the basis of valuation in Presidential Proclamation 2027 of February 1, 1933.

Public Law 479 was enacted in 1954 in order to close a loophole in the law through which foreign producers, among other things, undertook to insert a leather "filler" between the insole and the outsole of the tennis-shoe type of footwear, so as to produce shoes with soles in chief value of leather, rather than wholly or in chief value of rubber or substitutes for rubber, and, therefore, not within the Presidential proclamation.

Pursuant to Presidential Proclamation No. 3105 of July 22, 1955, issued as a result of trade-agreement negotiations, the rate of duty on rubber-soled footwear under paragraph 1530 (e) of the Tariff Act was modified to 20 percent on the "American selling price".

Recently there has been an avoidance of duties under paragraph 1530 (e) on the "American selling price" by the addition to the uppers of tongues, eyelet reinforcements, ankle patches, etc., of leather, thus making the footwear either (*a*) in chief value of leather as a whole, or (*b*) with uppers in chief value of leather.

In addition to the footwear considered to be "rubber soled" under paragraph 1530 (e) and the Presidential proclamation of 1933, the 1954 legislation provided that such footwear should include

> footwear of which a major portion, in area, of the basic wearing surface of the outer soles (that part of the article, not including the heel, that is designed to be the basic wearing surface and to resist wear on contact with any surface) is composed of india rubber or any substitute for rubber, or both.

The phrase "footwear having soles as herein described" in the bill H. R. 9291 refers to footwear with soles wholly or in chief value of india rubber or substitutes for rubber and to footwear of which a major portion, in area, of the basic wearing surface of the outer soles (that part of the article, not including the heel, that is designed to be the basic wearing surface and to resist wear on contact with any surface) is composed of india rubber or any substitute for rubber, or both.

The current avoidance of duties has occurred because the existing paragraph 1530 (e) provides for uppers in chief value of the designated materials. The bill adds to the chief value of the entire upper test a new alternative test of "composed in greater area of the outer surface."

In computing "greater area of the outer surface" consideration is given not only to the area of the upper which is exposed to view but as well to that which is turned under at the edges, that which is

covered, for example, by rubber toe-caps, rubber strips next to the sole, ankle patches, eyelet strips, etc., and all such portion of the upper as serves to attach the upper to the sole. Thus, if the proportion of the outer surface of the upper (computed in the manner described in the preceding sentence) which is composed of textiles and other materials named in the bill (including substitutes for such materials) is greater in area than the proportion of such outer surface (as so computed) which is composed of any single material not named in the bill, then the shoe has the upper provided for in the bill, irrespective of what material comprises the component material in chief value of the upper as a whole and irrespective of the number of materials comprising the upper as a whole.

The phrase "shall be deemed to have uppers in chief value of the material as enumerated in this paragraph" in the bill means that the footwear will be treated as having uppers in chief value of wool, cotton, ramie, animal hair, fiber, rayon or other synthetic textile, silk, or substitutes for any of the foregoing, the materials enumerated in paragraph 1530 (e), Tariff Act of 1930, as amended.

No reduction in area of the entire outer surface or any part thereof is made for the interstices in the material or materials of which an upper may be composed in whole or in part. Thus, for example, in the case of loosely woven uppers and uppers which are patterned with interstices, openings, or punched-out areas, all interstices and openings are included in computing both the total area of the outer surface and the "greater area of the outer surface." The material of which the total area or any part thereof is comprised shall include all openings, interstices, or punched-out portions in that area. Where the upper, however, is made up of straps or cords, in the manner of a sandal, only the area of the straps or cords will be included. Shoe laces and conventional tongues are not included in the "greater area of the outer surface."

The purpose of section 2 (a) of the bill is to permit any future modification of the duty on rubber-soled footwear with textile uppers pursuant to trade-agreements legislation to apply without question to the type of footwear which will be added to this classification by the amendment in the present bill. This would be accomplished by stating that the amendment would be considered, for the purposes of section 350 of the Tariff Act, as having been in effect since the original enactment of that section.

Section 2 (b) would delay the entry into force of the amendment to give the President a period during which to negotiate with other countries parties to such trade agreements in order to obtain a modification or termination of any international obligations of the United States with which the increase in duty made by the amendment might conflict. Provision is made for the entry into force of the amendment on a date to be specified by the President to the Secretary of the Treasury, and in any event not later than September 1, 1958. A comparable provision was contained in the 1954 legislation increasing the duty on certain rubber-soled footwear (68 Stat. (pt. 1) 454).

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics, existing law in which no change is proposed is shown in roman):

PARAGRAPH 530 (e) OF THE TARIFF ACT OF 1930, AS AMENDED

TITLE I—DUTIABLE LIST

SECTION 1. That on and after the day following the passage of this Act, except as otherwise specially provided for in this Act, there shall be levied, collected, and paid upon all articles when imported from any foreign country into the United States or into any of its possessions (except the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, and the island of Guam) the rates of duty which are prescribed by the schedules and paragraphs of the dutiable list of this title, namely:

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SCHEDULE 15.—SUNDRIES

Par. 1530. (a) * * *

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(e) Boots, shoes, or other footwear (including athletic or sporting boots and shoes), made wholly or in chief value of leather, not specially provided for, 20 per centum ad valorem; boots, shoes, or other footwear (including athletic or sporting boots and shoes), the uppers of which are composed wholly or in chief value of wool, cotton, ramie, animal hair, fiber, rayon or other synthetic textile, silk, or substitutes for any of the foregoing, whether or not the soles are composed of leather, wood, or other materials, 35 per centum ad valorem. For the purposes of this paragraph and any existing or future proclamation of the President relating thereto, footwear of which a major portion, in area, of the basic wearing surface of the outer soles (that part of the article, not including the heel, that is designed to be the basic wearing surface and to resist wear on contact with any surface) is composed of india rubber or any substitute for rubber, or both, shall be deemed to have soles wholly or in chief value of india rubber or substitutes for rubber, *and footwear having soles as herein described and with uppers composed in greater area of the outer surface of wool, cotton, ramie, animal hair, fiber, rayon or other synthetic textile, or silk, including substitutes for or combinations of any of the foregoing (but excluding any other material superimposed), shall be deemed to have uppers in chief value of the material as enumerated in this paragraph.*

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