FLORENCE AGREEMENT IMPLEMENTATION LEGISLATION

1762 -4

HEARING

BEFORE THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

EIGHTY-NINTH CONGRESS

SECOND SESSION

ON

H.R. 8664

AN ACT TO IMPLEMENT THE AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS, OPENED FOR SIGNATURE AT LAKE SUCCESS ON NOVEMBER 22, 1950, AND FOR OTHER PURPOSES

SEPTEMBER 30, 1966

Printed for the use of the Committee on Finance

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FLORENCE AGREEMENT IMPLEMENTATION LEGISLATION

FRIDAY, SEPTEMBER 30, 1966

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C.

The committee met, pursuant to notice, at 9 a.m., in room 2221, New Senate Office Building, Senator Eugene J. McCarthy presiding.

Present: Senators Long (chairman), McCarthy, Douglas, Williams, and Dirksen.

Senator MCCARTHY. The committee will come to order.

The Cultural Representative of the Administration is not here yet, it is a little bit early. I think we had better start, though, in view of the fact that this agreement was negotiated in 1950 and approved in 1960, and if we do not act on it in this committee today it probably won't be acted upon in this session of Congress.

(The bill, H.R. 8664, follows:)

[H.R. 8664, 89th Cong., 2d sess.]

AN ACT To implement the Agreement on the Importation of Educational, Scientific, and Cultural Materials, opened for signature at Lake Success on November 22, 1950, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the "Educational, Scientific, and Cultural Materials Importation Act of 1966".

(b) PURPOSE.—The purpose of this Act is to enable the United States to give effect to the Agreement on the Imporation of Educational, Scientific and Cultural Materials, opened for signature at Lake Success on November 22, 1950, with a view to contributing to the cause of peace through the freer exchange of ideas and knowledge across national boundaries.

(c) AMENDMENT OF TARIFF SCHEDULES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, an item or other provision, the reference shall be considered to be made to an item or other provision of the Tariff Schedules of the United States (19 U.S.C., sec. 1202).

SEC. 2. EFFECTIVE DATE.

This Act shall become effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after a date to be proclaimed by the President, which date shall be within a period of three months after the date on which the United States instrument of ratification of the Agreement on the Importation of Educational, Scientific and Cultural Materials shall have been deposited with the Secretary-General of the United Nations.

SEC. 3. BOOKS, PAMPHLETS, AND OTHER PRINTED AND MANUSCRIPT MATERIAL.

(a) BOOKS.—

(1) Schedule 2, part 5, is amended—

(A) by striking out items 270.15 to 270.40, inclusive, and inserting in lieu thereof the following:

"	270.25	Books not specially provided for	Free	Free	"

(B) by striking out the article description immediately preceding item 270.45 and inserting in lieu thereof "Printed catalogs relating chiefly to current offers for the sale of United States products:",

(C) by striking out the item numbers and the article descriptions in items 274.75 to 274.90, inclusive, and the article descriptions preceding items 274.75 and 274.85, and inserting in lieu thereof the following:

"Printed matter not specially provided for:

274.73 Suitable for use in the production of such books as would themselves be free of duty . . . . . .

Other:

Printed on paper in whole or in part by a lithographic process:

274.75 Not over 0.020 inch thick . . . . . .

274.80 Over 0.020 inch thick . . . . . .

Other:

274.85 Susceptible of authorship . . . . . .

274.90 Other . . . . . ."

(D) by inserting "Free" in each of the rate columns in item 274.73, added by subparagraph (C).

(2) Item 737.52 is amended to read as follows:

"	737.52	Toy books, including coloring books and books the only reading matter in which consists of letters, numerals, or descriptive words	Free	Free	"

(b) PERIODICALS.—Schedule 2, part 5, is amended by striking out items 270.60 and 270.65 and the article description immediately preceding item 270.60 and inserting in lieu thereof the following:

"	270.63	Periodicals	Free	Free	"

(c) TOURIST LITERATURE, ETC.—The article description in item 270.70 is amended to read as follows: "Tourist and other literature (including posters), containing geographic, historical, hotel, institutional, time-table, travel, or similar information, chiefly with respect to places, travel facilities, or educational opportunities outside the customs territory of the United States".

(d) MUSIC IN BOOKS OR SHEETS.—Schedule 2, part 5, is amended by striking out items 273.05 to 273.20, inclusive, and the article descriptions immediately preceding items 273.05 and 273.15, and inserting in lieu thereof the following:

"	273.10	Music in books or sheets	Free	Free	"

(e) MAPS, ATLASES, AND CHARTS.—Schedule 2, part 5, is amended—

(1) by striking out item 273.25 and the article description immediately preceding it,

(2) by striking out the item number and article description in item 273.30 and inserting in lieu thereof "273.30 | Printed globes", and

(3) by striking out items 273.35 and 273.40 and the article description immediately preceding item 273.35 and inserting in lieu thereof the following:

"	273.35	Maps, atlases, and charts (except tourist and other literature provided for in item 270.70)	Free	Free	"

SEC. 4. WORKS OF ART; ANTIQUES.

(a) PAINTINGS, ETC.—Schedule 7, part 11, subpart A, is amended by striking out items 765.05 and 765.07 and the article description immediately preceding item 765.05 and inserting in lieu thereof the following:

"	765.03	Paintings, pastels, drawings, and sketches, all the foregoing, whether or not originals, executed wholly by hand	Free	Free	"

(b) ANTIQUES.—Schedule 7, part 11, subpart B, is amended by striking out so much of the article description immediately preceding item 766.20 as precedes "all the foregoing" and inserting in lieu thereof "Ethnographic objects made in traditional aboriginal styles and made at least 50 years prior to their date of entry; and other antiques made prior to 100 years before their date of entry;".

SEC. 5. DOCUMENTS OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS.

The article description in item 840.00 is amended—

(1) by inserting "(including exposed and developed motion picture and other films, recorded video tapes, and sound recordings)" immediately after "documents", and

(2) by striking out "wholly" and inserting in lieu thereof "essentially".

SEC. 6. CERTAIN ARTICLES IMPORTED BY EDUCATIONAL, SCIENTIFIC, AND OTHER SPECIFIED INSTITUTIONS.

(a) GENERAL.—Schedule 8, part 4, is amended—

(1) by striking out "plans" in headnote 3 and inserting in lieu thereof "plans, and reproductions thereof,",

(2) by striking out "institution established solely" in the article description immediately preceding item 851.10 and inserting in lieu thereof "nonprofit institution established", and

(3) by striking out so much of the article description in item 851.10 as precedes "all the foregoing" and inserting in lieu thereof "Drawings and plans, reproductions thereof, engravings, etchings, lithograph, woodcuts, globes, sound recordings, recorded video tapes, and photographic and other prints,".

(b) PATTERNS AND MODELS.—The article description in item 851.50 is amended to read as follows: "Patterns and models exclusively for exhibition or educational use at any such institution".

(c) SCIENTIFIC INSTRUMENTS AND APPARATUS.—Schedule 8, part 4, is amended—

(1) by inserting after item 851.50 the following:

"

	Articles entered for the use of any nonprofit institution, whether public or private, established for educational or scientific purposes:		
851.60	Instruments and apparatus, if no instrument or apparatus of equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used is being manufactured in the United States (see headnotes 6 to this part).	Free	Free
851.65	Repair components for instruments or apparatus admitted under item 851.60	Free	Free

"

(2) by striking out headnote 1 and inserting in lieu thereof the following:

"1. Except as provided in items 850.50 and 852.20, or as otherwise provided for in this headnote, the articles covered by this part must be exclusively for the use of the institutions involved, and not for distribution, sale, or other commercial use within 5 years after being entered. Articles admitted under any items in this part may be transferred from an institution specified with respect to such articles to another such institution, or may be exported or destroyed under customs supervision, without duty liability being incurred. However, if any such article (other than an article provided for in item 850.50 or 852.20) is transferred other than as provided by the preceding sentence, or is used for commercial purposes, within 5 years after being entered, the institution for which such article was entered shall promptly notify customs officers at the port of entry and shall be liable for the payment of duty on such article in an amount determined on the basis of its condition as imported and the rate applicable to it (determined without regard to this part) when entered. If, with a view to a transfer (other than a transfer permitted by the second sentence) or the use for commercial purposes of an instrument or apparatus, a repair component admitted under item 851.65 has been assembled into such instrument or apparatus, such component shall, for purposes of the preceding sentence, be treated as a separate article.",

(3) by inserting the following headnote immediately after headnote 5:

"6. (a) The term "instruments and apparatus (item 851.60) embraces only instruments and apparatus provided for in—

"(i) schedule 5: items 535.21–.27 and subpart E of part 2; and items 547.53 and 547.55 and subpart D of part 3;

"(ii) schedule 6: subpart G of part 3; subparts A and F and items 676.15, 676.20, and 678.50 of part 4; part 5; and items 694.15, 694.50, and 696.60 of part 6; and

"(iii) schedule 7: part 2 (except subpart G); and items 790.59–.62 of subpart A of part 13;

but the term does not include materials or supplies, nor does it include ordinary equipment for use in building construction or maintenance or for use in supporting activities of the institution such as its administrative offices or its eating or religious facilities.

"(b) An institution desiring to enter an article under item 851.60 shall make application therefor to the Secretary of the Treasury including therein (in addition to such other information as may be prescribed by regulation) a description of the article, the purposes for which the instrument or apparatus is intended to be used, the basis for the institution's belief that no instrument or apparatus of equivalent scientific value for such purposes is being manufactured in the United States, and a statement that either the institution has alerady placed a bona fide order for the instrument or apparatus or has a firm intention, in the event of favorable action on its application, to place such an order on or before the final day specified in paragraph (d) of this headnote for the placing of an order. If the application is made in accordance with the applicable regulations, the Secretary of the Treasury shall promptly forward copies thereof to the Secretary of Commerce and to the Secretary of Health, Education, and Welfare. If, at any time while its application is under consideration by the Secretary of Commerce or by the Court of Customs and Patent Appeals on appeal from a finding by him, an institution cancels an order for the instrument or apparatus to which its application relates or ceases to have a firm intention to order such instrument or apparatus, it shall promptly so notify the Secretary of Commerce or such Court, as the case may be.

"(c) Upon receipt of the application the Secretary of Commerce shall, by publication in the Federal Register, afford interested persons and other Government agencies reasonable opportunity to present their views with respect to the question whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. After considering any views presented pursuant to this paragraph, including any written advice from the Secretary of Health, Education, and Welfare, the Secretary of Commerce shall determine whether an instrument or apparatus of equivalent scientific value to such article, for the purposes for which the instrument or apparatus is intended to be used, is being manufactured in the United States. Each finding by the Secretary of Commerce under this paragraph shall be promptly reported to the Secretary of the Treasury and to the applicant institution. Each such finding shall be published in the Federal Register, with a statement of the reasons therefor, on or before the ninetieth day following the date on which the application was made to the Secretary of the Treasury in accordance with applicable regulations.

"(d) Item 851.60 shall not apply with respect to any instrument or apparatus unless a bona fide order therefor has been placed, by the institution making the application under this headnote, or or before the sixtieth day following the day on which a finding of the Secretary of Commerce favorable to the institution has become final and conclusive.

"(e) Within 20 days after the publication in the Federal Register of a finding by the Secretary of Commerce under paragraph (c) of this headnote, an appeal may be taken from said finding only upon a question or questions of law and only to the United States Court of Customs and Patent Appeals—

"(i) by the institution which made the application under paragraph (b) of this headnote,

"(i)) by a person who, in the proceeding which led to such findings, represented to the Secretary of Commerce in writing that he manufactures in the United States an instrument or apparatus of equivalent scientific value for the purposes for which the article to which the application relates is intended to be used,

"(iii) by the importer thereof, if the article to which the application relates has been entered at the time the appeal is taken, or

"(iv) by an agent of any of the foregoing.

Any appeal under this paragraph shall receive a preference over all other matters before the Court and shall be heard and determined as expeditiously as the Court considers to be practicable. The judgment of the Court shall be final.

"(f) The Secretary of the Treasury and the Secretary of Commerce may prescribe joint regulations to carry out their functions under this headnote.", and

(4) by striking out "and electron microscopes," in item 854.10.

SEC. 7. SCIENTIFIC SPECIMENS.

Schedule 8 is amended by striking out item 852.10 and the article description immediately preceding it, and by inserting after item 870.25 the following new item:

"	870.27	Specimens of archeology, mineralogy, or natural history (including specimens of botany or zoology other than live zoological specimens) imported for any public or private scientific collection for exhibition or other educational or scientific use, and not for sale or other commercial use.....	Free	Free ,"

SEC. 8. CONFORMING AMENDMENTS.

(a) PRINTED AND MANUSCRIPT MATERIAL.—The title of schedule 2, part 5, is amended to read as follows:

"PART 5.—BOOKS, PAMPHLETS, AND OTHER PRINTED AND MANUSCRIPT MATERIAL".

(b) SPECIAL CLASSIFICATION PROVISIONS.—Schedule 8 is amended—

(1) by striking out "items 806.10, 806.20," in headnote 2 to part 1, subpart B, and inserting "items 806.20" in lieu thereof.

(2) by striking out item 806.10,

(3) by striking out so much of the article description in item 830.00 as precedes "and exposed photographic films" and inserting in lieu thereof "Engravings, etchings, photographic prints, whether bound od unbound, recorded video tapes,",

(4) by inserting "and recorded video tapes" after "recordings" in item 831.00, and

(5) by striking out so much of the article description in item 850.10 as precedes "all the foregoing" and inserting in lieu thereof "Drawings, engravings, etchings, lithographs, woodcuts, sound recordings, recorded video tapes, and photographic and other prints,".

(c) JURISDICTION AND PROCEDURE OF COURT OF CUSTOMS AND PATENT APPEALS.—

(1) Chapter 93 of title 28, United States Code, is amended by adding after section 1543 the following new section:

"§ 1544. Certain findings by Secretary of Commerce

"The Court of Customs and Patent Appeals shall have jurisdiction to review, by appeal on questions of law only, findings of the Secretary of Commerce under headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States (relating to importation of instruments or apparatus)."

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following:

"1544. Certain findings by Secretary of Commerce."

(3) Section 2602 of title 28, United States Code, is amended by adding at the end thereof the following new sentence: "Appeals from findings by the Secretary of Commerce provided for in headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States (19 U.S.C., sec. 1202) shall be given the precedence provided for in such headnote."

SEC. 9. TARIFF ADJUSTMENT AND OTHER ADJUSTMENT ASSISTANCE.

Any duty-free treatment provided for in this Act shall, for purposes of title III of the Trade Expansion Act of 1962 (76 Stat. 883; 19 U.S.C., secs. 1901 to 1991), be treated as a concession granted under a trade agreement: *Provided*, That any action taken pursuant to section 351 of such Act as the result of this section shall be consistent with obligations of the United States under trade agreements.

Passed the House of Representatives September 12, 1966.

Attest:

RALPH R. ROBERTS,
Clerk.

(Departmental comments on H.R. 8664 follow:)

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., September 27, 1966.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This will acknowledge your letter of September 14, 1966, requesting the views of the Bureau of the Budget regarding H.R. 8664, "To implement the Agreement on the Importation of Educational, Scientific, and Cultural Materials, opened for signature at Lake Success on November 22, 1950, and for other purposes."

The reports which the interested agencies are submitting on this bill recommend its enactment.

The Bureau of the Budget recommends favorable consideration of H.R. 8664, enactment of which would be consistent with the Administration's objectives.

Sincerely yours,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

GENERAL COUNSEL OF THE DEPARTMENT OF COMMERCE,
Washington, D.C., September 29, 1966.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further reply to your request for the views of this Department with respect to H.R. 8664, an Act "To implement the Agreement on the Importation of Educational, Scientific, and Cultural Materials, opened for signature at Lake Success on November 22, 1950, and for other purposes."

Sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO), the purpose of the so-called Florence Agreement is to foster mutual understanding among countries by reducing trade barriers that otherwise inhibit the flow of knowledge. The Agreement was opened for signature on November 22, 1950, and signed on behalf of the United States on June 24, 1959. The Senate gave its advice and consent to the ratification on February 23, 1960. The Agreement provides that specified articles of a cultural, scientific or educational nature shall be subject to duty-fee treatment among the signatory countries. If enacted, H.R. 8664 would implement the Agreement by amending the relevant provisions of the Tariff Schedules of the United States.

The Department of Commerce supports the purposes of the Florence Agreement and believes that the elimination of duties on certain books, works of art, scientific specimens and other educational, cultural and scientific materials would constitute a net benefit to U.S. producers of these materials. Most of the articles covered by H.R. 8664 enter the United States either free of duty or subject to low rates of duty. The granting of reciprocal duty-free treatment by other signatory countries would in turn benefit U.S. exports.

The Department also notes that the U.S. Travel Service considers the exemption of tourist literature from customs duties to be of particular importance to the VISIT US Program since the promotional efforts of the Travel Service in selling the United States as a tourist destination involve a worldwide distribution of travel literature.

Of particular interest to the Department in section 6(c) of H.R. 8664 which would amend schedule 8, Part 4, of the Tariff Schedules of the United States to establish procedures under which certain scientific instruments and apparatus could be imported free of duty upon a determination by the Secretary of Commerce that no instrument or apparatus of equivalent scientific value for the purpose for which the instrument or apparatus is intended to be used is being manufactured in the United States.

The Department of Commerce welcomes the opportunity provided in section 6(c) to make systematic the treatment of applications for duty-free entry of scientific instruments and apparatus for educational and scientific institutions. The proposed procedures should eliminate the need for an increasing number of private relief bills introduced each year to provide duty-free treatment for scien-

tific instruments entered for the use of educational institutions. Moreover, the notification in the Federal Register as required by section 6(c) will afford all interested parties the opportunity to present their views. Such notice will serve to inform both the domestic industry and qualified institutions of the instruments and apparatus being considered for duty-free treatment, and of the final determinations of the Secretary of Commerce, together with the reasoning therefor.

The procedures and criteria provided in section 6(c) of H.R. 8664, as introduced, were the result of long and detailed interagency study, in which this Department actively participated. As a result of the public hearings held on H.R. 8664 by the Ways and Means Committee, the views of the representatives of the importer interest, on the one hand, and of the Scientific Apparatus Makers Association on the other, with respect to section 6(c) have been considered. In response to the proposals made in the hearings certain amendments to section 6(c) were adopted by the House of Representatives. With these amendments, it is the opinion of the Department of Commerce that section 6(c) of H.R. 8664 as passed by the House of Representatives, balances the needs of the scientific community for free access so to foreign scientific instruments and apparatus not available in this country with the need to insure that the duty-free privileges will not adversely affect the commercial interest of domestic manufacturers of scientific instruments or discourage the development and adaptation of new technology.

The Department of Commerce urges the early enactment of H.R. 8664.

We have been advised by the Bureau of the Budget that there would be no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely yours,

ROBERT E. GILES,
General Counsel.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
September 29, 1966.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This letter is in response to your request of September 19, 1966, for a report on H.R. 8664, as passed by the House of Representatives, a bill "To implement the Agreement on the Importation of Educational, Scientific, and Cultural Materials, opened for signature at Lake Success on November 22, 1950, and for other purposes."

This bill would provide for United States implementation of the Agreement on the Importation of Educational, Scientific, and Cultural Materials of November 22, 1950 (commonly called the Florence Agreement). The purpose of the Florence Agreement is to promote the growth of international understanding by reducing trade barriers to the flow of knowledge in all directions across all frontiers.

The United States participated in the negotiation of this agreement which is now in force in 50 countries. The agreement was signed on behalf of the United States on June 24, 1959, and was ratified by the Senate on February 23, 1960. The final U.S. step—implementing legislation—is provided by H.R. 8664.

H.R. 8664 would amend existing U.S. Tariff Schedules to provide for duty-free treatment of certain scientific, educational, and cultural materials as required by the Florence Agreement. These materials would include scientific instruments and apparatus; books, pamphlets, and other printed and manuscript material; works of art and antiques; documents of foreign governments and international organizations; scientific specimens; articles for exhibitions; etc. In some cases, free entry would be subject to safeguarding qualifications of one kind or another.

With specific reference to scientific instruments, H.R. 8664 would permit nonprofit scientific and educational institutions to import, duty free, scientific instruments upon application to the Secretary of the Treasury and determination by the Secretary of Commerce that no instrument of equivalent scientific value for the purposes for which the instrument is intended to be used is being manufactured in the United States. In making this determination, the Secretary of Commerce would afford an opportunity for hearing the views of interested parties and would receive the written advice of the Secretary of Health, Education, and Welfare on the availability of equivalent American instruments.

The bill would also amend Tariff Schedules to delete the present provision for duty-free entry of electron microscopes and put duty-free entry of these instruments on the same basis as that of other scientific instruments.

The proposed amendments to the Tariff Schedules would become effective on a date to be proclaimed by the President. This date would be within a period of three months after the U.S. instrument ratifying the Agreement has been deposited with the Secretary General of the United Nations.

The Department fully supports the objectives of the Florence Agreement and believes that H.R. 8664 represents an intelligent and constructive approach to attaining these objectives. Enactment of the legislation would be of very material benefit to our schools and universities, science laboratories and research foundations, libraries, art galleries, museums, as well as institutions and organizations devoted to the welfare of the blind. The Department has been particularly concerned by the burden which is imposed on the limited resources of scientific and educational institutions by the present tariff charged on scientific instruments. H.R. 8664 is considered to be an equitable solution to difficulties in this area. We would therefore recommend that H.R. 8664 be enacted by the Congress.

We are advised by the Bureau of the Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

WILBUR J. COHEN,
Under Secretary.

U.S. DEPARTMENT OF LABOR,
OFFICE OF THE SECRETARY,
Washington, September 29, 1966.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This is in further response to your request for the Department of Labor's views on H.R. 8664, an Act to implement the Florence Agreement, more formally known as the Agreement on the Importation of Educational, Scientific, and Cultural Materials.

In brief, H.R. 8664 would amend the tariff schedules of the United States to provide for duty-free treatment of certain books, periodicals, works of art, and other educational, cultural, and scientific materials, covered by the Florence Agreement, insofar as duty-free treatment is not now provided for. Duty-free treatment of certain instruments and apparatus of a scientific nature would be contingent upon administrative action, taken in accordance with prescribed procedures and standards, and subject to judicial review. Opportunity would also be afforded for recourse to the remedial provisions of Title III of the Trade Expansion Act should there be any serious adverse affects from the duty-free treatment extended to these imports.

The proposed legislation, which is Administration sponsored, has had extensive consideration. The Department of Labor continues to believe that the Florence Agreement should be implemented and favors enactment of H.R. 8664 to that end. In our view, the legislation represents a successful major effort to take into account the social and economic interests involved in effectuating the Florence Agreement on the part of the United States.

The Bureau of the Budget advises that there is no objection from the standpoint of the Administration's program to the submission of this report.

Sincerely,

W. WILLARD WIRTZ,
Secretary of Labor.

DEPARTMENT OF STATE,
Washington, September 26, 1966.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate.

DEAR MR. CHAIRMAN: In response to your request of September 14, 1966, the Department of State submits the following report on the implementing legislation for the Agreement on the Importation of Educational, Scientific, and Cul-

tural Materials, also known as the Florence Agreement (H.R. 8664), as amended by the House of Representatives.

H.R. 8664 is designed to implement the obligations which will be assumed by the United States upon ratification of the Florence Agreement. It will integrate the provisions of the Agreement into United States tariff legislation.

The purpose of the Agreement, as its title indicates, is to make it easier to import educational, scientific, and cultural materials. It provides principally for the elimination of tariffs applicable to these materials.

The Department firmly believes in the basic principles of the Agreement, which is to improve international understanding by reducing manmade barriers to knowledge. The Agreement was sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO). The Organization initiated the negotiating conference in accordance with its constitutional mandate to facilitate the "exchange of publications, objects of artistic and scientific interest, and other materials of information" and to recommend international agreements which will promote "the free flow of ideas".

The United States played a leading role in drafting the Agreement. It was signed on behalf of the United States on June 24, 1959, and the Senate gave its advice and consent to ratification on February 23, 1960. The United States has not yet formally ratified the Agreement, to which 50 countries are now parties, pending the enactment of this implementing legislation.

The Agreement provides for free importation of six general categories of materials: books, publications and documents; works of art, antiques, and other collectors' pieces of an educational, scientific, or cultural character; scientific instruments or apparatus under specified circumstances; articles for the blind; and articles for certain temporary exhibitions.

The text of H.R. 8664 was transmitted to the Vice President by the Department in a letter dated May 28, 1965. On June 1, 1965, a letter was sent to him by the President pointing out that the "purpose of the Florence Agreement is to promote the growth of international understanding by reducing trade barriers to the flow of knowledge in all directions across all frontiers", and that the "fullest freedom of access to the knowledge and culture of other nations is the hallmark of the open society".

H.R. 8664 has been drafted as a result of broad-based interdepartmental cooperation in order to give effect to the letter and spirit of the Florence Agreement. The Ways and Means Committee of the House of Representatives gave careful consideration to representations regarding the bill which were made during public hearings held by the Committee. As a result, amendments were recommended by the Committee and adopted by the House. The Department of State fully supports the bill as thus amended.

The Department has been informed that certain antique dealers are opposed to the provision in the legislation changing the criteria for the duty-free importation of antiques from production prior to 1830 to production more than 100 years prior to entry (section 4(b)). The Agreement specifically defines antiques as "being articles in excess of 100 years of age". We recognize that there are difficulties involved in the administration of this 100-year rule, but we consider that any significant deviation in the implementing legislation would constitute a failure to carry out the provisions of the Agreement.

Moreover, it is considered reasonable that the artistic and cultural value of articles produced after 1830, but 100 years prior to entry, should be recognized as is done by the bill. Retention of the rather arbitrary date of 1830 would mean that, as the number of these older articles decreases and the population increases, articles recognized as antiques by the tariff act would become more and more difficult to obtain and much more expensive,—a development which is considered to be questionable in our rapidly expanding economy.

The implementing legislation also provides for duty-free treatment of paintings and drawings executed by hand whether originals (now duty-free) or copies (now dutiable at 8 percent *ad valorem*) (section 4(a)). It is understood that some art dealers object to this change in the existing law, which would eliminate the occasion for the determinations now made by the Bureau of Customs as to whether or not imported works of art are originals.

In the first place, if there is a need for governmental responsibility in determining the originality of works of art, we question whether the Bureau of Customs is the appropriate agency to undertake it. Moreover, the Department of State believes that, in view of the decreasing importance of hand painted copies with the great improvement in photographic copying, the problem raised by the

art dealers is not of sufficient importance to justify an amendment to the bill, which could raise serious questions as to our full compliance with the Agreement.

It is also understood that certain commercial importers of scientific instruments desire a modification of the provisions of the bill (section 6(c)) providing duty-free treatment for certain instruments and apparatus entered by nonprofit educational and scientific institutions, if the Secretary of Commerce has determined that no instrument or apparatus of equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used is being manufactured in the United States.

In the first place such importers suggest the restoration of a simpler procedure for utilization by the Secretary of Commerce in the following of his prior equivalency determinations, which was deleted from the bill by the House of Representatives. It is understood that the Ways and Means Committee had difficulties in applying the judicial review, which it added to the bill, in the case of such more informal determinations by the Secretary. We believe that the basic desires of the importers, for a more simplified procedure in situations coming within recent determinations by the Secretary, can be adequately taken care of under the bill as passed by the House, without any need for its amendment.

Secondly, it is proposed by the importers that the provisions for the duty-free treatment of instruments and apparatus should not be available to agencies of the Federal Government. They argue that the delays and other administrative problems for them involved in obtaining such treatment are not justified in situations in which payment of the duty means merely the transfer of funds from one Federal agency to another such agency.

The Agreement specifically provides that the duty-free treatment shall apply to instruments and apparatus imported by public, as well as private, institutions. Thus, the Department considers that the proposed modification would raise serious questions as to United States compliance with the Agreement.

Moreover, this provision would appear justified by the fact that, from the economic standpoint of both foreign and domestic producers, the duty has basically the same effect on purchasing decisions made by Federal agencies operating under budget limitations, as it has upon private institutions. The Ways and Means Committee carefully examined this proposal and considered it to be part of the broader question as to the justification for the payment of duty on imports by Federal agencies, which could not be decided as part of the implementation of the Florence Agreement.

Finally, it is understood that the domestic scientific instrument manufacturers are likely to make to the Finance Committee the proposal they made to the Ways and Means Committee that the Secretary of Commerce, in making his determinations of equivalency of scientific value, should use the economic test of possible displacement or competition rather than an objective evaluation of the comparative scientific characteristic of the foreign and domestic instruments. This proposal was carefully considered by the Ways and Means Committee which, instead of adopting any such economic test, amended the bill to provide that the Secretary's determination should relate to the equivalency of scientific value for the purposes for which the instrument or apparatus is intended to be used.

It is believed that in practically all, if not all, cases in which a foreign instrument is desired the institution would purchase a domestic instrument, however inferior it might be, if no foreign instrument were available. Consequently, practically any imported instrument could be said to replace a domestic instrument. Thus a displacement test could, in effect, nullify the scientific instrument provision in the bill.

A test of competition, or direct competition, between instruments would appear to be as uncertain a test for use in comparing them as the test of their scientific equivalency, and if broadly interpreted might lead to the same result as a test of displacement.

Undoubtedly the scientific equivalency qualification was put in the Agreement for the economic purpose of preventing a serious competitive impact from foreign instruments when scientifically equivalent instruments are available. However, in providing a test to allay this fear, the drafters of the Florence Agreement chose not to use an economic test, but wrote the equivalency test solely in terms of scientific value. This gives full effect to the purpose of the Agreement to permit qualifying institutions to obtain duty-free such foreign instruments as are scientifically unique, compared with domestic instruments, to assist them materially in their scientific research and teaching, regardless of incidental economic effects. A discussion of the scientific characteristics involved in such a comparison of instruments in terms of scientific value is set forth in the Admin-

istration's Analysis of the bill, which is in the printed record of the Hearings held by the Ways and Means Committee (page 12 of the Hearings).

The Department of State, therefore, urges prompt enactment of this bill in the form in which it was passed by the House of Representatives.

The United States has repeatedly expressed itself as favoring the improvement of international understanding through the freer exchange of ideas. Other countries have viewed our failure to date to ratify the Florence Agreement as inconsistent with this ideal, since the Agreement is designed to reduce trade barriers to the free dissemination of scientific, educational, and cultural knowledge.

The Fourteenth General Conference of the UNESCO which will open in Paris October 25, 1966, will mark the twentieth anniversary of the founding of the Organization which began as an expression of hope among the free peoples of the world at the close of a disastrous war. Ratification by the United States of the Florence Agreement prior to, or during, this conference would give concrete evidence of our continuing adherence to the ideal expressed in the Constitution of UNESCO, that, ". . . since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed".

The Bureau of the Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

DOUGLAS MACARTHUR II,
Assistant Secretary for Congressional Relations,
(For the Secretary of State).

(See p. 87 for Smithsonian Institution comments.)

THE GENERAL COUNSEL OF THE TREASURY,
Washington, D.C., September 28, 1966.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Department on H.R. 8664, "To implement the Agreement on the Importation of Educational, Scientific, and Cultural Materials, opened for signature at Lake Success on November 22, 1950, and for other purposes."

The proposed legislation would amend the Tariff Schedules of the United States to implement the so-called Florence Agreement, which is designed to facilitate the duty-free exchanges of educational, scientific, and cultural materials between all countries of the world.

The Department does not anticipate any unusual administrative difficulties under the proposed legislation and recommends its enactment.

The Department has been advised by the Bureau of the Budget that there is no objection from the standpoint of the Administration's program to the submission of this report to your Committee.

Sincerely yours,

FRED B. SMITH,
General Counsel.

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, September 23, 1966.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your communication of September 14, 1966, in which you request our report on H.R. 8664, which is intended to implement the so-called Florence agreement.

This bill is not directly related to the Kennedy Round of trade negotiations or to the trade agreements program, for which this Office is responsible. However, by providing duty-free treatment for a broad range of educational, scientific, and cultural materials, it would make a significant contribution to increased trade and would be wholly consistent with our liberal trade policy. Accordingly, this Office supports the bill and hopes that it will be enacted by the Congress as soon as possible.

The Bureau of the Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report.

Most sincerely yours,

CHRISTIAN A. HERTER,
Special Representative.

U.S. INFORMATION AGENCY,
Washington, September 26, 1966.

HON. RUSSELL LONG,
U.S. Senate.

DEAR SENATOR LONG: Your committee now has under consideration a bill (HR 8664) to implement the Agreement on Importation of Educational, Scientific, and Cultural Materials, generally referred to as the Florence Agreement.

Although the U.S. Information Agency will not be directly involved in carrying out the United States Government's obligations under that agreement, we consider its ratification an extremely important forward step. The United States is recognized around the world for its leadership in the production of educational and cultural materials. Our publishers, to mention only one group, are making a very substantial contribution to the attainment of our Government's goals abroad by aggressively promoting the commercial distribution of American books. At last year's International Publishers Congress their pre-eminence in publishing educational books was unchallenged.

The reciprocal obligations under the Florence Agreement to permit duty-free entry of educational, scientific, and cultural materials should greatly facilitate the exportation of such materials from the United States to other member countries. Moreover, our ratification of the Agreement will remove an embarrassing point which has developed with other countries as a result of our failure to take final action after sixteen years. As you know, both the President and the Secretary of State have strongly urged that favorable legislative action be taken before the eighty-ninth Congress adjourns. I hope that your committee will find it possible to report the bill favorably in time for consideration by the Senate during this session.

Sincerely,

ROBERT W. AKERS,
Acting Director.

Senator MCCARTHY. I am going to ask Mr. Howe to present his testimony first, and we will then hear Mr. Frankel as soon as he appears.

Mr. Howe.

STATEMENT OF WILLIAM BENTON, CHAIRMAN AND PUBLISHER, ENCYCLOPAEDIA BRITANNICA, PRESENTED BY JOHN P. HOWE, ASSISTANT TO THE PUBLISHER, ENCYCLOPAEDIA BRITANNICA

Mr. HOWE. Senator, I am here on behalf of your former colleague, Senator William Benton of Connecticut. Senator Benton has been ordered by his physician not to travel and not to speak because he has acute laryngitis. In June he came all the way from Budapest, where he was attending a UNESCO meeting, in order to testify before the House Ways and Means Committee.

In order to save the time of the committee the various business groups supporting the bill have not asked to present oral testimony as they did in the House Ways and Means Committee hearings, but are here with me and will submit prepared statements for the record. As you know, the House Ways and Means Committee had extensive hearings on the bill and came out with a unanimous report, and there was no adverse vote on the floor of the House. In addition the Senate gave its advice and consent to the agreement itself over 6 years ago in February 1960 by an overwhelming vote after hearings before the Foreign Relations Committee.

I am here to discuss the overall importance of the Florence agreement for our foreign policy, and for our national interest. When I was Assistant Secretary of State in the years immediately following World War II, our Government's policies toward international information and cultural exchanges—and toward worldwide freedom of information and the press—were formulated. These policies were crystallized in terms of our deepest American traditions, and in the faith that understanding among peoples can help lead toward mutual respect, and toward progress and peace. It was in this faith that the United States took leadership in the creation of UNESCO, and in the establishment of a network of bilateral cultural, informational, and educational exchanges.

Nothing I have seen or heard in these past 20 years has provided a valid argument against the basic policy embraced at that time. Rather the reverse. And today we find not merely the teachers and the scholars and the writers pleading for this policy—but the commonsense of the common man in America as well. In response to such public understanding, three times in the last 12 months the President of the United States has publicly asked for the implementation of the Florence and Beirut agreements.

I was present at the conference of UNESCO in Florence, Italy, in 1950—16 long years ago—as a U.S. Senator—when the Florence agreement was written—with the U.S. delegation sharing in the leadership and the drafting. The agreement was accepted by all the delegations as a natural application and extension of basic American policy.

I have been abroad more than two-score times since the Florence agreement was drawn up. And every time I leave the United States I am reproached by our foreign friends for our failure to have joined fully in the agreement—and I can only express embarrassment. They cannot understand us. Fifty nations are now active participants in this agreement. They were entitled to believe that we, too, would join since we had taken leadership, and entitled to believe that we would reciprocate. They deplore our inaction. The Director General of UNESCO, Mr. Rene Maheu, has written me as follows:

> The absence of the United States from the list [of contracting parties] is a serious loss. It reduces the effectiveness of the agreement by removing from its orbit one of the world's largest producers and exporters of the materials covered and also by lessening the inducement to other countries to join * * * Protracted delay has denied to the United States its traditional position of leadership in a matter concerning the free flow of information.

This reaction is typical of those of informed intellectual leaders abroad.

Our foreign friends could make a further point if they wished—a very telling point. They could point out that implementation of the Florence agreement is in the interest of the United States even when this is considered narrowly. For one thing, the United States is now the world's principal exporter of published materials. Moreover, the leadership of which UNESCO's Director General spoke seems destined to grow. One of the most significant—and as yet little noticed—developments in international life in recent decades is the rise of the English language as an auxiliary language in every quarter of the globe.

I'm told that about two-thirds of UNESCO's written communications are in English. In Japan, Brazil, and countless other countries, its teaching is compulsory in the schools.

So I repeat: Let us not take any backward steps which would give the nations of the world reason or excuse to raise barriers against us, our products, or our language. On the contrary, let us now take the forward step represented in H.R. 8664.

Let me now speak a word as a publisher. Never have I seen an issue on which there is greater and more ardent unanimity in the publishing world than on the Florence agreement. I have not heard a single dissenting voice. With the onset of the "knowledge explosion," and the "cultural explosion," book publishing is becoming a substantial and diverse industry in this country—a $2 billion a year industry. And there is no dissent on Florence.

I shall give you one specific example of how the Florence agreement can and should work—a recent experience of my own company, Encyclopaedia Britannica. All of the books we publish except our Portuguese Encyclopaedia in Brazil and our Spanish and Portuguese Year Books—all are manufactured here in the United States, including some $40 million worth we sell abroad each year. Perhaps I should add that up until recently a substantial proportion of those sold abroad were printed in England. When the Labor government came into power in Britain in the autumn of 1964 one of the first moves of the Wilson government was to slap a 15-percent emergency surcharge on all imports, as a means of alleviating Britain's balance-of-payments problem. Britain was and is a member of the Florence agreement. But the United States was not in a position to claim the exception offered by the agreement for books and other cultural materials sold to Britain because the United States had never implemented its signature to the agreement. Fortunately for us, other Florence members did make the claim for exception, and Britain extended the exception to us although she was not required to do so. I do not know exactly how greatly Encyclopaedia Britannica and other U.S. publishers would have suffered, but they surely would have sustained losses. And worse, the exceedingly important worldwide principle that informational, educational, and cultural materials are entitled to treatment accorded them under the Florence agreement would have suffered.

I cite the foregoing illustration out of my own experience as a publisher and exporter of books. But, Mr. Chairman, I also address you today on behalf of my colleagues in the book publishing industry. The director of the joint Washington office of the American Book Publishers Council and the American Textbook Publishers Institute, Mr. Robert Frase, is here today. But to save your time Mr. Frase has asked me to summarize the points he would make as spokesman for the industry. I may say that the members of the council and the institute produce 95 percent of all the books published in the United States.

One of the few present American tariffs on materials covered by the agreement is the low tariff on some books in the English language. The rate of duty is 3 percent ad valorem for English language books by foreign authors and 7 percent on such books by American authors.

These duties do not apply to books imported by Government agencies, libraries, and educational institutions, nor to Bibles and testaments, books over 20 years old, and books in foreign languages. In 1965 the total volume of imported books subject to duty was about $37 million. This compares with over $99 million in U.S. book exports, according to Department of Commerce figures. This figures does not include any small package shipments from the United States or the value of U.S. books printed abroad for sale abroad, which bring the book industry's export figure to at least $175 million a year. Even this figure seems too small to me since I cannot believe my own company's total of $40 million can be as much as one-fifth of total U.S. annual book exports.

The American book industry has been growing rapidly in the past decade. In recent years the rate of growth of dollar sales has been about 10 percent annually, which at the present time means an increase of about $200 million a year. Book imports subject to duty are thus only a small fraction of the present yearly growth of the domestic industry and are not a matter of competitive concern. Although small in dollar value, imports of books make an important contribution to the development of American education, scholarship, science, and culture and should be given every encouragement. We of the book industry would be very glad to see the American consumers of books have the benefit of the removal of our present low tariff which would not only reduce prices somewhat but also simplify the procedures of getting imported books through customs.

Our major interest in the Florence agreement, however, is its potential effect on the export of American books. Although book publishing is an old and established American industry, up until 20 years ago we were still—on balance—a book-importing country rather than a book-exporting country. Since the end of World War II, however, our book exports have expanded dramatically, and now are at least 20 times as great in dollar volume as they were 25 years ago. In the past few years the rate of growth of our book exports has been even greater than the expansion of our domestic production and consumption of books. There are a number of reasons for this, including the leadership of the United States in the many fields of science, technology, and scholarship; the growing importance of the English language as a means of international communication; and the emergence of many new nations which have looked toward the United States for published materials in all fields of human endeavor and knowledge.

Large as our book exports now are, the potential demand is even greater—and will still further increase—if foreign trade barriers could be reduced or eliminated. Thus we welcome an international agreement such as this, which is designed to reduce or remove tariffs or other trade restrictions on the international movement of published materials. Tariffs on books are not as common as they once were, but there are still some countries like ourselves which do have import duties on books and the Florence agreement will be of help in getting rid of them.

Foreign exchange restrictions on dollar imports are a much more significant trade barrier, however. One provision of the Florence agreement binds the adhering countries to make foreign exchange

available for book and periodical imports by library and educational institutions. This provision will be of direct and tangible benefit to the American book publishing industry. Indeed, in the long run we would hope that, once the United States has adhered to this agreement, our country could cooperate with other nations which have already shown some interest, to get the Florence agreement amended and extended to eliminate all foreign exchange restrictions and import licensing on books and other educational, cultural, and scientific materials. If this could be done it would be reasonable to expect an even greater increase in American book exports than we have already experienced in recent years—possibly the doubling of such exports in the next decade. An increase of this magnitude would make a significant contribution in improving our balance of payments.

It would make a significant contribution to a number of international programs and policies of the United States such as those of the U.S. Information Agency. It would make a significant contribution to the economic and educational development of the countries of the free world. It would make a significant contribution to the expanding of our own export of manufactured goods. At present American book exporters concentrate their efforts on professional, scientific, technical, medical, and scholarly books; textbooks; and low-priced books adapted to the income levels of many new and developing countries.

Mr. Charles Ablard, vice president of the Magazine Publishers Association, is here with me and has a prepared statement in support of H.R. 8664. Mr. Leonard Feist, the executive secretary of the National Music Publishers Association, is also here with a supporting statement. Mr. Feist also is chairman of the Government Relations Committee of the National Music Council, the constituent organizations of which have a total membership of over 1,250,000.

Mr. Chairman, let me offer a personal observation in conclusion. You are dealing with a stretch of history. Today, 16 years after it was drawn up, you are considering implementing the Florence agreement. Twice in recent years, in national magazines, I have described this embarrassing and almost incredible delay as a scandal and a disgrace. I will say today that, so far as I can ascertain, the scandal resides not on Capitol Hill but in a series of administrations. If previous administrations had made a strong and unified request for action, I feel the Congress would have acted.

But wherever the past fault may lie, this is the moment to end the scandal and wipe out the disgrace. I earnestly, and confidently hope that this committee will provide the leadership needed so long and so urgently.

I thank you.

(The statements referred to follow:)

STATEMENT OF THE MAGAZINE PUBLISHERS ASSOCIATION, INC., BY C. ROBERT DEVINE

The Magazine Publishers Association represents 114 magazine publishing companies who publish over 300 periodicals of general interest in the United States and abroad, accounting for over 70 per cent of the magazine circulation of the nation.

My name is C. Robert Devine, Chairman of the International Committee of the Magazine Publishers Association, Inc., and Deputy General Manager of the Reader's Digest International Editions publishing 30 international editions in 14 languages. I am also the immediate past President of the International Advertising Association.

Last September 17, the President addressed the bicentennial celebration of the Smithsonian Institution and asked the nation to "embark on a new and noble adventure" designed to aid the developing nations and regions of the world. Included in his five point program was a plan to "increase the free flow of books and ideas and art, of works of science and imagination." As a means of achieving that goal, the President had, on June 1, 1965, transmitted to the Congress H.R. 8664, legislation to implement the Florence Agreement to eliminate duties on imports of educational, scientific, and cultural materials. In transmitting the proposed legislation, the President stated:

"The purpose of the Florence Agreement is to promote the growth of international understanding by reducing trade barriers to the flow of knowledge in all directions across all frontiers."

The President also urged implementation of the Florence Agreement in his Message on International Education on February 2, 1966. We wholeheartedly support the President's goal of obtaining congressional implementation of the Florence Agreement in the 89th Congress. We were pleased with the House passage of the bill and urge this Committee to report the bill to the Senate.

As magazine publishers, we are fully aware of the importance of magazines in our educational programs both in the United States and abroad. Schools and libraries in this country have long benefited from their use, and the exchange of private media between countries has long been considered beneficial to the exposition of United States policies abroad. In furtherance of that end, the Congress since 1948 has provided appropriations for the Informational Media Guaranty Fund to guarantee convertibility of currency obtained by publishers in the sale of books, magazines, and motion pictures in soft currency countries.

Forty-nine nations have implemented the Florence Agreement. Approval by the United States will conform our tariff laws with those of 49 countries which are now fully ratified signatories to the convention. Without ratification, United States publishers may be forced to pay tariffs which cannot be imposed on publications of signatory countries. But, more importantly, implementation of the treaty will show the other nations of the world, and especially the other 49 ratifying signatories, that the United States has an enlightened position on the subject of tariff barriers on educational and cultural materials.

Magazines in general have fewer tariff problems than many of the other items covered by the Florence Agreement. As you know, the United States imposes no tariff on the importation of magazines, and there are relatively few countries which impose a tariff on ours. However, this does not detract from the basic principle involved in the legislation under consideration before this Committee; namely, that the exchange of ideas should not be subject to tariff barriers. We believe strongly that, even though the immediate problem of tariffs on magazines is not an acute one, the implementation of this treaty is most important as a matter of principle to magazine publishers.

During the first five years, I have worked in 45 countries around the world and can personally testify to the great interest people in these countries have in American magazines. Everything we can do to assure continued flow of these magazines abroad will assist materially to implement U.S. foreign policy.

Therefore, we urge the enactment of H.R. 8664 by the Congress to implement the worthy goals so eloquently expressed in the President's Message on International Education. On behalf of the Magazine Publishers Association, I want to express our appreciation to the Members of the Committee on Finance for your consideration of this legislation.

STATEMENT OF LEONARD FEIST ON BEHALF OF THE MUSIC PUBLISHERS' COMMITTEE ON FEDERAL RELATIONS

My name is Leonard Feist. I reside in New York City and am Executive Secretary of the National Music Publishers' Association, a trade association which includes in its membership some fifty of the most prominent publishers of popular music in the United States. The trade association of the publishers of educational, concert and sacred music is known as the Music Publishers Association of the United States. It, similarly, has a membership of fifty or more of the leading publishers in those fields. The two associations of music publishers have established a joint committee—the Music Publishers Committee on Federal Relations of which I am Chairman and on behalf of which I appear before this Committee.

I am grateful for the opportunity afforded me today to testify on H.R. 8664, the legislation to implement the Florence Agreement. Ever since the concept was first discussed, music publishers have been more than favorably disposed toward the participation of the United States is this forward-looking international development and were among the groups which enthusiastically supported its adoption as a treaty in 1960. It follows, therefore, that we are in full support of the legislation which will implement the treaty and make it, at long last operative.

Other witnesses will have, I am sure, spoken eloquently concerning the manifold benefits to the American educational and cultural communities, to the country as a whole and to international understanding. It would seem, therefore, superfluous to further develop these lines of thought other than to comment that we agree thoroughly with witnesses testifying in detail on those consequences of the proposed legislation.

My remarks will be limited to the area of music and the beneficial impact which we believe will be the result for music, domestically and internationally, when the Florence agreement becomes operative.

Although the present tariff on music is small, it does serve as an impediment to its free flow and circulation. In fact, as you are aware, not all music is now subject to duty and as a result there are irksome mechanical complexities in handling its importation.

While there will be some benefit to the American musician in the minor price reductions which will result from the elimination of duties on *all* music, music publishers have no fear that this freer flow of imported materials will affect our market in any way. In fact, except for popular music where the lyrics require translation, music is usually issued only in one edition—that of the country of its origin—which is circulated throughout the world. There is very little reprinting in other countries.

It is in the materials of music for performance where the free unimpeded flow may be of the greatest importance. Such materials exist not only in printed form but also, and most often in new works, in manuscript or in a small number of duplicated copies. The easy accessibility of these materials, which are shipped between various countries as performance circumstances require, is of prime importance to the performance of larger and more important musical works. They are frequently needed on short notice and the customs barrier has, in the experience of music publishers, impeded performances from time to time because of delays in clearance through customs of even a small part of the materials necessary for a performance.

In the past two decades the status of American concert music has been greatly increased in the cultural centers of the world. Regard for American musical achievements is growing in a heartening manner and, as such developments go, at a rapid pace. More and more, as it has been for so long in popular music, the United States is becoming an exporter of concert music, particularly in performance. The Florence Agreement, we feel, will be of considerable assistance in the circulation of the actual materials of performance and will thus further stimulate the growth and acceptance of American music throughout the world. At the same time, it will give us easier access to the new music and the new musical expression of other countries and this cross pollination will benefit music everywhere.

Therefore, I would like, on behalf of the music publishing industry of the United States to urge your favorable consideration of the legislation now before you.

In addition to my appearance here today on behalf of the music publishing business, as Chairman of the Government Relations Committee of the National Music Council I would like to present a resolution passed by that organization urging favorable action on H.R. 8664 by the Ways and Means Committee of the House of Representatives. The National Music Council has a membership of 54 organizations representing all aspects of musical life in the United States with membership in excess of 1,250,000. With your permission, I will not read the resolution but request that it may be made part of the record.

May I, in closing, express my gratitude to the Committee for permitting me to appear and to present the views of the music community.

NATIONAL MUSIC COUNCIL RESOLUTION ON THE FLORENCE AGREEMENT

Resolved that the National Music Council with a membership of 54 organizations representing all aspects of musical life in the United States with member-

ship in excess of 1,250,000 now in session at its General Membership meeting in New York City urges prompt and affirmative action by the Congress on H.R. 8664 so that the approval of the Florence Agreement by the Senate of the United States in February, 1960, may at long last be implemented and the United States may join with the fifty other countries which are already signatories of this treaty providing for freerer interchange of educational, cultural and scientific materials without the impediment of tariff barriers and

Be it further resolved that the Ways and Means Committee of the House of Representatives, as the first step to this end, be requested to initiate hearings on this important legislation at the earliest possible date.

NEW YORK, N.Y., *January 11, 1966.*

MEMBER ORGANIZATIONS OF THE NATIONAL MUSIC COUNCIL

Amateur Chamber Music Players
American Academy of Teachers of Singing
American Choral Directors Association
American Choral Foundation
American Composers Alliance
American Federation of Musicians
American Guild of Authors and Composers
American Guild of Musical Artists
American Guild of Organists
American Matthay Association
American Music Center
American Music Conference
American Musicological Society
American Society of Composers, Authors and Publishers
American Society of Music Arangers
American String Teachers Association
American Symphony Orchestra League
Broadcast Music, Inc.
College Band Directors National Association
College Music Society
Composers and Lyricists Guild of America
Delta Omicron
Hymn Society of America
Leschetizky Association
Moravian Music Foundation
Mu Phi Epsilon
Music Committee of the People-to-People Program
Music Educators National Conference
Music Library Association
Music Publishers' Association of the United States
Music Teachers National Association
National Association for American Composers and Conductors
National Association of Music Merchants
National Association for Music Therapy
National Association of Organ Teachers
National Association of Schools of Music
National Association of Teachers of Singing
National Catholic Music Educators Association
National Federation of Music Clubs
National Guild of Community Music Schools
National Guild of Piano Teachers
National Music Camp
National Music Publishers' Association, Inc.
National Opera Association
National Piano Manufacturers Association of America
National School Orchestra Association
Phi Beta
Phi Mu Alpha Sinfonia
Piano Technicians Guild
Phi Kappa Lamboa
Record Industry Association of America
Sigma Alpha Iota
Society for Ethnomusicology

70-466—66——4

Society for the Preservation and Encouragement of Barber Shop Quartet Singing in America
Society for the Publication of American Music
United States Army, Navy and Air Force Bandsmen's Association

Senator McCARTHY. Mr. Frankel.
Mr. FRANKEL. Shall I begin?
Senator McCARTHY. Will you proceed, please?
Will you identify yourself?

STATEMENT OF HON. CHARLES FRANKEL, ASSISTANT SECRETARY OF STATE FOR EDUCATIONAL AND CULTURAL AFFAIRS

Mr. FRANKEL. I am Charles Frankel, Assistant Secretary of State for Educational and Cultural Affairs.

I will be the only witness for the several executive agencies of the administration which have participated in the drafting of this bill and which favor its prompt enactment. However, I am accompanied by John G. Lorenz, Deputy Librarian of Congress; James Collins, Deputy Assistant Secretary of Commerce for Domestic Business Policy; Shelton B. Granger, Deputy Assistant Secretary for International Affairs, Department of Health, Education, and Welfare; Russell N. Shewmaker, General Counsel, Tariff Commission; David W. Scott, Director, National Collection of Fine Arts, Smithsonian Institution; Edward I. Kilpatrick, Director, Division of Tariff Classification Rulings, Bureau of Customs; and Edgar I. Eaton, Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, Department of Labor.

Several of these other agencies have participated actively in the drafting of the bill. I understand that a written communication supporting enactment has also been sent to the committee by the U.S. Information Agency.

The Florence agreement is a treaty sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO). Its purpose is to facilitate the free flow of educational, scientific and cultural materials by removing unnecessary barriers, principally tariffs, created by human beings, that impede international movement of such materials.

The agreement was opened for signature on November 22, 1950, and entered into force among several countries, not including the United States, on May 21, 1952. To date, 50 States have become parties to the Florence agreement. The United States played an active role in the drafting of the agreement and signed it on June 24, 1950. On February 23, 1960, the Senate gave advice and consent to its ratification. Deposit of the U.S. ratification has been delayed pending the enactment of implementing legislation. Accordingly, the United States is not now one of the 50 participating countries.

RELATION OF BILL TO AGREEMENT

The preamble of the Florence agreement states that "the free exchange of ideas and knowledge and, in general, the widest possible dissemination of the diverse forms of self expression used by civilizations are vitally important both for intellectual progress and international understanding, and consequently for the maintenace of world

peace," and that "these aims will be effectively furthered by an international agreement facilitating the free flow of books, publications and educational, scientific and cultural materials." Section 1 of the bill states the purpose to be "contributing to the cause of peace through the freer exchange of ideas and knowledge across national boundaries."

The principal substantive provisions of the agreement provide that the parties shall accord duty-free treatment to broad categories of educational, scientific, and cultural materials. Many of the materials referred to in the agreement are already duty-free under the tariff schedules. These include books in foreign languages, newspapers, many periodicals, antiques made prior to 1830, most original paintings and sculpture, many prints produced by hand, certain audiovisual materials imported for institutional use, articles for specified exhibitions, and books and other articles for use by the blind.

H.R. 8664 makes such amendments to the Tariff Schedules of the United States as are necessary to provide therein for the duty-free treatment of such articles covered by the agreement which are not now free of duty.

SCIENTIFIC INSTRUMENTS

The Agreement provides for duty-free treatment of scientific instruments and apparatus imported by educational and scientific institutions for specified purposes if no instrument or apparatus of equivalent scientific value is being manufactured in the country of importation. Section 6(c) of the bill liberally implements this provision with appropriate procedures and safeguards.

The most important of these are the procedures for the determination by the Secretary of Commerce of the question whether an instrument or apparatus of equivalent scientific value is being manufactured in the United States.

The House Ways and Means Committee carefully considered this matter. The House adopted a number of amendments resulting from this committee review of the provision. The amended section is fully acceptable to the administration, and we hope this committee of the Senate will concur that it represents a reasonable balance of the various interests involved.

We believe passage of the bill will not result in any significant increase in the level of imports.

There is little reason to anticipate that the implementation of the agreement would result in serious injury to any domestic industries, firms or workers. Section 9 of the bill provides that the tariff adjustment provisions of title 3 of the Trade Expansion Act of 1962 are applicable if duty-free treatment under the bill were a concession granted under a trade agreement. We do not expect that this bill will have any significant adverse effect on the U.S. balance of payments.

The President has on several occasions asked the Congress to approve this legislation promptly.

Next month I will have the honor of leading a delegation, which will include a number of our well-known scholars and intellectuals to the 14th General Conference of UNESCO in Paris.

It is our strong belief that the United States should, at long last, reaffirm the principles we helped define and expound 20 years ago, by ratifying both of these agreements. Consequently, we urge prompt

affirmative action by the committee on the bill before you so that final action thereon may be taken by the 89th Congress.

With the assistance of the representatives of other Government agencies who are here this morning I shall be glad to answer any questions.

Thank you.

Senator McCarthy. Mr. Frankel, this bill has the support of all the Government agencies, as you have mentioned in your statement?

Mr. Frankel. Yes, sir.

Senator McCarthy. And not just those you have mentioned, but every department of Government that is involved in any way is supportig it without reservation?

Mr. Frankel. That is true, sir.

Senator McCarthy. I have no further questions at this point. I hope the adverse witnesses do not create some doubts and questions which will necessitate your coming back.

I will insert in the record your prepared statement, and the statement of the Acting Librarian of Congress also supporting the bill.

Thank you very much.

Mr. Frankel. Will you want me here, Senator?

Senator McCarthy. Not unless you wish to stay. I do not think so.

(The statements referred to follow:)

PREPARED STATEMENT OF CHARLES FRANKEL, ASSISTANT SECRETARY OF STATE FOR EDUCATIONAL AND CULTURAL AFFAIRS

I am Charles Frankel, Assistant Secretary of State for Educational and Cultural Affairs. I am appearing as the Administration witness in support of H.R 8604 to implement the Agreement on the Importation of Educational, Scientific, and Cultural Materials, which is commonly known as the Florence Agreement.

In order to assist you in the expeditious conduct of these hearings I will be the only witness for the several Executive agencies of the Administration which have participated in the drafting of this bill and which favor its prompt enactment. However, I am accompanied by John G. Lorenz, Deputy Librarian of Congress; James Collins, Deputy Assistant Secretary of Commerce for Domestic Business Policy; Shelton B. Granger, Deputy Assistant Secretary for International Affairs, Department of Health, Education and Welfare; Russell N. Shewmaker, General Counsel, Tariff Commission; David W. Scott, Director, National Collection of Fine Arts, Smithsonian Institution; Edward I. Kilpatrick, Director, Division of Tariff Classification Rulings, Bureau of Customs; and Edgar I. Eaton, Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, Department of Labor.

Several of these other agencies have participated actively in the drafting of the bill. I understand that a written communication supporting enactment has also been sent to the Committee by the United States Information Agency.

The Florence Agreement is a treaty sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO). Its purpose is to facilitate the free flow of educational, scientific and cultural materials by removing unnecessary barriers, principally tariffs, created by human beings, that impede international movement of such materials.

The Agreement was opened for signature on November 22, 1950, and entered into force among several countries, not including the United States, on May 21, 1952. To date, fifty states have become parties to the Florence Agreement. The United States played an active role in the drafting of the Agreement and signed it on June 24, 1950. On February 23, 1960 the Senate gave advice and consent to its ratification. Deposit of the United States ratification has been delayed pending the enactment of implementing legislation. Accordingly, the United States is not now one of the fifty participating countries.

RELATION OF BILL TO AGREEMENT

The preamble of the Florence Agreement states that "the free exchange of ideas and knowledge and, in general, the widest possible dissemination of the diverse forms of self expression used by civilizations are vitally important both for intellectual progress and international understanding, and consequently for the maintenance of world peace", and that "these aims will be effectively furthered by an international agreement facilitating the free flow of books, publications and educational, scientific and cultural materials". Section one of the bill states the purpose to be "contributing to the cause of peace through the freer exchange of ideas and knowledge across national boundaries".

The principal substantive provisions of the Agreement provide that the parties shall accord duty-free treatment to broad categories of educational, scientific and cultural materials. Many of the materials referred to in the Agreement are already duty-free under the tariff schedules. These include books in foreign languages, newspapers, many periodicals, antiques made prior to 1830, most original paintings and sculpture, many prints produced by hand, certain audio-visual materials imported for institutional use, articles for specified exhibitions, and books and other articles for use by the blind.

H.R. 8664 makes such amendments to the Tariff Schedules of the United States as are necessary to provide therein for the duty-free treatment of such articles covered by the Agreement which are not now free of duty.

SCIENTIFIC INSTRUMENTS

The Agreement provides for duty-free treatment of scientific instruments and apparatus imported by educational and scientific institutions for specified purposes if no instrument or apparatus of equivalent scientific value is being manufactured in the country of importation. Section 6(c) of the bill liberally implements this provision with appropriate procedures and safeguards.

The most important of these are the procedures for the determination by the Secretary of Commerce of the question whether an instrument or apparatus of equivalent scientific value is being manufactured in the United States. This provision of the Administration bill was the subject of suggestions made to the House Ways and Means Committee, which were carefully considered by it. The House adopted a number of amendments resulting from this Committee review of the provision. The amended section is fully acceptable to the Administration, and we hope this Committee and the Senate will concur that it represents a reasonable balance of the various interests involved.

Briefly, before making his equivalency determination, the Secretary of Commerce shall invite the views of interested persons. Each determination he makes, together with the reasons therefor, shall be published in the Federal Register. Although some importers consider this procedure to be unnecessarily cumbersome, we consider it desirable because conditions change rapidly with regard to whether any producer in the United States is at any particular time producing an equivalent article of equivalent scientific value.

Moreover, the statute provides that the whole proceeding shall be completed within 90 days after the applicant has filed his application for duty-free treatment.

The House has also added to the original Administration bill an opportunity for judicial review of questions of law involved in these determinations as to scientific equivalency by the Court of Customs and Patent Appeals, with certain provisions for the expeditious handling of such appeals. We believe this to be workable and acceptable.

It is pointed out in the Ways and Means Committee report that any institution which is prepared to pay the duty, if it should eventually be found that an equivalent domestic instrument is being manufactured, may enter and use the foreign instrument pending the final determination of its right to duty-free treatment.

BOOKS

Section 8(a) of the bill provides duty-free treatment for all books except catalogs relating to the current sale of United States products. Such broad duty-free treatment for books is provided for in annex A to the Agreement, and the present duty is only 7% ad valorem. It is considered that United States book manufacturers remain adequately protected by the manufacturing clause of our copyright legislation, which would not be affected by this bill.

ANTIQUES

Although previous United States tariff legislation had for several years provided duty-free treatment for antiques more than 100 years old, the Tariff Act of 1930, enacted during the depression years, froze the criteria for duty-free treatment of antiques to articles produced prior to 1830. The Florence Agreement contains the more usual 100 year rule. The return to this rule, which has been provided for in a number of bills in the Congress during the last few years, is included in section 4(b) of the implementing legislation before you. It is, moreover, considered appropriate that our legislation should return to the more usual practice in identifying antiques rather than limit duty-free privilege only to the ever-dwindling number of articles in trade which were produced prior to 1830.

OTHER ARTICLES COVERED BY THE BILL

Other articles for which duty-free treatment is provided include books in the English language, recently produced music, maps, copies of paintings executed by hand, models and patterns for exhibition or educational use, and scientific specimens for private collections for nonprofit exhibition or other educational or scientific use.

ECONOMIC EFFECT

It is estimated that imports in 1965 of books and other printed matter which are to be made duty-free amounted to $30 million. It is difficult to estimate the value of imports of other articles which would be made duty-free, such as scientific instruments. However, we believe that passage of the bill will not result in any significant increase in the level of imports.

Consequently, we believe there is little reason to anticipate that the implementation of the Agreement would result in serious injury to any domestic industries, firms, or workers. However, section 9 of the bill implements a permissable escape clause reservation to the Agreement. Generally, it provides that the adjustment assistance of Tariff adjustment provisions of title III of the Trade Expansion Act of 1962 are applicable to the articles for which duty-free treatment is provided in the bill as if such duty-free treatment were a concession granted under a trade agreement.

IMPORTANCE OF LEGISLATION

In view of the minimal impact on trade, already referred to, we do not expect that this bill will have any significant adverse effect on the United States balance of payments.

In letters of June 1, 1965, to the Vice President and the Speaker of the House of Representatives, the President stated: "The purpose of the Agreement is to promote the growth of international understanding by reducing trade barriers to the flow of knowledge in all directions across all frontiers." He expressed the view that enactment of implementing legislation "would be of very material benefit to our schools and universities, science laboratories and research foundations", and to certain other organizations, and asked the Congress to approve such legislation "promptly".

On November 8, 1965 the President issued a statement pointing out the need for passage of the bill in the interest of "economy of effort". He had just signed 14 individual bills providing free entry for specific scientific instruments imported for use in universities throughout the country. More recently, in his message to Congress urging passage of the International Education and Health Acts of 1966, the President recommended prompt passage of legislation to implement the Florence Agreement.

Twenty years ago, twenty-eight nations, including the United States, joined to establish the United Nations Educational, Scientific and Cultural Organization. A basic precept of the Constitution of UNESCO is that educational, scientific and cultural cooperation, including the free exchange of ideas among men, will contribute to the maintenance of world peace. This idea remains unchanged, although the original twenty-eight member states now number one hundred and twenty.

The Florence Agreement and the companion Beirut Agreement, which includes the duty-free importation of audio-visual materials between contracting states, represent the two most significant efforts by UNESCO to keep open the channels of communication and promote the free flow of ideas among men.

We helped draft both agreements. We support the concepts they represent and we believe in them. The implementing legislation for the Beirut Agreement was passed by the Senate this month. That for the Florence Agreement is now before you.

Next month, I will have the honor of leading a delegation which will include a number of our well-known scholars and intellectuals to the 14th General Conference of UNESCO in Paris. On November 4, the Conference will mark the twentieth Anniversary of the Organization. It is our strong belief that the United States should, at long last, reaffirm the principles we helped define and expound twenty years ago, by ratifying both of these Agreements. Consequently, we urge prompt affirmative action by the Committee, on the bill before you, so that final action thereon may be taken by the 89th Congress.

I have tried to be brief in view of your heavy schedule. With the assistance of the representatives of other Government agencies who are here this morning, I should be glad to answer any questions regarding this bill.

Thank you.

STATEMENT OF JOHN G. LORENZ, ACTING LIBRARIAN OF CONGRESS

Mr. Chairman and Members of the Committee. I appreciate this opportunity to appear here today to speak in behalf of H.R. 8664, an act to implement the Agreement on the Importation of Educational, Scientific, and Cultural Materials.

The Library of Congress favors this legislation because it is a concrete expression of the intent of the United States to reduce barriers to the free flow of information between countries. The enactment of the implementing legislation before you today should indicate to the other signatories that we speak in good faith when we say that the United States is very much in favor of exchanging knowledge with all parts of the globe. This, as you know, was an overriding theme of the 1965 International Cooperation Year.

One of the primary reasons for the delay of the United States in ratifying and implementing the Florence Agreement stems from the "manufacturing clause" of the copyright law which requires books in the English language to be completely manufactured in this country in order to achieve complete copyright protection.

In 1954 the Senate ratified the Universal Copyright Convention and the Congress enacted legislation implementing it. These changes had the effect of exempting books in the English language which were first published abroad by nationals of countries adhering to that Convention from the "manufacturing clause."

The hearings on the U.C.C. followed earlier reductions in tariffs on books and the coming of the General Agreement on Tariffs and Trade, which outlawed certain restrictions on the flow of trade. In this context, the trade union argued that the manufacturing clause should be retained in the copyright law as a nontariff restriction, in order to protect the American printing industry. After the U.C.C. came into operation, some fear was expressed by the printers' unions and the book manufacturers that the exemption from the manufacturing clause required by U.C.C. would result in economic harm to them. Additional concern was that the Florence Agreement, if implemented, would further contribute to their economic difficulty. Signing and ratification of that Agreement was therefore delayed until it became apparent that the U.C.C. did not result in a material increase of English-language book imports.

In later years, the book manufacturers relaxed their opposition to the Florence Agreement; in fact, the Book Manufacturers Institute in 1962 issued a policy statement supporting the implementation of the Agreement, "provided, however, that such legislation shall not include commercial transactions concerning the production of books" under the copyright law. This was coupled with a statement of vigorous support of the present manufacturing provisions of the copyright law.

In the discussions leading to the introduction of H.R. 4347, the bill for general revision of the copyright law, and in the 1965 hearings on that bill before the House Subcommittee, the representatives of book manufacturers and printing unions strongly supported retention of a manufacturing requirement in the copyright statute. As a result of their arguments, the copyright bill now pending contains a compromise provision retaining a manufactured requirement in greatly liberalized form. The printing unions have stated their support for the manufacturing provision in the bill, and the book manufacturers have indicated a

willingness to liberalize the requirement further. An apparent assumption underlying these positions in the copyright context has been that any future protection for the book manufacturing industry will probably have to come from the copyright law. Consequently, one of the main objections to the Florence Agreement has now been overcome.

American book publishers will, of course, benefit from reciprocal reduction of tariffs in other countries.

Librarians have long been working toward the goal of achieving a free flow of literary and cultural materials between countries. In the Higher Education Act of 1965, Congress authorized the Library of Congress to acquire materials published anywhere in the world of importance to research, to catalog the material promptly, and to provide catalog card copy to research institutions in this country. In order to achieve this goal, the Library of Congress has enlisted the cooperation of librarians, book publishers, national libraries, and national bibliographies in virtually every continent in the world. The cooperation and interest given us has been astounding. The United States deposit of its ratification of the Florence Agreement would further indicate our Government's interest in exchanging ideas with other countries.

I thank you for the opportunity to appear here today to present the views of the Library of Congress.

September 20, 1966

Senator McCarthy. The next witness scheduled is Mr. Verner Clapp of the American Library Association.

Mr. Clapp, will you identify yourself?

STATEMENT OF VERNER W. CLAPP, PRESIDENT, COUNCIL ON LIBRARY RESOURCES, INC., REPRESENTING THE AMERICAN LIBRARY ASSOCIATION

Mr. Clapp. Good morning, Senator.

Mr. Chairman and members of the committee, my name is Verner W. Clapp. I am president of the Council on Library Resources, Inc., and I am here today to represent the American Library Association, a professional nonprofit organization of more than 31,000 members—the oldest and largest association of librarians in the world. It is as a member of the ALA Council—its governing board—that I appear here today.

I appreciate this opportunity of appearing before you to urge favorable action on H.R. 8664, which would "enable the United States to give effect to the Agreement on the Importation of Educational, Scientific, and Cultural Materials, opened for signature at Lake Success on November 22, 1950 * * * with a view to contributing to the cause of peace through the freer exchange of ideas and knowledge across national boundaries." This is a matter which lies close to the aims and objectives of the association and on which it has long taken a stand.

The executive board of the association, by resolution dated November 15, 1958, urged U.S. adherence to the Florence agreement, and the association presented testimony at hearings on the agreement before the Committee on Foreign Relations of the U.S. Senate on January 26, 1960. The Senate gave advice and consent to its ratification on February 23, 1960. More recently, on January 27, 1965, the Council of the American Library Association, its governing body, adopted a resolution urging the President, the Secretary of State, and the Congress, to take the necessary action to implement the agreement which is under consideration here today. I submit a copy of our council resolution for the record.

The association also submitted testimony in support of H.R. 8664, at the House hearings before the Ways and Means Committee on June 6, 1966.

In his message of June 1, 1965, urging legislation to implement the agreement, the President stated that enactment of such legislation would be of material benefit to a number of kinds of educational, scientific, and cultural institutions, including libraries. The fact is, however, as I shall explain, that library support of the legislation is strongly motivated by other considerations than direct institutional benefit, and is independent of it. The American Library Association urges enactment of the legislation for the following four reasons:

1. The association strongly supports the thesis that not only provides the underlying philosophy of the agreement, but that is also the accepted policy of the United States; namely, that the cause of international understanding—that is, of peace—is advanced by the free exchange of information, and that every barrier to the flow of knowledge is also an obstacle to peace. The impediments to international understanding arising from natural causes, such as distance and language differences, are regrettably all too numerous and obstructive, but at least are not artificial obstacles. It is all the more important, in consequence, not to erect additional artificial manmade impediments such as customs duties, especially if these are lacking, as I believe to be the present cast, in genuinely significant purpose. Every unnecessary obstacle to international understanding which we erect or permit to stand has the capability of someday taking its toll not only of our peace but perhaps of much more besides. Elimination of already low customs duties on educational, scientific, and cultural materials is a small price to pay for improved international understanding.

2. The association is of the opinion that the United States should stand on terms of equality in this matter with those members of the civilized world with whom it should be side by side and not behind. It is humiliating to us as American citizens that 50 other countries have ratified the agreement—countries like the United Kingdom, France, Italy, Belgium, Holland, Norway, Sweden and Denmark, Greece, Finland, and the Philippines—but not our own country.

3. The association believes that in the competition for the good opinion of mankind, the position of the United States should not be found less admirable than that of our competitors.

Specifically, in a compilation of customs duties and other import formalities entitled "Barriers to Knowledge," of which I hold a copy in my hand, Mr. Chairman, compiled by the London Economist and published by UNESCO (2d ed., 1955), the comparative practices of the nations can be seen. Those of the United States require four pages to present. There it appears that we were levying a 5 percent ad valorem duty on books in English of bona fide foreign origin and 20 percent on other English language books, 10 percent on music, 7.5 percent on certain children's books, and 12.5 percent on maps. Although these duties have since been reduced in some cases through the operations of the reciprocal trade program to 3 percent on books in English of foreign origin, 7 percent on other English books, 10 percent on music, 7.5 percent on children's books, and 8.5 percent on

maps, yet the principle persists, namely, that the United States imposes a tax on foreign knowledge.

By contrast with the United States four-page presentation, the Union of Soviet Socialist Republics requires only two pages in this book. Under each of the principal categories of books, newspapers, maps, periodicals, and so forth, appear the one word "Exempt." The impression is conveyed that the Soviet Union is more hospitable to the published vehicles of ideas than is the United States. This impression, which, I may say, is found all the time repeated in various neutral countries, would be eradicated at one stroke through U.S. ratification of the agreement.

4. Finally, librarians stand to gain directly from ratification. Libraries connected with educational institutions and public libraries are already exempt from payment of import duties on books. However, to secure this exemption they must frequently submit to formalities and suffer delays, vexations, and occasional expense. These would be avoided by ratification of the agreement. In addition, through ratification, they would escape the present impact of the tariff when they purchase foreign publications from domestic dealers.

For these four principal reasons, Mr. Chairman, the association urges early enactment of H.R. 8664, legislation that will permit implementation of the Florence agreement.

(The resolution referred to follows:)

RESOLUTION OF THE AMERICAN LIBRARY ASSOCIATION

Whereas, The UNESCO-sponsored Agreement on the Importation of Educational, Scientific, and Cultural Materials (known as the Florence Agreement) was opened for signature at Lake Success, New York, on November 22, 1950, and some forty-six nations now adhere thereto; and

Whereas, The Senate of the United States did advise and consent to ratification of the Agreement on February 13, 1960; and

Whereas, The Secretary of State is, by agreement with the Senate, withholding the deposit of the instrument of ratification of the Agreement by the United States until the Agreement is implemented by legislation enacted by the Congress: Now, therefore, be it

Resolved, That the American Library Association, continuing in its conviction that the United States should no longer delay its adherence to the Florence Agreement, hereby urges the President of the United States, the Secretary of State, the President and Members of the United States Senate and the Speaker and Members of the United States House of Representatives, to take measures to enact as promptly as possible the implementing legislation which will permit the deposit of the ratification of the Agreement by the United States.

Adopted by the Council of the American Library Association, January 26, 1965.

Transmitted by David H. Clift, Executive Director and Secretary of the Council.

Mr. CLAPP. I have with me today, Mr. Chairman, Mr. Fred Wormold of the Association of American Colleges; Prof. Herman Orentlicher of the American Association of University Professors; and Mr. Richard Humphrey of the American Council on Education, who would like to submit a joint statement on behalf of their organizations, and also of the National Association of State Universities and Land-Grant Colleges in support of the legislation.

Thank you, Mr. Chairman.

Senator MCCARTHY. That will be accepted without objection.

(The statement referred to follows:)

STATEMENT OF THE AMERICAN COUNCIL ON EDUCATION, THE AMERICAN ASSOCIATION OF UNIVERSITY PROFESSORS, THE ASSOCIATION OF AMERICAN COLLEGES, AND THE NATIONAL ASSOCIATION OF STATE UNIVERSITIES AND LAND-GRANT COLLEGES

The educational organizations associated in this Statement represent, among them, the broad spectrum of American universities and colleges and their teaching and research faculties, a community heavily committed to fostering intellectual communication between nations and to the service of this nation through a wide variety of research and extension activities. These organizations and institutions have consistently supported the principles represented in this legislation.

First, they believe strongly that an Agreement on which the Senate has already advised ratification should be implemented.

Second, they believe that the reduction of trade barriers to the flow of knowledge in all directions will, in fact, promote international understanding. They do not simply subscribe to "international understanding" as a lofty principle, although they agree that it is one. They regard the extension of international understanding as vital to men's hopes for achieving stability and peace in a complex, even chaotic, world. They have been encouraged, ever since World War II, by the Congress' repeated affirmation of public policies designed to buttress every possible avenue to increased communication between diverse nationalities. They regard the Florence Agreement as one more essential step in this critically important direction.

In short, the institutions represented in this Statement believe that Senate advice and consent to ratification of the Florence Agreement constituted evidence of wise public policy. They believe hat its implementation is long overdue.

Considered in the light of academic community responsibilities to society, it is amply clear that the provsions of the Florence Agreement will directly benefit scholars and scholarship. As Dr. Randall M. Whaley, Chancellor of the University of Missouri at Kansas City, and member of the American Council on Education's Commission on International Education, said in his testimony on June 6, 1966 on behalf of three of these associations before the House Committee on Ways and Means:

"Anything which makes more readily available the materials of serious scholarship—books and printed materials, documents and other library materials, scientific instruments and apparatus, visual and auditory materials—enhances the contribution the individual scholar can make. We have come to learn, across a very broad spectrum of the public interest, how critical is the importance of the scholar and his work in our society and in our world." We are confident that the implementation of this Agreement will greatly enlarge the potential of serious scholarship in this country.

Serious scholarship, however, will not be the sole beneficiary within the academic community. Teaching, as well, will be substantially benefited by the passage of this legislation. Here, again, the congruence is striking between the convictions of higher education and the support which the Congress has extended to increase the educational strength of this country.

Sound teaching as well as sound scholarship is heavily dependent upon teaching tools in quantity, and of high quality. The development of adequate scientific manpower in this country seems to us one obvious illustration of the centrality of the teaching function, and the need for equipment and apparatus to sustain the teaching function presses heavily on us. As far back as 1960, Professor Sanford Brown of the Massachusetts Institute of Technology, testifying before the Senate Foreign Relations Committee, and appearing as Chairman of the Committee on Apparatus for Educational Institutions of the American Association of Physics Teachers, said ". . . import duties on scientific equipment that is unavailable in this country and is imported by educational institutions are outmoded and should be removed . . ." This observation has lost none of its force in the interim.

Augmenting the available teaching resources in the sciences, however, will not be an isolated benefit of this legislation. Broader teaching objectives of the academic community, and of this Government, will also be served; quite clearly, for example, the very important purposes of the International Education Act

of 1966. One of the major objectives of that Act is to raise the level of our people's literacy in other, particularly non-Western, cultures. Many of the teaching materials for this purpose will be freed of trade restrictions by this legislation.

In a resolution adopted at its Annual Meeting in January 1960, recommending the speedy enactment of legislation implementing the Florence Agreement, the Association of American Colleges recognized that ". . . the free flow of knowledge and ideas is a time-honored American ideal, an essential element in a democratic society and a major goal of international organizations in which the United States has accepted the obligations of membership."

Over five years later, in June 1965, the President of the United States, in a letter to the Vice President and the Speaker of the House, stated the case in these words: "Enactment of the legislation would be of very material benefit to our schools and universities, science laboratories and research foundations, libraries, art galleries, museums and institutions and organizations devoted to the welfare of the blind. The fullest freedom of access to the knowledge and culture of other nations is the hallmark of the open Society."

In summary, the four national educational organizations associated in this Statement agree with these views, and believe the purposes of this legislation unquestionably to be in the national interest. We believe that American producers of the materials and equipment affected are adequately protected. And, we feel strongly that, the Senate having advised and consented to ratification, the United States is obligated to implement the Agreement. We urge the speedy enactment of H.R. 8664 in order that the United States may become a fully party to the Florence Agreement.

The CHAIRMAN. I just want to ask one question. Why do we call this the Florence agreement?

Mr. CLAPP. Because it was signed at or was drawn up at the Florence meeting of the General Conference of UNESCO in 1950.

The CHAIRMAN. Is there any particular reason why Florence was chosen for that meeting?

Mr. CLAPP. Because it was a good place to meet. They meet, they hold their meetings in various cities. For example, they have never held a general conference in the United States, I believe.

The CHAIRMAN. What time of the year do they meet there in Florence?

Mr. CLAPP. I am sure it was a good time of year. I was not there myself, sir.

The CHAIRMAN. I think we should know the details about it. I thought maybe the UNESCO people went there to acquaint themselves with some of the culture—there is quite a bit of culture in Florence, which was sort of the center of the Renaissance.

Mr. CLAPP. True, and a very beautiful city.

The CHAIRMAN. It is beautitful.

Mr. CLAPP. I hope that we can commemorate her or it in this legislation.

The CHAIRMAN. The Senator tells me that the meeting was held in November. It is a very nice place to be in November; it is a very nice time to be in Florence. I imagine they got along pretty well. If you pick a good meeting place I think it helps to work out an agreement.

Senator MCCARTHY. I think it was a mistake to establish the Capital in Washington. [Laughter.]

The CHAIRMAN. Thank you very much.

Mr. CLAPP. Thank you very much.

Senator MCCARTHY. I have one question. Is there any reason why the Russians are not a party to the agreement? You cite the fact they do not have duties on books generally, but I note they are not a party to the agreement. Do you know why?

Mr. CLAPP. At the time that the Florence agreement was open for signature, the Soviet Union was not a member of UNESCO. It has since become a member and has ratified a number—entered into a number—of the UNESCO-arranged agreements. I do not know the specific reason they did not.

Senator MCCARTHY. Mr. James H. French of the Book Manufacturers' Institute.

STATEMENT OF JAMES H. FRENCH, COUNSEL, BOOK MANUFACTURERS' INSTITUTE, INC.

Mr. FRENCH. Senator Long and Mr. Chairman, my name is James H. French. My address is 1625 K Street NW., Washington, D.C. 20006. I am an attorney representing the Book Manufacturers' Institute, Inc., 25 West 43d Street, New York, N.Y. 10036.

The Book Manufacturers' Institute (BMI) is the trade association representing our country's book-manufacturing, as distinguished from its book-publishing, industry. The BMI's members are typesetters, printers, and binders of books. They account for more than 75 percent of all book manufacturing in the United States.

Most book manufacturers in the United States have long supported the purposes and objectives of the Florence agreement. However, they are deeply troubled by the implementation bill, H.R. 8664.

We are vitally concerned with import statistics and as passed by the House of Representatives, H.R. 8664 would terminate the collection and publication of detailed book import statistics which are vitally important to book manufacturers.

Section 3, subsection (a), of the bill proposes to consolidate all book imports under a single tariff item entitled "Books not specially provided for." These imports, currently running at more than $50 million a year, are broken down under the present tariff arrangement into no less than seven separate tariff categories.

The import statistics published monthly by the Department of Commerce have for many years shown the volume and value of imports of each of these seven categories of books separately. Continued knowledge of the amounts and trends of the more important categories of imports is of vital importance, both to individual book manufacturers and to the industry as a whole.

Consolidation of these separate categories, as proposed by H.R. 8664, under a single, catchall tariff item would, absent remedial action by the appropriate administrative agency, automatically result in the termination of this important statistical data.

The report of the Committee on Ways and Means of the House recognizes, at pages 12 and 13, the desirability of having separate import statistics but, in our opinion, fails to state with sufficient positiveness and clarity the congressional intent. The report says, and I quote:

> Your committee anticipates that the Interagency Committee for Statistical Annotation of Tariff Schedules, in establishing statistical classification for new item 270.25 for books, will give special consideration to the need for continuity of statistical information.

We have discussed the matter at some length with the Chairman of the Interagency Committee. The Chairman appears sympathetic to our industry's information needs and has expressed the belief that something can be worked out.

However, since the matter is not yet ripe for full committee consideration, and will not be until the outcome of this legislation is determined, the Chairman could not give us any assurance that the Committee would respond favorably to our request—the Committee being comprised of Commerce and Treasury Department as well as Tariff Commission personnel.

Also, the Chairman expressed some disagreement with the wording of the House report to the extent that it calls only for the giving of consideration to the need for statistical continuity, without alluding to the industry's present-day informational needs. We are in full agreement with the Chairman on this. We feel that the statistical detail gathered should be responsive to present-day informational needs and should not adhere slavishly to historical tariff breakdowns.

However, we are at the same time deeply troubled lest our willingness to abandon the old breakdowns and take a fresh look leave us high and dry. Our fears have been heightened by expressions of concern for such factors as cost to the Government of collecting the data, relative ease or difficulty of allocating imports to the appropriate statistical categories, current value of imports of the types for which data is desired, and so forth.

Thus, rather than withdraw our opposition to the consolidation of the present tariff items while facing the possibility that the Interagency Committee may refuse to establish acceptable new statistical subclassifications, leaving the industry without any statistical detail on imports, we must prefer to insist that the separate tariff items not be consolidated. We feel somewhat justified in this since the move to consolidate these items is purely a housekeeping maneuver and is not required in order to fully implement the Florence agreement. All that is required, I may add, is simply to declare free each of the seven categories of books which is presently listed in the tariff.

However, if assured that reasonable statistical subclassifications would be established, the book manufacturing industry would be perfectly willing to accept consolidation of the historical tariff items—indeed we would prefer it, with one exception, I might add, which I will come to in a minute.

And when we say reasonable, we really mean reasonable. We are asking for fewer and more clearly defined categories than exist today. All we ask is the assurance that statistical subclassification will be establishd which will provide import information reasonably related to the following things: (1) the remaining restriction against unlimited imports of books, found in the copyright law, (2) present and foreseeable future commercial importance of the types of imports, (3) the natural divisions, by type of book, into which the book manufacturing industry falls, and (4) the statistics being collected under the existing tariff breakdown. That is, item 4 refers to continuity of information.

Now, let me turn for a moment to our only substantive objection as far as this legislation is concerned. It refers to what we call commercial transactions.

The Florence agreement is a UNESCO treaty calling for the free flow among nations of ideas, knowledge and diverse forms of national self-expression. It has been billed as purely noncommercial.

However, as passed by the House of Representatives H.R. 8664 would eliminate the duty presently applicable to imports of books of American authorship which have been sent abroad in manuscript form by U.S. publishers and authors, there manufactured into multiple copies at lower cost than American book manufacturers can offer, and then reimported for sale to American consumers.

This is a purely commercial set of transactions, undertaken in order to maximize profit. It bears no relation whatsoever to the Florence agreement concept. Such imports are comprised of books which American book manufacturers normally would expect to manufacture. Each such book manufactured abroad constitutes business which is being denied to U.S. book manufacturers in favor of foreign book manufacturers.

Under these circumstances, we do not believe that the blatantly commercial character of H.R. 8664 can be justly denied. Moreover, the preamble and history of the Florence agreement both demonstrate, we believe, beyond any doubt that elimination of the duties applicable to such commercial transactions is not requisite to full implementation of the Florence agreement.

Elimination of such duties, if it is to be effected at all, should be acknowledged for what it is and accomplished through commercial trade agreements, not slid under the door as part of a UNESCO treaty allegedly espousing culture and international good will.

Accordingly, we wish the record to clearly reflect our protest against this bill's elimination of the duty applicable to books of American authorship.

Thank you, Mr. Chairman.

The CHAIRMAN. I believe we can take care of your problem with a paragraph in the committee report. We will look at that and see if it can be worked out.

Mr. FRENCH. Thank you, Senator. I feel that it can be worked out.

Senator MCCARTHY. As I understand it, Mr. French, you would prefer to have the present categories in the reporting unless you had assurance that you would have something more acceptable.

Mr. FRENCH. Some reasonable assurance, Senator McCarthy.

Senator MCCARTHY. Yes. Along the lines that you suggest.

Mr. FRENCH. We just are fearful that we should say, "We will go ahead and consolidate them," and then the interagency committee and we just cannot get together and we cannot agree. I think the likelihood of that happening is, perhaps, not too strong.

I do not want to give the impression that we met and they have been adamant one way and we have been adamant the other.

But naturally we are vitally concerned with the preservation of this information, and we just want to be very careful about it.

Senator MCCARTHY. How extensive is the practice of sending abroad manuscripts by American authors, having them printed overseas and then sent back here into the United States?

Mr. FRENCH. Frankly, Senator McCarthy, it is not extremely—it is not done extensively today.

What is done is manuscripts are sent abroad, they are set into type, and then reimported into this country in the form of reproduction proofs for further modification into lithogaphic negatives or whatever form they use it in, and then the actual printing and binding of

the books is done in this country from the foreign-set type. This is the common practice today.

Senator McCarthy. Is that very extensive?

Mr. French. It is quite extensive, we understand.

Senator McCarthy. Any particular kind of publication or is it general? Is it academic work?

Mr. French. It is primarily done or at least in its initial stages was done primarily with regard to academic-type books, your scientific books in which the cost of composition is relatively high and usually, too, that means books in which the number of volumes actually printed tends to be low, so that this enlarges the cost of typesetting in relation to the overall cost of the book.

Now, that has grown, we understand, and we believe it is pretty extensive today, and we have seen evidences as far back as 2 to 3 years of it being done with books, with ordinary books, of fiction.

Senator McCarthy. If the records were kept of the experience under the agreement in the bill in the future, as you suggested, we could then determine very quickly what the trend was.

Mr. French. That is our idea; that is the idea, Senator, we want to know what is happening to those imports.

Senator McCarthy. Thank you very much for your testimony.

Mr. French. Thank you.

Senator McCarthy. Mr. Strackbein of the International Allied Printing Trades Association.

Is Mr. Strackbein here today?

We will hear him later.

Mr. Ralph Ball, the National Antique & Art Dealers Association of America.

STATEMENT OF RALPH DE LACEY BALL, NATIONAL ANTIQUE & ART DEALERS ASSOCIATION

Mr. Ball. Mr. Chairman and members of the committee, I am Ralph De Lacey Ball, and I represent the National Antique & Art Dealers Association, with offices in New York City at 59 East 57th Street. I have been in the antique business for almost 20 years. The company with which I am associated was privileged to be able to supply the French 18th-century furniture for the Thomas Jefferson room in the seventh floor reception suite of the New State Department Building, an exhibit with which you may be acquainted.

I am here to express our association's opposition to section 4(B) of this bill. We were not aware of the bill until it had passed the House Committee on Ways and Means, so this is our first opportunity to express our views in open hearing, on this matter of great importance to us.

We believe in the free interchange of educational, scientific, and cultural material. But the purposes of this bill can be served without extending it to antiques, which are strictly in none of these categories. The change in the definition of "antique," which the section 4(B) makes, will be extremely harmful to those in the United States who buy antiques, and to those who sell them.

The antique buyer considers an antique as something handmade, and made in the 18th or early 19th century.

The present tariff law defines an antique as something made prior to 1830, which date ushered in the industrial revolution. After this date, goods began to be made by machines. Section 4(B) would change the definition of "antiques" to items "more than 100 years old." It would thus move into the category of "antiques" all furniture, silver, porcelain, and other items made by machine between 1830 and 1866—items whose value are but a small fraction of those of the true antique.

To change the definition of "antiques" for tariff purposes would be to change it for all practical purposes, in the minds of dealers and of the buying public. Any unscrupulous dealer could misrepresent a machine-made copy to be a true antique, relying on the definition laid down by the U.S. Government in its tariff laws.

To give you an example of the confusion section 4(B) would cause, I brought two benches for your inspection. The first is an authentic 18th-century handmade bench valued at $3,800. The second is made after 1830 by machine, value, $800.

The CHAIRMAN. How could you tell one from the other?

Mr. BALL. To the nonprofessional, that is the point; it is very difficult. A dealer would know, but an unscrupulous dealer could pass this off as being a genuine antique or handmade prior to 1830.

The CHAIRMAN. How much did the first one cost?

Mr. BALL. $3,800.

The CHAIRMAN. $3,800.

Mr. BALL. Which is 18th century.

The CHAIRMAN. You would have a hard time selling me this for $3,800. [Laughter.]

I would prefer to buy an automobile myself.

Mr. BALL. Yet the passage of section 4(B) will make it possible for the second item to be passed off as of similar value to the first, not dutiable, you see, even though it is machine made.

The CHAIRMAN. How can they do that? How does the bill do that?

Mr. BALL. Because it specifies, 4(B), that anything would come in duty free that is just 100 years old, but after 1830, which is the present date, pieces were made by machine.

Senator MCCARTHY. You could not keep it out in any case. They can bring it in and pay the duty.

Mr. BALL. What?

Senator MCCARTHY. They can still bring it in.

Mr. BALL. But it would be dutiable.

Senator MCCARTHY. It seems to me if they were going to deceive somebody by the difference between $800 and $3,800, they would be able to pay the duty, would you not?

Mr. BALL. You have got a point there, you have a good point.

The CHAIRMAN. What would the duty be on that?

Mr. BALL. On furniture it is 17, is it not, 17 percent.

Senator MCCARTHY. On this it would be, you say, 17 percent. Let us say 20 percent of $500.

Mr. BALL. Yes; if it was purchased.

Senator MCCARTHY. That would be $100 of duty. The total cost would be $600, and one could afford to pay that if he were to sell it at $3,800—just barely. Go ahead.

Mr. BALL. If I may give you some other examples, until shortly after 1830, silver was made by hand. With the invention of electro-

plating this silver was copied in large quantities. If these copies are allowed into the United States duty free, the whole concept of fine antique silver cannot help but change in the mind of the public. What is now rare and even precious to the collector and owner, will be available in almost any secondhand shop.

The CHAIRMAN. Do I understand what you want to do is to make things precious and cost a lot of money? You are afraid it might sell cheaper?

Mr. BALL. No. As an antiquarian—it is machine made versus handmade, that is the idea.

The CHAIRMAN. But what is the difference? It seems to me all you are talking about is the difference between paying a tariff and not paying a tariff. You understand the difference, Senator? In one case you pay the tariff, and in the other case you do not. What is the difference?

Mr. BALL. We feel that a piece should not be allowed in duty free after 1830. The new law would allow that. You see, it says only 100 years, which could bring it up to 1866. Many, many machine-made pieces would then glut the market, which we call antiques, which we do not think is right.

The CHAIRMAN. I suppose it makes good sense to an antique dealer. Not being one I just cannot understand it.

Go ahead.

Senator MCCARTHY. You could still call it an antique no matter when you brought it in. There is nothing that requires an antique dealer to say that this was brought in duty fee.

Mr. BALL. A reputable dealer, yes.

Senator MCCARTHY. He would say this came in duty free?

Mr. BALL. Which would mean it is prior to 1830.

Senator MCCARTHY. A reputable dealer does not have to. A disreputable dealer can say this is an antique, he can say this article came in after 1830 or before 1830.

Mr. BALL. If he made one yesterday he could say that. But again that would not be a reputable dealer.

Senator MCCARTHY. I do not see how you are helped very much by keeping the tariff on those that are brought in after 1830 unless there is going to be some kind of official label put on it saying this came in duty free and, therefore, it must have been made before 1830, and the antique dealer could then—we could have a kind of truth in packaging for antiques. Maybe that is what we need.

Mr. BALL. No. We feel it is lowering the standards of the antique world.

Senator MCCARTHY. You do not want a truth in packaging for antiques?

Mr. BALL. What? Pardon me?

Senator MCCARTHY. You do not want us to recommend truth in packaging for antiques at this stage, do you?

Mr. BALL. Well, I do not know. Why not? A reputable dealer would not mind it.

Senator MCCARTHY. Maybe this is what we need.

Mr. BALL. Maybe it is.

Senator MCCARTHY. Let us go ahead.

Mr. BALL. To give one more example, there is a considerable amount of furniture now on display, made in the Louis Philippe period which

was from 1834 to 1848. This is fine furniture, but it is not antique, and is not considered such by reputable dealers or the public. If section 4B is passed, the furniture of this period will suddenly become antique. The prices of true antique furniture will be depressed.

Section 4B will also be quite difficult for customs inspectors to enforce. The year 1830 is the only practical date for their purposes. At the present time, when a traveler brings back, a dealer, an item which he claims is antique, and thus duty free, customs can inspect to see whether it was made by hand or by machine. We know this, because many of our members assist customs in making this determination, when requested to do so. The determination can be made by an examination of hand-tool marks, imperfections, discolorations, and the other characteristics that distinguish handmade from machine-made goods. But no expert can determine whether a piece was made in 1860 (over 100 years ago and thus, with the new law, be duty free, or made in 1868 (less than 100 years ago and thus be dutiable). Both pieces within that short period could have been made on the same machinery.

Finally, section 4B will injure the many factories in the United States which manufacture reproduction furniture. If the tariff is abolished millions of dollars worth of 1830–70 furniture, identical in appearance to reproduction furniture made by these companies, will be imported into the country in great quantities, duty free, and sold as antiques at prices at which these American companies cannot compete in view of the costs of manufacture they bear today. Manufacturers of reproduction furniture have factories in many States, of course, and employ thousands of workers.

The 1830 cutoff date was put into the tariff law many years ago, to avoid just these problems and dislocations. Our association hopes that Congress will not throw the antique industry into confusion merely to implement an international agreement primarily concerned with other subjects.

I am not an international lawyer, but since antiques are not central to the Florence agreement, I would think some language could be worked out for this bill, without impairing the treaty, by which our Government could retain the 1830 date. I hope your committee could inquire whether other signatory countries have done this. We will certainly be happy to assist your committee in making this small adjustment in the bill. We hope you will do this, and thus maintain the relations that have grown up over many years between the hundreds of thousands of Americans who cherish antiques and those who serve them.

The CHAIRMAN. You brought up a very interesting point. I, for one, would like to see if we can work this out. My staff tells me if this bill passes the way it is the price of a lot of these antiques will go down. But, on the other hand, there is a lot of other junk the price of which will go up, so it kind of works out both ways. But you people have a legitimate business, which some on this committee do not know too well.

My wife knows about this more than I do. We will try to work some things out so we do not shake your industry up too much.

Mr. BALL. All right, sir.

Senator MCCARTHY. Thank you very much.

STATEMENT OF NATHAN H. MAGER, DIRECTOR, NATIONAL ANTIQUES SHOW, INC., REPRESENTING THE NATIONAL ASSOCIATION OF DEALERS OF ANTIQUES

Mr. MAGER. My name is Nathan H. Mager, and I am here on behalf of the National Association of Dealers of Antiques, and we are in favor of this bill, and I would like to file a statement with the committee.

I also have here a statement from the Long Island Antique Dealers Association, if you will take them.

(The statements follow:)

STATEMENT BY NATHAN H. MAGER, NATIONAL ANTIQUES SHOW, INC.

I am Nathan H. Mager of 1013 East Lawn Drive, Teaneck, New Jersey. For the past twenty years I have been the director of the National Antiques Show which is held annually at Madison Square Garden and I have directed the National Arts and Antiques Festival at Madison Square Garden and numerous other antiques shows during the past decades. I have been asked today to represent the Long Island Antiques Dealers Association and the three hundred or more dealers who are associated in the various shows which I present.

These dealers are entirely representative of the 10,000 or so shops which are commonly accepted as antiques shops in this country. By far the greatest portion of the merchandise sold in these shops consists of artifacts which were made both in this country and abroad during the period between 1830 and 1900. During these years were made most of the bronzes, porcelains, paintings, paperweights and distinctive furniture available to the American market and to the ordinary American consumer. On relatively rare occasions furniture and other artifacts made prior to 1830 are available to these dealers but these constitute an aristocracy of merchandise which is usually priced beyond the capacity of the middle-income American to utilize as part of his home decor. During the past decades most of these items have found their way into the nation's museums and those that remain available to the public have consequently risen in price. By the very reason of their scarcity, they are available through relatively few stores in a few areas and at prices which make their utilization available to a relatively tiny portion of our population. On the other hand, the bulk of the artifacts which are available and whose use and distribution should be encouraged, are the stock and trade of many thousands of small vendors and collectors and constitute a large cultural influence in this country—both from an artistic and historic points of view. The trade in these objects—both those made here and those made abroad—should by all means be encouraged.

It is for this reason that I respectfully request this committee to urge the passage of amendments which will modify the Tariff Act to define—both for the Tariff Act itself and for the public which assumes this to be an official designation—an antique as an object made not less than one hundread years prior to the current date.

STATEMENT BY MRS. HAROLD HECHTMAN OF THE NATIONAL ASSOCIATION OF DEALERS OF ANTIQUES

I am here at the request of The National Association of Dealers of Antiques to present a plea for the redefinition of the term "antiques" in the nation's tariff acts. My name is Mrs. Harold Hechtman of 155 West 68th Street, New York City. I am honorary president of the Long Island Antiques Dealers Association, one of the chapters of the National Association, but I am certain that I speak for virtually all of the members of the national association in making this plea.

The 1930 tariff set up a definition of the word antiques which, although arbitrary at the time, has come to be accepted by many unsophisticated consumers as virtually an official designation. It has misled the public in this respect and created a great hardship on the vast majority of dealers in antiques, most of whose merchandise ranges in age from 80 to 130 years. Very large areas in craftsmanship, including the creation of most of the world's great porcelains, and glassware, much of its bronze and paintings, a great deal of its

furniture and furnishings were created during the period after 1830. These are available in substantial quantity to the American public compared to the great rarity of pieces pre-dating 1830. However, all of these creations of men suffer from a special onus because of the curious circumstances which created customs definitions some 35 years ago.

We most urgently request that this committee approve a new definition of antiques accepted throughout the world and remove from our business the unwarranted disapproval which the 1930 definition implies.

Senator McCarthy. Mr. Donald Dunn. All right, you may proceed.

STATEMENT OF DONALD M. DUNN, ATTORNEY, E. LEITZ, INC.

Mr. Dunn. My name is Donald M. Dunn. I reside in New York City and am an officer and director of, and attorney for E. Leitz, Inc., a New York corporation. E. Leitz, Inc.—hereinafter referred to as "Leitz"—is wholly owned by American citizens and has about 230 employees. The organization has been in business in this country more than 70 years.

Leitz is engaged principally in the purchase and distribution of scientific instruments—and photographic materials—manufactured in Western Germany. Most of the microscopes and other imported scientific instruments are sold to institutions established for educational or scientific purposes, including agencies of the U.S. Government.

In our relatively small field of highly specialized scientific instruments, Leitz is fairly considered to be one of the foremost suppliers of such instruments to our educational and research institutions. It is most significant that, in the face of duty rates running as high as 45 to 50 percent and resultant premium prices, it has nevertheless found a substantial market among educators and scientists who require the advantages offered by these instruments.

Leitz wholeheartedly supports the general purposes of the Florence agreement to "promote * * * the free circulation of * * * scientific * * * materials" and "simplify the administrative procedure governing the importation of * * * scientific * * * materials." We believe, however, that H.R. 8664 in the form in which it was passed by the House of Representatives severely restricts the benefits to be realized by introducing complicated administrative procedures which would tend to impede rather than promote the free circulation of scientific materials.

Our criticism of the bill relates primarily to annex D—scientific instruments and apparatus—and the inordinate amount of time-consuming redtape which will be required in a determination as to whether a domestic instrument of "equivalent scientific value" is available.

When the bill was being considered by the Ways and Means Committee of the House of Representatives we made a number of suggestions designed to expedite and simplify the importation of unique scientific instruments by nonprofit educational and scientific institutions. We have great respect and confidence in our Nation's educators and scientists and in the heads of the nonprofit institutions with which they are associated. We refer to our great universities and to such institutions as Sloan-Kettering Institute for Cancer Research and the Rockefeller Institute.

They are best qualified to determine the scientific instruments best adapted to their requirements and also to determine whether any

domestic instrument has "equivalent scientific value" for the particular application. Complete reliance can be placed in the heads of these nonprofit institutions to render objective judgment on these matters and the Government would be fully justified in relying completely upon certificates executed by the heads of these nonprofit institutions.

We still consider duty-free importation upon the issuance of certificates by the institutions most in keeping with the objectives of the Florence agreement. This would expeditiously place in the hands of the institution the instrument which it requires. Should a manufacturer disagree with the institution's conclusion as to the unavailability of an instrument of equivalent scientific value, and establish before the designated agency the factual basis of its disagreement, the duty then could be imposed and collected upon the importation in question.

If, however, your committee deems it desirable to make all decisions of the educational and scientific institutions subject to the review of the Secretary of Commerce, prior to the importation, it is strongly recommended that the Secretary of Commerce be authorized to rely on prior findings in determining "equivalent scientific value" of domestic instruments. This authority was contained in the original bill but was deleted by the House Ways and Means Commttee.

We would further recommend the exclusion from the provisions of the bill of purchases of scientific instruments by agencies of the Federal Government so that such agencies would maintain their present procurement procedures and continue to purchase such instruments on a duty-paid basis.

Our reasons for these recommendations are set forth below.

Reliance on prior findings: The bill provides that an institution wishing to import a scientific instrument must submit a detailed application to the Secretary of Treasury who will in turn submit it to the Secretary of Health, Education, and Welfare and to the Secretary of Commerce. The Secretary of Commerce is then required—by publication in the Federal Register—to give all interested parties an opportunity to present their views to determine whether an American instrument of equivalent scientific value for the particular application is available.

Within 90 days the findings of the Secretary of Commerce are to be published in the Federal Register. This procedure is obviously slow and complicated. However, there was some relief in the bill as originally introduced in that the Secretary of Commerce could follow a prior finding published under the bill with respect to a like article if he were satisfied that there were no circumstances which would justify reexamination of the question.

The wording of the bill in this respect was as follows:

> In acting on any application the Secretary of Commerce, without affording interested persons and other Government agencies an opportunity for the presentation of views, may follow a prior finding published under this paragraph with respect to a like article after having afforded such an opportunity for the presentation of views, if he is satisfied that there are no circumstances which would justify a re-examination of the question.

This provision for reliance on prior findings was eliminated from the bill as reported out by the House Ways and Means Committee and passed by the House. This elimination was most unfortunate.

We recognize that time-consuming procedures may be necessary with respect to the first importation of a particular scientific instrument to determine the availability of a domestic instrument of equivalent scientific value. However, with respect to subsequent importations of a like instrument, there is no reason to require the Secretary of Commerce to go through the time-consuming procedure of publication in the Federal Register, providing for hearings, et cetera, as long as no one has questioned the continued validity of the prior finding.

The President, on November 8, 1965, pointed out the need of implementing the Florence agreement in the interest of "economy of effort." He had just signed 14 individual appeals providing for free entry of specific scientific instruments imported for use in universities ranging in price up to $100,000 or more.

Most scientific instruments which will qualify under the bill as having no U.S.-made counterpart of equivalent scientific value will probably range from $500 to $5,000 and instead of 14 there will be literally hundreds of applications to process, many of which will be for identical instruments. To require the Secretary of Commerce to process such a volume of requests from different institutions for the importation of identical instruments with the same intended use, including publication of the notice in the Federal Register with provision for possible hearings on consideration of written submissions and the publication of the findings in each case, would represent a terrific waste of time and manpower, rather than providing the "economy of effort" desired by the President.

It would also unnecessarily extend the time before the institutions making subsequent purchases of identical items could have the benefit of a finding by the Secretary of Commerce.

There is no proper basis for objecting to the reliance on prior findings. If subsequent to the original determination an American manufacturer develops an instrument which he considers to be of equivalent scientific value, he can simply notify the Secretary of Commerce that circumstances have changed and request a hearing before additional determinations are made based upon the prior finding.

The original finding of the Secretary of Commerce with respect to the imported instrument will have been published in the Federal Register. Moreover, the American manufacturer would be made aware of the finding the first time he offered his instrument on the market in competition with the imported instrument.

In the hearings before the House Ways and Means Committee no objections were raised to the provision permitting the Secretary of Commerce to rely on prior findings. This provision was in the bill as proposed by the administration. The provision was deleted while the committee was in executive session but the precise reason for the deletion is not known to us. The addition of a judicial review provision to the bill is not inconsistent with retention of the provision permitting reliance upon prior findings.

It is entirely clear that, if there is no change of circumstances, the Secretary's reliance on a prior finding for his approval of an application with respect to a like article would bring up for review his original finding, not in the sense that his prior finding could be reversed, but to ascertain whether his prior finding had been justified and whether he could rely on it for the challenged finding.

In view of the advantages which would accrue to educational and scientific institutions in minimizing the delays in obtaining a ruling, and the obvious advantage of eliminating the needless duplication of procedures by the Secretary of Commerce, it is respectfully urged that your committee reinstate the language of H.R. 8664 as originally introduced in the House of Representatives empowering the Secretary of Commerce to rely upon prior findings with respect to the availability of an American instrument of equivalent scientific value.

Exclusion of purchases by Federal agencies: The primary concern of our organization is to render the best possible service to educators and to scientists doing important research work. A substantial portion of the scientific instruments we distribute is purchased by Federal agencies and are of types which would be covered by the bill. In our opinion if Federal agencies were to effect duty-free imports under the bill the scientists working on Government research projects would be handicapped by procedural delays not now existing.

The imposition of such procedures would result in substantial additional expenses for all concerned. The only purpose of all of this would be to enable the Federal Government to avoid paying. itself, duty. None of the 14 private bills cited by the President involved a purchase by a Federal agency.

The Departments of Defense, Agriculture, Interior, and Health, Education, and Welfare all carry on numerous research projects requiring scientific instruments of types not available in the United States. Each of these Departments has its own well established procurement procedures. We see no purpose in requiring that the purchases of these Departments be subject to applications to the Secretary of the Treasury, to review by the Secretary of Commerce with publication of each procurement in the Federal Register, et cetera.

Elimination of duty is meaningless as it would simply represent transfer of funds within the Government departments. It would, of course, be optional with each Department as to whether application for duty-free entry is to be made under the bill.

However, our experience would indicate that purchasing agents will be concerned with their own particular budgets and will feel compelled to invoke the procedures under the bill regardless of delays and inconvenience to the scientists. Complete exclusion of Federal agencies from the provision of the bill would relieve the departmental purchasing agents from this unproductive responsibility and would maintain the present purchasing procedures, including the use of simplified procedures under Federal supply contracts. The domestic industry would be fully protected inasmuch as all imported instruments would be purchased on a duty-free basis.

With respect to agencies of the Federal Government, the duty savings are purely fictitious. However, the disadvantages of Federal agencies making purchases under the bill are very real.

In order to make our equipment available with a minimum of delay, we and our dealers maintain in the United States extensive inventories of scientific instruments. Many of these items have been listed in Federal supply schedules so as to make them available to Federal agencies with the least possible paperwork and delay.

For the 4 months from March 1 through June 30 approximately 100 purchases of our instruments were made through these Federal supply

contracts and well over 90 percent of all of the order. If these instruments were purchased under the procedures for individual duty-free importation as provided by the bill, it is likely that it would be several months before any delivery could be made. Such delays in obtaining needed equipment would cause great hardship to scientists waiting for such equipment to carry on their work and might jeopardize an entire research program.

It is recognized that Federal agencies would not be required to make procurements under the bill. However, as stated above, the scientist would always be confronted by the purchasing agent whose inclination would be to save the duty with respect to his department, even though it might handicap the scientist and the program.

In addition to the delays involved, substantial additional expenses will be incurred in connection with any importation under the provisions of the bill. The bill contemplates that there be a separate entry covering each purchase. Scientific equipment is normally imported by distributors like our firm in large containers which reduce to a minmum packing charges, freight charges, customs entry bonds, brokerage fees, et cetera. The amount of these charges per unit increases tremendously when an individual unit is imported.

Our experience has indicated that out-of-pocket expenses—exclusive of duty—for an individually imported unit often run as high as 10 to 15 times the unit amount of such expenses when the units are imported in large containers. These additional out-of-pocket expenses in many instances would approximate or even exceed the amount of duty applicable to such instruments, particularly with respect to the instruments selling below $1,000.

In addition to these out-of-pocket expenses, the overhead costs of both the importers and customs are substantially greater when handling a multitude of individual entries rather than one large single entry. The processing of applications by the Secretary of Treasury and Secretary of Commerce and publication in the Federal Register would involve a substantial amount of additional overhead expense.

With respect to purchases by agencies of the Federal Government, all of this additional expense would represent a pure economic waste.

We respectfully submit that there are substantial disadvantages to the Government and its scientists in providing duty-free entry under the bill for purchases of scientific instruments by agencies of the Federal Government with no offsetting advantage.

Senator McCarthy. Thank you very much, Mr. Dunn.

Senator Douglas.

Senator Douglas. You are opposed to the bill?

Mr. Dunn. Yes, sir. This bill, on its face, would seem to be of benefit to us because we are importing instruments and paying 40 percent and 50 percent duty. But we are opposed to the bill in this form because it would tie things up in what we call the redtape procedures——

Senator Douglas. Well, are you opposed because it would tie things up in redtape or because it would lead to the importation of more foreign instruments and, therefore, diminish the market for your product?

Mr. Dunn. Not at all. We import foreign instruments.

Senator Douglas. You are an importer, not a producer?

Mr. Dunn. We are a distributor here in the United States of scientific instruments manufactured abroad in Western Germany.

Senator DOUGLAS. The bill is supposedly designed to facilitate that.

Mr. DUNN. Exactly, sir, and we say it does not do that because of the requirements of publication in the Federal Register.

Senator DOUGLAS. Suppose these amendments could be made which you suggest, would you support the bill?

Mr. DUNN. Yes, indeed. We have said in our opening statement here that we are in favor of the bill and its purpose.

Senator DOUGLAS. In its original form?

Mr. DUNN. Yes, sir.

Senator DOUGLAS. But not with the House amendments?

Mr. DUNN. Well, we were not in favor of the bill entirely, in its original form, and there was a deletion by the House Ways and Means Committee which we say was a very unfortunate one. For example, there was the reliance on prior finding permitted to the Secretary of Commerce. We have, sir, 25 or more scientific instruments that just are not made in this country, and they are needed here.

Here is one called a micromanipulator. We sell 150 to 200 of those a year.

Now, it means that every second day the Secretary of Commerce would have to pass on an instrument which he had already approved of 2 days before. It seems to us that is a waste of time, effort and a handicap to everybody.

Senator DOUGLAS. Well, I have not had the privilege of reading all of your testimony but I am one who is generally in favor of the free importation of instruments or material of educational, cultural, and scientific value with the least possible redtape. I tend to favor your position, but we deal with a time problem here. This is the last day of September. The amount of unfinished business before Congress is tremendous. If we were to make amendments and insist upon them in conference committee with the House, this would be a very time-consuming matter. What you are saying is that, in the event we could not convince the House, you would rather have no bill at all than to have a bill with the House provisions.

Mr. DUNN. Yes, sir.

Senator DOUGLAS. Do you speak as an individual or do you also speak for all the importers of scientific material?

Mr. DUNN. These particular instruments that we make and distribute are made in Western Germany, and our manufacturer is located there.

Senator DOUGLAS. Then you are not only an importer, but you are concerned with producers in West Germany?

Mr. DUNN. These instruments are manufactured in Western Germany.

Senator DOUGLAS. By your company?

Mr. DUNN. No, sir.

Senator DOUGLAS. You just buy them.

Mr. DUNN. We are an American company that distributes these instruments here.

Senator DOUGLAS. Are you affiliated with that company?

Mr. DUNN. No, sir; we are independent.

Senator DOUGLAS. I see.

So you say if we cannot get the House to recede, you would not be in favor of any action at all.

Mr. DUNN. That is correct, sir. We have waited, as has been said here, we have waited 16 years, and I think that we should not just pass a bill with deficiencies in it in the interests of speed and time in getting something done.

Senator DOUGLAS. I know a large portion of our time is taken up with special bills to permit universities to import scientific instruments. I can remember many in the field of microbiology.

Mr. DUNN. I think there were 14 of those recently, but most of them had to do with spectrometers. Fourteen had to do with spectrometers. That is a very expensive instrument that runs from $35,000 up, and those were cases where the instrument actually had been brought into the country and they were being ratified here, the free importation.

Senator DOUGLAS. I think we approved every one of those.

Mr. DUNN. Yes, sir.

Senator DOUGLAS. It was very time consuming, and we regard our time, whether rightly or wrongly, as valuable, too.

Mr. DUNN. I am sure that is so.

Senator DOUGLAS. What I was trying to get at was this: Do you speak simply for E. Leitz or do you also speak for the group of importers of scientic instruments?

Mr. DUNN. No, sir; I speak just for our organization.

Senator DOUGLAS. Just for your organization.

Mr. DUNN. Yes.

Senator DOUGLAS. Thank you.

Senator MCCARTHY. Mr. Dunn, is your importation operation somewhat unique among the importers of scientific instruments in volume, if nothing else?

Mr. DUNN. No, sir; we are not a very large company. We have very specialized instruments, though, that we distribute, and we purchase those from the German manufacturer and sell them here after having paid large, 40, 50 percent, duties on many of these items.

Senator MCCARTHY. Are you somewhat unique in the kind of instrument that you bring in? Is it more specialized?

Mr. DUNN. The ones that would come under this bill, yes. We manufacture some other—we distribute some student microscopes and such things that are not unique, and they would not come under this bill.

Senator MCCARTHY. They would not come under this bill?

Mr. DUNN. No.

Senator MCCARTHY. As to the types of instruments that would come under this bill, would you consider that your business would be more affected by them than most other scientific instruments?

Mr. DUNN. Yes, sir; except, I think, there are other manufacturers in foreign countries who would be similarly affected. I think the Zeiss Co. would be affected, too. They manufacture specialized instruments, as do we.

Senator DOUGLAS. That is the company I was thinking of.

Mr. DUNN. Yes, sir.

Senator MCCARTHY. How many of the proceedings of the kind that the bill requires, would you consider you would have to go through in the course of a year in carrying on your business?

Mr. DUNN. Well, I mentioned one instrument here that would mean 150 to 200 such procedures.

Senator McCarthy. There is no reason to believe the Secretary of Commerce would insist that the full process be followed in every case.

Mr. Dunn. He is required to by the wording of the bill.

Senator McCarthy. Yes, I know.

Mr. Dunn. It says it shall be published in the Federal Register, an opportunity for hearings and notice given, and so forth.

Senator McCarthy. Yes. But do you think the hearings would be held each time?

Mr. Dunn. I sincerely hope not, but the time delay is there.

Senator McCarthy. Do you think the Secretary of Commerce himself would sign 150 times as each of these instruments went by?

Mr. Dunn. I do not know what he would do.

Senator McCarthy. You do not think he would.

Mr. Dunn. I do not think he would; I hope not.

Senator McCarthy. So it might look worse on paper, this procedure, than it would be in practice.

Mr. Dunn. Well, it could get very difficult in practice, but I do not think it should be permitted.

Senator McCarthy. Yes, it could.

Don't you think that if it did, that despite the demands on our time that Senator Douglas has made reference to, we probably could be moved in Congress to revise the procedure?

Mr. Dunn. I think it could be done now. I think the House Ways and Means Committee would be entirely willing to amend this bill to reinstate in the bill a provision, the provision, with reference to prior findings.

Senator Douglas. Was that just a mere hope, or do you have solid ground for your optimism?

Mr. Dunn. No, sir; I have some ground for optimism, and I hate to call it solid, but some inquiry there has indicated that this deletion was made in the executive session without too much opportunity to consider it. It was taken out because of the thought that it might have some—there might be some—inconsistency between it, the provision for reliance on prior findings, and judicial review. But there is no such inconsistency, and no reason for the deletion, no such reason exists.

Senator McCarthy. Well, I hope you are right. I think you have to realize that as Congress loses more and more control over the substance of legislation we give more attention to procedures. Thank you very much.

Mr. Dunn. All right, sir.

Senator McCarthy. Mr. McCauley of the Scientific Apparatus Makers Association.

STATEMENT OF ALFRED R. McCAULEY, ATTORNEY, SCIENTIFIC APPARATUS MAKERS ASSOCIATION

Mr. McCauley. Mr. Chairman and members of the committee, I am Alfred R. McCauley, an attorney in Washington and I appear here today, with the kind consent of the committee, in behalf of the Scientific Apparatus Makers Association (SAMA), 20 North Wacker Drive, Chicago, Ill. SAMA, organized in 1918, is a trade association of over 200 companies which manufacture and distribute scientific,

industrial, and laboratory instruments and apparatus. SAMA represents here, and speaks for, the large majority of the U.S. producers of these articles.

SAMA has prepared a position paper which includes an analysis of the Florence agreement's provisions of interest to SAMA, as well as an analysis of the provisions of H.R. 8664, as introduced in the House of Representatives, relating to these provisions. Mr. Chairman, we respectfully request that this position paper follow our testimony in the record of these hearings.

At the outset, SAMA wishes to record its complete and unqualified support of the Florence agreement and we urge the Congress to enact legislation which will permit the United States to apply the Florence agreement provisions definitely.

Our interest in the bill before the committee today centers primarily on the provisions of section 6(c) which look to implementing U.S. undertakings in the underlying agreement relating to imports of scientific instruments and apparatus. These U.S. undertakings in the agreement are set forth in specific detail in annex D to the agreement.

In general, annex D requires the United States to extend duty-free treatment to imports of—

(1) Scientific instruments or apparatus provided that

(2) Such scientific instruments or apparatus are consigned to public or private scientific or educational institutions,

(3) Such scientific instruments ar apparatus are used under the control of such institutions exclusively for educational purposes or for pure scientific research, and

(4) Scientific instruments or apparatus of equivalent scientific value are not being manufactured in the United States.

Condition 1 sets the scope of the class of articles entitled to duty-free entry. Only "scientific" instruments or apparatus are embraced. Nonscientific articles used in a laboratory or similar facility such as plumbing equipment, standard electrical equipment, furniture, et cetera, are not covered by the provision.

Senator McCarthy. Mr. McCauley, I do not mean to interrupt, but I think a lot of this is descriptive of what is in the bill and also in the Florence agreement, and what is intended.

Mr. McCauley. Yes, sir.

Senator McCarthy. I wonder if you could summarize or state your points of agreement or disagreement without reading the whole text? I hesitate to do this, but I am sure you are competent and willing to do so.

Mr. McCauley. All right, sir.

The Florence agreement is an agreement to free up international exchange of knowledge; the agreement is not intended to affect commercial competitive trade. The signatories to the Florence pact, in the main, are also signatories to the General Agreement on Tariffs and Trade (GATT) a dichotomy, we believe, was established and exists between the areas of coverage of the Florence agreement and the areas of coverage of the GATT. Tariff liberalization of commercial competitive trade is to be accomplished through and under the GATT and not through the Florence agreement.

Now, we made this point in the House hearings and it was concurred in by the Committee on Ways and Means in its report. In

my formal statement, I quote the committee language which, as I say, subscribes to the view that the Florence agreement is not intended to embrace commercial competitive trade.

In the scientific apparatus section of H.R. 8664, section 6(c), the House decided that the equivalent scientific value determination of the Secretary of Commerce should be based on a question of whether there was a domestic instrument available which could serve the same end use for which the importer, or the importing institution, rather, required an instrument. If the Secretary decides that there is available a domestic instrument which can satisfy the end use requirements, then the foreign instrument is denied the privilege of duty-free entry under this provision.

Now, in legislative parlance, this standard that was established by the House is a subjective standard. It is subjective in that there are no guidelines, no meaningful objective guidelines, that either the Congress, the administrators of the statute, the producers of these articles, or the importers can look to ascertain the precise scope of the provision. There is no statutory standard provided as to how the determination of scientific equivalence is to be made.

Now, we are not maintaining that it is a simple question to decide whether one instrument is the scientific equivalent of another. We recognize that this is a most difficult decision. However, we believe that consistent with the Florence agreement, consistent with the intent of that agreement not to invade commercially competitive trade, that it is in order for the legislation to provide that wherever the Secretary of Commerce finds that the importation of an instrument will displace the sale of a domestically produced instrument, he should ergo find that the domestic instrument is the scientific equivalent of the foreign instrument.

We believe that with this standard in the law, buttressed, I might say, by very helpful legislative history in the House, it will be relatively sure that during the course of the Secretary of Commerce's deliberations everyone concerned will be able to measure his judgment by facts which are readily available to all concerned.

I believe that summarizes what I have prepared in my formal remarks here. The only addicional point we make is that the House was cognizant of the difficulties of the scientific equivalent value test, and for this reason it provided a judicial review in the statute. We would hope that that would be retained.

This is new legislative ground that is being broken here, and I would hope that this committee would agree with the House that where you are invading, or treading, on new ground that judicial oversight should be provided.

Thank you very much, Mr. Chairman.

(The prepared statement of Mr. McCauley, and the position paper above referred to, follow:)

STATEMENT OF ALFRED R. MCCAULEY IN BEHALF OF SCIENTIFIC APPARATUS MAKERS ASSOCIATION

Mr. Chairman, Members of the Committee, I am Alfred R. McCauley, an attorney in Washington and I appear here today, with the kind consent of the Committee, in behalf of the Scientific Apparatus Makers Association (SAMA), 20 North Wacker Drive, Chicago, Illinois. SAMA, organized in 1918, is a trade association of over 200 companies which manufacture and distribute scientific,

industrial and laboratory instruments and apparatus. SAMA represents here, and speaks for, the large majority of the U.S. producers of these articles.

SAMA has prepared a position paper which includes an analysis of the Florence agreement's provisions of interest to SAMA, as well as an analysis of the provisions of H.R. 8664, as introduced in the House of Representatives, relating to these provisions. Mr. Chairman, we respectfully request that this position paper follow our testimony in the record of these hearings.

At the outset, SAMA wishes to record its complete and unqualified support of the Florence agreement and we urge the Congress to enact legislation which will permit the United States to apply the Florence agreement provisions definitively.

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(3) Such scientific instruments or apparatus are used under the control of such institutions exclusively for educational purposes or for pure scientific research, and

(4) Scientific instruments or appartus of equivalent scientific value are not being manufactured in the United States.

Condition 1 sets the scope of the class of articles entitled to duty-free entry. Only "scientific" instruments or apparatus are embraced. Non-scientific articles used in a laboratory or similar facility such as plumbing equipment, standard electrical equipment, furniture, etc., are not covered by the provision.

Condition 2 restricts the class of importers entitled to receive duty-free treatment. Only scientific or educational institutions qualify; commercial institutions or organizations are not entitled to the benefits of the duty-free provision.

Condition 3 restricts the use or uses to which the imported articles may be put by the importing institution. Thus, to the extent an institution engaged in commercial pursuits, it could not use any article imported under this provision in such pursuits.

Condition 4 limits duty-free entry to foreign-trade scientific instruments or apparatus only where there is no U.S. article of equivalent scientific value being manufactured.

In our position paper we analyze at some length the Florence agreement provision for scientific instruments and apparatus and we give the reasons which we believe caused the framers of this treaty to cast this provision in such narrow, conditioned terms. We believe a summary of this detailed analysis will be helpful here.

The Florence accord seeks to free-up the international exchange of knowledge. But the Florence agreement framers recognized that much of man's knowledge is contained in articles of commerce and, accordingly, that freeing-up "trade" in knowledge completely would mean freeing-up a sizeable amount of competitive commercial trade. The framers of the agreement knew that such a far-reaching instrument would never see the light of ratification.

In addition, the Florence framers understood that the Florence pact was not the proper vehicle for removing duties on competitive commercial trade. Most of the Florence agreement framers were parties to the General Agreement on Tariffs and Trade (GATT). The GATT, as the members of this Committee know, was the almost unanimous post World War II choice of the nations of the world as the vehicle for the gradual reduction and elimination of barriers to world competitive trade. It was generally agreed in 1950, the year the Florence accord was signed, as it is today, that freeing-up competitive trade is to be accomplished exclusively through the GATT.

In these circumstances, the Florence agreement framers prudently adopted a duty-free provision in the agreement for scientific instruments and apparatus which excluded from its coverage competitive commercial trade in these articles. Competitive commercial instrument and apparatus trade was eliminated from the Florence accord by setting up the four conditions to the duty-free scientific instruments and apparatus provision in Annex D to the Florence agreement, which we discussed previously.

The Committee on Ways and Means, in its report on H.R. 8664, also concluded that it was the intention of the Florence agreement to avoid embracing competitive commercial trade within its provisions. For this reason, the Committee emphasized that the implementing legislation it was recommending did not involve tariff action which would affect competitive commercial trade:

"Your committee emphasizes that the aim of this legislation is the furtherance of the educational, scientific, and cultural purposes contemplated in the Florence agreement, as distinguished from the economic purposes for which the Congress has authorized the President to negotiate trade agreements. Enactment of H.R. 8664 would in no way be intended to replace, supplant, or enlarge upon the reciprocal trade agreements program. The objective and goal of this legislation is, as stated above, furtherance of arts and sciences, not tariff bargaining for economic ends. These two programs are separate and distinct. On the one hand is the very limited program of implementing the exchange of educational, scientific, and cultural materials contemplated by the Florence agreement, which would be provided for in H.R. 8664 as approved by your committee, as distinguished from the trade agreements program which is directed toward the negotiation of reciprocal reduction of duties to achieve economic objectives. The two programs are distinct both in purpose and in operation." (House Report No. 1779, 89th Congress, p. 8)

SAMA agrees with H.R. 8664's approach to implementing Annex D's conditions which restrict duty-free treatment to "scientific" instruments and apparatus entered for the use of "scientific or educational" institutions, for "educational purposes or pure scientific research".

As to the proposed implementation of the last condition of Annex D attaching to duty-free entry of these articles—that duty-free treatment not be extended to any imported instrument or apparatus if an article of "equivalent scientific value" is being manufactured in the United States—we have some reservations about the efficacy of the literal provisions of H.R. 8664 as passed by the House.

Briefly, the bill would implement the "scientific equivalent" condition to duty-free entry by setting up a procedure whereby a qualified institution desiring to import duty-free an instrument or apparatus would apply to the Secretary of Commerce (through the Secretary of the Treasury) for permission to make the desired importation. The Secretary of Commerce, after reviewing the information obtained from the prospective importer, other government departments, his own agency, and from interested members of the public, would determine whether an article of "equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used is being manufactured in the United States."

No meaningful standard or guideline is set out in the bill to direct or control the Secretary of Commerce's decision on the question of equivalency. He is to be given unqualified authority to decide on his own terms whether or not the equivalent scientific value condition is satisfied in a given case. In sum, the legislative standard proposed in the House-passed version of H.R. 8664 is a purely subjective standard.

Mr. Chairman, in our presentation to the Committee on Ways and Means, we discussed at some length the deficiencies of H.R. 8664's equivalency test and the need for Congress' writing into the bill an objective standard. We urged the Committee to adopt an amendment which would provide a legislative yardstick against which decisions of the Secretary of Commerce could be measured. We suggested that Section 6(c) of the bill be amended to provide that whenever the Secretary of Commerce determines that the importation of a foreign-made scientific instrument or apparatus would displace, or would tend to displace, a U.S.-made article, he shall find that there is being manufactured in the United States an article of equivalent scientific value and, accordingly, the foreign article be denied duty-free status. We pointed out that the inclusion of such a standard in the statute commends itself for a number of reasons:

1. It would give sorely needed dimensions to the duty-free provision for scientific instruments and apparatus. All interested parties—the Congress, the administrators of the statute, the domestic industry concerned, and the importing community—would understand the statute's scope.

2. The suggested standard is not new to tariff laws. Over the years, Congress has on numerous occasions adopted provisions closely akin to this kind of amendment. So no new legislative ground will be broken, as will be the case if the "equivalent scientific value" tests is left unqualified. There is ample precedent for the standard we recommend.

3. The Commerce Department is fully familiar with this kind of standard. The question of import displacement of competitive U.S. articles runs through a number of functions of the Commerce Department at present.

4. Finally, the inclusion of this standard would be wholly consistent with U.S. obligations under the Florence agreement. For the legislative standard we seek is merely an expression in legislative terms of precisely what the framers of the Florence accord had in mind when they adopted the equivalency test in Annex D.

While, as we previously noted, the Committee on Ways and Means concluded that the Florence agreement was not intended to affect in any way competitive commercial trade in scientific articles, it did not adopt our proposed amendment. Instead, the Committee amended the original provision of H.R. 8664, as introduced, to require that equivalency be determined solely on the basis of the intended end use of the instrument or apparatus in question. Thus, differences in prices, structure, etc., as between a foreign and a domestic instrument are irrelevant and cannot render the instruments unequivalent in scientific value. Indeed, even differences in scientific characteristics may not destroy equivalency. As the Committee on Ways and Means stated:

"Your committee amended the bill to provide that the determination of equivalent scientific value is to be in terms of equivalent scientific value for the purposes for which the instrument or apparatus is intended to be used. This was done to prevent the bill from resulting in the duty-free entry of an instrument or apparatus in a case where there is available a domestic article which, though different from the foreign article in some scientific characteristics, nevertheless is as capable as is the foreign one of fulfilling the purposes for which the instrument or apparatus is intended to be used. Duty-free entry would be accorded only to foreign instruments and apparatus which satisfy the purposes for which the instrument or apparatus is intended to be used by the institution making application in a manner which cannot be satisfied by a domestic instrument or apparatus. The comparative cost of a foreign and a domestic instrument or apparatus would have no relationship to equivalency of scientific value." (House Report No. 1779, 89th Congress, p. 18).

It remains for this Committee, and ultimately the Senate, to evaluate the merits of our position on this aspect of H.R. 8664. We feel that while it is clear that the House intended to preclude granting duty-free treatment to foreign instruments and apparatus which compete with domestic articles, such intent should be expressed in the language of the bill proper in terms of a meaningful, objective standard. We respectfully urge this Committee to amend the scientific equivalence provision of H.R. 8664 to provide that whenever the Secretary of Commerce determines that the importation of a foreign-made scientific instrument or apparatus would displace, or tend to displace, a U.S.-made article, he shall find that there is being manufactured in the United States an article of equivalent scientific value.

We suggested, and the Committee on Ways and Means adopted a provision in H.R. 8664 which allows judicial review of decisions of the Secretary of Commerce on this question of scientific equivalency. We urge this Committee to retain this provision which is set forth in Section 6(c) of the bill. This is new ground which is being broken here and a Court review is certainly indicated.

Thank you, Mr. Chairman, for giving us this opportunity to be here today.

Scientific Apparatus Makers Association—Position Paper on Agreement on the Importation of Educational, Scientific and Cultural Materials

Introduction and Purpose of Paper

The Scientific Apparatus Makers Association (SAMA), organized in 1918, is a trade association representing over 200 member companies which manufacture and distribute scientific, industrial and laboratory apparatus. SAMA's members serve the needs of all persons, firms, and institutions engaged in endeavors in which scientific instruments and apparatus are utilized. These needs span the spectrum from the thirst for knowledge of the curious pre-school age child to the perplexing problems facing today's sophisticated space-age scientists. Thus, SAMA's members play an important role in man's never-ending quest for knowledge and their products contribute materially to the benefits which such knowledge brings to mankind.

It is only natural, therefore, that SAMA supports the Florence Agreement and its objectives. The goal of the Florence pact—to foster and encourage "the free

exchange of ideas and knowledge" between the peoples of the world so that "intellectual progress and international understanding" may be enhanced—cannot be faulted. SAMA applauds the initiative displayed by the United States in the framing and conclusion of this agreement and urges the Congress to enact legislation which will enable the United States to carry out fully its Florence Agreement commitments as required by the terms of that agreement.

In addition to expressing SAMA's support of the Florence pact, it is the purpose of this paper to:

1. Analyze the provisions of the Florence accord relating to scientific instruments and apparatus and to explore the reasons which required the framers of the agreement to exclude from its coverage all competitive commercial trade in such instruments and apparatus.

2. Analyze the provisions of H.R. 8664 and H.R. 15271, 89th Congress, relating to scientific instruments and apparatus and to show that in some material respects these provisions do not adequately implement the underlying Florence Agreement commitments.

3. Suggest certain changes in the proposed legislation which SAMA believes are necessary in order to carry out the purpose and objectives of the Florence Agreement.

4. Call attention to certain other aspects of the proposed legislation which SAMA believes warrant attention by the Congress.

THE U.S. COMMITMENT REGARDING IMPORTS OF SCIENTIFIC INSTRUMENTS AND APPARATUS

The United States, as a signatory to the Florence accord, has undertaken, among other things, to grant duty-free treatment to imports of scientific instruments and apparatus under certain specified conditions. The terms of the United States obligation in this regard are set forth in Annex D to the Florence Agreement which reads as follows:

"ANNEX D

"SCIENTIFIC INSTRUMENTS OR APPARATUS

"Scientific instruments or apparatus, intended exclusively for educational purposes or pure scientific research, provided:

"(a) That such scientific instruments or apparatus are consigned to public or private scientific or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, and used under the control and responsibility of these institutions;

"(b) That instruments or apparatus of equivalent scientific value are not being manufactured in the country of importation."

It is apparent that the conditions attached to the U.S. obligation to grant duty-free treatment to scientific instruments and apparatus are important and are intended to circumscribe the duty-free undertaking:

1. Only "scientific" instruments or apparatus are included within the class of articles covered. Non-scientific articles used in a laboratory or similar facility, such as plumbing equipment, standard electrical equipment, furniture, etc., are not embraced by this provision.

2. The duty-free treatment is to be extended only to imports of scientific instruments and apparatus consigned to public or private scientific or educational institutions. Thus, commercial institutions or organizations are not entitled to the benefits of duty-free treatment for their imports of such articles.

3. The qualified importing institutions may only use duty-free imports for educational purposes or for pure scientific research. An instrument or apparatus given duty-free status may not be used in commercial pursuits.

4. Duty-free treatment is to be extended to a foreign-made instrument or apparatus only if an instrument or apparatus of equivalent scientific value is not made in the United States. Duty-free status is not to be accorded a foreign instrument or apparatus if the importation of such instrument or apparatus would displace a United States article in the market place.

To comprehend and to appreciate fully the thrust of these conditions attached to the provision for scientific instruments and apparatus in the Florence accord, it is helpful to inquire into the reasons for the narrowly-cast exemption from duty established for these articles. It is instructive to understand why the framers of the Florence Agreement did not undertake to bind signatories to the agreement to make imports of scientific instruments and apparatus unqualifiedly free of duty.

Immediately following the end of World War II, many countries found it necessary or desirable to prohibit or to restrict imports, including in many cases imports of educational, scientific or cultural articles.[1] A number of nations, including the United States, saw dangers to the stability of their own and other economies should such restrictions on commercial trade become deep-seated an ingrained in the nations which chose this course. There was equal concern with the fact that these restrictions in many cases affected all trade in scientific, educational and cultural materials. Restricting noncompetitive trade in these articles was deemed short-sighted and unwise.

In the late 1940's and early 1950's a concerted effort was made by a number of the nations of the world to reverse this post-war trend toward economic and cultural isolationism. While this effort took many forms, two of the courses of action chosen are relevant to this discussion: (1) the problem of the post-war barriers to all competitive commercial trade was to be dealt with under the aegis of the General Agreement on Tariffs and Trade (GATT); (2) the problems of barriers to non-competitive commercial trade in scientific, educational and cultural materials was to be met by the Florence accord.

The framers of the Florence pact, who included most of the parties to the GATT, realized that a substantial amount of man's knowledge and ideas is contained or expressed in tangible objects which are bought and sold in the market places of the world in day-to-day commercial transactions. The Florence framers understood, therefore, that to free up trade completely in knowledge and ideas would require the removal of tariffs and other restrictions on a good deal of the competitive trade between nations. They appreciated that a free trade[2] pact of these dimensions would never see the light of ratification. A much less ambitious approach would have to be taken if any results at all were to be obtained.

The framers of the Florence pact also saw the necessity of subordinating their efforts to the role which the GATT was intended to play as regards the regulation of competitive trade of the world. They understood that the Florence Agreement had to avoid trespassing on ground which had been allocated to the GATT accord. The GATT was the proper instrument for lowering tariffs and reducing other trade restrictions which impeded competitive trade. Accordingly, the Florence Agreement's framers had to avoid the inclusion of provisions which would embrace competitive trade in educational, scientific and cultural materials.

The course which the framers of the Florence pact chose was suited to these substantive and jurisdictional requisites to success. Wherever tariffs or other restrictions on scientific, educational or cultural articles were nonexistent, or so low as to be commercially insignificant, the Florence Agreement could unhesitatingly require the unconditional freeing-up of trade in such articles. Thus, handwritten manuscripts, newspapers, maps, and similar articles are to be made unqualifiedly free of duty by the Florence pact's signatories. There would be no domestic industry concern with such action, since tariffs on the articles are non-existent or low, and GATT's prerogatives would not be invaded since there are no meaningful restrictions on trade in these articles.

On the other hand, where there was competitive trade in articles embraced within the educational, scientific or cultural class, and where imports of such articles were subject to meaningful and significant tariff duties, the Florence Agreement framers had to restrict its provisions to non-competitive trade in such articles. Thus, the agreement provides that works of original statuary or sculpture are to be free of duty, but not such works which are of "conventional craftsmanship of a commercial character." Botanical collections are to be accorded duty-free treatment, but not such collections which are intended for resale. Architectural or engineering plans are to be granted duty-free status, but only such plans imported exclusively for study purposes by scientific or educational institutions. And, as previously noted, scientific instruments and apparatus are to be duty-free, subject to rather strict conditions as to the character of the qualified importing establishment, the uses to which the articles may be put, and the availability of domestic counterparts of the foreign article. In all such cases, the purpose of the qualifications on duty-free entry is to exclude trade in these articles which is in the competitive commercial sphere.

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[1] See statement of W. T. M. Beale, Assistant Secretary of State for Bureau of Economic Affairs, in course of Senate Foreign Relations Committee Hearings on the Florence Agreement. *Hearings on Executive 1, 86th Congress, 2d Session, January 26, 1960, at page 9.*

[2] The Florence Agreement's provisions call for the removal of all duties and other import restrictions on articles covered by the Agreement.

In implementing the Florence Agreement, in giving legislative form to its commitments in this agreement, the United States must make certain amendments to the tariff laws. The changes made in these laws must do no less, and no more, than give full effect to the U.S. Florence Agreement obligations.

As we have previously noted, the United States obligation to extend duty-free treatment to imports of scientific instruments and apparatus is a qualified obligation. It only runs to (1) "scientific" instruments and apparatus, (2) imported by an "educational" or "scientific" institution, (3) used in "educational" or "pure research" projects, and the provision is only operative, (4) if there is no domestically-produced instrument or apparatus of "equivalent scientific value" to the foreign article. We will turn now to the proposed legislation and analyze the provisions therein having to do with the U.S. Florence Agreement commitment regarding scientific instruments and apparatus in the light of the nature and scope of this commitment.

H.R. 8064 AND H.R. 15271[3]

These identical bills (hereafter referred to as "bill") contain the Executive's proposals for carrying out U.S. commitments in the Florence Agreement. SAMA's interest is primarily in the provisions of Section 6 of the bill which would make certain changes in law deemed necessary to carry out U.S. obligations under Annex D of the Florence Agreement relating to imports of scientific instruments and apparatus. SAMA has some serious reservations, which are expressed below, about the operation and scope of certain of the provisions of Section 6.

Section 6 proposes to give effect to the U.S. obligations under Annex D by:

1. Establishing a new tariff classification provision, to be added to the existing Tariff Schedules of the United States (TSUS), which would provide duty-free treatement for certain instruments and apparatus; and

2. Adding a number of new headnotes to the TSUS which would qualify the scope of this new duty-free entry provision and prescribe procedures governing its application.

The new TSUS tariff classification item (No. 851.60) would establish duty-free treatment for—

1. "Instruments and apparatus" which are "imported for the use of any institution, whether public or private, established for educational or scientific purposes"[4] and

2. Repair components for any article previously admitted under the basic duty-free provision.

The duty-free treatment for instruments and apparatus will only be applicable to a given instrument or apparatus if it is determined that "no instrument or apparatus of equivalent scientific value is being manufactured in the United States."

The headnotes which will qualify the new tariff provision and prescribe procedures governing its application are extensive. Thus, one headnote approaches the basic definitial problem of what is meant by the Florence Agreement's Annex D term "scientific instruments or apparatus." The bill's drafters do not attempt to define this term as such. They (1) ennumerate a number of existing TSUS classification provisions, and (2) require that an article fit one or more of the descriptions of such provisions in order to be considered a "scientific instrument or apparatus." The TSUS provisions selected are both numerous[5] and broad in scope and most likely exhaustive of all possible tariff provisions applicable to "scientific instruments or apparatus."

Another headnote would reach Annex D's condition as to restricted use of a duty-free import by prohibiting the post-importation sale or other commercial use for 5 years of any article granted duty-free status under the provision. Any such use within the stated period of time after importation would subject the article to the assessment of the duties which would have accrued on the article in the absence of this new duty-free provision.

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[3] H.R. 8664, 89th Congress, was introduced by request by the Honorable Wilbur D. Mills, Chairman of the Committee on Ways and Means. H.R. 15271 was introduced in the same Congress by the Honorable Thomas B. Curtis, a Member of the Committee on Ways and Means.

[4] Proposed new Item 851.60 would be derived from, and thus subordinate to, a superior description which would require importing institutions, in order to qualify, to have been established "solely" for the stated purposes. This requirement would no doubt limit qualification to nonprofit institutions.

[5] The item numbers enumerated are drawn from three schedules of TSUS—Schedules 5, 6, and 7.

Finally, Section 6 includes a number of headnote provisions aimed at giving effect to the Annex D condition which requires denial of duty-free entry to a foreign made instrument or apparatus if there is being manufactured in the United States an article of "equivalent scientific value."

In general, any qualifying institution desiring to import an article duty-free under this new provision would have to apply to the Secretary of the Treasury for such duty-free status. The bill contemplates that the Secretary of the Treasury will adopt regulations governing the form and content of such applications. The statute would provide that the application must include a description of the desired foreign article and a statement of the reasons why it is believed that no article of equivalent scientific value is being manufactured in the United States.

If an application is found by the Secretary of the Treasury to satisfy the requisites of the statute and of his department's regulations, he is required to forward it to the Secretaries of Commerce and Health, Education, and Welfare.

Upon receipt of the application, the Secretary of Commerce is required to publish a notice in the Federal Register which is designed to alert interested parties that the Secretary of Commerce will decide the question of the availability of a U.S.-made scientific equivalent of the foreign article covered by the application and to give them an opportunity to submit to him their views on this matter. It is expected that the Secretary of Health, Education and Welfare will submit his department's views to the Secretary of Commerce at this time.

Within 90 days of receipt of an application by the Secretary of Treasury, the Secretary of Commerce must decide the question of "equivalence" and publish his finding in the Federal Register. If he decides that there is a domestically-produced scientific equivalent, this ends the matter. The article may be imported by the applicant institution only upon payment of the normal duties due.

If the Secretary of Commerce decides that no domestic article of equivalent scientific value is being manufactured, any order for the article in question placed by the applicant institution with a foreign supplier on or before the 60th day after the date of the Secretary of Commerce's finding [6] will serve to establish the right of free entry for such article whenever the article arrives in the United States.

A finding of the Secretary of Commerce in a given case will continue in force, and will be applicable to like imported articles, so long as the Secretary is satisfied that there are no circumstances which would justify a reexamination of the matter.

SAMA'S CONCERN WITH THE PROPOSED LEGISLATION

As is apparent, the problems posed by the provisions of Section 6 of the bill are definitional in nature. Duty-free status is established for a class of articles when certain conditions applicable to the articles and their importers are found to exist. The bill is deficient in that the limits of the class of articles entitled to duty-free entry are not precisely defined nor all the ancillary conditions of entitlement to free entry established with any certainty.[7]

In fairness to the bill's drafters, SAMA notes that the vague terms of reference in the provisions of Section 6 are derived from the equally elusive and imprecise terms of the basic Florence accord. Since the bill's sole purpose is to implement U.S. commitments in that treaty, the drafters necessarily had to look to the treaty to ascertain the nature of the U.S. obligations thereunder. While they looked hard and long, the treaty provisions were found wanting and offered little in the way of guidance as to the precise nature and scope of the U.S. obligations under the Florence pact as regards imports of scientific instruments and apparatus.

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[6] If the intention is to preclude an applicant institution from ordering a foreign instrument prior to the Secretary's finding, then the language of the bill (page 10, lines 16–22) should be amended to adequately reflect this intent. As presently worded, the applicant could place its order at any time before it applies to the Secretary of the Treasury for duty-free status and, given a favorable decision by the Secretary of Commerce, it could qualify for duty-free treatment.

[7] The bill's failings in this respect are reflected in the Administration's Analysis of H.R. 8664 transmitted by the Department of State to the Committee on Ways and Means on May 4, 1966. (Hereafter "Analysis.") The analysis of the operation of the duty-free provision for scientific instruments and apparatus and its related headnotes comprises over 11 pages of the total of 23 pages devoted to all of the bill's provisions. But while the bill's drafters saw the need to devote almost 50 percent of their time to explaining just one section of the bill (Section 6), we are constrained to point out that the intended operation of this section is still very unclear. A good deal of the analysis of this section consists of general statements of intent as to the meaning of Section 6 which are immediately qualified and hedged, so that the reader of the provisions of the section is still in doubt as to their meaning and scope.

But since the United States is committed to accord duty-free entry to "some" articles under "some" conditions, an effort had to be made to draft legislation which would satisfy such commitment. In part H.R. 8664 does the best possible job with rather unfortunate terms of reference; in other parts it falls short of the mark.

A. "Scientific" instruments and apparatus

As we have noted, the bill's drafters did not attempt to define in a dictionary sense the term "scientific instruments and apparatus." The approach taken is to select from the several thousands of tariff classes those classes which appear to embrace all scientific instruments and apparatus. As would be expected, the number of classes selected is indeed large and some of the classes selected are very broad.[8] Some of the existing TSUS classes borrowed to give scope and content to the new provision for scientific instruments and apparatus are themselves of indeterminate scope. Many are so-called "basket" provisions whose limits are not susceptible of definition.

Over the years a number of attempts have been made by Executive Department officials to define "scientific instruments and apparatus" in self-contained terms suitable for legislative use. It is fair to say that it has been found impossible to draft a comprehensive and accurate definition of this term for legislative purposes.

While the approach taken in the bill leaves something to be desired, SAMA believes that further efforts to define, for legislative purposes, the term "scientific instruments and apparatus" will prove as abortive as prior efforts. SAMA accepts the approach taken in the bill as the best possible under the circumstances, given the almost infinite dimensions of the class of articles covered by this Florence Agreement provision.

B. Qualified importing institutions

As previously noted, Annex D requires that duty-free treatment be extended only to instruments and apparatus imports made by "scientific or educational institutions." The bill would vest in the Secretary of the Treasury authority to decide what institutions are established solely "for educational or scientific purposes" and accordingly entitled to the privilege of duty-free treatments. SAMA has no objection to this approach since it is reasonable and is precedented in other provisions of the tariff laws where institutions of this kind must also be identified by the Secretary of the Treasury for special tariff treatment of certain imported articles.

C. Permissible uses of imports

Annex D, as discussed above, requires that duty-free imports only be used for "educational" purposes or for "pure scientific research." The bill provides that imported instruments and apparatus given duty-free treatment may not be used for commercial purposes during a period of 5 years from the time they are imported.[9] If so used, duties are to be collected on the instruments.[10] We have no objection to the provision.

D. "Equivalent scientific value"

As noted, the drafters make no attemp to qualify or explain the crucial Annex D condition which denies duty-free treatment in any case where a domestic article of "equivalent scientific value" is being manufactured in the U.S. Instead they leave the meaning of this term to the discretion of the Secretary of Commerce. The Secretary is given no guide as to when a domestic instrument shall be found by him to be the scientific equivalent of a foreign instrument; his discretion is to be wholly unfettered by the law.

At the outset, SAMA appreciates the difficulty of giving precise content and meaning to the equivalency test of the Florence pact. Whether one thing is of

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[8] It is not surprising that the tariff provisions selected are so extensive in number and coverage. The class of articles embraced by the term "scientific instruments and apparatus" is of indeterminable size. Thus, an average distributor of such articles would maintain an inventory of upwards of 20,000 different products.

[9] While the bill proscribes "distribution, sale, or other commercial use" (page 7, lines 8–9), Congress might wish to consider specifically precluding the leasing or renting of an instrument or apparatus, since these are rather common commercial practices in the case of some of the instruments or apparatus which would be covered by the duty-free provision in question.

[10] It is understood that it is intended that any fugitive use in the 5-year period will subject the article concerned to duties which would have applied in the absence of the duty-free provision. If this is so, the language of the bill (page 8, lines 1–8) should be amended to more clearly require this result.

equivalent functional, technological, esthetic, literary or scientific value to another is more often than not a subjective proposition. The answer lies mostly in personal likes and dislikes or even in individual whims or biases. So we recognize that it is difficult, given the bare concept "equivalent scientific value," to prescribe all-encompassing guiding principles which will prove adequate in all circumstances.

However, because this test is admittedly the most important test [11] required by Annex D, the absence of any statutory guidelines in the basic legislation is at once disturbing and indefensible. It is disturbing because the Secretary of Commerce would be given plenary power to decide cases on subjective considerations. And affected individuals could point to no failure on his part to follow the law. In truth, the statute would be a blank check to be filled in as the Secretary sees fit.

But of even more importance in the present discussion is the fact that this blank-check approach is not warranted. For it is possible to translate the equivalency test of Annex D into a workable statutory guideline which would squarely comport with the intentions of the framers of the Florence accord.

The Florence Agreement framers had one very important objective when they adopted the "equivalent scientific value" test in Annex D. It was principally through this test that they sought to avoid having the duty-free provision of Annex D invade and disturb competitive commercial trade in scientific instruments and apparatus. As we discussed previously, it was imperative that the provisions of the Florence accord reach only non-competitive trade; competitive commercial trade was "off-limits," as it were. When the Florence Agreement framers provided in Annex D that duty-free treatment would not be extended to any foreign instrument or apparatus which had a U.S. counterpart of "equivalent scientific value," they intended to deny duty-free treatment to any foreign article for which there existed in the United States a U.S.-made commercially competitive counterpart. Thus, in the contemplation of the Florence Agreement framers, where the importation of a foreign instrument or apparatus would displace a U.S.-made article, the equivalency condition of Annex D would be satisfied and duty-free entry would be denied to the foreign article.

The Executive maintains that the "equivalent scientific value" condition in Annex D was adopted by the Florence framers ". . . undoubtedly to (avoid) a situation in which the duty-free importation of foreign instruments and apparatus might have a marked tendency to displace domestic articles . . ." (Emphasis supplied; Analysis, p. 11.)

SAMA agrees that this condition was attached to the duty-free provision in Annex D because of the Florence Agreement framers' concern about "displacement" of domestic articles by foreign articles. But we take issue with the Executive's quantitative analysis of this condition in Annex D. The condition operates to deny free entry to *each* and *every* foreign-made instrument or apparatus which, if imported, would displace a U.S.-made article. Not even *one* foreign article can be given duty-free status where the terms of this condition to Annex D are satisfied.

SAMA believes that the inclusion of a commercially competitive displacement standard in the legislation is both necessary and warranted. Such a standard would fill a void created by the proposed unqualified equivalence test and would give the statute a degree of certainty which otherwise it would totally lack. Also, such a standard in the statute would give full force and effect to the intended operation of the underlying equivalence condition of Annex D and would, therefore, be wholly consistent with U.S. obligations in the Florence accord.

It is well to keep in mind that in functions under other statutes, the Secretary of Commerce deals with the question of competitive displacement of one article by another. So the Commerce Department has had experience with such a test and should find no difficulty in administering such a test under this statute. This is to be contrasted with the complete lack of any experience, in the Commerce Department or elsewhere in government, with decisions as to whether one instrument is of "equivalent scientific value" to another.

SAMA respectfully submits that the case for inclusion in the statute of a commercially competitive displacement test is sound and unassailable. Without such a test, the statute's operation would be completely unpredictable and its ultimate reach totally unknown. The imprecision of the subjective "equivalent scientific value" test is such that no one—in government, industry, labor, or im-

[11] In the Analysis, page 9, the Executive characterizes this condition to free entry as the "most important" condition.

porting community—can know now what the ultimate impact of this statute, with that unqualified test, will be. The recommended test, cast in objective terms, would go far to calm the fears of those who instinctively, and naturally, react adversely to proposals to delegate unqualified power to an administrator of a statute.

SAMA respectfully urges the Congress to incorporate in the bill a standard whereby the Secretary of Commerce would find that there was a United States-produced scientific instrument or apparatus of "equivalent scientific value" if he determined that the importation of a foreign article would displace the U.S. article in the market place.

JUDICIAL REVIEW

The proposed legislation is silent on the question of review of the scientific equivalence decision of the Secretary of Commerce. While it may be that domestic producers will have a right to protest the free entry of scientific instruments or apparatus under the existing protest provisions of the customs laws, SAMA feels that provision for a more meaningful judicial review should be incorporated in the bill. A decision of the Secretary of Commerce that a domestic article is not the scientific equivalent of a foreign article could have far-reaching effects on one or more U.S. businesses engaged in producing, selling or importing scientific instruments and apparatus.

Because of the lack of definitive statutory guidelines to govern the Secretary's determinations, and because of the potential impact on U.S. producers of the Secretary's decisions, some meaningful review of his actions is imperative.

SAMA suggests that the Congress consider authorizing a direct appeal of a decision of the Secretary of Commerce to the Court of Customs and Patent Appeals. Provision could be made for giving such appeals priority status so that delays in final decisions would be minimized.

OTHER PROPOSED AMENDMENT

Section 8 of the proposed bill would amend Item 864.70, TSUS. In its present form, this item reads as follows:

"Works of the free fine arts, drawings, engravings, photographic pictures, and philosophical and scientific apparatus brought into the United States by professional artists, lecturers, or scientists arriving from abroad for use by them for exhibition and in illustration, promotion, and encouragement of art, science, or industry in the United States."

The bill would change this item to read:

"Works of the free fine arts, drawings, engravings, photographic pictures, and educational, philosophical, literary, and scientific articles brought into the United States for exhibition in illustration, promotion, or encouragement of art, education, philosophy, literature, science, or industry in the United States."

It is to be noted that the emphasis of present Item 864.70 would be materially changed by this amendment. Whereas presently the enumerated articles can only be imported free of duty when brought into the United States by "professional artists, lecturers or scientists arriving from abroad," it is proposed to permit these articles to be imported free of duty by any person, firm, or organization. Thus, under the new proposal, and person, firm, company, etc., could import a "scientific article" free of duty for "exhibition in promotion, or encouragement of . . . industry in the United States."

We find it difficult to fully appreciate how this amended Item 864.70 would operate. But we can conceive of this provision's having a potential adverse effect on U.S. business and labor.

For this reason, we respectfully urge the Congress to carefully review the intended operation of this proposed change in Item 864.70 and to make whatever changes are necessary to keep this provision from operating outside its proper bounds.

CONCLUSION AND RECOMMENDATIONS

SAMA supports the objectives of the Florence Agreement and urges the Congress to enact legislation which would implement this agreement insofar as the United States is concerned.

SAMA believes that the provisions of H.R. 8664 and H.R. 15271 do not adequately reflect U.S. obligations under the Florence accord and, to this end, we respectfully urge that the following amendments be made:

1. Section 6 of the bill should be amended to provide that whenever the Secretary of Commerce determines that the importation of a foreign-made scientific instrument or apparatus will have the effect of displacing a U.S.-made article, he shall find that an instrument or apparatus of equivalent scitific value to the foreign article is being manufactured in the United States.
2. A provision should be added to the bill authorizing judicial review of the Secretary of Commerce's findings on the issue of equivalency of a U.S.-made instrument or apparatus and a foreign-made instrument or apparatus.
3. Section 8 of the bill should be studied carefully and appropriate amendments made.
4. Such other amendments, noted in this paper, as are necessary to clarify the language of the bill's provisions should be made.

Senator McCarthy. Senator Douglas.

Senator Douglas. I would like to get the discussion out of generalities and into specifics. The study of genetics has been enormously advanced by the development of the electromagnetic microscope, isn't that true?

Mr. McCauley. I believe you are right, sir.

Senator Douglas. Which is in the field of microcosms, while new powerful telescopes are in the field of macrocosms; isn't that so, sir?

Mr. McCauley. I believe so, sir.

Senator Douglas. I would like to ask you this question. Which make the better electromagnetic microscope, American firms or German firms?

Mr. McCauley. On that, sir, all I can say is I do not know. But I think that whether the German firms make the better or the U.S. firms make the better, is a subjective judgment to a large extent.

Senator Douglas. What you are saying is that you want objective standards.

Mr. McCauley. Yes, sir; we do.

Senator Douglas. Well, now, here is a field in which first you ask for objective standards, and then you say comparative scientific value is purely a subjective matter.

Mr. McCauley. That is true, sir. Where our tests——

Senator Douglas. What would happen if the question of the importation of the German electromagnetic microscope would come up?

Mr. McCauley. I believe sir, if the commercial record showed that the imported instrument and the domestic instrument competed in the marketplace head-on, that you are dealing there with——

Senator Douglas. You would bar the foreign microscope.

Mr. McCauley. I would not bar it, sir. I do not think it should be entitled to duty-free entry under the Florence agreement provisions. There we are dealing——

Senator Douglas. You are proposing to give to the Secretary of Commerce the power of that determination.

Now, suppose he would call on the scientists for their opinion, and suppose they would say that the German microscope is superior to the American microscope. Then what would happen if, on this advice, he permitted duty-free entry when in so doing, this would displace some sale of the American microscope?

Mr. McCauley. Well, under the bill as now written——

Senator Douglas. What do you think would occur, under the amendment which you propose?

Mr. McCauley. Well, under the amendment which I propose, if the commercial facts of life were that the foreign instrument and the

domestic instrument are competitive products, and that the sale of the foreign instrument would displace a U.S.-made instrument, then I believe that the Secretary would find or would have to find that the foreign instrument was not entitled to——

Senator DOUGLAS. In other words, even though the German product was ruled superior in quality, you would bar it because it would displace an inferior American microscope? I am trying to get at the facts here.

Mr. MCCAULEY. Sir, I believe, when you say the German instrument is superior——

Senator DOUGLAS. I say, "if." If it is found to be superior.

Mr. MCCAULEY. This, I think, points up—if it is superior, I would doubt seriously if it would be in a head-on competitive relationship with a U.S.-made instrument.

Senator DOUGLAS. Oh, yes, if you bar the German microscope, the field would then be open only for the American microscope.

Mr. MCCAULEY. Well, this is not a question of barring it, sir; it is a question of letting it come in duty-free. It can still come in.

Senator DOUGLAS. If you deny it from freely coming in, you bar it, do you not?

Mr. MCCAULEY. Well, it would only be denied duty-free treatment.

Senator DOUGLAS. Or you place an impediment in its way.

Now, univerities and scientific organizations have limited funds, and they might take an inferior microscope if it cost them less.

Now, I think the Zeiss works, however, are in East Germany. Isn't that true? Anybody? Don't you know that?

Mr. MCCAULEY. I do not know that.

Senator DOUGLAS. The famous Zeiss works are at Jena, Saxony, aren't they, in East Germany?

Mr. DUNN. Yes, sir.

Senator DOUGLAS. They would not come under this agreement; East Germany is not a signatory.

Mr. DUNN. That is correct, but they now have a factory in western Germany.

Senator DOUGLAS. They have a factory in West Germany and they would come under this agreement?

Mr. DUNN. Yes, sir.

Senator DOUGLAS. Aren't they supposed to be the best optical works in the world?

Mr. DUNN. No, sir; we think our organization makes the best ones.

Senator DOUGLAS. You are not a manufacturing group.

Mr. DUNN. No, we are a distributor.

Senator DOUGLAS. You are an importer. How can you say you are the best manufacturer when you previously testified you did not manufacture anything, but merely imported?

Mr. DUNN. No. The instruments that are imported and that we distribute, we consider to be the best.

Senator DOUGLAS. You mean you do not distribute Zeiss.

Mr. DUNN. No, sir; just Leitz.

Senator DOUGLAS. Weitz is better than Zeiss. W is better than Z?

Mr. DUNN. No, L is better than Z.

Senator DOUGLAS. Oh, Leitz. I had ordinarily not rated lice high in the field of life. [Laughter.]

Senator McCarthy. You are ahead now.

Senator Douglas. I think there is a very real question here. Goods can be prohibited from entering the country both by quotas and prohibitions, and by high tariffs.

Mr. McCauley. I agree, sir.

Senator Douglas. On the whole, I do not know what is going to come out of the study of heredity, but certainly the facts which have been developed are amazing, and they have largely been made possible by the electromagnetic microscope.

I would like to ask if anyone here knows whether these scientific advances came through the use of microscopes developed in Germany or in the United States? Mr. Dunn?

Mr. Dunn. I do not quite get your question, sir.

Senator Douglas. Well, you grant, do you not, that the electromagnetic microscope has been the chief instrument in laying the scientific foundation for the modern study of genetics; isn't that true?

Mr. Dunn. Yes, I think there is a man going to testify here who represents the maker of such microscopes.

Senator Douglas. Has this been achieved by microscopes imported from abroad or microscopes developed at home?

Mr. Dunn. Imported from abroad.

Senator Douglas. Imported from abroad.

Mr. Dunn. Yes, sir.

Senator Douglas. And the science could not have gone forward if these had not been used?

Mr. Dunn. That is correct.

Senator Douglas. While the wealthy institutions are either able to pay the duties or get high-priced lawyers to get special bills of exemption through Congress, smaller institutions usually do not have the resources to do this; is that not right?

Mr. Dunn. That is correct, sir.

Senator Douglas. And the smaller institutions may have on their faculties and research staffs very capable men.

Mr. Dunn. That is so; I am sure that is so.

Senator Douglas. Are you in favor of this proposal by Mr. McCauley?

Mr. Dunn. No, sir.

Senator Douglas. All right, Mr. Chairman.

Senator McCarthy. Senator Dirksen.

Senator Dirksen. I have no questions.

Senator McCarthy. Mr. McCauley, how would you define the matter of equivalency or the unequivalent character of these instruments?

Mr. McCauley. As I said, sir, I think when you are dealing with the question of whether a foreign instrument is the equivalent, scientifically, of a domestic instrument, it is essentially a subjective determination.

Senator Douglas. But you asked to have it done by objective standards.

Mr. McCauley. That is exactly so, sir.

Senator McCarthy. It is a little bit like the TFX? Once you have decided on it, there is nothing equivalent to it.

Mr. McCauley. We just had a colloquy here which indicated my very point—where Senator Douglas was discussing whether the Zeiss

and the Leitz was the better product. We heard one viewpoint. I am sure the other viewpoint would be different.

We are saying this, that in the context of freeing up commercial trade, the United States, as practically every other signatory to the Florence agreement, agreed long ago that commercial competitive trade is to be freed up exclusively through the General Agreement on Tariffs and Trade. They did not intend to embrace commercial competitive trade under Florence.

What our amendment would do would be to provide that wherever the Secretary of Commerce found that the two articles, the foreign article, and the domestic article, met head-on in competition in the U.S. marketplace, he should find that these are scientific equivalents without getting into what I consider are some rather heady distinctions between one instrument and another.

We, in the interest of conserving time here, did not do what we did at the House. We lined up at the House on a table some 20 microscopes from various parts of the world. We had a technician present who was a salesman for Bausch & Lomb.

Prefacing his remarks with the fact that no one makes a microscope equivalent to those produced by Bausch & Lomb, he then went on to prove that anyone could find that the microscopes we have displaced were not scientifically equivalent or that they were scientifically equivalent. But we were able to prove, because we had copies of invoices and public bid documents, that each of these microscopes were bid, side-by-side, in response to invitations to bid. In sum, these microscopes were commercially competitive, a fact which no one could deny.

Now, as between scientists, whether an eye piece spread of 8° is equivalent to one which has no spread, or whether a microscope inclined at a 45° angle is the equivalent of one inclined at 60°, depends essentially on subjective consideration. I do not believe the Secretary of Commerce, or any one else, can do any more, under the bill in its present form than weigh these subjective pros and cons.

We think, consistent with the Florence pact, and the dichotomy that exists between Florence and the GATT, that our test is perfectly consistent with both agreements. Florence should be restricted to embracing nonconmpetitive commercial trade, and consistent with U.S. trade policy; competitive commercial trade should be treated exclusively under the aegis of the General Agreement on Tariffs and Trade.

Senator McCarthy. Thank you very much, Mr. McCauley.

Mr. McCauley. Thank you, sir.

Senator McCarthy. I wish to insert in the record at this point testimony by Dr. Joseph M. Hill, director of the Wadley Research Institute in Dallas, Tex. I have a statement by the chairman which I will read:

Dr. Joseph M. Hill, Director of the Wadley Research Institute in Dallas, Texas, had hoped to testify against that provision which eliminates unqualified duty-free treatment for electron microscopes. I recall the strong objections raised by colleges and research organizations two years ago when a bill was before this Committee to terminate the tariff exemption for these microscopes. Because of the impact we feared this might have on scientific research, this Committee was not willing to impose a tariff on electron microscopes and the House bill died on our calendar. Without objection, we will make Dr. Hill's telegram a part of the record.

(The telegram referred to, follows:)

DALLAS, TEX., *September 28, 1966.*

Hon. RUSSELL LONG of Louisiana,
Senate Office Building,
Washington, D.C.:

H.R. 8664 even as presently modified will effectively deny scientific investigators the prerogative of choosing the electron microscope they believe best for the work they are trying to do.

JOSEPH M. HILL, M.D.
Director, Wadley Research Institute.

Senator MCCARTHY. The next witness is Mr. B. J. von dem Knesebeck. Is he here? He is a representative of Siemens.

All right, we will proceed then.

Is Mr. Strackbein here now? All right, Mr. Strackbein.

STATEMENT OF O. R. STRACKBEIN, LEGISLATIVE REPRESENTATIVE, THE INTERNATIONAL ALLIED PRINTING TRADES ASSOCIATION

Mr. STRACKBEIN. Mr. Chairman, I am sorry to be tardy this morning. I had really not anticipated that the witnesses who preceded me would complete their testimony quite so quickly.

My appearance is on behalf of the International Allied Printing Trades Association. This association is composed of printing trades unions affiliated with the AFL-CIO. They are: the International Typographical Union; the Printing Pressmen's Union; the International Brotherhood of Bookbinders; the International Stereotypers' & Electrotypers' Union; and the Lithographers & PhotoEngravers International Union.

I should say that the membership of these unions combined is upward of 300,000.

While these unions are in accord with the principle of international dissemination of scientific, educational, and cultural materials with the least restrictions compatible with fair competitive practices, they do not believe that the proposed legislation meets the essential criteria.

We question the effectiveness of H.R. 8664 in its present form as an instrument that would assure a remedy against injurious developments under the free-trade provisions so far as books and other printed matter are concerned.

1. The protocol annexed to the Florence agreement is not itself satisfactory as an instrument of defense against injury from imports. The deficiency, this deficiency of the protocol, is itself recognized by the adoption of a substitute in the bill. However, the legal standing of the substitute proposed in lieu of the protocol, provided under section 11 of H.R. 8664, which declares that "any duty-free treatment provided in this act, shall, for purposes of title III of the Trade Expansion Act of 1962," as I say, the legal effect of that would appear to be very doubtful for this reason: It would be in the nature of a unilateral modification of the protocol; and as such could and no doubt would be successfully challenged by any other signatory country as having no effect.

2. The provision of the Trade Expansion Act of 1962 relating to injury from imports, and which would come into play under the provi-

sions just cited; that is, section 11 of H.R. 8664, has itself unfortunately been a complete failure. It would be a cynical act to extend its total ineffectiveness to the printing industry as a special concession.

The complete nullity of the adjustment assistance and similar provisions of the Trade Expansion Act of 1962 was recognized when it was superseded in the automotive trade agreement with Canada. Why then saddle this useless instrument on the printing industry, as its sole recourse against such injury as might be expected from duty-free importation of its products?

3. The Florence agreement appears to discriminate between printed matter and scientific apparatus. The free importation of the latter, that is to say, scientific apparatus, is properly restricted by regulations and by confinement to exclusively educational purposes or pure scientific research.

The free importation of printed matter should be similarly restricted to cultural or educational material. Much importation of printed matter, including books, represents no more than commercial enterprise. Numerous books are not even aimed at educational use and many of them are singularly negative quantities so far as cultural benefits are concerned.

Senator DOUGLAS. Do you want to be specific on that, Mr. Strackbein, on the books that you regard as singularly negative so far as cultural benefits are concerned?

Mr. STRACKBEIN. Well, I am not a literary critic.

Senator DOUGLAS. Would you put the works of James Joyce in that category?

Mr. STRACKBEIN. That might be a subjective judgment.

Senator DOUGLAS. Or of Henry Miller?

Mr. STRACKBEIN. Who?

Senator DOUGLAS. Henry Miller.

Mr. STRACKBEIN. It is possible.

Senator DIRKSEN. Better tell him what Henry Miller wrote.

Senator DOUGLAS. I think he wrote the "Tropic of Cancer."

Mr. STRACKBEIN. There is therefore no justification for extending the duty-free treatment to them under an agreement that is supposedly designed to promote educational, scientific, and cultural development.

There is also no justification for removing printed matter that is noneducational and nonscientific from the regular channel of trade negotiations under the General Agreement on Tariffs and Trade. What is encompassed in the proposal is a circumvention of the regular order.

Our willingness to accede to the free importation of printed matter that is of unquestioned educational and scientific value is unequalified so long as the importation is properly limited to such matter and is subject to a real remedy should injury occur.

Senator DOUGLAS. Would you regard the works of John Maynard Keynes as cultural or as competitive with the writings of American economists?

Mr. STRACKBEIN. I think that, again, is a question that would be answered by the sale of his book, the volume of his sales.

Senator DOUGLAS. Someone would have to decide.

Mr. STRACKBEIN. I beg your pardon?

Senator DOUGLAS. Someone would have to decide. If you drew a distinction between cultural and scientific, on the one hand, which can be admitted free according to your definition, and commercial, on the other, which you think should not be admitted free, who is to decide which is which?

What would you do in connection with John Maynard Keynes and Henry Miller, and I—of course I do not mean to say they are of identical value—and others?

Go ahead, Mr. Strackbein.

Mr. STRACKBEIN. I beg your pardon?

Senator DOUGLAS. We are merely having a little humor.

Mr. STRACKBEIN. I understand that. There are some difficult questions involved here.

Senator DOUGLAS. One question is whether knowledge and culture are competitive or whether they are mutually stimulating. Go ahead.

Mr. STRACKBEIN. We do not believe that the Florence agreement should be converted into an instrument of free trade in purely commercial transactions. Yet that is what it would do under the H.R. 8664 as it now stands. Adoption of the proposal would represent the use of a treaty as an instrument to persuade Congress to do what it otherwise might not be disposed to do; that is, to place commercial printed matter on the free list.

If the protocol can be modified unilaterally so that our own form of escape clause as a remedy of injury were recognized, even though differing from that carried in the protocol, the provisions of the Canadian automotive trade agreement should be adopted rather than those of the Trade Expansion Act of 1962, the ineffectiveness of which has been recognized by the Secretary of Labor and others no less than established by the administrative record. This record shows an unbroken series of rejections of applications for assistance by the Tariff Commission.

Eighteen cases have been processed by the Tariff Commission under the adjustment provisions, and all have been denied, 17 of them unanimously.

The printing trades unions of the International Allied Printing Trades Association, as listed above, do not accept section 11 of H.R. 8664 as remotely representing a remedy for injury; and they are unwilling to relinquish the right to a true remedy in return for a nullity.

This completes my formal statement, Mr. Chairman.

I do want to say that in my position as chairman of the Nationwide Committee on Import-Export Policy, I wish to go on record in support of the position taken by the Scientific Apparatus Makers Association.

Senator MCCARTHY. Thank you very much.

Senator Douglas, any questions?

Senator DOUGLAS. No questions.

(The following letter was received from Mr. Strackbein:)

INTERNATIONAL ALLIED PRINTING TRADES ASSOCIATION,
Washington, D.C., October 3, 1966.

Hon. RUSSELL LONG,
Chairman, Senate Finance Committee,
New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On the occasion of my presentation before the Senate Finance Committee during the hearings on H.R. 8664 (The Florence Agreement) on September 30, a member of the Committee, the Honorable Paul Douglas, propounded several questions.

In my statement I objected to the extension of duty-free treatment to commercial printed matter, including books, and suggested that many books that might be imported were neither educational nor cultural and should not be extended benefits of the Florence Agreement.

Senator Douglas asked how a distinction could be drawn. I recognized some difficulty but made no further reply since I had given no consideration to the question previously and wished to give it some thought before replying.

It will be noted that in my brief objection is made to the discriminatory treatment implicit in the conditions laid down for scientific instruments and apparatus, on the one hand, and printed matter, on the other. The substance of this discrimination provides an answer to Senator Douglas.

Scientific apparatus will be accorded duty-free treatment only if it is intended exclusively for educational purposes or pure scientific research.

It is difficult to distinguish such a difference between scientific apparatus and books and other printed matter in point of administration of the law, that would make it possible to apply the restrictions to scientific apparatus and not to books, etc.

H.R. 8664 provides for duty-free treatment for instruments and apparatus entered for use of any nonprofit institution (whether public or private) established for educational or scientific purposes, so long as the imported article has no domestic counterpart of equivalent scientific value.

Similar conditions could be laid down for books and other printed matter. Books destined for use by students in educational institutions could be accorded duty-free entry without a formal decision on their educational or cultural value. Textbooks and required reading material would readily qualify. Appropriate regulations would provide for the mechanics of enforcement.

If the bill is left unchanged it would not only be discriminating but would usurp a part of the jurisdiction of the General Agreement on Tariffs and Trade by unjustifiably encroaching on the commercial field which is the area in which GATT operates.

I request that this letter be made a part of the printed record of the hearings; and trust that its contents will be reviewed by the Finance Committee.

Sincerely,

O. R. STRACKBEIN,
Legislaive Representative.

Senator MCCARTHY. Mr. David Steinberg.

STATEMENT OF DAVID J. STEINBERG, SECRETARY AND CHIEF ECONOMIST, COMMITTEE FOR A NATIONAL TRADE POLICY

Mr. STEINBERG. Mr. Chairman, Senator Douglas, I am David Steinberg, and I am secretary and chief economist of the Committee for a National Trade Policy, which, as I am sure you both know, is strongly in favor of freer international trade. We appear here today in support of this bill to implement the Florence agreement.

I invite your attention to the middle of page 2. It is our view that the United States has taken a lamentably long time to give effect to its signature to this important agreement. We have lagged when we should have led.

Our committee's support for this legislation, concerned as we are with the urgent need for the United States at long last to join the ranks of nations implementing this important UNESCO program, is, we are sorry but candid to say, tempered by certain features of the section on scientific apparatus. We believe this section falls significantly short of fulfilling the U.S. commitment in article IV of the Florence agreement. In this article, "the contracting parties undertake that they will as far as possible, simplify the administrative procedure governing the importation of educational, scientific, or cultural materials."

Under the procedures specified in section 6(c)(3) of the bill—well, you already know what is in section 6(c)(3), so I shall not read it. But our feeling is, gentlemen, that these procedures are unnecessarily cumbersome. They place a heavy administrative burden on the applicant institution, and can hardly be said to meet the standards of administrative simplification called for in the agreement. It could even be said that in this respect the present bill, if enacted into law, will in practice further delay this country's full participation in this UNESCO program.

May I add at this point that there may be some countries participating in the program who would charge that U.S. participation was not in the nature of full reciprocity.

We suggest that your committee consider the following procedural alternative regarding scientific equipment.

1. We suggest that the institution applying for duty-free entry be permitted to acquire the imported item duty-free as soon as it is obtainable, submitting to the Secretary of Treasury—and through him to the Secretary of Commerce—a detailed statement of the consideration it gave to available domestic products and its reasons for deciding that there was no domestic product of equivalent scientific value for the purpose intended. This duty-free status should be allowed to stand unless within a certain period of time—say, 60 days—the Department of Commerce could show substantial evidence refuting the applicant's assessment of equivalent scientific value.

The views of interested American producers and of other Government agencies would be invited, and an opportunity for rebuttal provided. If the Department of Commerce decides against the applicant's assessment, the institution would then be required to pay the duty.

2. We also suggest that U.S. Government agencies purchasing scientific equipment for educational purposes or pure scientific research—the definitions in the agreement—should be exempted from these procedures, either those now in the bill or those we have suggested. Such agencies should be free, without further ado, to obtain imported scientific equipment duty free upon certification to the Secretary of the Treasury—with appropriate details—that U.S. equipment of equivalent scientific value is not available.

They should not have to subject their judgments on choice of equipment to the decisions of other agencies remote from the particular project and whose technical credentials and concern with the national interest should not be presumed to be of a higher caliber.

3. Further in the interest of administrative simplification, we urge that the provision in the original bill, allowing the Secretary of Commerce to apply to a case at hand findings reached in a very similar prior case, be reinstated. Such prior findings would be applicable if the agency "is satisfied that there are no circumstances which would justify a reexamination of the question" (of availability of U.S. equipment of equivalent scientific value).

We understand from Government sources that the procedures used by some of the other countries participating in the Florence agreement are said to be somewhat simpler than those provided in this bill. In our view, the U.S. procedures should be no more restrictive than those used elsewhere. They should in fact set a standard for ad-

ministrative simplification. Among other advantages, this would be of some importance for U.S. export promotion.

To the extent that this bill, with the amendments we have proposed, or even in its present form, may cause or intensify problems for U.S. manufacturers, the most prudent answer for these companies should be a constructive one—with Government assistance if necessary—designed to develop a market position capable of withstanding unrestricted international competition. To fall back on Government help in the form of import restrictions may be a course of least resistance, but it is also the least productive way to build durable competitive strength.

May I add, gentlemen, that if you were to ask me whether we would support the bill in its present form without the improvements we have proposed, my answer would be that we do in order to bring a halt the 16 years of inaction in this matter.

That ends my testimony.

Senator McCarthy. Senator Douglas.

Senator Douglas. What do you reply to the question I threw down to Mr. Strackbein as to whether knowledge is competitive or whether it is mutually stimulating?

Mr. Steinberg. Well, I certainly regard knowledge, sir, as mutually stimulating. Beyond that, I would certainly think that some of the apparatus that is used, or equipment used, in connection with the development of knowledge may be competitive with American products and this, of course, poses a problem with respect to trade policy.

Senator Douglas. Is knowledge to be arrived at purely by intellectual thought in a closet, as the medieval school men operated, or does it also depend in part upon the quality of the scientific instruments used?

Mr. Steinberg. Indeed, the quality of the scientific instruments used and upon the freest feasible exchange of ideas.

Senator Douglas. Does the chairman want to demur to that?

Senator McCarthy. No. Proceed. I think that is a safe statement. I was going to make a point that the medieval scholars were not altogether indifferent to scientific instruments.

Senator Douglas. Not altogether. With the exception of Roger Bacon and Francis Bacon, I think they tended to be. I won't go into the question of the intellectuality by which Duns Scotus arrived at his conclusions. From Duns Scotus, I believe, the term "dunce" was developed.

Senator McCarthy. He might have made a very good scientist if he were alive in our day.

Senator Douglas. And he would have been helped by the scientific instruments now available. He had a good mind, beyond question.

Could the discovery of the relationship of the various units in the universe have been developed without telescopes?

Mr. Steinberg. Oh, dear. Senator Douglas, my knowledge of this subject is most inadequate, and I wish I could cope with you, sir, and engage in a very productive colloquy, but I am sorry that I do not know enough about this.

Senator Douglas. You are not a scientist.

Mr. Steinberg. I beg your pardon, sir?

Senator Douglas. You are not a scientist.

Mr. STEINBERG. No, I am not. I know, of course, that the development of the telescope was of tremendous importance.

Senator DOUGLAS. Well, the science of astronomy was made possible largely by the development of the telescope, as were the knowledge of such apparent facts as that the whole universe is expanding at terrific speed into an almost illimitable unknown space, that we are an insignificant satellite in a far-off corner of the milky way, and that not merely the solar system, but all the other trillions of constellations, enormous distances from each other, are all moving apart at enormous speeds. These are very sobering thoughts which have great cultural value because they indicate at once the insignificance of man and yet his extraordinary significance.

Mr. STEINBERG. I agree with you.

Senator DOUGLAS. The inimitable Mr. Harry Golden says that after thinking those things over it doesn't matter whether you get kidney beans or green beans for lunch.

That is all, Mr. Chairman.

Senator MCCARTHY. Mr. Steinberg, do you have any comments with reference to the question raised by the antique dealers? Is this a matter of concern to the Committee for a National Trade Policy?

Mr. STEINBERG. Well, I do not have any comments because I was not following too closely what they were saying, and I did not have a copy of their testimony in front of me.

I must say that my general impression was one of great doubt about the validity of the point they were making, but I would reserve more definitive judgment because I am not a technician on that particular aspect of trade. There may be certain features of the antique business which justify what they say. But, on the whole, I had great doubts about the validity of the points they were making.

Senator MCCARTHY. I have no more questions.

Senator DOUGLAS. I would like to raise a question. Do you think that the manufacturers of American antiques would be threatened by this proposal?

Senator MCCARTHY. I think they are in greater danger than the importers of handmade antiques. There may be a threat to Grand Rapids, Mich.

Mr. STEINBERG. Sir, may I just add, before leaving the table, that today is the 22d anniversary of my wife Florence's agreement to marry me, and I want you to know that my warm sentiments regarding that Florence agreement have no bearing whatsoever on the feelings I have regarding the Florence agreement being discussed this morning.

Senator MCCARTHY. I hope we can do something for you on your anniversary.

Mr. John Long, please, of the International Printing Pressmen & Assistants Union of North America.

Mr. STRACKBEIN. Mr. Chairman, may I say that Mr. Long, who represents the International Pressmen's Union is a member of the International Allied Printing Trades Association in whose behalf I have testified.

Now, they had asked permission to testify but the time of notice was so short that they were not able to make the preparations and they will send in a statement in lieu of an appearance.

Senator McCARTHY. Very well, the record will show the identification.

STATEMENT OF JOHN J. LONG, LEGISLATIVE REPRESENTATIVE, INTERNATIONAL PRINTING PRESSMEN & ASSISTANTS UNION OF NORTH AMERICA

Mr. LONG. I am the legislative representative for the International Printing Pressmen. I wanted to support Mr. Streichbein's statement on behalf of President Deandrade.

Senator McCARTHY. Mr. Long, thank you very much.

(The letter of Mr. Deandrade follows:)

INTERNATIONAL PRINTING PRESSMEN & ASSISTANTS' UNION OF NORTH AMERICA,

Pressmen's Home, Tenn., September 29, 1966.

HON. RUSSELL LONG,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: While our position on H.R. 8664, which is the implementing legislation for the Florence Agreement, is represented by the statement made before your Committee by O. R. Strackbein, I wish to emphasize my support of his statement. It is not a routine representation but reflects a considered position that has our full approbation.

Sincerely,

ANTHONY J. DEANDRADE,
President.

Senator McCARTHY. Dr. Lothar Seifert is here, I understand, and prepared to testify, I think, in place of Mr. von dem Knesebeck, is that right, representing Siemens?

All right.

STATEMENT OF LOTHAR SEIFERT, MANAGER, MEASURING INSTRUMENTS DIVISION, SIEMENS AMERICA, INC.

Mr. SEIFERT. Mr. Chairman and members of the committee, my name is Dr. Lothar Seifert, and I am manager of the measuring instruments division of Siemens America, Inc.

Siemens America, Inc., is a Delaware corporation with principal offices at 350 Fifth Avenue, New York, and is owned by Siemens Aktiengesellschaft in West Germany.

We are engaged in the business of importing and selling scientific instruments, including electron microscopes, which are manufactured by Siemens & Halske in West Germany.

In order not to waste the committee's time unnecessarily I wish to present here only a brief summary of our position. For more details please refer to our letters and statements on file with the committee, particularly to the statement by our lawyer, Mr. Land, on June 7, 1966, before the House Ways and Means Committee, to the letter of September 20, 1966, by our president, Mr. von dem Knesebeck, to Senator Russell B. Long, and to letters and telegrams which many electron microscopists have sent to Congress.

We fully support the Florence agreement as such. We feel, however, that the section of bill No. H.R. 8664 which describes the procedure to be followed for duty-free importation of scientific instruments in the case of electron microscopes is rather erecting than

"removing unnecessary barriers that impede the international flow of such materials."

At the present, paragraph 854.10 of the U.S. Tariff Schedules of 1965 provides duty-free importation of electron microscopes for scientific, educational, nonprofit institutions.

Paragraph 854.10 had been added to the U.S. Tariff Schedules on July 21, 1961, in full recognition of the importance of electron microscopes for scientific research in the medical field—cancer research, etc.—in the research of matter—new developments of metals, etc.—and so on.

This field of scientific research is constantly on the move, the scientific community calls for constant improvement of the electron microscopes and for new accessories.

Electron microscopes are highly sophisticated instruments. A strong competiton between the major manufacturers of these instruments in the United States of America, West Germany, Holland, England, and Japan brought many instrumental improvements in the last years.

Much of the new scientific knowledge, which has for example been reported by U.S. scientists at the recent International Congress in Japan, was based on the fact that, up to now, the American scientist had a variety of electron microscopes to choose from. He had the choice to select the instrument with the highest scientific value for his specific problem.

The question to determine the "equal scientific value" has been brought up before. In the case of the electron microscope especially we feel, and many scientists have stated this in their letters to Congress, only the scientist himself has the full knowledge of his problem and can determine the scientific value of a particular instrument. Why put additional burden on the scientist and on different governmental agencies as it is required by the bill, H.R. 8664, when the present arrangement is satisfying the intention of the Florence agreement far better?

In the case of the electron microscope there is certainly no economic reason for the cumbersome procedure since the American instrument is competing well with the foreign electron miscroscope and this competition has brought such excellent results.

Under these circumstances, Mr. Chairman, we respectfully suggest that the duty-free institutions be maintained as defined in paragraph 854.10 of the U.S. Tariff Schedules of 1965 and that all references in bill H.R. 8664 to the contrary be deleted.

Thank you.

Senator McCarthy. Senator Douglas.

Senator Douglas. Did you say your name was Seyfert?

Mr. Seifert. S-e-i-f-e-r-t.

Senator Douglas. I have a vague memory, from the days when I operated slide rules, that there were Seyferts who manufactured slide rules; is that true?

Mr. Seifert. I could not tell you. It definitely had no connection with my family. I do not know.

Senator Douglas. Where is the main manufacturing plant of Siemens for scientific instruments?

Mr. Seifert. For these specific instruments, the plants are in Berlin.

Senator DOUGLAS. West Berlin or East Berlin?

Mr. SEIFERT. West Berlin. All our main factories are in West Germany.

Senator DOUGLAS. All the factories are in West Berlin?

Mr. SEIFERT. In West Germany. There are none in East Germany.

Senator DOUGLAS. West Germany.

Was I right in saying that the Zeiss works are in Jena?

Mr. SEIFERT. There are Zeiss works in Jena.

Senator DOUGLAS. They were originally in Jena?

Mr. SEIFERT. Originally in Jena.

Senator DOUGLAS. And is Jena in Saxony?

Mr. SEIFERT. That is in Thuringia; which is a state.

Senator DOUGLAS. And Thuringia is in East Germany, is it not?

Mr. SEIFERT. That is correct.

Senator DOUGLAS. And the ownership is in East Germany.

Mr. SEIFERT. I am not completely aware of the legal situation of the Zeiss Co., which has nothing to do with our company.

Senator DOUGLAS. I understand that.

Mr. SEIFERT. I only know that there is a Zeiss Co. in West Germany, and the previous——

Senator DOUGLAS. Is that a front or is it a real company?

Mr. SEIFERT. No, this is a real company.

Senator DOUGLAS. Can the earnings of the West Germany company be siphoned into East Germany?

Mr. SEIFERT. I doubt very much, but I am not aware of this.

Senator DOUGLAS. Well, the development of the Zeiss works came out of the work of Carl Zeiss, who was attached to the University of Jena.

Mr. SEIFERT. That is correct.

Senator DOUGLAS. And this firm grew up outside the university, isn't that true, in the same city?

Mr. SEIFERT. That is correct.

Senator DOUGLAS. Is it not controlled by the East German Government?

Mr. SEIFERT. The Zeiss factory in Jena is controlled by the East German Government.

Senator DOUGLAS. And owned by the East German Government.

Mr. SEIFERT. Correct, but that has no connection any more——

Senator DOUGLAS. We have dealt with these fronts before.

Mr. SEIFERT. Pardon?

Senator DOUGLAS. We have dealt with fronts before. We dealt with the fronts connected with the German General Electric; fronts operating out of Switzerland.

Mr. SEIFERT. Please understand that our company name is Siemens, which has no connection at all with the company Zeiss.

Senator DOUGLAS. I understand that.

Mr. SEIFERT. These are two different companies.

Senator DOUGLAS. Who are the directors of your company?

Mr. SEIFERT. The directors of Siemens A. G. include Ernst von Siemens.

Senator DOUGLAS. Would you file for the record a statement of the officers and directors of your company?

Mr. SEIFERT. I will do so.

(The information requested follows:)

SIEMENS AMERICA, INC.,
New York, October 3, 1966.

Hon. PAUL H. DOUGLAS,
Senate Committee on Finance,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR DOUGLAS: Referring to the Hearing on H.R. 8664 (Florence Agreement) on Friday, September 30, 1966 in the New Senate Office Building, I would like to send you the last Annual Report of Siemens & Halske AG and Siemens-Schuckertwerke AG in which you find the names of all the Members of the Board of Directors and the Board of Management of these two companies. You also will find information about the different activities of Siemens & Halske AG and Siemens-Schuckertwerke AG and their subsidiaries. As of October 1, 1966 the two companies will be merged and will be known as Siemens Aktiengesellschaft. (Annual Report made a part of official files.)

As to Siemens America Incorporated the following information may be of interest to you:

(1) Siemens America Incorporated is a Delaware corporation all of whose stock is owned, directly or indirectly, by Siemens AG, Munich, Germany.

(2) The number of employees of Siemens America is 138.

(3) The sales of Siemens America in the USA amount to approx. $15'0.

(4) Siemens America has offices in New York, Empire State Building, and White Plains, a workshop and a warehouse in Long Island City and small sales and service offices in Chicago and San Francisco.

Siemens America is marketing in the United States special measuring instruments such as electron microscopes and we are rather active in the promotion and sale of industrial X-ray equipment. We also sell communications equipment to common carriers such as Western Union, RCA and others. Our third field of business is in the marketing of electronic components such as Ferrites, Styroflex-Condensers, resistors and similar material.

Siemens America is also active in the field of power equipment. This is mostly done in cooperation with American consulting engineers for installations financed by the World Bank when international bidding is requested.

I would like to mention that we are also purchasing in the United States, i.e. components, complete instruments for the electrical industry as well as very sophisticated and high priced tool machines for the production in our German plants. Annual purchasing value amounts to approx. $2'0.

I hope that the enclosed Annual Report will be of interest to you and I shall be pleased to supply whatever other information you may consider appropriate to show that Siemens America is engaged in substantial commercial operations in the United States.

Sincerely,

B. J. VON DEM KNESEBECK.

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Erwin Hachmann
Heribald Närger, Dr. jur.
Hans Rotermund
Walter Schmid

Senator DOUGLAS. Are you owned by German General Electric?
Mr. SEIFERT. No. Our company is owned by Siemens.
Senator DOUGLAS. Yes, but who owns Siemens?

Mr. SEIFERT. Siemens is a corporation which is publicly held and not owned by anyone else.

Senator DOUGLAS. What is the relationship of Walter Rathenau to Siemens?

Mr. SEIFERT. I am sorry, I cannot answer that question.

Senator DOUGLAS. You know who Walter Rathenau was, don't you?

Mr. SEIFERT. Yes, I know.

Senator DOUGLAS. He was head of German General Electric, was he not?

Mr. SEIFERT. I am sorry, I cannot answer this question.

Senator DOUGLAS. I seem to know more about German finance than you do, and you are a German citizen representing a German company. I am surprised that you do not know these facts.

Mr. SEIFERT. I am sorry I do not know. I cannot give you a definite answer, but I will be glad to supply this information. I do not want to make a statement which I cannot fully support by facts.

(Pursuant to the above discussion, the following letter was received from Mr. Seifert:)

SIEMENS AMERICA, INC.,
October 7, 1966.

Senator PAUL H. DOUGLAS,
Committee on Finance, U.S. Senate, Washington, D.C.

DEAR SENATOR DOUGLAS: Referring to page 98 of my testimony before the Committee on Finance on Friday, September 30, 1966, I have ascertained that at some time before World War II Walter Rathenau was head of A.E.G., which is sometimes known as German General Electric, and that at no time did he have any relationship to Siemens.

Perhaps you will wish to consider this letter as part of the record of the hearing.

Respectfully yours,

Dr. LOTHAR SEIFERT,
Measuring Instruments Division.

Senator DOUGLAS. You see, while I believe in free exchange of the materials of science within the free world, I am not at all certain that this should apply to the exchange of scientific instruments between the free world and the police state world. In fact, I do not think it should apply between the free world and the police state world.

I do not want to go into ancient history, and I believe in a statute of limitations and charity, but the record of the German industries during the period of Nazi domination was not a good one.

Mr. SEIFERT. I agree with you, and with the idea of the Florence agreement, and I wish to state that Siemens is part of the free world.

Senator DOUGLAS. The record of the German General Electric Co. was not a good one. While we should practice forgiveness, nevertheless these facts should also induce caution as to whether the same old game is being used again.

Are you ready to swear that your company has no financial connections with any other company in East Germany?

Mr. SEIFERT. This I think I can do.

Senator DOUGLAS. No, no——

Mr. SEIFERT. I will supply the necessary information.

Senator DOUGLAS. We are not asking you to swear. Your word should be sufficient.

Senator McCarthy very properly objects to that, and I think he is right.

Mr. SEIFERT. May I add to this that we are only one of different foreign manufacturers of electron microscopes.

Senator DOUGLAS. I understand. I am very much interested in that, as I indicated, and I think so far as I can tell that German microscopes have been of tremendous value to our students of heredity.

Mr. SEIFERT. Yes.

Senator DOUGLAS. But, at the same time, we have to be cautious.

Mr. SEIFERT. I agree with you.

Senator DOUGLAS. But you are ready to state that Siemens has no connection with any firms in East Germany?

Mr. SEIFERT. This I can state. This I know from my personal knowledge.

Senator DOUGLAS. Thank you, Mr. Chairman.

Senator MCCARTHY. Thank you very much.

Did you wish to say something? Would you identify yourself.

STATEMENT OF MRS. HAROLD HECHTMAN, HONORARY PRESIDENT, LONG ISLAND ANTIQUE DEALERS ASSOCIATION

Mrs. HECHTMAN. Yes. I am Mrs. Harold Hechtman, and I am honorary president of the Long Island Antique Dealers Association, and also the National Association for Antiquities, and I represent 460 members, and I would like to refute the statement made by the former speaker from New York on antiques.

Senator MCCARTHY. Mr. Ball.

Mrs. HECHTMAN. Yes. I have a prepared statement, but I would like to answer Mr. Douglas when he said something before about American antiques.

You see, we do have——

Senator DOUGLAS. That was a wisecrack——

Mrs. HECHTMAN. I realized that.

Senator DOUGLAS (continuing). Introduced for the purpose of lightening the tone of discussion.

Mrs. HECHTMAN. Yes. But it did sort of raise my antenna because we do have American antiques.

Senator DOUGLAS. Oh, yes, certainly.

Mrs. HECHTMAN. That were manufactured after 1830 and perhaps were made in the year 1834; and my association which I represent feels very strongly that this confuses the public because when we sell it to them and we tell them it is 1834, and they go to one of the 200 aristocracy monopoly dealers in the United States out of the 10,000 and they are asked: "Is this an antique," and they are told that it is not simply because it is 4 years too late. We say that it should be considered an antique because it's over 100 years old.

Senator DOUGLAS. Are you saying that there is a monopoly by experts?

Mrs. HECHTMAN. A definite monopoly, definitely, 200 of them.

Senator DOUGLAS. And the members of this segment of the intelligentsia are trying to arrogate to themselves the determination of what is an antique?

Mrs. HECHTMAN. Absolutely; and a majority of the American public cannot purchase the rarities that Mr. Ball has referred to. The average American wage earner who has a love of art and antique is

willing to purchase something that was bought—that was made in 1845 or 1850, like the Louis Phillipe furniture that he mentioned, which is very, very rare.

Senator DOUGLAS. What about something that is manufactured in 1965 on the model of the old Shaker furniture of Canterbury?

Mrs. HECHTMAN. May I say this, he cast an aspersion on other dealers by saying they are not reputable. But in our association we back everything we sell. We have a money-back guarantee. We give the public a written statement, and we object to being called disreputable and, as a matter of fact——

Senator DOUGLAS. I did not use that word.

Mrs. HECHTMAN. And if I were asked to join their association, I would not.

Senator DOUGLAS. I was not there when Mr. Ball testified and I did not have the privilege of reading his statement, but the tremendous volume of antique furniture is extraordinary when people go scouring through New England farm houses in search of old Colonial chairs, beds, bureaus, and what have you; is that not true?

Mrs. HECHTMAN. Well, they are old and used, but that does not necessarily make them an antique.

Senator DOUGLAS. I understand. But apparently the population of those States must have been up in the millions in the early period of the Republic.

Mrs. HECHTMAN. They probably do, but those people do not belong to my association.

Senator MCCARTHY. Would you tell me, has 1830 been built into a significant date in the antique business? Is this a kind of absolute? Do you count right and left from 1830?

Mrs. HECHTMAN. Yes; an unfair absolute, too.

Senator MCCARTHY. An article might be handmade in 1860, and be better.

Mrs. HECHTMAN. Yes. We have beautiful sets of china pieces that were made after 1830 that are rare and that are collectibles and that, as I say, if it is taken to one of these 200 aristocracy, they will tell the buyer this is not an antique when anybody knows, who knows anything about this, that it is an antique.

Senator DOUGLAS. Let me get in a passing shot. I have to leave, but let me say as one who does not have money enough to buy many original paintings, I like reproductions of paintings and I have my house and my office quite full of them. This apparently makes me suspect to the intelligentsia, so I am on your side really.

Mrs. HECHTMAN. Thank you, sir.

Senator DOUGLAS. But I think it should be stated whether objects are reproductions or whether they are genuine antiques. I would be very glad to buy Shaker furniture——

Mrs. HECHTMAN. We give them a written statement.

Senator DOUGLAS (continuing). Or copies of Shaker furniture. But I simply do not want to have them labeled in enormous numbers as coming from Canterbury, which is, as I remember it, the little village which lies between Pittsfield and Albany.

Thank you.

Senator MCCARTHY. Is the important thing age or quality of the article?

Mrs. HECHTMAN. It is both age and quality, but we feel to draw the line at something that was made up to 1830 is unfair because the very same people made things in 1834.

Senator MCCARTHY. There were many articles handmade after 1830.

Mrs. HECHTMAN. Many, many.

Senator MCCARTHY. What about a hundred years? Is there any significance about 100 years?

Mrs. HECHTMAN. People are really satisfied——

Senator MCCARTHY. People think in terms of 100 years?

Mrs. HECHTMAN. Yes, sir. That is why if it was moved up so we could say 100 years, like 1860, then there is no confusion to the buying public, and then this little group of dealers do not place the other dealers in an unhappy spot by indicating that they are disreputable.

Senator MCCARTHY. I am trying to get at the standard here if I can. Is there any absolute that runs through this that we could use? The question of its being handmade, is that important?

Mrs. HECHTMAN. No. Objects made today can be handmade.

Senator MCCARTHY. Would you accept that an antique should be handmade?

Mrs. HECHTMAN. Not necessarily.

Senator MCCARTHY. If we were to modify the language that antiques made by hand prior to 100 years before their date of entry——

Mrs. HECHTMAN. No. Handmade or not; must be 100 years old.

Senator MCCARTHY. Rather than made by a machine?

Mrs. HECHTMAN. An antique must be 100 years old.

Senator MCCARTHY. Any use of power at any point in the process disqualifies it?

Mrs. HECHTMAN. No.

Senator MCCARTHY. Even if a tree were cut with a powersaw?

Mrs. HECHTMAN. Well——

Senator MCCARTHY. Where does the handwork begin?

Mrs. HECHTMAN. They did not have a powersaw, did they?

Senator MCCARTHY. They had machines a hundred years ago. If they were used to crack the rock before the sculptor went at it. Would you accept that?

Mrs. HECHTMAN. Yes.

Senator MCCARTHY. The critical point is that it be handwork?

Mrs. HECHTMAN. The critical point should be 100 years.

Senator MCCARTHY. Yes. What about 3 score years and 10?

Mrs. HECHTMAN. Incorrect; must be 100 years old.

Senator MCCARTHY. Is that all right? I think the antique business is——

Mrs. HECHTMAN. The point is that we are a very large association and we are very much against this bill.

Senator MCCARTHY. Excuse me. You are in favor of the bill?

Mrs. HECHTMAN. I mean we are in favor of the bill.

Senator MCCARTHY. Yes. All right. We are glad to have your testimony.

Mrs. HECHTMAN. Thank you.

Senator MCCARTHY. I have two statements here, one by Douglas W. Bryant, university librarian, Harvard University; and a statement of Ralph F. Colin, administrative vice president of Art Dealers Asso-

ciation of America, Inc., which will be inserted in the record at this point.

(The documents referred to follow:)

STATEMENT OF THE ASSOCIATION OF RESEARCH LIBRARIES, SUBMITTED BY DOUGLAS W. BRYANT

The Association of Research Libraries welcomes an opportunity to reaffirm its unqualified support of the "Agreement on the Importation of Educational, Scientific, and Cultural Materials" and urges the passage by the Senate of H.R. 8664 to implement this Agreement. The Association, established in 1932, comprises 74 institutional members, the larger academic, public, and special libraries which collect comprehensively in support of research. The libraries of the 64 university members support approximately 80% of all the doctoral degrees produced annually in the country.

As a result of the increasing American concern with all parts of the world, programs of regional and international studies have tremendously increased in American colleges and universities since World War II, and the collections of university and general research libraries must cover comprehensively publications from all parts of the world. Anything which increases and facilitates the flow of books and other educational and cultural materials is of vital importance to the research libraries of the country and the students and scholars whom they serve.

We are convinced that the lowering of barriers to this interchange through the Florence Agreement will improve international understanding by indicating the desire of the United States to cooperate in the intellectual community with the other countries which have signed the Agreement. It will also facilitate the development of exchange arrangements and other procedures which will promote an increased flow of American books abroad, essential in increasing the understanding of American life and policies in foreign countries. International, educational, scientific and cultural communication depends substantially upon the maintenance and development both at home and abroad of these institutions for which books and related material are the life blood.

STATEMENT OF RALPH F. COLIN, ADMINISTRATIVE VICE PRESIDENT OF ART DEALERS ASSOCIATION OF AMERICA, INC.

This statement is filed on behalf of Art Dealers Association of America, Inc., a non-profit Association consisting of 69 of the foremost dealers in the fine arts. The Association is national in scope, having members located as follows: New York City—55, Boston—2, Buffalo—1, Chicago—3, Dallas—1, Detroit—1, Los Angeles—5, Philadelphia—1.

Our Association was formed some four years ago and one of its main purposes has been and is to police the art market and protect it from frauds and fraudulent practices. At the time of our organization, we conferred at length with representatives of the Internal Revenue Service and the Treasury Department and have set up procedures for authenticating and appraising works of art donated to exempt organizations and the values of which are claimed by donors for income tax deductions. I believe I can say that the Internal Revenue Service has been delighted with what we have done and the fact is that the IRS now uses our Association as consultants and experts in cases involving the fine arts which the IRS is investigating or prosecuting. We have also been the most active single agency in stopping frauds in the art markets wherever such frauds or potential frauds have come to our attention.

Our Association is, therefore, alarmed by the proposed amendment to the Tariff Law comprising Section 4 of the bill now being considered by the Senate Committee on Finance. That Section 4 dealing with "WORKS OF ART; ANTIQUES" provides in its paragraph (a), which has to do with "PAINTINGS, ETC.", for a change in the Customs Law to permit the importation free of any duty of "paintings, pastels, drawings, and sketches, all of the foregoing, *whether or not originals*, executed wholly by hand" (italic supplied by us).

The idea that such a provision could become law gives us great concern. We are alarmed by the proposed amendment to the Tariff Law not only on behalf of

our member-dealers but on behalf of collectors, museums and the public generally. The proposed amendment in our opinion would encourage the importation of "fake" paintings, etc., and will not only make our job of policing more difficult, but will place in substantial increased danger the ever widening public which is interested in purchasing original works of art.

The proposed amendment would permit the importation free of duty of any painting "executed wholly by hand" which is, for instance, a copy of an original masterpiece, old or modern, and, therefore, a potential "fake" to be offered in the American market. It is our opinion that not only should such a work *not be admitted free of duty but that it should not be admitted to the United States at all.* We understand that Customs officials in the past have been alert to such potential fakes and have heretofore done their best to prevent the entry of such works whenever possible unless steps were taken clearly and permanently to designate the works as "copies".

Beyond the danger involved in the proposed amendment as already outlined, our Association is at a loss to understand the philosophy behind the proposed amendment. The copying of original works of art may require considerable skill and craft—varying with the quality of the copy. But copies of other objects, which are customs free if original, also require considerable skill and craft and, as we understand the proposed law, their importation would still not be free of duty. For instance, it requires considerable skill and craft, and even some artistry, to make a fine reproduction of a Hepplewhite or Sheraton chair—but only the antique original itself, if made before 1830, and not such fine copies are admitted free of duty. It takes considerable skill and craft, and again some artistry, to make a fine copy of a piece of 18th century jewelry. But here also, only the original and not the copy is admitted free of duty.

Why should something which is "not original" in the field of fine arts be free of duty when other copies of antiques are not to be duty free. In fact, as suggested before, precautions should be taken to prevent the entry of such copies under any circumstances, with or without duty, unless they are clearly and permanently marked as copies.

Since New York is by far the largest art market in the United States, it is quite natural that it is also the center for art "fakes". As a result, it is the office of the District Attorney of the County of New York which is most familiar with the problems arising from the importation and distribution of "fake" paintings. It is, therefore, respectfully suggested that, if additional hearings are to be held on the proposed Bill and the specific amendment to which our Association's comment is directed, Joseph Stone, Esq., Assistant District Attorney of the County of New York and in charge of consumer fraud protection, including art frauds, be invited to give testimony on the possible effect of the proposed amendment.

On behalf of museums, collectors, dealers and the public generally, we respectfully urge that the Senate Committee on Finance disapproved Section 4 of the proposed Bill and recommend against its enactment into law.

Senator McCarthy. I will say for the record that we will leave the record open for 1 week, if anyone wishes to submit any additional testimony or if there is anyone else who may wish to submit a statement. It will be included in the record.

The hearing is adjourned.

(Whereupon, at 11:30 a.m. the hearing was adjourned.)

(By direction of the chairman, the following are made a part of the printed record:)

COUNCIL OF PROTESTANT COLLEGES AND UNIVERSITIES,
Washington, D.C., September 23, 1966.

Senator RUSSELL B. LONG,
Chairman, Senate Committee on Finance,
Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: It has come to our attention that your committee is considering the Florence Agreement and the Beirut Agreement.

As an educational association concerned with the free flow and communication of knowledge, I am writing to express the hope that your committee will act

favorably on both of these bills. You have an opportunity to enlarge and deepen the best interests of the intellectual community as this community seeks to serve sound and meaningful diffusion of knowledge.

Sincerely,

A. BURNS CHALMERS,
Acting Director.

THE JAM HANDY ORGANIZATION,
Detroit, Mich., September 21, 1966.

Hon. RUSSELL LONG,
U.S. Senate, Senate Building,
Washington, D.C.

MY DEAR SENATOR: As producers of Audio Visual materials for school use, we are particularly interested in H.J. Res. 688, and H.R. 8664.

Because of the interest in international sales to help our balance of payments, we believe these bills will be most useful to the United States. Because the amount of visual material produced in the United States is more likely to flow to other countries than the flow of foreign materials into our country, the balance should be well in favor of the United States.

Thank you for your cooperation.

Cordially yours,

ROBERT E. HAYES.

MUSIC PUBLISHERS' ASSOCIATION OF THE UNITED STATES,
New York, N.Y., September 27, 1966.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: It is good news to us as music publishers that the House has passed the implementing legislation for the Florence agreement.

In a much larger sense this action is good news for all Americans who contribute to our creative heritage and to whom the protection of copyright is vital.

It is the earnest hope of the Music Publishers' Association of the U.S. that prompt and favorable action on this legislation will be taken by the Senate and we strongly recommend its support by yourself and your associates on the Senate Finance Committee.

Respectfully yours,

DON MALIN,
President, M.P.A.

THE COLLEGE ENGLISH ASSOCIATION, INC.,
Washington, D.C., September 22, 1966.

Senator RUSSELL B. LONG,
Chairman, Senate Committee on Finance,
Senate Office Building, Washington, D.C.

DEAR SENATOR LONG: On behalf of the College English Association with a membership of over 2,000 national members plus seventeen regionals in all parts of the nation I wish to write urging early action on HR 8664 The Florence Agreement Implementing Bill and HJ res. 688, The Beirut Agreement Implementing Bill.

Now that the House of Representatives has passed these bills without amendment, many of us in the field of education look to the Senate for early action before the 89th Congress adjourns. My testimony in support of these bills may be seen on page 258 of the hearings before the Committee on Ways and Means. We in college English urge your prompt consideration of these bills that could do so much for the scientific and cultural community.

Sincerely yours,

DONALD A. SEARS,
Executive Director.

NEW HAVEN, CONN., *September 29, 1966.*

Senator RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.:

The Association of American University Presses which is comprised of the scholarly book publishing divisions of more than 60 American universities strongly supports the Florence Agreement implementing bill on which you will hold hearings this Friday. As publishers of Scholarship we hold that there should be no barriers to its flow among nations and we go to great effort to put our books and journals into the hands of scholars and libraries throughout the world equally. We welcome the unhindered importation of books and journals into this country because the Florence Agreement removes impediments to this mode of transmitting knowledge. We urge prompt and favorable action on the implementing legislation. We ask that you include this statement in the printed record of the hearings.

CHESTER KERR, *President.*

STATEMENT OF EDWIN J. PUTZELL, JR., ON BEHALF OF MONSANTO COMPANY

SEPTEMBER 30, 1966.

Mr. Chairman and members of the committee, this statement, submitted by the undersigned on behalf of Monsanto Company, is in support of the implementation of the Florence Agreement and also of the previous action of the Senate in implementing the Beirut Agreement. A similar statement was made to the Ways and Means Committee.

I am delighted that both agreements have been passed by the other body.

I have read with interest and care the hearings conducted June 6 and 7, 1966 by the Ways and Means Committee in connection with the Florence and Beirut agreements. Monsanto Company intends to stand behind its statement of June 7, 1966 before the other body believing that the implementation of both agreements will help strengthen the American educational system and the national defense and economic capabilities of the United States.

Nothing substantive that has happened since the original two days of hearings has changed any of the facts which originally caused our company to take an active interest in supporting these two actions. It should be made clear again that Monsanto, an industrial producer, does not publish books or make films and is not eligible under these agreements for any of the material which would be used.

The various organizations that have studied these agreements during recent months—the American Book Publishers Association, Encyclopedia Britannica, the American Counsel on Education, the American Association of University professors, the Printing and Publishing Industries' Divisions of the U.S. Department of Commerce, the U.S. Department of State, the National Education Association, Library of Congress, the U.S. Information agency, the American Association of Library References, the American Library Association, and others, including our company, are fundamentally interested in strengthening the American scientific and educational position. We are also dedicated to responsible, international trade relations.

The points which are being made to your committee by former Senator William Benton of Connecticut, a distinguished educator and Government official, as well as other executive department witnesses, should permit the speedy implementation of the Florence Agreement, especially in view of the logic which requires that the Florence and Beirut agreements be kept together as a single unit.

Because of the lateness of the session and the desire of your committee to limit all the testimony to the shortest period possible, Monsanto Company wishes to cooperate with Chairman Long in submitting this statement and attachment rather than representing itself with an oral witness. I request that my statement before the other body, which is found on Pages 228–229 of the Ways and Means Committee hearings on H.R. 8664 and H.R. 15271, follow my prepared remarks at this point.

The continued ability of companies such an Monsanto to provide more employment, new products and financial stability to its stockholders is in part related to making the American educational and scientific system the most exciting,

skilled and forward looking one in the world. The Florence and Beirut agreements should assist men and women who are pioneering in educational and scientific fields and who are teaching others to become more skilled. This is for the benefit of all Americans. The Florence and Beirut agreements also are a logical follow-up on the Senate Finance Committee's legitimate concern for a sound fiscal policy and realistic international trade relations.

EDWIN J. PUTZELL,
Vice President, and General Counsel.

U.S. SENATE,
COMMITTEE ON ARMED SERVICES,
September 30, 1966.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I would appreciate it very much if you would make the enclosed copy of a telegram, from one of my constituents who is interested in the Electron Microscope Provision of H.R. 8664, a part of your official committee proceedings.

Thanking you in advance, I am,
Sincerely yours,

JOHN G. TOWER.

DALLAS, TEX., *September 29, 1966.*

Hon. JOHN TOWER,
Washington, D.C.:

We are deeply concerned over H.R. 8664 hearing scheduled for 9 a.m. this Friday morning regarding the electron microscope provision of the Florence Agreement. In our opinion this would make it virtually impossible for nonprofit institutions to obtain duty-free foreign electron microscopes which we believe to be superior for many research projects. Especially in the field of cancer research it is a handicap not to have the maximum resolving power which we believe is available only in foreign electron microscopes. We especially want to urge you to help defeat the provision that would make it so difficult for institutions like ours to obtain electron microscopes duty-free since I understand that no nonprofit institution of our type is to be represented at the hearing.

JOSEPH M. HILL, M.D.,
Director, Wadley Research Institute.

THE AUTHORS LEAGUE OF AMERICA, INC.,
New York, N.Y., September 23, 1966.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: The Authors League of America, a national society of professional writers and dramatists, supports the enactment of HR 8664—the bill to implement the Florence Agreement.

The Florence Agreement would do much to promote social and cultural understanding in the international community. We believe the United States can only benefit from implementation of this treaty, which removes serious obstacles to the international exchange of educational, literary and artistic works; and that nothing but social and cultural benefit would result to the United States and other nations as a result of our ratification.

Implementation of the Agreement has been a long time coming. We hope it can be completed in this session of the Congress and that the Finance Committee will take the action necessary to accomplish this worthy goal.

Respectfully yours,

REX STOUT,
President, The Authors League.

VIDEOSONIC ® SYSTEMS DIVISION,
HUGHES AIRCRAFT CO.,
Fullerton, Calif., September 27, 1966.

Hon. RUSSELL B. LONG,
Chairman, Senate Finance Committee,
U.S. Senate, Washington, D.C.

MY DEAR SENATOR LONG: I understand House Bills H.J. Res. 688 and H.R. 8664 have now been forwarded to your committee for further action.

I sincerely urge that you and all members of your committee give both of these bills your careful consideration and that they be enacted without further delay.

Education, as you know, is a world-wide problem and anything that can be done to further the exchange of educational materials between the free countries of the world will be a big step forward.

Sincerely yours,

W. A. HARKER, *Manager.*

COPYRIGHT OFFICE,
LIBRARY OF CONGRESS,
Washington, D.C., September 30, 1966.

Re H.R. 8664.

Hon. RUSSELL B. LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: The following is submitted as of possible assistance to the Committee in its deliberations on the above bill, which has the effect of permitting the U.S. adherence to the Florence Agreement. Its purpose is to clarify a portion of the testimony of Mr. James H. French, Counsel, the Book Manufacturers Institute, before the Committee on this morning, September 30, 1966.

On pages 5 and 6 of his prepared statement, Mr. French stated the objection of the Book Manufacturers Institute (BMI) with respect to the elimination of duty applicable to books of American authorship which were printed abroad. In effect, the purport of his testimony was that the BMI would not be opposed to the removal of duties on books, as required by the Florence Agreement, except with respect to those by American authors that were manufactured abroad.

It is my belief, based on the following, that the objections of Mr. French relate to matters of very slight economic importance which have no genuine adverse effect upon book manufacturers and for this reason I would urge that no valid reason exists for requiring books by U.S. authors, manufactured abroad, to be subject to duty. This position, I might add, is in agreement with the action taken by the House Ways and Means Committee. See its report on the bill (H. Rept. No. 1779, 89th Cong. 2d Sess.) at pp. 13–14.

As a matter of fact, the area of the problem referred to by Mr. French was explored in depth during the hearings last year on the copyright revision bill, H.R. 4347, which incidentally was favorably reported by the House Judiciary Committee on September 28, 1966. For your information, I set forth some relevant information that was brought out during those hearings.

At the outset, it should be understood that what is being discussed relates to copyrighted books, because publishers are loath to publish books unless they possess the exclusivity which will enable them to attempt to make a profit. Therefore books in the public domain can for all practical purposes be dismissed from the discussion.

With respect to copyrighted books, attention should be focused upon a requirement of the copyright law which in effect provides that for a book in the English language by an American author to be able to receive all the benefits and protection of that law, it must be wholly manufactured in the United States. The copyright law, however, does provide a limited exception to this requirement, namely, that a book in the English language by an American author, which is first published abroad, may obtain a short-term copyright, known as an ad interim copyright, which endures for only a period of 5 years. The law provides also that up to 1500 copies of such a book may be imported into this country.

A United States publisher who is publishing a book by an American author in the English language therefore would seldom, if ever, go abroad for the printing as envisaged by Mr. French. If it did, the author would receive an emasculated

term of protection and no more than 1500 copies could be imported into this country for sale. For most books, a publisher has to sell 2000 copies of a book in order to obtain a return which will enable him to stay in business and unless the book was a very specialized, high priced book, it would not pay him to go abroad for printing, especially since he would only have a 5 year period of exclusivity.

Mr. Robert Frase, economist representing the American Book Publishers Council stated, at page 1592 of those hearings, that in the book industry it was well known that

". . . for American publishers foreign book manufacturing costs are significantly lower only for foreign language or complicated—that is, monotype—typesetting, of books having a very limited sale."

In order to obtain some statistics on this problem, the Council sent a questionnaire to its members bearing upon the number of titles printed in the United States and those printed abroad. In Mr. Frase's words, the replies reveal that:

". . . . the vast bulk of American titles are completely manufactured in the United States—composition as well as printing and binding. Of the 83 firms, 63 did not have any foreign composition, printing or binding done at all. Only 215 American titles were composed abroad—2.3 percent of the total titles. The cost of foreign composition was only $900,749—or only six-tenths of 1 percent of the total composition, printing, and binding bill of the 83 firms, which amounted to $141 million." (Hearings, page 1594.)

At these same hearings, it was apparent that the Book Manufacturers Institute did not object to the 1500 copy limitation on imports in the present law. Under the revision bill, however, it is proposed to increase this limit to 3500 copies. Mr. Harry F. Howard, representing the Book Manufacturers Institute at those hearings, testified that BMI was opposed to raising the limit to 3500, and urged that "the number of exempt copies be kept at 1500 *or, at the least, not raised beyond 2000.*" (Italic supplied) (hearings, p. 1680). This would appear to be an indication that the importation of up to 2000 copies of an American book manufactured abroad would not adversely affect the book printing industry. In its recent action favorably reporting the copyright bill, the Judiciary Committee of the House heeded Mr. Howard's plea, by substituting the 2000 copy figure for the 3500 copy figure in the bill as introduced.

Mr. Howard also pointed out that "Books of American authorship accounted for only about 13 percent of the value of total book imports in 1964." (Hearings, p. 1678). He quotes figures of the Department of Commerce to the effect that in 1964 book imports were valued at $42,999,284. (Hearings, p. 1678). If, as he stated, only 13 percent of this involved books of American authorship, the parameters of the problem concern books valued at approximately $5.5 million, which could return, at most, some $385,000 in tariff duties.

From the foregoing, it would appear that from a purely economic viewpoint, Mr. French's suggestion would return in duties only a miniscule sum. However, from the American author's viewpoint, Mr. French's suggestion constitutes a discrimination upon a discrimination.

Today, any non-American author who is a national of a country adhering to the Universal Copyright Convention or whose work is first published in such a country, can obtain the full term of protection of the United States copyright law for his book, even if it is in the English language. Further, he may import unlimited copies of that book into this country. Under the proposed H.R. 8664 those same books could be imported without any tariff duties.

The American author, however, is today limited to a term of 5 years protection if his book is manufactured outside the United States instead of the possible 56 years protection afforded the foreign authors. Contrasted with the foreign authors' right of unlimited importation, the work of the American author is limited to the importation of a mere 1500 copies. As a matter of simple justice, it would be grossly unfair to further discriminate against him by enacting legislation that would have the effect of requiring only the works of an American author to bear import duties.

In a colloquy with Senator Eugene McCarthy, Mr. French intimated that BMI was more concerned with the problem of "reproduction proofs". In this context, a "repro proof", as it is usually called in the trade, arises when a manuscript of a work by an American author is sent abroad for composition, and a clean set of proof sheets (the "repro proofs") are returned to the U.S. where they can be photographed, made into plates, and bound here.

In reply to Senator McCarthy's inquiry as to the frequency of such procedure, it is pointed out that this question was answered by Mr. Robert Frase in the previously referred to House hearings on H.R. 4347. In his testimony at pages 1605–1606 of those hearings, he stated:

"This practice is usually advantageous only for scientific, technical, and scholarly works in small editions, for which the presence of foreign language phrases, mathematical equations, chemical formulas, et cetera, makes it impractical to set type by the familiar and relatively inexpensive linotype method, and requires typesetting by hand or monotype machine. Though such books make up a trivial part of the dollar volume of American book production—and an invisibly small part of American printing generally—they are essential to American progress in scientice, technology, and scholarship.

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"*A very few hundred books by American authors, certa* *than 3 percent of our annual production of new and revised book titles,* *duced annually from reproduction proofs.* This has in no way injured n book manufacturing or printing unions. On the contrary, if the f composition could not have been met in this way, most of these boc t have been published. Not only would American science and tec e been held back if that were the case, but American book manuf panies and printing union members would have lost all the work ng, printing, and binding for these works, which is, of course, a rofitable part of the job than the typesetting." (Italic supplied.

Sincerely yours,

Dep.

AMERICAN EDUCATIONAL
Washingto

Hon. RUSSELL B. LONG,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LONG: The Executive Board of the ucational Research Association have examined H.R. 8664 and materi ng to it and to the House Joint Resolution 668 and have discussed the implications of these actions of the House. They have expressed their approval of both measures and have requested that I communicate their feeling to you, and through you to all members of the Senate Committee on Finance.

As educational research producers we are anxious to facilitate the free exchange of scientific information among nations in any way possible. We also are anxious to have those results of research, which have been translated into actual products, made available throughout the world in the easiest and most equitable manner possible. Both these measures seem to be steps in the right direction, and we therefore urge their passage.

Sincerely yours,

RICHARD A. DERSHIMER,
Executive Officer.

CHURCHILL FILMS,
Los Angeles, Calif., September 26, 1966.

Hon. RUSSELL B. LONG,
Senate Committee on Finance,
Senate Office Building, Washington, D.C.

DEAR SIR: We are writing to you to urge passage of H.J. Res. 688 and H.R. 8664.

As producers of educational materials, we have in the past been handicapped frequently in both the exportation and importation of educational films and other educational materials. The red tape and duties involved in exchange with other countries is so time consuming and difficult that we often throw up our hands in despair. The Beirut Agreement and the Florence Agreement are a worthy cause in facilitating the exchange of information among countries. We urge you and your committee to recommend passage of these two bills.

Sincerely,

ROBERT B. CHURCHILL.

SMITHSONIAN INSTITUTION,
Washington, D.C., September 15, 1966.

Senator RUSSELL B. LONG,
Chairman, Finance Committee,
U.S. Senate, Washington, D.C.

DEAR SENATOR LONG: Certain staff members of the National Collection of Fine Arts, Smithsonian Institution, have been consulted by the State Department in reference to the changes proposed in the existing legislation on the importation of works of art and antiques, as shown in Section 4 of House Report 8664, in order to implement the Florence Agreement (House Report 1779, Schedule 7, Part 11, A and B). The Smithsonian Institution is concerned over these impending changes and feels that they are valid from an artistic and cultural standpoint.

The one change concerns the elimination of a distinction between original works of art (paintings, pastels, drawings and sketches), and hand-made copies of the same. Today, hand-made copies are in little demand by collectors and public museums. It seems questionable that our Customs officials should be required to make value judgments on such works in order to determine their authenticity. If the works in question are suspect, it is more likely that they are forgeries rather than copies. A forgery is an intent to deceive, and therefore other remedies for dealing with such type of deception would be called for.

Regarding the revision of the law governing the importation of antiques, we are also in favor of the proposed change to read "100 years before their date of entry," rather than "before 1830" (or earlier dates in the case of a few articles). ize the economic advantage of certain dealers in higher-priced antiques keep the law, as it now stands, in effect in order to lend prestige to arts works whose date of manufacture can be proven to antedate the year works will undoubtedly gain in monetary value as time goes on, and they are bound to become more and more rare at the same time as the population increases and the subsequent zeal for collecting grows. But it is to the interest of our developing economy to revise such laws as this one which is by now decidely out of date.

Another argument which antique dealers may hold in favor of permitting this law to stand unaltered is that after 1830 certain forms of craftsmanship, furniture in particular, were increasingly machine produced. This would lead to the assumption that such articles could no longer be considered as original creations. This argument is a weak one, however, in light of the fact that in the 18th century and before, porcelain, glass and textiles, to name but three categories, were duplicated in quantity by means of molds, semi-mechanical looms and similar means of reproduction. Yet these pieces, by virtue of their age, are permitted duty-free entry into this country.

I should like to cite a specific instance favoring the revision of this law. For the great Crystal Palace Exhibition, which was held in London in 1851, a large quantity of furniture and other decorative art works, some examples of which were manufactured by mechanical means, were made and shown as original creations. Today, these same articles are avidly sought after by collectors and museums, and are published, exhibited and referred to as "antiques." This fact clearly indicates the disregard that collectors, museum curators, and many dealers have for the term "antique" as being interpreted as only such articles as were produced before 1830.

It is of sufficient interest to the dissemination of artistic culture in this country, by the collecting, exhibiting and publishing of decorative arts articles, to urge that this law be brought up to date by providing duty-free treatment for such articles, many of which are of fine craftsmanship, whose date of manufacture can be proven to be 100 years old.

Sincerely yours,

S. DILLON RIPLEY, *Secretary.*

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