

## FLORENCE AGREEMENT IMPLEMENTATION LEGISLATION

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Mr. LONG of Louisiana, from the Committee on Finance, submitted  
the following

### REPORT

[To accompany H.R. 8664]

The Committee on Finance, to which was referred the bill (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, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### I. PURPOSE

H.R. 8664 implements the Agreement on the Importation of Educational, Scientific, and Cultural Materials, commonly referred to as the Florence agreement.

The Florence agreement is an international agreement, sponsored by the United Nations Educational, Scientific and Cultural Organization (UNESCO), which was opened for signature on November 22, 1950. The agreement is designed to facilitate the free flow of educational, scientific, and cultural materials by the removal of barriers that impede the international movement of such materials.

The agreement provides for the accomplishment of its purposes through provision for the duty-free importation of educational, scientific, and cultural materials. H.R. 8664 would permit, with certain procedural safeguards, the duty-free treatment envisaged by the agreement to the extent that the materials provided for therein are not already free of duty under the existing provisions of the schedules.

## II. GENERAL STATEMENT

### A. BACKGROUND

The Florence agreement is an international agreement sponsored by UNESCO. It was opened for signature on November 22, 1950, and entered into force on May 21, 1952. To date 50 countries have become parties thereto (see app. B).

The United States signed the agreement on June 24, 1959, and the Senate gave advice and consent to ratification on February 23, 1960. Deposit of the U.S. ratification, however, has been delayed pending enactment of the necessary implementing legislation, and, accordingly, the United States is presently not one of the 50 countries referred to above. H.R. 8664 provides the implementing legislation necessary to the United States becoming a party to the agreement.

### B. SUMMARY OF THE FLORENCE 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."

The principal substantive portions of the Florence agreement, the English text of which is reproduced in full in the appendix to this report, provide that the parties thereto shall accord to the products of the other parties duty-free treatment for those types of educational, scientific, and cultural materials which are described in articles I and III and in the five annexes to the agreement.

Article II contains some limitations upon the application of import restrictions and exchange controls imposed for balance-of-payments reasons to certain types of educational and cultural materials.

Article IV of the agreement, in general language, provides that the parties will, as far as possible, continue efforts "to promote by every means the free circulation of educational, scientific, and cultural materials," to abolish or reduce any restrictions thereto, and to "simplify administrative procedure" governing their importation.

The agreement permits the parties thereto to continue internal taxes which do not discriminate against imported articles (art. I:2(a)), and to take measures to prohibit or limit the importation or internal distribution of materials to which it relates on grounds of national security, public order, or public morals (art. V). It also provides that it shall not affect laws and regulations relating to copyright, trademarks, or patents (art. VI).

Subject to previous commitments between the parties, disputes regarding the interpretation or application of the agreement are to be settled by negotiation or conciliation (art. VII), and provision is made for referring disputes to the Director General of UNESCO for an advisory opinion (art. VIII).

Among its procedural provisions, the agreement provides that a country signing after the agreement entered into force, as the United States did, shall take the internal measures necessary to make the

agreement effective within 3 months after the deposit of its instrument of ratification (art. XII:2).

The agreement also provides that soon after a country becomes a party it shall report to UNESCO on its implementation and that UNESCO will communicate such reports to the other parties (art. XII: 3 and 4). Your committee notes that the material now available through this channel on the implementation of the agreement by the parties does not appear in all cases to be current. It is understood that UNESCO may convene a meeting of the parties to the Florence agreement within the next year or so to consider the operation of the agreement. It would be desirable for the U.S. representatives at such meeting to seek an improvement of the reporting procedures to provide the parties with more up-to-date information on the implementation by other parties.

### C. NEED FOR THE BILL

In a letter of June 1, 1965, to the Speaker of the House, the President reiterated and emphasized the purpose of the agreement as being the enhancement "of international understanding by reducing trade barriers to the flow of knowledge in all directions across all frontiers." He further stated that enactment of implementing legislation would be of very material benefit to our schools and universities, science laboratories and research foundations, libraries, art galleries, and museums. The President requested expeditious action by the Congress to approve such legislation, stating that the "fullest freedom of access to the knowledge and culture of other nations is the hallmark of the open society."

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. He indicated that had the implementing legislation for the Florence agreement been enacted these separate bills would have been unnecessary.

More recently in his message to Congress urging passage of the International Education and Health Acts of 1966, the President stated:

I recommend prompt passage of legislation to implement the Florence agreement and thus stimulate the movement of books and other educational material between nations. This agreement was signed by representatives of the U.S. Government in 1959 and ratified by the Senate in 1960. The necessary congressional action is long overdue to eliminate duties and remove barriers for the importation of educational materials.

H. R. 8664 would provide such duty-free treatment as is envisaged by the agreement to the extent that the materials provided therein are not already free of duty under existing law. In this connection, many of the articles for which duty-free treatment is provided in the agreement are presently duty free under the tariff schedules. Examples are books in foreign languages, most periodicals, original paintings, original sculpture, certain antiques, certain audiovisual materials imported by educational institutions, articles for the blind, and articles for specified exhibitions.

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 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.

#### D. TRADE EFFECT

Although, as has been pointed out, the purposes of the Florence agreement and of H.R. 8664 are educational, scientific, and cultural rather than economic and commercial, your committee has given attention to the trade implications of the bill.

Assistant Secretary of State Frankel estimated that imports in 1965 of articles which are to be made duty free by the bill amounted to roughly \$39 million, with revenue to the Treasury of about \$1.75 million. The views were expressed by him that passage of the bill "will not result in any significant increase in the level of imports," and that, because of such minimal trade impact, it was not expected that the bill would "have any significant adverse effect on the U.S. balance of payments."

### III. SUMMARY OF THE PROVISIONS OF THE BILL

#### A. SECTION 1. SHORT TITLE, ET CETERA

The first section of H.R. 8664, provides a short title for this legislation, the "Educational, Scientific, and Cultural Materials Importation Act of 1966." It also states the purpose of the bill, which is the implementation of the Florence agreement with a view to contributing to world peace through the freer exchange of ideas and knowledge across national boundaries.

#### B. SECTION 2. EFFECTIVE DATE

This section provides that the amendments made by the bill shall be effective on a date to be proclaimed by the President. This date is to be within 3 months after deposit of the instrument of ratification with the United Nations. This provision is designed to permit the President to correlate their effective date with the assumption by the United States of obligations under the Florence agreement.

#### C. SECTION 3. BOOKS, PAMPHLETS, AND OTHER PRINTED AND MANUSCRIPT MATERIAL

Section 3 would provide duty-free treatment for such books and pamphlets as are not now duty free, except catalogs relating to the

sale of U.S. products. The principal articles which would be made free of duty are books in the English language, picture books, toy books, current lithographic, and certain other periodicals, and printed matter suitable for the production of books which would themselves be duty free. Newspapers, many other periodicals, and most other books are already free of duty.

Maps, atlases, and charts would be made duty free, as would music regardless of its age. The present exemption from duty for tourist literature would be slightly broadened.

#### D. SECTION 4. WORKS OF ART; ANTIQUES

Section 4 would expand the present duty-free treatment of original paintings, pastels, drawings, and sketches executed by hand, to include such articles which are not originals. Certain original sculpture, and prints printed by hand, are currently afforded duty-free treatment.

This section would also change the test for determining antiques entitled to duty-free treatment from those made prior to 1830 (or earlier dates in the case of a few specified articles) to those made more than 100 years prior to their entry.

#### E. SECTION 5. DOCUMENTS OF FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

Section 5 would broaden slightly the present provision for the duty-free entry of publications of foreign governments and international organizations, most of which are presently already duty free under item 840.00 of the tariff schedules.

#### F. SECTION 6. CERTAIN ARTICLES IMPORTED BY EDUCATIONAL, SCIENTIFIC, AND OTHER SPECIFIED INSTITUTIONS

Subsections (a) and (b) of section 6 would expand somewhat the present provisions for the duty-free importation by public and other nonprofit educational, scientific, and comparable institutions, of audiovisual materials, patterns, and models.

Subsection (c) of section 6 would provide for the duty-free entry of instruments and apparatus for use by public and other nonprofit educational or scientific institutions under specified circumstances. In order to be eligible for such treatment the instruments or apparatus must be otherwise classifiable under specified portions of the tariff schedules, must be for use by the institution for noncommercial purposes. Most importantly, duty-free entry would be dependent upon a finding by the Secretary of Commerce, which would be subject to judicial review, that no instrument or apparatus of equivalent scientific value for the purposes for which it is intended to be used is being manufactured in the United States. Provision is also made for duty-free entry for repair components for instruments and apparatus so admitted.

Section 6(c)(4) of the bill would repeal the present provision regarding electron microscopes and make the duty-free treatment of such microscopes subject to these tests.

## G. SECTION 7. SCIENTIFIC SPECIMENS

Section 7 would expand somewhat the present provisions for duty-free treatment of scientific specimens by specifying some additional fields to which specimens entitled to such treatment may relate and by making such specimens going to private collections for educational or scientific use eligible for duty-free treatment.

## H. SECTION 8. CONFORMING AMENDMENTS

Section 8 contains a number of conforming amendments.

## I. SECTION 9. TARIFF ADJUSTMENT AND OTHER ADJUSTMENT ASSISTANCE

Section 9 of the bill provides that, in applying the adjustment assistance and tariff adjustment provisions of title III of the Trade Expansion Act of 1962, any duty-free treatment provided for by the bill is to be treated as a concession under a trade agreement.

## IV. DETAILED DISCUSSION OF THE BILL

## A. BOOKS, PAMPHLETS, AND OTHER PRINTED AND MANUSCRIPT MATERIAL (SEC. 3)

(1) *Books*(a) *Generally*

Annex A of the Florence agreement lists various types of books and other publications which the agreement provides are to receive duty-free treatment and makes exceptions for those of a predominantly advertising nature. Section 3 of the bill relates to books and other printed and manuscript material.

Subsection (a) generally consolidates the present items in the tariff schedules for books, that is—

(1) books in foreign languages (270.15), books printed over 20 years before importation (270.20), and Bibles (270.30)—all of which are now duty free, and

(2) prayer books (270.35), picture books (270.40), and books in the English language not specially provided for (270.45 and 270.50)—all of which are now dutiable at rates ranging from 2 to 7½ percent ad valorem,

into one duty-free item (270.25).

Toy books (item 737.52) are also made duty free (they are now dutiable at 28 percent ad valorem). The wording of this last item is modified to refer specifically to certain types of books now being imported thereunder.

Under headnote 2(b) to schedule 2, part 5, of the tariff schedules the term books includes pamphlets.

(b) *Problems of consolidation*

During public hearings before the Committee on Ways and Means the question was raised as to the desirability of the form taken by this amendment, of consolidating the present classifications of books for purposes of duty-free treatment, rather than providing for such treatment in each of the existing classifications. The view was expressed that such consolidation might prejudice steps which persons adversely affected by enactment of the bill might desire to take for relief under

the adjustment assistance or tariff adjustment procedures made available to them by section 9. The House committee pointed out that the relief under such procedures provided by title III of the Trade Expansion Act of 1962 is related to an "article." For purposes of these procedures, and this relief, the classification position in the tariff schedules is not material—that is, the focal point is the article concerned rather than whether it constitutes a whole item in such schedules or has been consolidated with other articles to constitute such an item. Neither the Committee on Ways and Means nor the Committee on Finance intends that the rights of workers, firms, and industries under such title III be affected by the consolidation.

Your committee appreciates that domestic workers, firms, and industries may reasonably desire to have import statistics continue to be available in terms of the more important of the existing classifications of books. This would be possible through retaining the consolidation of the legal language of the tariff schedules in the bill, but providing statistical subclassifications thereof in terms of such existing classifications. 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 needs of interested parties for statistical information with respect to imports.

*(c) Sheets for books*

Under existing law, if all the sheets to be used in the production of a book are imported together they are dutiable as an unassembled book, and consequently would be free of duty if the book to be produced from them would be free. However, if only part of the sheets for the production of the book were imported together (such as printed pages for half of a complete book), such sheets are dutiable as printed matter not specially provided for under items 274.75 to 274.90 of the tariff schedules.

The bill adds a new item 274.73 under which such sheets would be duty free if they are suitable for use in the production of a book which would itself be free of duty.

*(d) Books by American authors*

The committee considered the question whether the bill should provide duty-free treatment for books in the English language by U.S. authors which have been manufactured abroad. Such books are included in the new consolidated item providing for duty-free treatment. For reasons described in the House report the Committee on Finance does not believe that this will result in any serious adverse consequences for the book manufacturing industry.

*(e) Catalogs for the sale of U.S. products*

The Florence agreement permits a party to except from duty-free treatment books published by a private commercial enterprise essentially for advertising purposes. The bill implements this exception by providing that catalogs relating chiefly to current offers for the sale of U.S. products will be dutiable under items 270.45 and 270.50 at 3 or 7 percent ad valorem, depending upon whether they are of foreign or domestic authorship. These rates are those at which most such catalogs are presently dutiable.

(2) *Periodicals and newspapers*

The Florence agreement provides for duty-free treatment of periodicals, subject to certain permissible exceptions based on predominance of advertising material.

Section 3(b) of the bill consolidates existing provisions applicable to periodicals into a single new duty-free item 270.63. Periodicals issued by literary and scientific institutions, and current periodicals devoted to literature of the day, are now duty free under items 270.05 and 270.65, respectively. Current lithographic or hand-decorated fashion magazines are now dutiable at 4 cents per pound under item 270.60, and other periodicals may be duty free or dutiable at rates not exceeding 15 percent ad valorem (depending upon the item under which they are presently classified).

Newspapers, for which duty-free treatment is provided in the agreement, are now free of duty under item 270.55.

(3) *Tourist literature, etc.*

Item 270.70, which now provides duty-free treatment for tourist literature relating to foreign travel, is expanded somewhat by section 3(c) of the bill. The amended item 270.70 provides duty-free treatment for tourist and other literature (including posters), containing geographic, historical, hotel, institutional, timetable, travel, or similar information, chiefly with respect to places, travel facilities, or educational opportunities outside the customs territory of the United States.

(4) *Music in books or sheets*

Under section 3(d) of the bill, music in books or sheets, now duty free if printed over 20 years before importation (item 273.05) and otherwise dutiable at 3 or 10 percent ad valorem (item 273.15 or 273.20), is to be duty free under new item 273.10.

(5) *Maps, atlases, and charts*

Section 3(e) of the bill deals with maps, atlases, and charts now covered by items 273.25, 273.35, and 273.40 of the tariff schedules. The bill provides a new item 273.35 consolidating, with duty-free treatment, the maps, atlases, and charts covered by the items listed above. Under the present items certain hydrographic charts are duty free, and maps, atlases, and other charts are (1) duty free if printed over 20 years at time of importation, or (2) dutiable at 8.5 percent ad valorem if printed not over 20 years at time of importation.

Under section 3(e) of the bill, printed globes now covered by item 273.30 continue to be dutiable under such item at the present rate of 17.5 percent ad valorem.

(6) *Manuscripts*

The Florence agreement provides for duty-free treatment for manuscripts. Existing item 273.60 of the tariff schedules provides for duty-free treatment for manuscripts, typewritten matter, and carbon copies thereof, all the foregoing not specially provided for.

## B. WORKS OF ART; ANTIQUES (SEC. 4)

Most of annex B of the Florence agreement and section 4 of the bill relate to works of art and antiques.

(1) *Paintings, etc.*

Subsection (a) of section 4 consolidates present items 765.05 and 765.07 into a new item 765.03, under which paintings, pastels, and drawings executed by hand are duty free, whether originals (now duty free) or not originals (now dutiable at 8 percent ad valorem).

The Florence agreement provides for duty-free treatment for engravings, etchings, and other prints printed by hand, and for original statuary or sculpture. The substance of these provisions is contained in the existing duty-free treatment provided by items 765.10 and 765.15 of the tariff schedules.

(2) *Antiques*

Subsection (b) of section 4 amends the provisions of the tariff schedules relating to antiques (items 766.20 and 766.25) to provide duty-free treatment for all antiques (other than the value of recent repairs thereon) made over 100 years before entry. This would replace the present limitation of such treatment to antiques made before 1830 (rugs and carpets 1701, and certain stringed instruments 1801).

C. DOCUMENTS OF GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS  
(SEC. 5)

The Florence agreement contains a number of provisions relating to documents of foreign governments and international organizations (annex A (iv) and (ix) and annex C (iv)). Most such documents are now free of duty under item 840.00. Section 5 of the bill amends that item to include certain audiovisual materials issued by such entities.

Moreover, the agreement provides for the duty-free treatment of specified types of audiovisual material of an educational, scientific, or cultural character produced by the United Nations or its specialized agencies. However, item 840.00 now limits duty-free treatment to documents issued wholly at the instance and expense of the foreign government or international organization. The word "wholly" may be too restrictive for the implementation of this provision with respect to the documents of certain international organizations (such as UNESCO) which carry on operations of a cooperative nature with private institutions. Therefore the bill amends the article description in item 840.00 to replace "wholly" by "essentially".

## D. CERTAIN ARTICLES (OTHER THAN SCIENTIFIC INSTRUMENTS AND APPARATUS) IMPORTED BY EDUCATIONAL, SCIENTIFIC, AND OTHER SPECIFIED INSTITUTIONS (SEC. 5 (a) AND (b))

(1) *In general*

Section 6(a) of the bill amends the language designating the institutions which may import duty free the articles described in a number of items in schedule 8, part 4. Generally, such institutions are public institutions, and private institutions established for educational, scientific, literary, or philosophical purposes, or for the encouragement of the fine arts. The descriptive language, specifying the institutions

for the use of which the articles described in items 851.10 through 851.50 may be imported duty free, is amended to replace, in relation to private institutions, the present words "institution established solely" for the specified purposes by the words "nonprofit institution established" for the specified purposes.

(2) *Audiovisual materials, plans, and designs*

The provisions of item 851.10 providing for the duty-free importation of enumerated literary, artistic, and audiovisual materials for use by the institutions referred to above is amended by section 6(a) of the bill to include plans, reproductions of drawings and plans (drawings are already included), recorded video tapes, and globes.

The addition of plans and reproductions of drawings and plans would implement the provisions of the Florence agreement for the duty-free importation of architectural, industrial, or engineering designs and plans, and reproductions thereof, for study in specified institutions (annex A(xii)). Reproductions of drawings intended for study would under this item include designs, whatever medium is used, and however produced, and whether or not they had previously been drawn on some other material.

(3) *Patterns and models*

The Florence agreement provides duty-free treatment for all patterns and models imported for educational use by specified institutions (annex C(v)). Item 851.50 is amended by section 6(b) of the bill to provide duty-free treatment for patterns and models exclusively for exhibition or educational use at any institution described in the article description preceding item 851.10, discussed in paragraph (1) above.

E. SCIENTIFIC INSTRUMENTS AND APPARATUS (SEC. 6(C))

(1) *General*

Annex D of the Florence agreement provides for the duty-free treatment of scientific instruments and apparatus for use by educational or scientific institutions, subject to a number of qualifications the most important of which is that no instrument or apparatus of equivalent scientific value is being manufactured in the country of importation.

Section 6(c) of the bill adds two new items (851.60 and 851.65) to the tariff schedules and amends the headnotes to schedule 8, part 4, to implement the agreement. Subject to headnotes 1 (amended by the bill) and 6 (added by the bill), new item 851.60 provides duty-free treatment for instruments and apparatus entered for the use of any nonprofit institution (whether public or private) established for educational or scientific purposes, 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. New item 851.65 provides duty-free treatment for repair components (entered for the use of such an institution) for instruments or apparatus admitted under item 851.60.

(a) *Limitation in terms of tariff schedules*

Paragraph (a) of new headnote 6 added by the bill to schedule 8, part 4, of the tariff schedules specifically limits, in terms of specified items or other portions of the tariff schedules, those instruments and

apparatus which would be accorded duty-free entry under item 851.60 provided the other necessary requirements are met. Most of the instruments and apparatus that could be imported by qualified institutions under item 851.60 are described in schedule 7, part 2. Schedule 7, part 2, covers a wide variety—and the vast bulk—of scientific and professional precision-type instruments and apparatus, whether optical or nonoptical and whether electrical or nonelectrical, e.g., optical goods, medical and surgical instruments and apparatus, X-ray apparatus, drawing and mathematical calculating instruments, measuring, timing, testing and controlling instruments, etc. However, a relatively small number of instruments and apparatus which may have important scientific value are not included in schedule 7, part 2. The other portions of the tariff schedules under which it is anticipated such instruments and apparatus might be classified are also specified in headnote 6(a).

(b) *Excluded uses*

Headnote 6(a) further limits the instruments and apparatus which may qualify for duty-free entry under item 851.60 by providing that such item does not apply to materials and supplies, ordinary equipment for use in building construction or maintenance, or articles for use in supporting activities of the institution. Thus, item 851.60 would not include plumbing, heating, lighting, timekeeping, air conditioning, and other materials, supplies, or equipment used in the construction or in maintenance of buildings to provide for the safety, comfort, or convenience of the occupants thereof. Likewise, it would not include material, supplies, or equipment for the supporting activities of the institution such as for use in its administrative offices, dormitories, restaurants, and recreational, athletic, religious, or other such facilities.

Under the present headnote 1 to schedule 8, part 4, most articles entitled to free entry must be exclusively for the use of the importing institutions and not for distribution, sale, or other commercial uses. In view of the fact that new item 851.60 provides for the duty-free entry by scientific and educational institutions of equipment, some of which will be long-lasting equipment of high quality and normally dutiable at relatively high rates, headnote 1 is amended to provide a minimum period of 5 years during which the instruments or apparatus, or most other articles imported duty-free under part 4, are not to be used for commercial purposes or transferred otherwise than to a qualifying institution. If an article afforded duty-free treatment is used for commercial purposes or is transferred otherwise than to a qualifying institution within the 5-year period, the institution for the use of which it was entered becomes liable for payment of duty on the article.

In short, instruments or apparatus not having domestic counterparts of equivalent scientific value are to be admitted free of duty if imported by a qualified nonprofit institution for use in its noncommercial scientific or educational pursuits.

(c) *General import procedures*

The committee understands that, under the bill, once the application has been filed by the institution identifying the foreign instrument or apparatus for which the institution desires duty-free treatment under item 851.60, the article could be promptly entered upon deposit of

the estimated duty which would be applicable if it were not for that item, without waiting for a final determination on its application. If the entry is determined to be duty free the deposit would be refunded. Alternatively, the Treasury Department has authority to permit the entry on the filing of a bond insuring payment of the duty if the article should subsequently be found to be dutiable. Therefore, the procedures in relation to an application need not delay the entry and use of an instrument or apparatus by the institution if it is prepared to pay the duty in the event of a final determination adverse to its application.

Free entry would apply to the article described in a particular application only if the institution making application has placed the order for the foreign instrument or apparatus on or before the 60th day following the date on which a favorable finding by the Secretary of Commerce has become final and conclusive.

*-(2) Equivalency of Scientific Value*

*(a) Generally*

The most important qualification upon the duty-free entry of instruments and apparatus under item 851.60 is that they are entitled to such treatment only if the Secretary of Commerce finds that no instrument or apparatus of equivalent scientific value for the purposes for which they are intended to be used is being manufactured in the United States.

Under the bill 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 will 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.

*(b) Manufacture in the United States*

It is considered that there would be justification for a finding that an instrument or apparatus is being manufactured in the United States if a manufacturer in the United States has in stock, or lists in a current catalog and offers for sale, such an instrument or apparatus which it has produced domestically. Moreover, in other instances, such a finding would be justified if there is satisfactory evidence that a manufacturer is able and willing to produce and have such a domestic article available promptly so that it may be obtained by the applicant without unreasonable delay, taking into account the normal commercial practice applicable to the production and distribution of instruments or apparatus of the same general type.

*(c) Procedures*

Provisions relating to special procedures applicable to item 851.60 are set forth in paragraphs (b) through (f) of the new headnote 6 to schedule 8, part 4, of the tariff schedules. These procedural provisions specify the information to be included by institutions in their applications under headnote 6(b) for duty-free treatment under item 851.60. If the application is made in accordance with the applicable regulations, the Secretary of the Treasury is required to promptly forward copies thereof to the Secretary of Commerce and to the Secretary of Health, Education, and Welfare. The procedural provisions also provide (headnote 6(c)) an opportunity, following notice in the Federal Register, for the presentation to the Secretary of Commerce of views by interested parties and by other Government agencies (including specifically the Department of Health, Education, and Welfare) on the question whether an instrument or apparatus of equivalent scientific value is being manufactured in the United States. Based on the information received pursuant to these procedures and on that available to him in the Department of Commerce, including the Office of the Assistant Secretary for Science and Technology, the Secretary of Commerce is to determine whether an instrument of equivalent scientific value, for the use for which the foreign instrument or apparatus is intended, is being manufactured in the United States. Each finding of the Secretary of Commerce is to be promptly reported to the Secretary of the Treasury and the applicant, and is to be published in the Federal Register, with a statement of his reasons therefor, on or before the 90th day following the date on which the application was made to the Secretary of the Treasury in accordance with applicable regulations.

*(d) Judicial review*

The bill provides for the judicial review of the equivalency findings of the Secretary of Commerce on questions of law only (par. (e) of headnote 6). It provides for appeal directly and exclusively to the Court of Customs and Patent Appeals.

Under the bill, an appeal may be taken (1) by the applicant institution, (2) by a domestic producer who has in the proceeding before the Secretary represented in writing that he manufactures (see discussion above) 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, (3) by the importer (if the article in question has been entered at the time the appeal is taken), and (4) by an agent of any of the foregoing.

*(3) Repair components*

The bill adds to the tariff schedules a new item (851.65) to provide duty-free treatment for repair components (that is, components for use in the instrument or apparatus to replace defective components or otherwise to restore the instrument or apparatus to its original operational level) for instruments or apparatus which have been entered under item 851.60. Item 851.65 is to apply whether the repair components are entered with the instrument or apparatus or thereafter, and such item does not contain the test of equivalency of scientific value which applies in the case of item 851.60.

*(4) Electron microscopes*

In order that electron microscopes may be treated in the same manner as other instruments and apparatus under item 851.60 for purposes of duty-free treatment, item 854.10 of the tariff schedules (sec. 6(c)(4) of the bill) is amended by striking out the reference to electron microscopes.

## F. MISCELLANEOUS PROVISIONS (SECS. 7 TO 9)

*(1) Scientific specimens*

Item 852.10 of the tariff schedules now provides duty-free treatment for specimens of natural history, botany, or mineralogy imported for use in any scientific public collection for scientific or educational purposes. Section 7 of the bill replaces this item with a new item 870.27 which includes these articles and also specimens of archeology and zoological specimens (other than live specimens) and provides for duty-free treatment for the specimens covered by the new item when imported for use in public or private scientific collections for exhibition or other educational or scientific use. Live zoological specimens are now entitled to qualified duty-free treatment under item 852.20.

Specimens of anatomy and paleontology, for which the Florence agreement provides duty-free treatment, receive such treatment under present items 190.80 and 790.20, respectively.

*(2) Articles for the blind*

The Florence agreement provides for the duty-free treatment of publications of all kinds in raised characters for the blind, and of other articles especially designed for their educational, scientific, or cultural advancement when imported by specified institutions (annex E). The duty-free treatment now provided for in items 826.10 and 826.20 of the tariff schedules is adequate for the implementation of this provision.

*(3) Importation for exhibition*

Article III of the Florence agreement provides for temporary duty-free importation of educational, scientific, and cultural materials for exhibition. Various items in schedule 8, part 5, subparts B and C, of the tariff schedules, several of which specifically refer to exhibitions of one kind or another, are adequate to comply with the provisions of article III, particularly in view of the present interpretations of and practices under these provisions (for example, the interpretation as to the institutions which are entitled to take advantage of free entry under bond under item 862.10).

*(4) Adjustment assistance and tariff adjustment*

There is annexed to the Florence agreement a special protocol under which the United States may ratify the agreement with a reservation which would permit it (under circumstances of serious injury generally comparable to those under which duty increases are permitted by trade agreement escape clauses) to suspend, in whole or in part, any obligation under the agreement with respect to any article covered by the agreement. In seeking advice and consent to ratification from the Senate in 1960, the administration stated its intention to ratify subject to this reservation.

Section 9 of the bill provides that, in applying the adjustment assistance and tariff adjustment provisions of title III of the Trade

Expansion Act of 1962, any duty-free treatment provided for by the bill is to be treated as a concession under a trade agreement.

CHANGES IN EXISTING LAW

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

**TARIFF ACT OF 1930**

**TITLE I—TARIFF SCHEDULES OF THE UNITED STATES**

\* \* \* \* \*

**SCHEDULE 2.—WOOD AND PAPER; PRINTED MATTER**

\* \* \* \* \*

**PART 5.—BOOKS, PAMPHLETS, AND OTHER PRINTED [MATTER] AND *MANUSCRIPT MATERIAL***

\* \* \* \* \*

Item	Articles	Rates of duty	
		1	2
270.15	Books printed wholly or chiefly in languages other than English.	Free	Free.
270.20	Books (except books described in item 270.15) which when imported have been printed over 20 years.	Free	Free.
270.30	Bibles, comprising the books of the Old or New Testament, or both.	Free	Free.
270.35	Prayer books not covered by any of the foregoing provisions of this part.	2% ad val	25% ad val.
270.40	Picture books (not including toy books), with an accompanying text printed in any language, suitable for the use of children not over 6 years of age.	7.5% ad val	15% ad val.
270.25	Books not specially provided for. [Books not specially provided for consisting essentially of textual matter:]	Free	Free.
	Printed catalogs relating chiefly to current offers for the sale of United States products:		
270.45	Wholly or almost wholly of foreign authorship	3% ad val	15% ad val.
270.50	Other	7% ad val	25% ad val.
270.55	Newspapers.	Free	Free.
	[Periodicals, if entered within 6 months of the date of issue:		
270.60	Devoted to fashions, and printed in whole or in part by a lithographic process, or decorated by hand.	4¢ per lb.	8¢ per lb.
270.65	Devoted to current literature of the day, or containing current literature as a predominate feature.	Free	Free
270.63	Periodicals.	Free	Free.
270.70	Tourist and other literature (including posters), containing geographic, historical, hotel, institutional, timetable, travel, or similar information, chiefly with respect to places [or], travel facilities, or educational opportunities outside the [continental] customs territory of the United States.	Free	Free.
	[Music in books or sheets:		
273.05	Printed over 20 years at time of importation.	Free	Free.
	Printed not over 20 years at time of importation:		
273.15	Wholly or almost of foreign authorship.	3% ad val.	15% ad val.
273.20	Other.	10% ad val.	25% ad val.
273.10	Music in books or sheets.	Free	Free.
	[Printed maps, globes, atlases, and charts (except tourist literature provided for in item 270.70):		
273.25	Hydrographic charts issued by scientific institutions for their subscribers or exchanges.	Free	Free.]
273.30	Globes.		
273.30	Printed globes.	17.5% ad val.	35% ad val.
	[Other:]		
273.35	Printed over 20 years at time of importation.	Free.	Free.
273.40	Printed not over 20 years at time of importation.	8.5% ad val.	25% ad val.]
273.35	Maps, atlases, and charts (except tourist and other literature provided for in item 270.70).	Free	Free.
	[Printed matter not specially provided for:		
	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.		
	Printed matter not specially provided for:		
274.75	Suitable for use in the production of such books as would themselves be free of duty.	Free	Free
	Other:		
	Printed on paper in whole or in part by a lithographic process:		
274.75	Not over 0.020 inch thick	12¢ per lb.	30¢ per lb.
274.80	Over 0.020 inch thick	5¢ per lb.	8.75¢ per lb.
	Other:		
274.85	Susceptible of authorship.	4% ad val.	25% ad val.
274.90	Other.	15% ad val.	35% ad val.

SCHEDULE 7.—SPECIFIED PRODUCTS; MISCELLANEOUS AND NONENUMERATED PRODUCTS

PART 5.—ARMS AND AMMUNITION; FISHING TACKLE; WHEEL GOODS; SPORTING GOODS, GAMES AND TOYS

SUBPART E.—MODELS; DOLLS, TOYS, TRUCKS, PARTY FAVORS

Item	Articles	Rates of duty	
		1	2
737.52	Toy books, including coloring books and books the only reading matter in which consists of letters, numerals, or descriptive words.....	[28% ad val.] Free	[70% ad val.] Free

PART 11.—WORKS OF ART; ANTIQUES

SUBPART A.—WORKS OF ART

[765.06 765.07 765.08	<p>[Paintings, pastels, drawings, and sketches, all the foregoing, whether or not originals, executed wholly by hand:]</p> <p>Originals.....</p> <p>Not originals.....</p> <p>Paintings, pastels, drawings, and sketches, all the foregoing, whether or not originals, executed wholly by hand.....</p>	<p>Free</p> <p>8% ad val.</p> <p>Free</p>	<p>Free]</p> <p>20% ad val.]</p> <p>Free</p>
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SUBPART B.—ANTIQUES

766.20	<p>[Rugs and carpets made prior to the year 1701; violins, violas, violoncellos, and double basses of all sizes, made prior to the year 1801; ethnographic] 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 [the year 1830 (except rugs and carpets, violins, violas, violoncellos, and double basses, and ethnographic objects made in traditional aboriginal styles)] 100 years before their date of entry; all the foregoing articles, including such articles which have been repaired or renovated without changing their original form or character:</p> <p>If repaired with a substantial amount of additional material within 3 years prior to importation.....</p>	<p>A duty upon the value of the repairs at the rate which would apply to the article itself in its repaired condition if not within the purview of this subpart.</p>	<p>A duty upon the value of the repairs at the rate which would apply to the article itself in its repaired condition if not within the purview of this subpart.</p>
766.25	Other.....	Free	Free

SCHEDULE 8.—SPECIAL CLASSIFICATION PROVISIONS

\* \* \* \* \*

PART I.—ARTICLES EXPORTED AND RETURNED

\* \* \* \* \*

SUBPART B.—ARTICLES ADVANCED OR IMPROVED ABROAD

\* \* \* \* \*

2. *Articles repaired, altered, processed, or otherwise changed in condition abroad.*<sup>1</sup>—The following provisions apply only to items [806.10, 806.20,] *806.20* and 806.30:

(a) The value of repairs, alterations, processing, or other change in condition outside the United States shall be—

- (i) the cost to the importer of such change; or
- (ii) if no charge is made, the value of such change,

as set out in the invoice and entry papers; except that, if the appraiser concludes that the amount so set out does not represent a reasonable cost or value, then the value of the change shall be determined in accordance with section 402 or 402a of this Act.

(b) No appraisement of the imported article in its changed condition shall be required unless necessary to a determination of the rate or rates of duty applicable to such article.

(c) The duty upon the value of the change in condition shall be at the rate which would apply to the article itself, as an entirety without constructive separation of its components, in its condition as imported if it were not within the purview of this subpart. If the article, as returned to the United States, is subject to a specific or compound rate of duty, such rate shall be converted to the ad valorem rate which when applied to the full value of such article determined in accordance with section 402 or 402a of this Act would provide the same amount of duties as the specific or compound rate. In order to compute the duties due, the ad valorem rate so obtained shall be applied to the value of the change in condition made outside the United States.

\* \* \* \* \*

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<sup>1</sup> Headings of existing headnotes in tariff schedules, presently underscored.

Item	Articles	Rates of duty	
		1	2
	Articles returned to the United States after having been exported to be advanced in value or improved in condition by any process of manufacture or other means:		
806. 10	Books manufactured in the United States.....	A duty upon the value of the change in condition (see headnote 2 of this subpart).	A duty upon the value of the change in condition (see headnote 2 of this subpart).
806. 20	Articles exported for repairs or alterations.....	A duty upon the value of the repairs or alterations (see headnote 2 of this subpart).	A duty upon the value of the repairs or alterations (see headnote 2 of this subpart).
806. 30	Any article of metal (except precious metal) manufactured in the United States or subjected to a process of manufacture in the United States, if exported for further processing, and if the exported article as processed outside the United States, or the article which results from the processing outside the United States, is returned to the United States for further processing.....	A duty upon the value of such processing outside the United States (see headnote 2 of this subpart).	A duty upon the value of such processing outside the United States (see headnote 2 of this subpart).
	*     *     *     *	*     *     *     *	*     *     *     *

PART 2.—PERSONAL EXEMPTIONS

SUBPART A.—RESIDENTS AND NONRESIDENTS

Item	Articles	Rates of duty	
		1	2
810.10	Articles imported by or for the account of any person arriving in the United States from a foreign country: <b>【Books, libraries】</b> Libraries, usual and reasonable furniture, and similar household effects, if actually used abroad by him or by him and his family not less than one year, and not intended for any other person, or for sale.	Free	Free
810.20	Professional <b>【books,】</b> implements, instruments, and tools of trade, occupation, or employment, which have been taken abroad by him or for his account.	Free	Free
811.10	Articles by or for the account of any person emigrating from a foreign country to the United States: Professional <b>【books,】</b> implements, instruments, and tools of trade, occupation, or employment (not including theatrical scenery, properties, or apparel, and not including articles for use in any manufacturing establishment, for any other person, or for sale), owned and used by him abroad.	Free	Free

PART 3.—GOVERNMENTAL IMPORTATIONS

SUBPART A.—UNITED STATES GOVERNMENT

830.00	Articles for the use of any agency of the United States (Government): <b>【Books, charts, engravings】</b> Engravings, etchings, <b>【maps,】</b> photographic prints, whether bound or unbound, recorded video tapes, and exposed photographic films (including motion-picture films) whether or not developed.	Free	Free
831.00	Articles for the Department of State: Sound recordings and recorded video tapes for use by it in the program authorized by the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431-1479).	Free	Free

SUBPART B.—FOREIGN GOVERNMENTS AND INTERNATIONAL ORGANIZATIONS

840.00	Public documents (including exposed and developed motion picture and other films, recorded video tapes, and sound recordings) issued <b>【wholly】</b> essentially at the instance and expense of a foreign government, of a political subdivision of a foreign country, or of an international organization the membership of which includes two or more foreign countries.	Free	Free
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PART 4.—IMPORTATIONS OF RELIGIOUS, EDUCATIONAL, SCIENTIFIC, AND OTHER INSTITUTIONS

Part 4 headnotes:

**【1. Except as provided in items 850.50 and 852.20, the articles covered by this part must be imported exclusively for the use of the institutions involved, and not for distribution, sale, or other commercial use.】**

*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. Architectural, engineering, industrial, or commercial drawings and [plans] plans, and reproductions thereof, are not covered by this part unless they are intended solely for exhibition or for educational use under item 851.10 (see part 5 of schedule 2).

\* \* \* \* \*

5. Part 5B of this schedule contains provisions under which certain institutions may import articles free of duty for permanent exhibition under bond.

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 already 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, on 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 findings 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,

(ii) by a person who, in the proceeding which led to such finding, 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.

Item	Articles	Rates of duty	
		1	2
850.10	Articles imported for the use of an institution established solely for religious purposes: [Books, charts, paintings, pastels, drawings, sketches,] Drawings, engravings, etchings, lithographs, woodcuts, [maps, music,] sound recordings, recorded video tapes, and photographic [or] and other prints, all the foregoing whether bound or unbound, and exposed photographic films (including motion-picture films) whether or not developed.	Free	Free
851.10	Articles imported for the use of any public library, any other public institution, or any nonprofit institution established [solely] for educational, scientific, literary, or philosophical purposes, or for the encouragement of the fine arts: [Books, charts, paintings, pastels, drawings, sketches,] Drawings and plans, reproductions thereof, engravings, etchings, lithographs, woodcuts, [maps, music,] globes, sound recordings, recorded video tapes, and photographic [or] and other prints, all the foregoing whether bound or unbound, and exposed photographic films (including motion-picture films) whether or not developed.	Free	Free
851.20	Sculptures and statuary	Free	Free
851.30	Regalia	Free	Free
851.40	Any textile machine or machinery, or part thereof, solely for the instruction of students.	Free	Free
851.50	[Models of inventions and of other improvements in the arts, to be used.] Patterns and models exclusively [as exhibits in exhibitions] for exhibition or educational use at any such institution.	Free	Free
851.60	Articles entered for the use of any nonprofit institution, whether public or private, established for educational or scientific purposes. 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 headnote 6 to this part)	Free	Free
851.65	Repair components for instruments or apparatus admitted under item 851.00	Free	Free
[852.10	[Articles imported for use in any scientific public collection for exhibition for scientific or educational purposes:] Specimens of natural history, botany, or mineralogy	Free	Free]
854.10	Articles imported for the use of any nonprofit institution, whether public or private, established for educational, scientific, or therapeutic purposes: Apparatus utilizing any radioactive substance in medical diagnosis or therapeutic treatment, including the radioactive material itself when contained in the apparatus as an integral element thereof, [and electron microscopes,] and parts or accessories of any of the foregoing	Free	Free
PART 6.—OTHER SPECIAL CLASSIFICATION PROVISIONS			
870.10	Records, diagrams, and other data with regard to any business, engineering, or exploration operation conducted outside the United States, whether on paper, cards, photographs, blueprints, tapes, or other media	Free	Free
870.20	Nets or sections or parts of nets: Monofilament gill nets to be used for fish sampling	Free	Free
870.25	To be used in taking wild birds under license issued by an appropriate Federal or State governmental authority	Free	Free
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

## TITLE 28 OF THE UNITED STATES CODE

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## Chapter 93.—COURT OF CUSTOMS AND PATENT APPEALS

Sec.

1541. Customs Court decisions.

1542. Patent Office decisions.

1543. Tariff Commission decisions.

1544. *Certain findings by Secretary of Commerce.***§ 1541. Customs Court decisions.**

The Court of Customs and Patent Appeals shall have jurisdiction to review by appeal final decisions of the Customs Court in all cases as to the construction of the law and the facts respecting the classification of merchandise, the rate of duty imposed thereon under such classifications, and the fees and charges connected therewith, and all appealable questions as to the jurisdiction of the Customs Court and as to the laws and regulations governing the collection of the customs revenues.

**§ 1542. Patent Office decisions.**

The Court of Customs and Patent Appeals shall have jurisdiction of appeals from decisions of:

(1) the Board of Appeals and the Board of Interference Examiners of the Patent Office as to patent applications and interferences, at the instance of an applicant for a patent or any party to a patent interference, and such appeal by an applicant shall waive his right to proceed under section 63 of Title 35; and

(2) the Commissioner of Patents as to trademark applications and proceedings as provided in section 1071 of Title 15.

**§ 1543. Tariff Commission decisions.**

The Court of Customs and Patent Appeals shall have jurisdiction to review, by appeal on questions of law only, the findings of the United States Tariff Commission as to unfair practices in import trade, made under section 1337 of Title 19.

**§ 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).*

\* \* \* \* \*

**§ 2602. Precedence of classification cases.**

Every proceeding in the Court of Customs and Patent Appeals, relating to classification of merchandise or rate of duty assessed thereon, and arising under section 1516(b) of Title 19, shall be given precedence over other cases on the docket of such court, and shall be assigned for hearing and trial at the earliest practicable date and expedited in every way. *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.*

## APPENDIX A

### AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS

#### PREAMBLE

The contracting States,

CONSIDERING 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;

CONSIDERING that this interchange is accomplished primarily by means of books, publications and educational, scientific and cultural materials;

CONSIDERING that the Constitution of the United Nations Educational, Scientific and Cultural Organization urges co-operation between nations in all branches of intellectual activity, including "the exchange of publications, objects of artistic and scientific interest and other materials of information" and provides further that the Organization shall "collaborate in the work of advancing the mutual knowledge and understanding of peoples, through all means of mass communication and to that end recommend such international agreements as may be necessary to promote the free flow of ideas by word and image";

RECOGNIZE that these aims will be effectively furthered by an international agreement facilitating the free flow of books, publications and educational, scientific and cultural materials; and

HAVE, therefore, AGREED to the following provisions:

#### ARTICLE I

1. The contracting States undertake not to apply customs duties or other charges on, or in connexion with, the importation of:

(a) Books, publications and documents, listed in annex A to this Agreement;

(b) Educational, scientific and cultural materials, listed in annexes B, C, D, and E to this Agreement; which are the products of another contracting State, subject to the conditions laid down in those annexes.

2. The provisions of paragraph 1 of this article shall not prevent any contracting State from levying on imported materials;

(a) Internal taxes or any other internal charges of any kind, imposed at the time of importation or subsequently, not exceeding those applied directly or indirectly to like domestic products;

(b) Fees and charges, other than customs duties, imposed by governmental authorities on, or in connexion with, importation, limited in amount to the approximate cost of the services rendered and representing neither an indirect protection to domestic products nor a taxation of imports for revenue purposes.

## ARTICLE II

1. The contracting States undertake to grant the necessary licences and/or foreign exchange for the importation of the following articles:

(a) Books and publications consigned to public libraries and collections and to the libraries and collections of public educational, research or cultural institutions;

(b) Official government publications, that is, official, parliamentary and administrative documents published in their country of origin;

(c) Books and publications of the United Nations or any of its specialized agencies;

(d) Books and publications received by the United Nations Educational, Scientific and Cultural Organization and distributed free of charge by it or under its supervision;

(e) Publications intended to promote tourist travel outside the country of importation, sent and distributed free of charge;

(f) Articles for the blind:

(i) Books, publications and documents of all kinds in raised characters for the blind;

(ii) Other articles specially designed for the educational, scientific or cultural advancement of the blind, which are imported directly by institutions or organizations concerned with the welfare of the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles.

2. The contracting States which at any time apply quantitative restrictions and exchange control measures undertake to grant, as far as possible, foreign exchange and licences necessary for the importation of other educational, scientific or cultural materials, and particularly the materials referred to in the annexes to this Agreement.

## ARTICLE III

1. The contracting States undertake to give every possible facility to the importation of educational, scientific or cultural materials, which are imported exclusively for showing at a public exhibition approved by the competent authorities of the importing country and for subsequent re-exportation. These facilities shall include the granting of the necessary licences and exemption from customs duties and internal taxes and charges of all kinds payable on importation, other than fees and charges corresponding to the approximate cost of services rendered.

2. Nothing in this article shall prevent the authorities of an importing country from taking such steps as may be necessary to ensure that the materials in question shall be re-exported at the close of their exhibition.

## ARTICLE IV

The contracting States undertake that they will as far as possible:

(a) Continue their common efforts to promote by every means the free circulation of educational, scientific or cultural materials, and abolish or reduce any restrictions to that free circulation which are not referred to in this Agreement;

- (b) Simplify the administrative procedure governing the importation of educational, scientific or cultural materials;
- (c) Facilitate the expeditious and safe customs clearance of educational, scientific or cultural materials.

## ARTICLE V

Nothing in this Agreement shall affect the right of contracting States to take measures, in conformity with their legislation, to prohibit or limit the importation, or the circulation after importation, of articles on grounds relating directly to national security, public order or public morals.

## ARTICLE VI

This Agreement shall not modify or affect the laws and regulations of any contracting State or any of its international treaties, conventions, agreements or proclamations, with respect to copyright, trademarks or patents.

## ARTICLE VII

Subject to the provisions of any previous conventions to which the contracting States may have subscribed for the settlement of disputes, the contracting States undertake to have recourse to negotiations or conciliation, with a view to settlement of any disputes regarding the interpretation or the application of this Agreement.

## ARTICLE VIII

In case of a dispute between contracting States relating to the educational, scientific or cultural character of imported materials, the interested Parties may, by common agreement, refer it to the Director-General of the United Nations Educational, Scientific and Cultural Organization for an advisory opinion.

## ARTICLE IX

1. This Agreement, of which the English and French texts are equally authentic, shall bear today's date and remain open for signature by all Member States of the United Nations Educational, Scientific and Cultural Organization, all Member States of the United Nations and any non-member State to which an invitation may have been addressed by the Executive Board of the United Nations Educational, Scientific and Cultural Organization.

2. The Agreement shall be ratified on behalf of the signatory States in accordance with their respective constitutional procedure.

3. The instruments of ratification shall be deposited with the Secretary-General of the United Nations.

## ARTICLE X

The States referred to in paragraph 1 of article IX may accept this Agreement from 22 November 1950. Acceptance shall become effective on the deposit of a formal instrument with the Secretary-General of the United Nations.

## ARTICLE XI

This Agreement shall come into force on the date on which the Secretary-General of the United Nations receives instruments of ratification or acceptance from ten States.

## ARTICLE XII

1. The States Parties to this Agreement on the date of its coming into force shall each take all the necessary measures for its fully effective operation within a period of six months after that date.

2. For States which may deposit their instruments of ratification or acceptance after the date of the Agreement coming into force, these measures shall be taken within a period of three months from the date of deposit.

3. Within one month of the expiration of the periods mentioned in paragraphs 1 and 2 of this article, the contracting States to this Agreement shall submit a report to the United Nations Educational, Scientific and Cultural Organization of the measures which they have taken for such fully effective operation.

4. The United Nations Educational, Scientific and Cultural Organization shall transmit this report to all signatory States to this Agreement and to the International Trade Organization (provisionally, to its Interim Commission).

## ARTICLE XIII

Any contracting State may, at the time of signature or the deposit of its instrument of ratification or acceptance, or at any time thereafter, declare by notification addressed to the Secretary-General of the United Nations that this Agreement shall extend to all or any of the territories for the conduct of whose foreign relations that contracting State is responsible.

## ARTICLE XIV

1. Two years after the date of the coming into force of this Agreement, any contracting State may, on its own behalf or on behalf of any of the territories for the conduct of whose foreign relations that contracting State is responsible, denounce this Agreement by an instrument in writing deposited with the Secretary-General of the United Nations.

2. The denunciation shall take effect one year after the receipt of the instrument of denunciation.

## ARTICLE XV

The Secretary-General of the United Nations shall inform the States referred to in paragraph 1 of article IX, as well as the United Nations Educational, Scientific and Cultural Organization, and the International Trade Organization (provisionally, its Interim Commission), of the deposit of all the instruments of ratification and acceptance provided for in articles IX and X, as well as of the notification and denunciations provided for respectively in articles XIII and XIV.

ARTICLE XVI

At the request of one-third of the contracting States to this Agreement, the Director-General of the United Nations Educational, Scientific and Cultural Organization shall place on the agenda of the next session of the General Conference of that Organization, the question of convoking a meeting for the revision of this Agreement.

ARTICLE XVII

Annexes A, B, C, D and E, as well as the Protocol annexed to this Agreement are hereby made an integral part of this Agreement.

ARTICLE XVIII

1. In accordance with Article 102 of the Charter of the United Nations, this Agreement shall be registered by the Secretary-General of the United Nations on the date of its coming into force.

2. IN FAITH WHEREOF the undersigned, duly authorized, have signed this Agreement on behalf of their respective Governments.

DONE at Lake Success, New York, this twenty-second day of November one thousand nine hundred and fifty in a single copy, which shall remain deposited in the archives of the United Nations, and certified true copies of which shall be delivered to all the States, referred to in paragraph 1 of article IX, as well as to the United Nations Educational, Scientific and Cultural Organization and to the International Trade Organization (provisionally, to its Interim Commission).

ANNEX A

BOOKS, PUBLICATIONS AND DOCUMENTS

- (i) Printed books.
- (ii) Newspapers and periodicals.
- (iii) Books and documents produced by duplicating processes other than printing.
- (iv) Official government publications, that is, official, parliamentary and administrative documents published in their country of origin.
- (v) Travel posters and travel literature (pamphlets, guides, timetables, leaflets and similar publications), whether illustrated or not, including those published by private commercial enterprises, whose purpose is to stimulate travel outside the country of importation.
- (vi) Publications whose purpose is to stimulate study outside the country of importation.
- (vii) Manuscripts, including typescripts.
- (viii) Catalogues of books and publications, being books and publications offered for sale by publishers or booksellers established outside the country of importation.
- (ix) Catalogues of films, recordings or other visual and auditory material of an educational, scientific or cultural character, being catalogues issued by or on behalf of the United Nations or any of its specialized agencies.
- (x) Music in manuscript or printed form, or reproduced by duplicating processes other than printing.

- (xi) Geographical, hydrographical or astronomical maps and charts.
- (xii) Architectural, industrial or engineering plans and designs, and reproductions thereof, intended for study in scientific establishments or educational institutions approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles.

(The exemptions provided by annex A shall not apply to:

- (a) Stationery;
- (b) Books, publications and documents (except catalogues, travel posters and travel literature referred to above) published by or for a private commercial enterprise, essentially for advertising purposes;
- (c) Newspapers and periodicals in which the advertising matter is in excess of 70 per cent by space;
- (d) All other items (except catalogues referred to above) in which the advertising matter is in excess of 25 per cent by space. In the case of travel posters and literature, this percentage shall apply only to private commercial advertising matter.)

### ANNEX B

#### WORKS OF ART AND COLLECTORS' PIECES OF AN EDUCATIONAL, SCIENTIFIC OR CULTURAL CHARACTER

- (i) Paintings and drawings, including copies, executed entirely by hand, but excluding manufactured decorated wares.
- (ii) Hand-printed impressions, produced from hand-engraved or hand-etched blocks, plates or other material, and signed and numbered by the artist.
- (iii) Original works of art of statuary or sculpture, whether in the round, in relief, or in intaglio, excluding mass-produced reproductions and works of conventional craftsmanship of a commercial character.
- (iv) Collectors' pieces and objects of art consigned to public galleries, museums and other public institutions, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles, not intended for resale.
- (v) Collections and collectors' pieces in such scientific fields as anatomy, zoology, botany, mineralogy, paleontology, archeology and ethnography, not intended for resale.
- (vi) Antiques, being articles in excess of 100 years of age.

### ANNEX C

#### VISUAL AND AUDITORY MATERIALS OF AN EDUCATIONAL, SCIENTIFIC OR CULTURAL CHARACTER

- (i) Films, filmstrips, microfilms and slides, of an educational, scientific or cultural character, when imported by organizations (including, at the discretion of the importing country, broadcasting organizations), approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles, exclusively for exhibition by these organizations or by other public or private educational, scientific or cultural institutions or societies approved by the aforesaid authorities.

(ii) Newsreels (with or without sound track), depicting events of current news value at the time of importation, and imported in either negative form, exposed and developed, or positive form, printed and developed, when imported by organizations (including, at the discretion of the importing country, broadcasting organizations) approved by the competent authorities of the importing country for the purpose of duty-free admission of such films, provided that free entry may be limited to two copies of each subject for copying purposes.

(iii) Sound recording of an educational, scientific or cultural character for use exclusively in public or private educational, scientific or cultural institutions or societies (including, at the discretion of the importing country, broadcasting organizations) approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles.

(iv) Films, filmstrips, microfilms and sound recordings of an educational, scientific or cultural character produced by the United Nations or any of its specialized agencies.

(v) Patterns, models and wall charts for use exclusively for demonstrating and teaching purposes in public or private educational, scientific or cultural institutions approved by the competent authorities of the importing country for the purpose of duty-free admission of these types of articles.

#### 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.

#### ANNEX E

##### ARTICLES FOR THE BLIND

(i) Books, publications and documents of all kinds in raised characters for the blind.

(ii) Other articles specially designed for the educational, scientific or cultural advancement of the blind, which are imported directly by institutions or organizations concerned with the welfare of the blind, approved by the competent authorities of the importing country for the purpose of duty-free entry of these types of articles.

PROTOCOL ANNEXED TO THE AGREEMENT ON THE IMPORTATION OF  
EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS

The contracting States,

IN THE INTEREST OF facilitating the participation of the United States of America in the Agreement on the Importation of Educational, Scientific and Cultural Materials, have agreed to the following:

1. The United States of America shall have the option of ratifying this Agreement, under article IX, or of accepting it, under article X, with the inclusion of the reservation hereunder.

2. In the event of the United States of America becoming Party to this Agreement with the reservation provided for in the preceding paragraph 1, the provisions of that reservation may be invoked by the Government of the United States of America with regard to any of the contracting States to this Agreement, or by any contracting State with regard to the United States of America, provided that any measure imposed pursuant to such reservation shall be applied on a non-discriminatory basis.

(TEXT OF THE RESERVATION)

(a) *If, as a result of the obligations incurred by a contracting State under this Agreement, any product covered by this Agreement is being imported into the territory of a contracting State in such relatively increased quantities and under such conditions as to cause or threaten serious injury to the domestic industry in that territory producing like or directly competitive products, the contracting State, under the conditions provided for by paragraph 2 above, shall be free, in respect of such product and to the extent and for such time as may be necessary to prevent or remedy such injury, to suspend, in whole or in part, any obligation under this Agreement with respect to such product.*

(b) *Before any contracting State shall take action pursuant to the provisions of paragraph (a) above, it shall give notice in writing to the United Nations Educational, Scientific and Cultural Organization as far in advance as may be practicable and shall afford the Organization and the contracting States which are Parties to this Agreement an opportunity to consult with it in respect of the proposed action.*

(c) *In critical circumstances where delay would cause damage which it would be difficult to repair, action under paragraph (a) above may be taken provisionally without prior consultation, on the condition that consultation be effected immediately after taking such action.*

## APPENDIX B

### COUNTRIES WHICH ARE PARTIES TO AGREEMENT ON THE IMPORTATION OF EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS (FLORENCE AGREEMENT)

Afghanistan	Malagasy Republic
Austria	Malawi
Belgium	Malaysia
Cambodia	Monaco
Cameroon	Netherlands
Ceylon	New Zealand
Congo (Kinshasa)	Nicaragua
Cuba	Nigeria
Cyprus	Norway
Denmark	Pakistan
El Salvador	Philippines
Finland	Rwanda
France	Sierra Leone
Gabon	Spain
Germany, Federal Republic of	Sweden
Ghana	Switzerland
Greece	Tanzania
Guatemala	Thailand
Haiti	Uganda
Iran	United Arab Republic
Israel	United Kingdom of Great Britain and Northern Ireland
Italy	Upper Volta
Ivory Coast	Viet Nam
Jordan, Hashemite Kingdom of	Yugoslavia
Laos	
Luxembourg	